

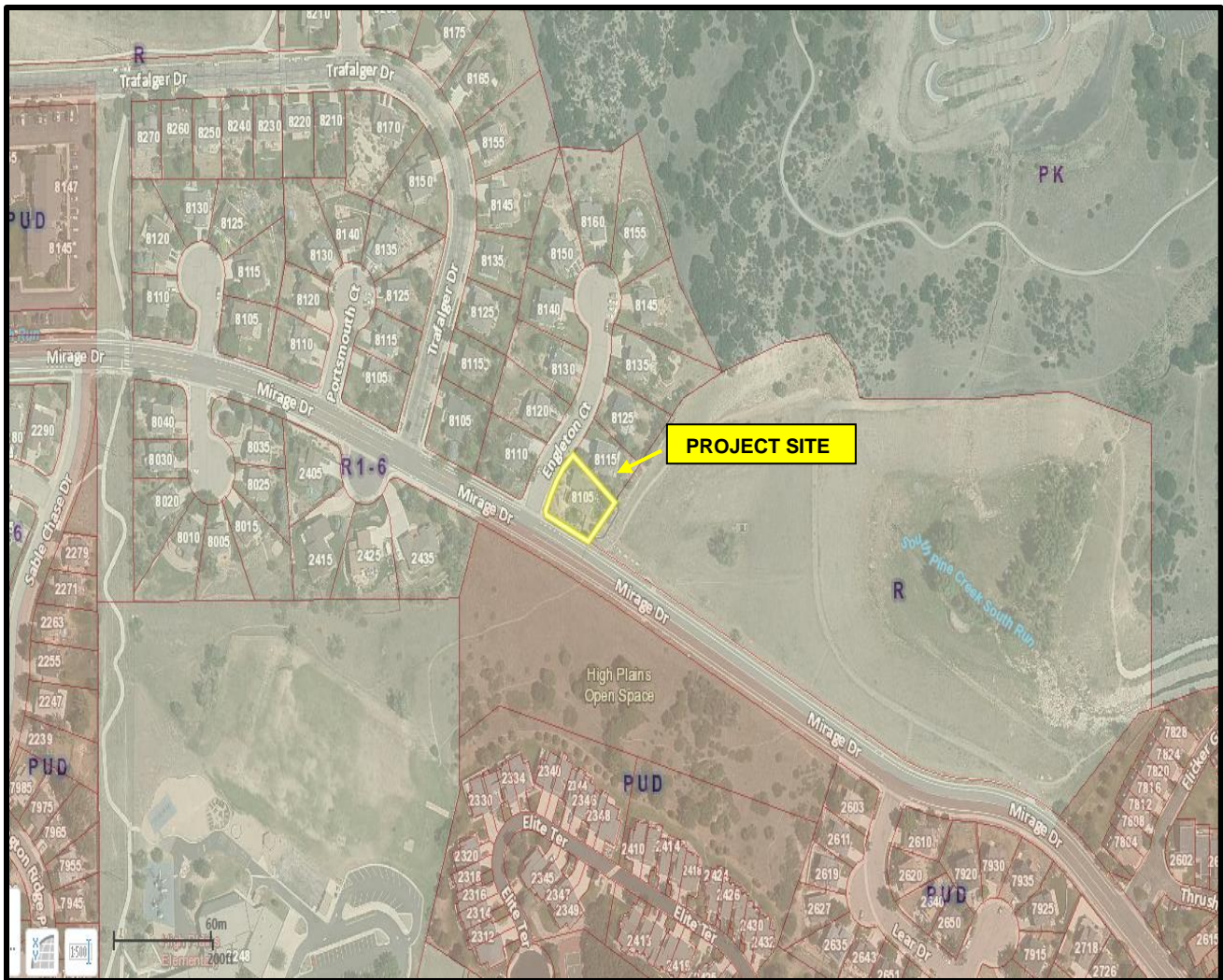
**CITY PLANNING COMMISSION AGENDA
JUNE 16, 2022**

STAFF: DREW FOXX

**FILE NO:
CPC CU 22-00022 – QUASI-JUDICIAL**

PROJECT: DANG DAYCARE

OWNERS/APPLICANTS: JOHN DANG



PROJECT SUMMARY:

- Project Description: This project (Dang Daycare) is a request for a conditional use development plan to allow a large daycare home at 8105 Engleton Court. The proposed project consists of the establishment of a large home daycare for a maximum number of twelve (12) children and infants, in an established residential neighborhood **(see “Site Plan” attachment)**.
- Applicant’s Project Statement: **(see “Project Statement” attachment)**.
- Planning and Development Department Recommendation: City Planning staff recommends approval of the application.

BACKGROUND:

- Site Address: The property address is 8105 Engleton Court
- Existing Zoning/Land Use: The subject property is currently zoned R1-6/DF (Single-Family Residential with Design Flex Overlay) and includes a single-family dwelling unit.
- Surrounding Zoning/Land Use:
 - North: R1-6 (Single-Family Residential) and is residentially developed.
 - South: PUD (Planned Unit Development) and is residentially developed. An open space buffers the subject property from this neighborhood.
 - East: R (Estate Single-Family Residential) and is undeveloped.
 - West: R1-6 (Single-Family Residential) and is residentially developed.
- PlanCOS Vision: According to the PlanCOS Vision Map **(see “PlanCOS Vision Map” attachment)**, the project site is identified as an Established Suburban Neighborhood.
- Annexation: The subject property was annexed into the City on January 9th, 1979, under the Briargate Annexation #2 Annexation Plat (Ord. 78-258).
- Master Plan/Designated Master Plan Land Use: The project site is part of the Briargate Master Plan (Briargate West Neighborhood). The Master Planned Land Use designation is residential low (R-L, 2-3.49 DU/gross acre).
- Subdivision: The property was platted under the Trafalger Point Subdivision Filing No. 1.
- Zoning Enforcement Action: None
- Physical Characteristics: The .22-acre property is located on a corner lot within an established single-family residential neighborhood and is residentially developed with a single-family dwelling unit. The property is adjacent to a residential street and collector street type.
- State Action: Bill 22-213 introduced in State Senate on April 19th, 2022 proposes allocating at least 95 million dollars toward child care facilities throughout the state of Colorado mentioning that in order “to assist the state’s workforce in returning to work and maintaining employment without facing the difficult choice between working and accessing quality child care, it is critical that the state allocate and quickly distribute funding to existing and new child care providers throughout the state and that such actions constitute critical government services” ([SB22-213](#); [State of Colorado](#)).
- Revocable License (License #: 222073219): A revocable license was required to be obtained by the property owner for the purpose of the placement of an existing fence and playground equipment, which extends onto the City-owned parcel approximately 20 (twenty) feet. The proposed large daycare could not be considered for approval without the property owner’s possession of this revocable permit since the proposed large daycare utilizes this encroaching portion of the rear yard and with consideration to the state standards which must be met for minimum square footage for an outdoor play area. In the instance that the proposed daycare is approved, the potential revocation of this revocable license shall not result in the revocation of this conditional use permit since the outdoor play area within the property boundaries continues to meet the minimum state requirements. **(see “Revocable License for Use of City Property” attachment)**.

STAKEHOLDER PROCESS AND INVOLVEMENT:

The public notification process consisted of providing notice to adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to 177 property owners on two occasions; during the internal review stage and prior to the Planning Commission hearing. The site was also posted during the two occasions noted above. Written correspondence in opposition of the proposal was received (**see “Public Comments” attached**). Comments received in opposition to the project include concerns about traffic, parking, property value, noise, size, and compatibility with the residential neighborhood.

The applicant provided a written response to the received public comments, in an email dated March 16, 2022 (**see “Public Response” attached**). Follow-up correspondences from the public were received with concerns for property value and traffic. Further follow-up correspondence was received with the satisfaction of the proposed resolution for traffic impacts as specified in the site plan.

Staff input is outlined in the following sections of this report. Staff sent the conditional use development plan to internal and external review agencies for comments per standard distribution. All comments received from the review agencies either had no comment or have been addressed.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Review Criteria / Design & Development Issues:

a. Background information

The applicant currently cares for six full-time children and two part-time children operating as a small home daycare with a valid state license (SL #168437) at the subject address and has been working with children for over 15 years. The daycare has been operational for over three years with no known violations. The applicant now proposes a large home daycare requesting the ability to provide care for seven to twelve children in a residential neighborhood requiring a conditional use permit.

b. Conditional Use Development Plan

The applicant’s proposal is for a large daycare home for up to 12 children. The property is located north of Mirage Drive and west of North Union Boulevard. The site configuration for the 8105 Engleton Court project consists of 0.22 acres on a corner lot. The daycare will operate Monday through Friday from 7:00 AM to 5:30 PM. Parents arriving and departing with their children will do so within the two-car driveway and, if necessary, through an on-street public parking space (**see “Site Plan” attachment**). Per City Code Section 7.3.105 (B) (1), one part-time employee that does not reside in the home may work at the daycare. However, the applicant has stated that there will not be a part-time employee at this time and her husband will assist with the daycare operations.

The backyard of the residence has been designated as the outdoor play area for the children. City planning staff finds these conditions to adhere to the City Zoning Code and State of Colorado requirements for a large daycare home. According to the State of Colorado, the indoor floor space per child must be 35 square feet per child, and the outdoor play area must provide at least 75 square feet per child. This would require 420 sq. ft. inside of the residence and 900 sq. ft. outside the residence to remain in compliance with the State. As proposed, and in accordance with City Code Section 7.3.105(B)(2), the applicant has provided 1,625 square feet of indoor space and slightly more than 3,000 square feet of the outdoor play area. The outdoor area is fully fenced with a 6-foot-high wood fence and is on the Eastern side of the property. Children are not permitted in the front yard of the property. The applicant has stated that she will not be taking the children outside before 9:30 AM as a courtesy to her neighbors to limit the amount of noise created by the children. Staff finds that there is adequate space at the residence for the play space requirements.

c. Criteria for Granting a Conditional Use Development Plan

i. **Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.**

City Planning Staff finds that the request will not substantially injure the value and quality of the surrounding neighborhood, as the immediate area is developed with similar single-family residential uses. Based on an online search record via the "Colorado Shines" referral website, two other daycare facilities, small or large, exist within one mile of the subject address. The proposed use is compatible with the single-family neighborhood and will be valuable in providing this business type to the surrounding area. As previously stated, the daycare has been operational for over three years with no known violations. The value and quality of the surrounding neighborhood will not be injured by the proposed request for a large home daycare.

ii. **Intent of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety, and general welfare.**

Based on City Code Section 7.3.101, residential zone districts provides for "...residential living with a broad range of dwelling unit densities and development types..". Residential zone districts are also envisioned to allow for and/or accommodate other land uses should certain standards be met and approvals are granted. The applicant's request to develop a large daycare home use will be consistent with the above-referenced purpose section, as the additional standards set forth in City Code Section 7.3.105(B)(2)) for a large daycare home have been met. More specifically, these standards were designated to mitigate potential impacts that apply to certain uses allowed in residential zone districts; thus, ensuring the intent and purpose of the City Code to promote public health, safety, and general welfare are adhered to.

iii. **Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.**

The proposed large daycare home and conditional use development plan conform to the goals and policies of the City Comprehensive Plan (herein referred to as "PlanCOS"). This project provides a service for the greater vicinity as there is a need for childcare in Colorado Springs and is a compatible use with the residential neighborhood. Refer to Section 3 below for additional details.

d. Public Comment

Staff received several comments in opposition to the project, which include high-volume traffic, parking, noise, decreased property value, increase in the size of daycare, and compatibility as noted by the residential neighborhood. The planning staff provides the following responses to the above-referenced comments:

- **Traffic:** City Traffic Engineering confirmed there is adequate space for vehicle parking. The cul-de-sac on this street limits the amount of thru traffic, thus allowing for vehicles to turn around at the cul-de-sac to be the safest route for traffic to leave the street after picking up and dropping off children. Traffic Engineering reviewed the project and does not find any concerns with traffic generated from this use or with the overall safety and welfare of the surrounding community. The following comment was provided by City Traffic Engineering during administrative review stating "A daycare home of this size (7-12 kids) will generate approximately 12-22 vehicles a day. Engleton Court is classified as residential road that can accommodate such number of traffic increase".
- **Parking:** According to City Code Section 7.4.203 only one parking space is required for a single-family dwelling unit. As the proposed use is a commercial business within a single-family dwelling unit there is likely a need for additional parking options. Since large home daycare is not listed within the parking table found within this section of Code, it is acceptable for the Planning Manager to determine parking standards based on closely related uses. This section of Code also states that for a daycare center, one (1) space is required for every 400 sq. ft. of gross floor space. Being that the home

provides about 1,625 sq. ft. of gross floor space, five additional parking spaces would be required under this determined use type. The driveway can accommodate at least two vehicles and there are at least three to four available on-street parking spaces directly in front of the home providing available parking for a total of six (6) to seven (7) vehicles at one time and satisfying the parking requirements. The parking for the large daycare home will not interfere with the neighborhood as adequate parking has been provided both curbside and within the driveway of the subject address. According to the applicant, no more than three vehicles have parked simultaneously at the residence and the applicant will be having parents drop off children at staggered times. Driveway and sidewalk access will not be impeded by the parking areas. Staff finds that the parking provided complies with City Code Section 7.4.203.

- **Noise:** The noise on the property should not exceed the permissible noise level outlined in City Code Section 9.8.104. However, the applicant has stated that they will not be taking children outside to play prior to 9:30 AM and close at 5:30 PM mitigating any noise impact at indecent hours of the day. According to the applicant, no noise complaints have been received during the three years of operating a small daycare.
- **Neighborhood Compatibility:** The site is surrounded to the north and west by single-family residential land uses within single-family residential (R1-6) and Planned Unit Development (PUD) zone districts. Both zone districts accommodate low-density residential neighborhoods. The properties directly to the east and south of the lot are undeveloped. The proposed use is compatible with the surrounding single-family residential neighborhoods as it is providing a needed service near those families that are likely to rely on it and has little to no impact on surrounding residents considering the density.
- **Size:** The applicant has proposed an increase of children to care for from six to twelve. The increase in the number of children should not affect the general safety and welfare of the neighborhood, for the code requirements to mitigate such an effect have been satisfied. All internal and external agencies that have reviewed the project have no comment as to the potential increase in pick-up and drop-off of the children.
- **Property Value:** Per City Code Sections 7.3.105 (B) (2) and 7.5.502 (E), staff does not consider impacts on property values when reviewing land use applications.

Staff finds the proposed use to be consistent with the purpose for uses in residential zone districts, as set forth in City Code Section 7.3.101, the findings for granting a conditional use development plan, as set forth in City Code Section 7.5.704, the criteria for a large daycare home, as set forth in City Code Section 7.3.105(B)(2), and a development plan, as set forth in City Code Section 7.5.502(E).

2. Conformance with the City Comprehensive Plan:

Staff has evaluated the proposed application for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to PlanCOS, the project site is identified as an Established Suburban Neighborhood (**see "PlanCOS Vision Map" attachment**).

Allowing the use of a large home daycare within the single-family residence is supported by specific portions of PlanCOS such as Chapter 2: Vibrant Neighborhoods and Chapter 4: Thriving Economy. It is stated within chapter two that "Creating and recreating resilient neighborhoods will require attention to physical details, connectivity, and encouragement of mixed and integrated land uses". "Reclaiming Neighborhood Space" is one of the primary goals for creating a vibrant neighborhood and is supported by establishing neighborhood-level services and supportive businesses, "to create community, vibrancy, and to address their specific vision and needs". The following are policies and strategies from Chapter Two that are applicable to the proposed use:

- **Policy VN-3.B:** Support unique and innovative community design elements and features such as urban farms and gardens, co-op housing, live/work spaces, or neighborhood gathering places.
- **Policy VN-3.C:** Promote neighborhood-level shopping and service options to include a variety of healthy food markets, coffee houses, restaurants, and other supportive businesses that increase local access and walkability.
 - o Strategy VN-3.C-3: Provide ongoing small business assistance with navigating the City's land entitlement and other permitting processes

As part of chapter four, a mix of complementary uses is a broadly desired element for all sectors of the City of Colorado Springs. The Thriving Economy Framework map does not have a designation called out, however allowing the use of a large home daycare at this location furthers Typology 6 (Critical Support) recommending providing fundamental services and activities. Daycare services are in demand throughout the City and the large home daycare will continue to provide a service to the residents within this established portion of the City.

The intent of PlanCOS is to preserve and enhance existing and established neighborhoods and to evaluate land-use proposals in existing stable neighborhoods. The large home daycare will provide a service to the residents within this established portion of the City. Being open to residents and providing opportunities for childcare services to support both immediate and surrounding neighborhoods will benefit this "Established Suburban Neighborhood".

City Planning staff finds the project in question and its associated application to be in conformance with PlanCOS and its guidance.

3. **Conformance with the Area's Master Plan:**

The Dang Daycare project is located within the Briargate Master Planned area. The master-planned land use designation for the project site is residential low (R-L). The Briargate Master Plan was previously deemed "Implemented", according to City Code Section 7.5.402(B) (2) occurs when the area covered by a master plan is 85% or more built out. Based on the surrounding land use pattern, containing primarily single-family residential uses, and through staff's review of the conditional use development plan application and consideration of the review criteria for establishing a development plan, as set forth in City Code Section 7.5.502(E), the overall area impacts of the project were analyzed. Thus, staff finds the "Dang Daycare" project to be complimentary and supportive of the immediate area.

STAFF RECOMMENDATION:

CPC CU 20-00016 – CONDITIONAL USE

Approve the conditional use development plan for "Dang Daycare", based upon the findings that the request meets the review criteria for granting a conditional use, as set forth in City Code Section 7.5.704, and a development plan as set forth in City Code Section 7.5.502(E).