



Quick Facts

Applicant

Catology, LLC

Property Owner

CSJ NO 7, LLC

Address / Location

5929 Delmonico Drive

TSN

6318304023

Zoning and Overlays

Current: MX-M/HS (Mixed Use Medium Intensity with Hillside Overlay)

Site Area

25,903 square feet

Proposed Land Use

Animal Care Facility

Applicable Code

Unified Development Code

Project Summary

The project includes a Use Variance application to allow animal care facility use for a cat kennel within the MX-M zone district (Mixed-Used Medium Scale) where it is currently not a permitted nor a conditionally permitted use under the Unified Development Code (UDC).

File Number	Application Type	Decision Type
UVAR-23-0004	Use Variance w/ Land Use Statement	Quasi-Judicial

Staff Recommendations

Recommend approval to City Council the use variance request based upon the findings that the request complies with the use variance review criteria as set forth in City Code Section 7.5.527.



Background

Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Golden City Addition #1	April 1, 1966
Subdivision	North Pointe Centre Filing No. 6	December 22, 2009
Master Plan	Rockrimmon Master Plan	January 22, 2020
Prior Enforcement Action	There are no prior enforcement actions impacting the property.	

Site History

Under the old Chapter 7, the existing site located at 5929 Delmonico was zoned PBC/HS (Planned Business Commercial with Hillside Overlay) and was part of an approved development plan PD DP 78-113-A7(86). This development plan was later amended in 1989 to change the existing building use from retail to restaurant but the existing building has been vacant for approximately the last six years. The current applicant now proposes an animal care facility for a cat kennel which was a permitted use within the previous PBC zone district. Under the new UDC, the property is zoned MX-M/HS (Mixed Use Medium Scale with Hillside Overlay), however the kennel use was not transferred over to this zone district. A kennel now falls under “animal care facility” use which is not permitted nor conditional within the MX-M zone. Staff has determined that this use was omitted in error and therefore this application is appropriate to rectify that oversight.

Applicable Code

The subject application was submitted after the implementation date (06/05/2023) of the Unified Development Code (UDC). All subsequent references within this report that are made to “the Code” and related sections are references to the Unified Development Code.

Surrounding Zoning and Land Use

Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	OR	Medical Office	
West	PDZ	Residential	Wildgrass single-family attached duplexes
South	MX-M	Retail/Office	
East	MX-M	Multi-Family Residential	North Pointe Apartments



Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	Internal Review / Prior to Planning Commission Hearing
Postcard Mailing Radius	1,000 ft
Number of Postcards Mailed	303 Postcards
Number of Comments Received	1 comment received in opposition

Public Engagement

- No neighborhood meeting was held for this entitlement request.
- One public comment was received in opposition with concerns regarding daytime traffic, smell and devaluing surrounding home values. City Traffic Engineering reviewed the application and had no concerns or comments regarding the proposed use meeting traffic requirements. City does not regulate home values or smells as review criteria from animal care facilities.



Agency Review

Traffic

City Traffic Engineering had no comments or concerns for the proposed use.

City Engineering

City Engineering had no comments or concerns for the proposed use.

Citywide Development Impact Fees

Only informational comment: This development is applicable to CDI, with the current use from approved Development Plan listed as Restaurant. An indoor kennel/animal shelter is considered a decrease in use tier, unless significant expansions in square footage are to be proposed.

SWENT

Stormwater had no comments to address with this application.

Colorado Springs Utilities

Colorado Springs Utilities (CSU) had no comments and supports the recommendation of approval.

Enumerations

Enumerations had no comments for the proposed use.

FIRE

No comments were received.

Use Variance

Summary of Application

The site is located at 5929 Delmonico. The use variance request will allow an animal care facility as a permitted use on the site which is zoned MX-M/HS (Mixed Use Medium Scale with Hillside Overlay) under the UDC that went into effect June 5th, 2023. With the animal care facility use, the Applicant proposes a boarding kennel for cats with ancillary services include cat kenneling/boarding, professional cat grooming and behavior consultations. The applicant does not propose to expand the existing building footprint or change the existing site conditions therefore no additional amendment applications are required by City staff.

The site was previously zoned PBC under Chapter 7 and a kennel was a permitted use. However, this use was not specifically identified under UDC and now falls under the “animal care facility” definition which is no longer a permitted use within the MX-M zone district. Staff determined the omission of this use from the MX-M zone district was an error with the recent code rewrite (known as “RetoolCOS”). Due to the timing needed for a Text Amendment of the UDC, which is subject to City Council approval, that would update the zone district use table, the Applicant elected to submit a use variance application to rectify the error and allow the animal care facility use in this zone district.

Under UDC, a “Land Use Statement” may be submitted as a stand-alone document for a Use Variance application per Manager’s discretion. Based on the history and scope of this application, City staff accepted this Land Use Statement for review of the proposed use which included justification of the land use statement and use variance criteria. (see attached “Land Use Statement”).



Compliance with Relevant Code Sections and Review Criteria

UDC Section 7.5.527.E – Review Criteria

Staff finds that the proposed Use Variance and Land Use Statement review criteria have been satisfied. The proposed land use is compatible with the surrounding area. This area has a mix of office/medical office, commercial, retail, and residential (single-family and multi-family). The MX-M (Mixed-Use Medium Scale) zone district is one of the new zone districts in the newly adopted Unified Development Code (UDC). The purpose of this zone district is to:

“accommodate the development of new activity centers in emerging growth areas, as well as to promote the adaptive reuse or redevelopment of commercial centers that are vacant or underused, or of other obsolete buildings or properties.”

The proposed animal care facility use will utilize an existing vacant building and further supports infill commercial development while stabilizing the existing commercial and benefiting surrounding businesses and residents. Catology has operated as a permitted use within the Chapter 7 PBC zone district at 4703 Centennial Boulevard since 2016 without complaints from neighboring businesses and has proven to be successful in multi-tenant shopping centers. There are also residents within convenient proximity to the proposed project to provide a reliable customer base.

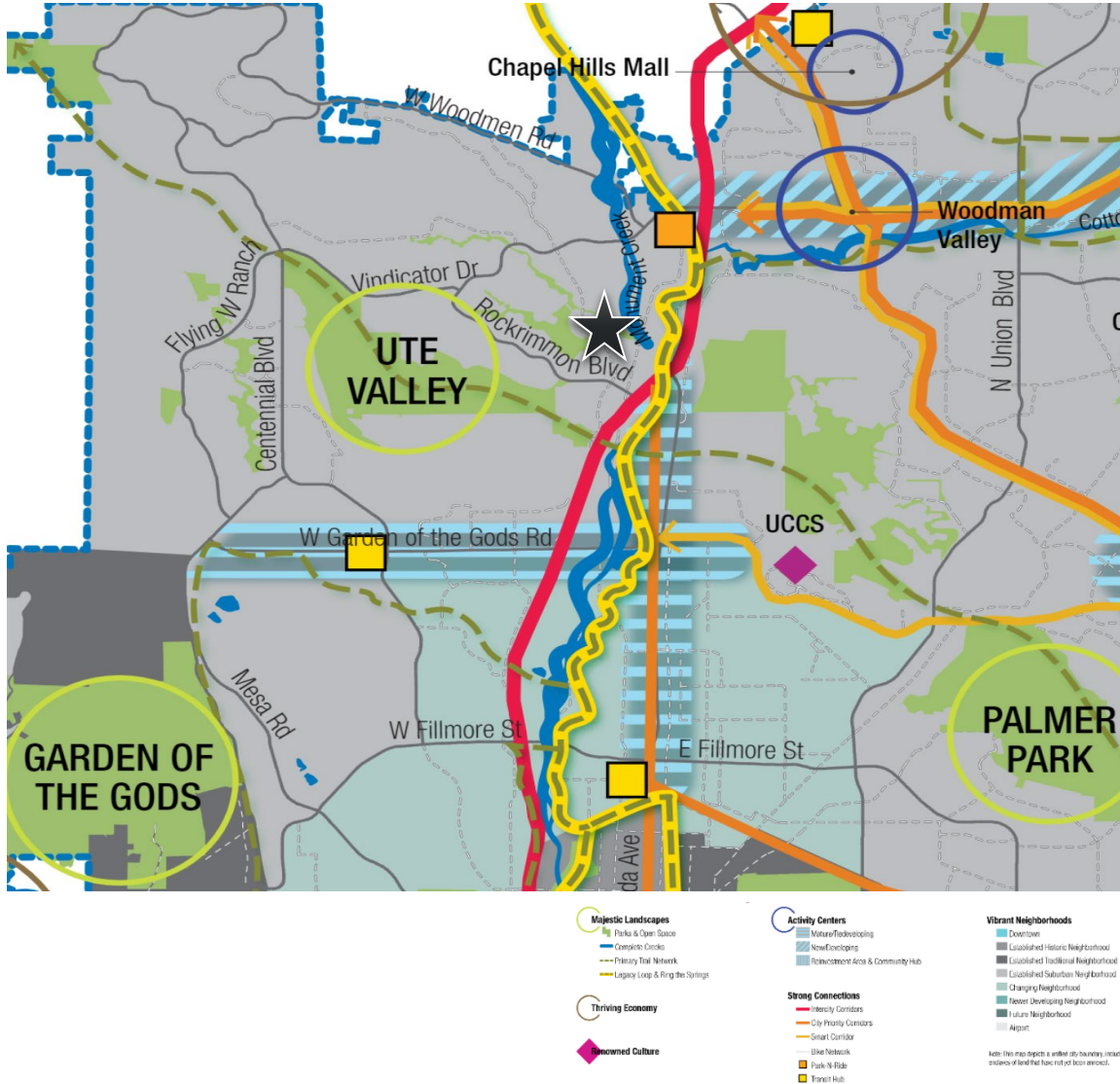
The proposed use for animal care facility is considered a less intense use than the existing restaurant use as identified on the previously approved development plan. Therefore, the site will continue to meet all parking requirements and already has adequate traffic circulation as City Traffic Engineering provided no comments or concerns with the proposed use.

City staff finds that the request will not be detrimental to public welfare, nor will it be injurious to the property or improvements of other surrounding property owners. Because this business is specific to only cats and not dogs with only indoor accommodations, there would be no noise impacts to neighbors nor environmental impacts stemming from hosing animal waste down drains. And while this proposal is considered a kennel under the animal care facility use, there is emphasis on the business being only indoor luxury boarding for cats which is less impactful to the surrounding area than an outdoor kennels for dogs.

Staff further determined that the hardship is not the result of the Applicant’s own actions and that the Use Variance request was not to avoid time and expense of complying with UDC standards. All PBC zone districts under Chapter 7 became MX-M zone districts with the new UDC implementation in June 2023. A kennel use was specifically identified as a permitted use within the PBC zone district under Chapter 7. In UDC, the kennel use was unintentionally omitted and now falls under the animal care facility definition which is no longer a permitted use within MX-M zone district. Staff recognizes that the kennel use was omitted from the UDC use table in error and will be Text Amendment of the UDC application in the near future to update the UDC.

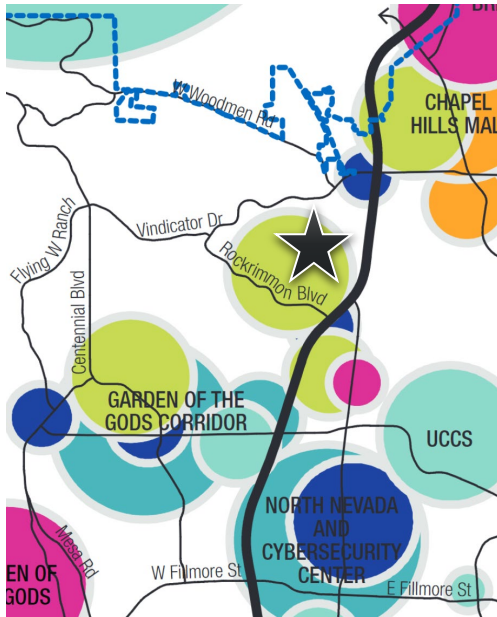
Compliance with PlanCOS

PlanCOS Vision



Staff has evaluated the proposed application for conformance with the City’s current comprehensive plan (herein referred to as “PlanCOS”), adopted in January 2019. PlanCOS identifies the area as an ‘Established Suburban Neighborhood’. One of the primary recommendations in the established neighborhoods typology encourages redevelopment of commercial areas. In this instance, the proposed use will locate in an existing commercial space and provide a new service to residents in a suburban neighborhood. Established neighborhoods are predominantly built-out but should expect some degree of infill and redevelopment. The intent is to offer integrated support and services to nearby neighborhoods. The project site supports the demand for integrated services to surrounding neighborhoods and further provides a future mix of use types in this area.

Staff finds that the proposed Use Variance to be in compliance with the goals, policies and strategies within PlanCOS.

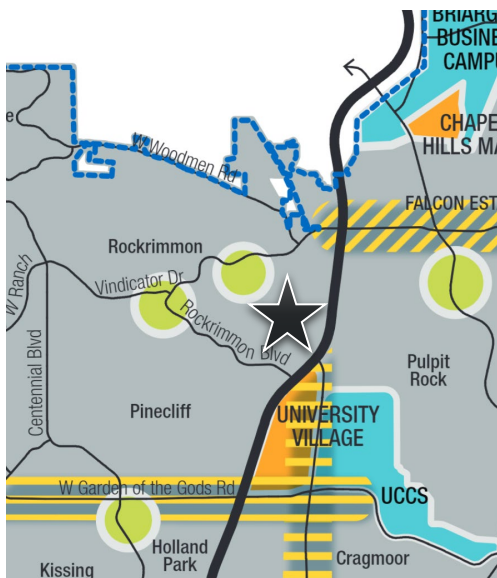


Vibrant Neighborhood

Goal VN-3 of the Vibrant Neighborhoods chapter notes that “reclaiming neighborhood space” through means that empower “reinvestment to create community...” Further supported by Policy VN-3.C specifically encourages “neighborhood-level shopping and service options”. The addition of a pet boarding facility in an existing commercial space that is accessible to a number of residential developments provides an important neighborhood-level

Thriving Economy

The Thriving Economy’s Chapter fourth goal is “embrace sustainability”. Specific policies and strategies in this chapter focus on productive redevelopment in the City boundaries. This includes encouraging infill in underutilized places. This existing commercial facility provides an excellent location for the proposed use and supports the goal to revitalize and reuse existing city infrastructure and existing commercial properties to continue providing important services to the surrounding residential uses while maintaining neighborhood-scale commercial services to local residents.



Unique Places Framework

The property is identified as a “neighborhood center” as part of the Unique Places Chapter of PlanCOS. Neighborhood Centers are “smaller-scale limited impact places that fit into the neighborhood fabric and provide benefits and amenities for residents and other users from a local area”.

Goal UP-2 supports embracing creative infill, adaptation and land use change through “supporting infill and land use investment in mature and developed areas of the City”. As noted in previous sections, the City recently adopted the Unified Development Code. A significant change of that code was that through establishment of the Mixed Use – Medium Scale zone district, the kennel use was not carried forward consistent with the permitted uses in the PBC zone district. This change has resulted in the use being prohibited under the new zoning code where it was previously permitted by right. While an unintentional restriction, PlanCOS Strategy UP-2.A-4 supports “employing problem-solving approaches and continue to implement process improvements to support infill and redevelopment”. In this case, support of the use variance request reinforces the implementation of supporting creative infill in mature, developed areas of the City.



Recommendation

UVAR-23-0004

Recommend approval to City Council of the Use Variance to allow an animal care facility use at 5929 Delmonico Drive, based upon the findings that the request complies with the Use Variance criteria as set forth in City Code Section 7.5.527.E.