

El Paso County Planning and Community Development Department,

Ref File Number AL2217

Special Use Opposition:

In addition to many other reported complaints regarding the Colorado Pumpkin Patch (CPP) LLC disregard for Land Development Code and State Legislation, CPP is requesting an exemption of civil liability for an undefined and unlimited number of events and unlimited duration of massive events under the guise of Agritainment. If Colorado Pumpkin Patch DBA Colorado Kids Ranch Special Use-Agritainment Letter of Intent May 11, 2023 File Number AL2217 is approved there will be no limit to the number of events, the duration of events, and no limit to the number of people attending any or all events.

With or without the Special Use being approved the CPP will always rely on the following statement from their letter of intent, as they have always done in the past to continue illegal operations:

“The requested special use does not include a request for approval of the “Agritainment” use itself due to the use already being allowed, pursuant to the El Paso County Land Development Code.”

CPP’s Agritainment Use should also be revoked.

Plausible statistics for the Fall Festival if AL2217 is approved:

325 Vehicles at any given time per day

Observed stay time 2+ hours (Also indicated on the CPP WEB Site)

8+ hours of operation per day (Indicated on the CPP WEB Site)

= 1,300 vehicles per day

Observed average of 3 persons per vehicle (does not include numerous observed busses and vans)

325 vehicles X 3 persons = 975 on the property at any given time

1,300 vehicles X 3 persons = 3,900 Total People on property/day

Open 7 weeks (Fall Festival only and Indicated on the CPP WEB Site)

3,900 people X 7 weeks (5 or 6 days per week= 40 days) = approved potential of more than **156,000 attendees**. For the Fall Festival alone!

Perspective: The official total head count of the 2023 El Paso County Fair was 25,936: CPP would be allowed to operate at over 6 times the attendance of the El Paso County Fair for the fall festival alone! And with limited civil liability!!

This Special Use request does not align with the El Paso County Master Plan.

The Colorado Pumpkin Patch is not in compliance with the El Paso County Master Plan. The Master plan Identifies the Canterbury Estates Neighborhood and the CPP Property (parcel 6116000001, 18065 SADDLEWOOD RD) placetype as Large-Lot Residential. The Primary use for this placetype is single-family detached residential. The Large-Lot Residential placetype consists almost entirely of residential

development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The placetype description also incorporates conservation of open space, and must be compatible with the character of existing developed areas.

Colorado Pumpkin Patch operations are the exact opposite of the Master Plan's definition of Character. CPP activities completely disregard preservation of rural esthetics and are destroying, on a large scale, the conservation of open space. See Photos in accompanying Power Point presentation.

The master plan is also very specific in identifying supporting land use for the Large-Lot Residential to include:

- Parks/Open Space
- Commercial Retail (**Limited**)
- Commercial Service (**Limited**)
- Agriculture

Colorado Pumpkin Patch is in violation of all supporting functions. See Photos in accompanying Power Point presentation. CPP is not open space or a park, their commercial activities are extremely large with thousands of people attending for the Fall Festival alone. They are not adhering to any limitations in scale of operations. The events CPP claims to be agriculture do not meet the State of Colorado's definition or Agriculture defined below, see "State of Colorado Legislation".

The El Paso County Master Plan further specifically limits the function of supporting uses to maintain the County's treasured natural environment without disruption or degradation. As such, commercial uses are minimal in this placetype with a small-scale standalone business located on a major roadway. Accessory Dwelling Units (ADUs) are compatible in this placetype and should function in the context of the existing neighborhood.

Colorado Pumpkin Patch LLC is not in compliance with the Supporting Uses identified in the El Paso County Master Plan. CPP operations are not minimal nor small-scale. Thousands of vehicles and tens-of-thousands of people are not minimal or small-scale. Additionally, the CPP access is not located on a major roadway. CPP has one shared entrance/exit on Saddlewood Drive that is used for the residence, Pumpkin Patch, Tulip Festival, various "Camps", horse stables, and commercial pumpkin distribution (includes tractor trailers and other large commercial vehicles). Colorado Pumpkin Patch is operating an amusement park and is advertising they will continue to expand and add events.

CPP Advertised 2023 Commercial Events:

- Farm Camp
- Horse Camp
- Survival Camp
- Tulip Festival
- Colorado Pumpkin Patch - Fall Festival
- Horse Boarding
- Farm visitation days

- Wholesale Bulk Pumpkin distribution center (no pumpkins are grown on this property)

Non-Agriculture Amusements:

- Three 100 ft roller slides
- Two 30x30 jumping pillows
- One 40 ft small slide for children
- 12-person Cow Train
- Large tube swings
- Crow Konking
- House of Music
- Face painting
- Gourd target practice with standup launchers
- Football training camp
- Baseball throwing lane with Radar
- Human foosball
- Outdoor laser tag
- Outdoor Large Jenga
- Outdoor Large Checkers
- Outdoor Large Tic-Tac-Toe
- Water pump duck races

Additionally, below is a quote from CPP Letter of Intent:

““The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from these activities. It is, therefore, the intent of the general assembly to encourage these activities by limiting the civil liability of certain persons involved in providing the opportunity to participate in these activities.” (emphasis added)”

CPP is indicating they will operate very large-scale events using the Agritainment limitation of civil liability. Many of the CPP amusements listed above are inherently dangerous, and the amount of traffic and number of people on the property also presents many dangers. CPP should not be allowed to operate such large-scale events without accepting civil liability. Limited civil liability should not be extended to include amusement parks of this scale by El Paso County:

HB 1280: limits the civil liability of persons involved in "agricultural recreation activities"

State of Colorado Legislation:

13-21-121. Agricultural recreation or agritourism activities - legislative declaration - inherent risks - limitation of civil liability - duty to post warning notice - definitions.

(1) The general assembly recognizes that persons who participate in certain agricultural recreation or agritourism activities may incur injuries as a result of the inherent risks involved with these activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from these activities. It is, therefore, the intent of the general assembly to encourage these activities by limiting the civil liability of certain persons involved in providing the opportunity to participate in these activities.

(2) As used in this section, unless the context otherwise requires:

(a) "Activity instructor or equipment provider" means an individual, facility person, group, club, association, partnership, or corporation, whether or not engaged for compensation, that instructs a participant or that rents, sells, or otherwise provides equipment to a participant for the purpose of engaging in an agricultural recreation or agritourism activity.

(b) "Agricultural recreation or agritourism activity" means an activity related to the normal course of agriculture, as defined in section 35-1-102 (1)"

35-1-102. Definitions.

"As used in this article, unless the context otherwise requires:"

(1) "Agriculture" means the science and art of production of plants and animals useful to man, including, to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products and farm production."

"Agricultural recreation or agritourism activity" includes, but is not limited to, planting, cultivation, irrigation, or harvesting of crops; acceptable practices of animal husbandry; rodeo and livestock activities; and maintenance of farm or ranch equipment. "Agricultural recreation or agritourism activity" does not include any activity related to or associated with medical marijuana as defined in section 44-10-103 (34) or retail marijuana as defined in section 44-10-103 (57).

A participant expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury or death that results from the inherent risk of agricultural recreation or agritourism activities. A participant has the sole responsibility for knowing the range of that person's ability to participate in an agricultural recreation or agritourism activity. It is the duty of a participant to act within the limits of the participant's own ability, to heed all warnings, and to refrain from acting in a manner that may cause or contribute to the injury or death of any person or damage to any property. A participant or a participant's representative may not make any claim against, maintain an action against, or recover from an activity instructor or equipment provider or facility person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of agricultural recreation or agritourism activities performed or conducted on or in a facility.

The operator of a facility shall:

(I) Exercise reasonable care to protect against dangers of which he or she actually knew; or

(II) Give warning of any dangers that are ordinarily present on the property.

(b)

(I) The operator of a facility may provide notice of the inherent risks of agricultural recreation or agritourism activities either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agricultural recreation or agritourism activities take place. The statement or sign must set forth the following warning notice:

WARNING

UNDER COLORADO LAW, THERE IS NO LIABILITY FOR THE DEATH OF OR INJURY TO A PARTICIPANT IN AN AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY RESULTING FROM THE INHERENT RISKS OF THE AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY, PURSUANT TO SECTION 13-21-121, COLORADO REVISED STATUTES.

(II) The text on the sign must be in black letters at least one inch in height.

The Colorado Pumpkin Patch LLC has not posted the legally required warnings on their advertisements or on the property. Most event attendees are unaware of the many dangers the events and amusements pose to them and that CPP is not liable for any injuries or death resulting from the many inherent risks associated with the events and amusements. Participants are also not made aware that they are accepting liability to any damages they might cause while on the property.

Colorado Pumpkin Patch LLC amusements, events, and activities do not comply with El Paso County Land Use Code, the El Paso County Master Plan, or State of Colorado Legislation. Please disapprove this request (AL2217) and revoke all previously approved requests. Colorado Pumpkin Patch is destroying our community and endangering all residents by continuing with their unmitigated activities.

Respectfully,

Bryan Canaan