

**Colorado Pumpkin Patch
DBA Colorado Kids Ranch
Special Use- Agritainment
Letter of Intent**

May 11, 2023

Add PCD File No.

Colorado Pumpkin Patch LLC
18065 Saddlewood Road
Monument, CO 80132

Planner: Vertex Consulting Services, Nina Ruiz
455 E Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903
719-733-8605
Nina.ruiz@vertexc.com

Remove any statements that state access will be provided from HWY 105 since the deviation request asking for access was denied.

Traffic Engineer: SMH Consultants, Brett Louk
411 S Tejon Street, Suite I
Colorado Springs, CO 80903
719-465-2145

Tax Schedule No: 61160-00-001

Acreage: 40.52 Acres

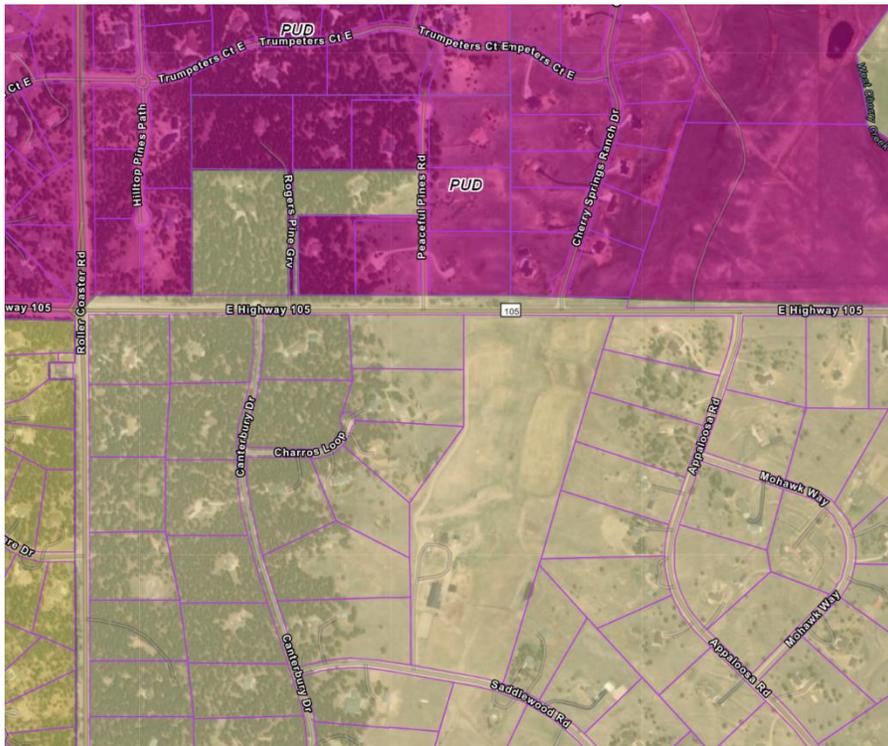
Specify how many as a maximum may be allowed with this permit

Zoning: RR-5 (Residential Rural)

Site Location, Size, Zoning:

Vertex Consulting Services, on behalf of the Colorado Pumpkin Patch LLC (“CPP”), is respectfully submitting a special use application to obtain approval for exceeding 50 vehicles onsite during certain durations, in association with the “Agritainment” activities that occur onsite annually. The CPP property is located south of Highway 105 and approximately one half of a mile east of Roller Coaster Road. The 40.52-acre property is presently zoned RR-5 (Residential Rural). The proposed special use is compatible with the rural surroundings and is consistent with the Your El Paso Master Plan.

The CPP property is surrounded by the RR-5 and PUD zoning districts:



This section is extraneous. I would recommend, for simplicity's sake, to remove any extraneous information that is not explaining the specific use and the review criteria analysis.

State and El Paso County Enabling Legislature to Promote “Agritainment”

The State of Colorado supports “Agritainment” activities and has enacted legislation to encourage the use. House Bill 14-1280 was passed April 21, 2014 to promote the growth and success of “Agrotourism” (AKA Agritainment) by eliminating certain liabilities. The Bill specifically identifies that:

“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)

El Paso County has a long history of supporting rural and agricultural endeavors. The County began the drafting of regulations to support and allow for “Agritainment” uses as a response to the State legislation as well as an increase in the number of requests from property owners wanting to operate on their rural acreage. At the time, each one of these requests required variance of use approval regardless of the property size, duration of the activities, or size of operation. The regulations were revised to allow for “Agritainment” as a use by right in many zoning districts. The County adopted the “Agritainment” regulations in 2017. The “Background” section of the associated staff report includes the following as the purpose for the amendment:

“The purpose of adding “Agritainment” to the Land Development Code is to encourage the preservation and utilization of ranches and farms in El Paso County and to address the numerous requests by the Planning and Community Development Department to initiate agriculturally related entertainment uses. Introduction of “Agritainment” uses in the rural areas of the County could help provide supplemental income to landowners, which may increase the long term sustainability of the farm or ranch.”

Request:

The CPP property is zoned RR-5 and is in excess of 35 acres, therefore, Agritainment is a permitted use on the subject property with the limitation of no more than 50 vehicles at any given time. However, there is no limitation as to:

- The total number of vehicle trips per day
- The total number of patrons onsite at any given time
- The total number of patrons per year
- The hours of operation
- The number of days per year the use is in operation.

Is this request to provide these limitations? None of this has been specified in this letter. This is all required information to include for a special use permit.

The requested special use will not include the “Agritainment” use itself due to the use already being permitted, pursuant to the El Paso County Land Development Code. The requested special use is limited to allowing more than 50 vehicles onsite at any time. CPP hold two main events annually: (i) the Fall

Festival is held during the last two weeks of September through November 7; and (ii) the Tulip Festival is held during two weekends in May (collectively the “Events.”) CPP provides services that are highly beneficial for the community, especially the Youth. CPP employs a significant number of Youth as well, imparting critical life skills. CPP is also involved in invaluable, nonprofit services such as the Johnny Pumpkinseed program, allowing free admission to the Annual Event for foster care and special needs children and their families.

Justification:

Section 5.3.2.A, Special Use, of the Land Development Code states:

“The purpose of the special use process is to address potential impacts of certain land uses on existing and allowed uses in the same neighborhood. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.”

The property is zoned RR-5. Other permitted uses in the RR-5 zoning district that are likely to have similar impacts to the “Agritainment” request include:

- Dairy
- Farm
- Kennel
- Wholesale Nursery
- Public Park and Open Space
- Ranch
- Religious Institution
- Tree Farm
- Agricultural Stand

The above listed permitted uses tend to generate additional vehicle trips and produce large gatherings of customers and employees. The Land Development Code does not limit the hours of operation, total vehicle trips, number of vehicles at any given time, or scope and scale of the above listed permitted uses. The Code permits any of the above uses without limit to the traffic or number of attendees. The proposed use is less impactful than the above listed permitted uses due to the seasonal nature of the use and the traffic primarily being passenger vehicles and not delivery trucks or heavy equipment.

Potential impacts related to the requested special use of more than 50 vehicles at the peak hour to the surrounding properties include additional dust, traffic, and the appearance of the parking area when in use. CPP will use specific mitigation measures to address these potential impacts during the Events, including the following:

- Watering trucks will be used during peak hours and days as needed to wet down the driveway and parking areas
- Formalized parking areas will be established for the average parking size
- CPP will construct a berm and a fence to screen the parking area from view

Please provide an explanation of the traffic control measures. If the parking lot fills up, are there any provisions for overflow, off site parking, or turning people away?

This has been denied. Please remove this sentence.

- CPP will utilize access to the CPP property from Highway 105 during peak days of the Events
- CPP will employ traffic control measures during the peak days

Not sure what is meant by this paragraph. The Code does limit the number of vehicles on a property associated with an agritainment. This letter does not indicate how many vehicles are proposed with this use.

The only question is the scale that occurs during the peak days of the Events. The intensity is not at issue- the Code does not limit the number of people, traffic, duration, etc. The lot is large enough to contain the parking with adequate setback and spacing.

The pages that follow address each one of the Special Use criteria included within Section 5.3.2 of the El Paso County Land Development Code:

- *The special use is generally consistent with the applicable Master Plan;*

Chapter 1 of Your El Paso Master Plan (2021) states that the Plan is “general in nature-it cannot tackle every issue in sufficient detail to determine every type of necessary action.” In addition, Chapter 1 goes on to state that the Plan “is intended to provide clearer and more coordinated policy, resulting in a document that effectively communicates County goals and identifies specific actions to achieve both County-wide and local area objectives.” When taken together, these two statements suggest to the reader that the Plan may only address certain issues at a cursory level and that specific steps or actions for addressing such issues may not be offered within the Plan. That is certainly the case with respect to the special use request, as identified below in an analysis of the Plan.

Key Area Analysis

The property is located within the Tri-Lakes Key Area. The Plan describes the key area characteristics as follows:

“Tri-Lakes is the northern gateway into the County along Interstate 25 and Highway 83. It is situated between Pike National Forest, the United States Air Force Academy, and Black Forest. With significant suburban development and some mixed-use development, this Key Area supports the commercial needs of many of the residents in northern El Paso County. Tri-Lakes also serves as a place of residence for many who commute to work in the Denver Metropolitan Area. It is also an activity and entertainment center with the three lakes (Monument Lake, Woodmoor Lake, and Palmer Lake) that comprise its namesake and direct access to the national forest. Tri-Lakes is the most well-established community in the northern part of the County with a mixture of housing options, easy access to necessary commercial goods and services, and a variety of entertainment opportunities. Future development in this area should align with the existing character and strengthen the residential, commercial, employment, and entertainment opportunities in the adjacent communities of Monument, Palmer Lake, and Woodmoor.” (emphasis added).

The Key Area recommends that entertainment opportunities be allowed within the key area. The proposed use is an agriculturally based entertainment, and is supported by the Master Plan.

Area of Change Analysis

The subject property is identified in the Areas of Change map within the Plan as being within the “Minimal Change: Developed” area of change.

Page 21 of the Plan characterizes areas of “Minimal Change: Developed” by stating:

“These areas have undergone development and have an established character. Developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. For example, a large amount of vacant land in a suburban division adjacent to a more urban neighborhood may be developed and change to match the urban character and intensity so as to accommodate a greater population. The inverse is also possible where an undeveloped portion of a denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.” (Emphasis added)

This is not an undeveloped portion of the neighborhood. This is a developed property - this underlined section is intended to address vacant parcels within developed areas. This does not appear to be a valid argument.

You also state in this letter that this is a commercial use. How does a commercial use maintain the rural character? What agricultural activities are being conducted on the site?

The area of change suggests that redevelopment of the large 40.52 acre property into a more intense development could be supported. However, the property owner wishes to maintain the rural character of the property by maintaining it as 40.52-acres and continuing the agricultural activities onsite.

Placetype Analysis

The CPP property is within the Large-Lot Residential placetype which includes agriculture, parks/open space, and commercial as supporting land uses. Both parks/open space as well as commercial uses traditionally include large parking areas. The “Agritainment” use is a hybrid of all three supporting land uses and combines agricultural and commercial uses into a park-like setting and is a compatible use per the Master Plan. In addition to the use being compatible, the location is also compatible. The Plan specifically states “Commercial uses are minimal in this placetype with a small-scale standalone business located on a major roadway.” The property is located on Highway 105 and is a stand-alone business. Additionally, El Paso County has determined the use to be compatible by designating it as a permitted use in the zoning district.

However, there is a Code Enforcement violation and you are requesting a special use to modify the agritainment beyond what is allowed in the zoning. You must explain how the proposal meets the criteria; cannot simply state it's permitted by right when you are requesting a special use.

The placetype promotes the preservation of farmland and scenic views within the Large-Lot Residential placetype (page 65):

“Additionally, some Large-Lot Residential parts of the County include environmentally sensitive areas that need to be protected. Development should not be allowed within a certain distance of the critical natural assets to ensure they are not negatively impacted by future development. Protecting farmland and scenic views is also an important component of conservation design within Large-Lot Residential areas.”

The CPP property is encumbered by a large drainageway along the easter boundary. The proposal is not for a subdivision, therefore conservation design is not being specifically considered. Setting aside land for overflow parking will preclude any structures or development of the area, preserving the open space

area. The parking area is a visual impediment on the site itself, but is only utilized for the fall festival and tulip festival for less than ¼ of the year.

- *The special use will be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;*

This bullet point has not been addressed. There is no discussion of how the special use will be in harmony with the character of the neighborhood and instead rehashes the master plan analysis. Staff has noted through the Code Enforcement process and the opposition that has been received that there are compatibility issues between this use and the surrounding residences. This letter does not address those issues, nor does it identify any mitigation strategies to provide a harmonious relationship to the surrounding uses.

The evaluation of compatibility can be challenging and is somewhat subjective. The authors of the Your El Paso Master Plan (2021) knew this to be true and provided guidance as to how to determine compatibility in terms of character. The property is within the Large-Lot Residential placetype which includes agriculture, parks/open space, and commercial as supporting land uses. Both parks/open space as well as commercial uses traditionally include large parking areas. The “Agritainment” use is a hybrid of all three supporting land uses and combines agricultural and commercial uses into a park-like setting and is a compatible use per the Master Plan. In addition to the use being compatible, the location is also compatible. The Plan specifically states “Commercial uses are minimal in this placetype with a small-scale standalone business located on a major roadway.” The property is located on Highway 105 and is a stand-alone business. Additionally, El Paso County has determined the use to be compatible by designating it as a permitted use in the zoning district.

This is not true. Agritainment is permitted in the RR-5 district; however, this permit is to provide allowances that are not covered by agritainment as a direct result of the noted compatibility issues which resulted in the existing Code Enforcement violation.

As discussed above, many of the permitted uses in the RR-5 zoning district may result in gatherings of vehicles similar to, or greater than the requested special use, but the use is year round instead seasonal.

- *The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;*

The traffic impact study submitted for the special use identifies that the existing roadway network can handle, and will not be overburdened by the anticipated traffic utilizing the driveway off of Highway 105, Canterbury Drive and Appaloosa Road.

Please update this section. Access to HWY 105 has not been permitted.

- *The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;*

Per the traffic study, all access points will maintain a level of service of A and B. Access during the peak days of the Events, which generally occur the weekends in October and the two weekends the Tulip Festival is open, will be limited to Highway 105 to prevent any potential traffic congestion in the residential neighborhood.

- *The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;*

The CPP property owner has posted the Colorado mandated disclosure required of all “Agritourism” operators. If the special use is approved the applicant will submit a site development plan demonstrating compliance with all local laws and regulations.

- *The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or*

As identified in the traffic study, accepted by El Paso County, the special use to allow for more than 50 vehicles at any given time will not be a detriment to safety.

The special use is not a detriment to the welfare of the present and future residents. In fact, the requested special use will enhance the mental wellbeing of the greater community by providing a place for the community to gather, for families to continue traditions, and for children to experience the magic of the holidays while gaining a better appreciation of the rural lifestyle.

- *The special use conforms or will conform to all other applicable County rules, regulations or ordinances.*

The special use meets all rules and regulations included within the Land Development Code.

Activities:

How many?

As discussed above, the request is not for the “Agritainment” use but for more than 50 vehicles being onsite at any given time. CPP provides services that are highly beneficial for the community, especially the Youth. CPP employs a significant number of Youth as well, imparting critical life skills. CPP is also involved in invaluable, nonprofit services such as the Johnny Pumpkinseed program, allowing free admission to the Annual Event for foster care and special needs children and their families. For additional background and informational purposes, the specific activities included within the “Agritainment” use include:

- Fall Festival
 - Timeframe: Last two weeks of September to November 7 open Tuesday from 9am to 1pm and Wednesday -Sunday from 9am to 5pm
 - Hayrides
 - Petting zoo
 - Pumpkin patch
 - Bounce pad
 - Slides
 - Swings
 - Corn box
 - Face painting
 - Education for children on how to rope an animal and how to milk a cow (fake animals only)
 - Assortment of games and activities for all age groups

- Sale of homemade goods
- Field trips with local schools during the week
- Tulip Festival
 - Timeframe: Friday - Sunday for 2 weeks in May (specific weeks vary, depending on bloom) from 9am to 5pm
 - Pick your own tulips
 - Tractor rides
 - Petting zoo
 - Bounce pad
 - Slides
 - Swings
 - Corn box
 - Face painting
 - Assortment of games and activities for all age groups
 - Sale of homemade goods
- Farm Camp
 - Timeframe: throughout June from 8am-4pm. The day is divided into two separate classes with a morning class and an afternoon class, each lasting 3 hours
 - 80-100 children total with each group being no more than 45 children.
 - Educate children on the operations of a farm, including but not limited to, farm animals, growing crops, basics of nature and the seasons.
- Potential Future Activities
 - CPP may choose to add farm visitation days in the future to allow children to observe the animals and activities on the farm and become familiarized with farm life.

This may result in a revision to the permit being required

Neighborhood Outreach:

Vertex Consulting Services and one of the Colorado Kids Ranch youth employees visited all adjacent properties on December 7, 2022 to discuss the requested special use and to better understand the impacts to the surrounding properties. The primary alleged concern of the adjacent properties was traffic, with the majority of the neighbors identifying that these concerns would be mitigated if access from Highway 105 onto the CPP property were granted. Minor concerns regarding visual obstruction were identified by a few of the neighbors, but the majority of those neighbors believed the impacts could be mitigated with proper screening. Only one adjacent property owner specifically identified noise as a concern.

In addition to speaking with the adjacent property owners in person, a total of 37 letters and requests for input were provided to those neighbors who are not adjacent but may be impacted by the use. The majority of the surrounding neighbors chose not to provide feedback. However, a number of neighbors expressed their support for the CPP operations. Please see the below map which depicts those properties who received the letter and survey:



A deviation was submitted on February 10, 2023 requesting direct access onto Highway 105 for the peak traffic days of the Events, for a total of 24 days in the calendar year. A second deviation was requested not to install turn lanes on Highway 105 due to the turn lanes only being triggered less than 30 days in one calendar year. The use of the 105 access will mitigate any possible traffic impacts during the peak dates.

Update narrative to state deviation was denied.

Submit deviation for auxiliary lanes with next submittal.

Background:

“Agritainment” is a permitted use on the subject parcel due to it being zoned RR-5 and being in excess of 35 acres. An Early Assistance meeting was held February of 2018 where the requested “Agritainment” use was discussed as well as a request for a commercial stable.

The property owner, Mr. Chapman, requested approval of a site development plan to allow for “Agritainment” onsite in 2018. The site development plan was approved on October 22, 2018. The site development plan depicted 49 parking spaces as well as the planting of 23 trees to screen the use from the adjacent rural residential properties. The owner planted the required trees several times and each time the trees failed to be established and died. The Fall Festival has been a success. Mr. Chapman specifically relied on the statements of County Engineering staff during the Early Assistance meeting where they explained the trigger for a traffic study being required and that it was based upon average daily trips. He did not realize this average daily trips was a different requirement than the relevant Code provisions authorized 50 vehicles a day, and thus he believe that he only needed to be concerned about daily and weekly totals averaged over the year. Mr. Chapman believed he was in full compliance throughout the events. He had no intent whatsoever to violate any regulations or legal provisions.

El Paso County set up a site development plan on EDARP August 19, 2021 believing that would cure the violation. Due to the zoning violation having been closed, and the planner being new to the County, the planner did not realize a special use was needed to allow for more than 50 vehicles and made an error when creating only the one project without a special use being included or discussed. The property owner, not being familiar with the regulations and processes, believed this was the correct process. This leads us to where we are today. At that time, the County and the County planner handling the request did not inform Mr. Chapman at all that the County or the Code require a special use application. These facts are supported by the County’s records, documents, and events that are part of the EDARP. The error occurred solely on the part of the County planner, and Mr. Chapman, unfamiliar with the Code or the County’s procedures, relied entirely on the County planner and personnel’s representations, to his detriment. The amended site development plan was submitted in June of 2022. Without the Planning Manager position having been filled at the County yet, the site development plan application was accepted by a member of the PCD staff in error without a special use being required. It was not until after the project had been transferred to a new planner that the owner was informed a separate special use was required.

The property owner requests approval of a special use to allow for more than 50 vehicles at any time.

This is not relevant to the review criteria of a special use. It is unfortunate that the applicant may have been given poor or unclear direction by previous staff; however, we must consider the application based on its own merits and the Code criteria. The original EA meeting request from 2018 has the following request: "Would like to investigate the ability to get a variance or special permit to run a pumpkin patch on the property. The patch would be less than 50 cars at any one time and be season only in late September and October." It would appear that it was clear at that time that the applicant understood at the time that there could be no more than 50 cars on the property at any time for agritainment. Staff recommends that you remove any extraneous information from this request letter.