



STAFF REPORT

Planning Commission

CASE #Z-940-17

PC Date:	March 7, 2017	Case Planner:	Robin Kerns
CC Date:	N/A		
Location:	6525 Olive St.		
Applicant:	Laurel LaFramboise	Owner:	Same as Applicant
Address:	6525 Olive St. Commerce City, CO 80022	Address:	

Case Summary

Request:	Planning Commission review of a PUD Concept Schematic for the subject property.
Project Description:	At this time, the Planning Commission is requested to review and comment on a PUD concept schematic proposed for a 1.76-acre property located in the Kemp neighborhood of Commerce City. The applicant is proposing to create a PUD Zoning that would allow for; 1) an accessory dwelling unit, 2) an urban farm, and 3) the ability to subdivide 2 lots for single family or duplex use.
Issues/Concerns:	The applicant is requesting a level of agricultural use typically associated with an agricultural property in a rural area and a commercial farm, in a urban, residential neighborhood.
Key Approval Criteria:	The PUD Concept Schematic review does not require any action at this time by the Planning Commission, therefore there are no criteria for approval.
Staff Recommendation:	No Recommendation
Current Zone District:	R-2 (Two-Family Residential District)
Comp Plan Designation:	Residential - Medium

Attachments for Review: *Checked if applicable to case.*

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|---|--|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Vicinity Map |
| <input type="checkbox"/> Development Review Team Recommendation | <input checked="" type="checkbox"/> Neighborhood Meeting Notes |
| <input checked="" type="checkbox"/> Site Plan | <input checked="" type="checkbox"/> Referral Responses |
| <input type="checkbox"/> | <input type="checkbox"/> |

Background Information

Site Information

Site Size:	1.76 Acres +/-
Current Conditions:	Developed
Existing Right-of-Way:	Olive St.
Neighborhood:	Kemp
Existing Buildings:	Single Family Dwelling & Detached Garage with unapproved conversion to Dwelling Unit
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site in Floodplain	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

Existing Land Use		Occupant	Zoning
North	Residential	Michelle Montoya	R-2
South	Residential	Heriberto Garay Morales	R-2
East	Residential	Mark & Lydia Hartman, Joyce Amato Trust, Connie Lovato	R-2
West	Residential	Albert & Gloria Amador, Donovan & Jeanette Mikelson, Frank Oliver, and Patricia Sanchez	R-2

Definition of a PUD Concept Schematic

A PUD concept schematic is a generalized land use/site plan for an area proposed to be included within a PUD zone district. It is the first step in the PUD process and it allows early, informal evaluation of a proposed PUD zoning district before substantial expenses have been incurred. The PUD concept schematic provides the City staff and the applicant an opportunity to determine the development's conformance with the comprehensive plan and the requirements of the Land Development Code, and assists the applicant in the preparation of a PUD zone document. Furthermore, the PUD Concept Schematic identifies the specific requirements within the standard zone district that are prohibitive with the proposed use(s) on the subject property. The PUD zoning is used to allow for unique users that often are using innovative approaches to businesses and land uses and therefore require a unique zone district.

Case History

Assessor records indicate the existing 1 story ranch home was built in 1951. The subject property was part of the original incorporation of Commerce City in 1952, and was zoned R-2.

Case	Date	Request	Action
A-301-77	Oct. 1977	Keeping of 250 chickens & water fowl	Denial
Z-838-06	Aug. 2006	PUD Zoning to allow 6 duplexes	Denial

Applicant's Request

The applicant proposes to have the ability to subdivide the 1.76 acre parcel into a total of 3 lots. 2 would maintain the existing Commerce City Residential R-2 zoning. The remaining approximately 1.41 acre lot would be designated Urban Farm. As part of this zoning designation, this property would be allowed a variety of uses and development standards associated with rural and commercial agricultural. Specifically, the property would allow for the keeping and processing of livestock, ranging from cows and horses to chickens and goats. There would be provisions for greenhouses, barns and

storage sheds. To assist in the operation and maintenance of the farm, a detached accessory dwelling unit is proposed to provide housing.

In addition to the farm operations, the applicant is proposing a Riding Club that would provide youths ranging from 11 to 19 years old, the opportunity to learn about ponies. This includes caring for the animal and learning how to drive a pony pulled cart. With training, the youth would be able to drive the cart on local streets and nearby trails. To monitor the overall uses of the site, the applicant is proposing a Complaint Process, which would provide for a process that neighbors could use if they had issues with the agricultural activities.

Development Review Team Analysis

The following describes the proposed PUD Concept Schematic along with the Development Review Team's analysis. Staff is soliciting feedback and comments from Planning Commission with regards to the proposed concept schematic.

Background

The applicant is proposing the Olive Street Farm PUD, an Urban Farm type of use and development, in the residentially zoned Commerce City Kemp neighborhood. The Commerce City Future Land Use Plan designates the property as Residential-Medium. The property, 6525 Olive Street, is currently a 1.76 acre lot zoned R-2. There is an existing 1-story ranch (semi-subterranean) 785 sq.ft. single-family dwelling and 351 sq.ft. detached garage built in 1951 (according to assessor records). At some point prior to the current owner, the detached garage was illegally converted to a dwelling. Due to this issue, the city defines this property as an existing non-conforming property that is unable to receive any building permits, except for health, safety and maintenance, until rectified. This application proposes to allow this converted garage as a Detached Accessory Dwelling Unit.

The applicant also proposes to have the ability to subdivide the 1.76 acre (76,703 sq.ft.) acre parcel into a total of 3 lots. 2 of the lots, 7,000 sq.ft. & 8,000 sq.ft., would maintain the existing Commerce City Residential R-2 zoning. This zoning provides for both single family dwelling units and duplexes. The remaining approximately 1.41 acre (61,703 sq.ft.) lot would have the zoning designation of Urban Farm. The associated zoning, development and use of the site would be governed by the tables, standards, and general provisions provided for in the subject zoning document. Anything not governed by this document would be governed by any applicable Federal, State, and local requirements.

City Council History

In May, 2016, staff conducted a study session at the request of City Council, to discuss the issues surrounding backyard chickens and sought feedback from council to allow or continue to prohibit backyard chickens within Commerce City residentially zoned areas. Currently, the zoning code only allows chickens on agriculturally zoned properties. City Council decided not to take any action regarding further study or drafting of regulations, and determined that if regulations were to be adopted to allow backyard chickens, it would have to come via a citizen driven ballot initiative.

Urban Farm Components and Nuisance Issues

The proposed use of an Urban Farm and Riding Club in a residential city area has a wide range of potential negative impacts. Staff has identified the 5 main components which make up the subject PUD Zoning application. Many of the 5 proposed components, whether “use” or “development” should be evaluated in terms of a “nuisance issue”, which is in-line with how the impacts of Urban Agriculture is described in other jurisdictions. Whether or not a nuisance issue becomes a problem, is unknown. In addition to staff identified issues, please refer to issues identified by various referral agencies as outlined at end of report.

Per Commerce City regulations, **Public Health Nuisance** is defined as: *Every act, thing or condition that is caused, created, maintained, operated, permitted, allowed, or continued on or through any property, real or personal, within the city that is harmful to health, safety, welfare or property of any of the inhabitants of the city is a public health nuisance and is hereby prohibited.*

As described here in, staff has defined the proposed Urban Farm Zoning in terms of the following 5 components:

1. Urban Farm Zoning Designation & Commercial vs. Personal Use

This application would allow the 1.76 acre property a variety of uses and development standards typically associated with agricultural zoning and commercial farms, thus, the term Urban Farm is being applied. The proposed PUD does not distinguish between the farm being used for commercial enterprise or for a property owners’ personal use. Thus, the intensity of agricultural related uses on the site would depend on who owns or is operating the property.

Produce Production & Processing - Understanding the potential impacts of commercial growing operations and the applicable regulations for the processing of produce grown on site for public consumption needs additional research and information.

2. Housing and Manure Management, and Livestock Processing

The Urban Farm zoning proposes being able to have a range of animals from cows and horses to small animals like chickens and goats. The keeping of such animals on a commercial or agricultural property can imply that they can be processed for food. The applicant proposes a Conditional Use Permit (CUP) review for the ability to house large & small animals, and process the livestock. This PUD would only allow small livestock (poultry, rabbits) to be processed on site, as larger animals would need to be taken off-site. Manure could be composted on site, but the “offal” (animal intestines) could not.

Livestock Densities - In addition, the applicant proposes being able to keep 3 livestock per acre, with 1 livestock unit equaling 1 horse or cow, 5 swine/sheep/similar sized animal or 200 poultry/similar sized animal. Given the property size of 1.76 acres, this would imply 5 horses or cows would be allowed and subject document requires minimum of 2 must be kept together. The property would allow for up to 26 swine/sheep/similar sized animals, and up to 1,056 poultry/similar sized animals. These numbers would decrease slightly if the 2 future R-2 lots are subdivided from the property, creating a 1.41 acre lot.

Agricultural Zoning in Commerce City allows on a property size of 1.76 acres (76,665 sq.ft.) a total of 11 horses/large animals. No limit is placed on pet animals such as rabbits, poultry, and domestic fowl.

3. Riding Club

A critical component to the applicant of this PUD would be the ability to host a Riding Club that would provide youths ranging from age 11 to 19 years old, the opportunity to learn how to care for and ride/drive a pony (a smaller horse). The youths would learn to ride/drive on the property before being able to take the pony out onto city streets and public trails. There would be a modest fee for the youths to participate. The same ability to ride on and off site would pertain to the property owner as well.

4. Development Standards

There would be provisions for residential and agricultural structures. As depicted in the subject Olive Street Farm PUD Concept Schematic, a variety of building types would be allowed, including single-family detached dwelling, an accessory dwelling unit, and farming structures, such as greenhouses, barn, and storage sheds. The structures are proposed to be required to either adhere to Commerce City requirements, like the single family detached dwelling, or would need to have a consistent and rural character.

Greenhouse – This zoning document would allow up to 8 greenhouses of up to 3,000 sq.ft. each, of a maximum height of 25 feet. The greenhouses could be used for growing vegetation, and/or small livestock. They could be illuminated for growing year-round and, or extending growing hours, but restricted to not exceed regular daylight hours by 2 hours in the a.m., and 2 hours in the p.m.

Agricultural Zoning in Commerce City would allow on this property up to 5 greenhouses of unlimited size, with bulk standards controlling items such as setbacks, and a maximum of height of 15 feet. These standards ultimately limit a building size.

Accessory Dwelling Unit (ADU) – An additional dwelling unit is proposed on the Urban Farm designated property for someone who “works at least part time on the farm.” On this site, the applicant is proposing to use the illegally converted detached garage as the ADU.

Currently, the City allows Night Watchman Quarters in C-3, I-1, I-2, I-3, AG and Public zoning districts. Guesthouse/Carriage house are not currently allowed in any city zoned areas, but could be permitted as part of a PUD Zoning.

5. Complaint Process

To address nuisance issues that can arise from an operation such as this, the applicant proposes a formal complaint process that would allow for enforcement and to address neighbor concerns. This process involves the use of a specific form and special relationship to Commerce City Neighborhood Services and Police Department.

Commerce City Agricultural Zoning

The Land Development Code (LDC) provides for Agricultural Zoning. Overtime, the amount of agriculturally zoned land in Commerce City has been decreasing. Where it does exist, the zoning is typically near industrial areas, and areas within the city's growth boundary that are still part of unincorporated Adams County. Staff believes that a component of this review should include an analysis as to what are differences between rezoning this property Agricultural versus Urban Farm PUD.

For ease of reference to compare with the subject application, below are the Agriculture related use and development standards provided for in Article 5 & 11 in the LDC:

Sec. 21-11200. Definitions

(235) Livestock shall mean animals commonly regarded as farm animals, including but not limited to, cattle, horses, goats, llamas, ostriches, and sheep, but excluding pet animals such as rabbits, poultry, and domestic fowl.

Sec. 21-5246. Livestock and Horses

- (1) General Standards.
 - (a) Allowed only on AG and Public zoned lots exceeding 12,000 square feet.
 - (b) One horse/large animal allowed for the first 12,000-square feet of net lot area (lot area without a structure upon it); one additional horse/large animal for each additional 6,000-square feet of net lot area.
 - (c) Additional regulations regarding number of animals allowed shall be made by the director, using the space requirements for horses as a guide.

Sec. 21-5236. Greenhouses/Nurseries, Including Retail Sales of Related Products

- (1) Agricultural District. Off-site delivery of plant materials and the use and storage of all vehicles and equipment necessary for those activities are permitted.
- (2) Display and Storage. Merchandise, landscaping materials, and equipment shall be displayed or stored within an enclosed building or in an area of the property that has been fenced or landscaped to conceal the area from any public right-of-way. Neither storage nor display shall occur within 25 feet of public right-of-way or occupy required off-street parking spaces.
- (3) Vehicle Maintenance. Any repair or servicing of vehicles or equipment used in the operation of the business shall occur within an enclosed building. Repair and servicing shall be limited to normal maintenance and shall not include body repair or modification.
- (4) Growing Areas. Areas for the growing of plants and nursery stock may be permitted in greenhouses or in open areas as designated by the applicant.
- (5) Outdoor Storage. Outdoor storage shall meet all requirements for outdoor storage established for the underlying zoning district. The type and location of any materials to be stored on any site shall be determined at the time of development plan approval. Any materials approved for outdoor storage shall not cause a hazard or nuisance to the health, safety, or welfare of humans or animals.

Table V-1 – Land Use Table

R = ALLOWED BY RIGHT P = USE BY PERMIT C = CONDITIONAL USE OG = OIL & GAS PERMIT BLANK CELL = EXCLUDED															
USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-2	I-3	AG PUBLIC
AGRICULTURAL USES															
Agriculture	Crop production, including the sale of agricultural products directly from the grower to the consumer on land that is part of the farm unit	111													R
	Dairy products manufacturing, exclusively grown on premises	3115													R
	Food manufacturing, miscellaneous, all other, exclusively grown on premises	3119													R
	Food manufacturing, specialty and fruit and vegetable preserving, exclusively grown on premises	3114													R
	Grain and oilseed milling, exclusively grown on premises	3112													R
	Wineries, processing fruits exclusively grown on premises	31213													R
Agricultural Services	Agricultural support businesses and services	1151										C	C	R	
	Animal production, excluding NAICS 112990	112													R
	Animal production support services	1152													R
	Cattle feedlot, stockyard, and the commercial sale of livestock	112112													C
	Firewood, commercial storage and sales	454319											R	R	R
	Fish hatchery	112511													R
	Poultry house or pigeon coop	1123													R
	Riding stables/ equestrian training	115210													R
	Rodeo	711310													C
	Veterinary services (livestock)	541940													R

Sec. 21-5440. Number of Accessory Structures

- (5) Principal Agricultural Use. No more than five accessory structures shall be permitted on a single lot.

Table V-3 - Accessory Uses and Accessory Structures Table

	Use/Structure:	R-1	R-2	R-3	R-4	MHP	MU-1	C-1	C-2	C-3	I-1	I-2	I-3	AG	PUBLIC
AG & Animal	Greenhouses	R	R	P	P	P	P	R	R	R	R	R	R	R	R
	Barns and Corrals													R	P
	Horses and Livestock													R	P
	Dog Run	R	R	R	R	R	R	R	R	R	R	R	R	R	R

Table V-4 - Summary Table of Bulk Standards and Additional Regulations for Accessory Structures

STRUCTURE	LOCATIONAL REGULATIONS	SIZE, HEIGHT, RESTRICTIONS	ADDITIONAL REGULATIONS
GREENHOUSES	5-foot side setback. 5-foot rear setback. Not permitted in a front yard.	Cannot exceed 200-sq.ft. for residential. No maximum for non-residential. Cannot exceed 15 feet in height.	
BARNs AND STABLES	60-foot front setback. 25-foot side setback. 25-foot rear setback		Materials must be of a commercial quality. Fiberglass and plywood are prohibited.
HORSE AND LIVESTOCK PENS	60-foot front setback. 25-foot side setback. 25-foot rear setback. 50 feet from any existing		Fencing regulations for underlying zone district shall apply.

	residentially used structure on adjacent property.		
NIGHT WATCHMAN'S QUARTERS - ALL	Must comply with R-1 standards for setbacks.	Must comply with R-1 standards for setbacks.	Only one residential caretaker unit shall be permitted per property. Shall be used only to house the caretaker of the principal use, plus immediate family. Mobile homes, RVs, and buses shall not be used as living quarters.
GUESTHOUSE/CARRIAGE HOUSE	See zone district or PUD Zone Document where allowed.		

Referral Responses

The DRT received response from applicable referral agencies and departments, with a variety of comments and concerns being expressed. The following is a summary of responses received:

- **Public Works Department**
 - Horses on public right-of-way – The use of hoof boots and manure bags must be enforced, additional discussion needed.
 - Drainage Study – Will be required, and on-site retention/detention may be required.
 - Shared Access – If proposed, an access easement and agreement would be required.
 - Access Locations – Should align with existing driveways on opposite side of street, and meet city standards and specifications.
- **Parks & Open Space Department**
 - Park & Recreation Fee – Required if additional lots are created and residential development is built.
 - Trails & Horse Access – Horses allowed on public trails like Sand Creek & Second Creek. Use of Refuge Perimeter trail allowed with Wildlife Refuge support.
- **Police Department (PD)**
 - Nuisance Issues – Several nuisance issues were identified with relevant municipal code sections: composting, manure & livestock housing management, processing of livestock, animal neglect & disturbance, and lack of city resources for animal control of large livestock.
 - Complaint Process – PD is obligated to follow Constitutional law, State Statutes, Municipal ordinances and the CCPD policy manual. PD cannot agree to special complaint process involving one plot of property.
 - Horses & Carts on public right-of-way – State traffic law states they must have slow moving vehicle placard and follow traffic rules. PD believes this issue will be covered best by traffic hazards caused by loose animals.

- **Neighborhood Services Division (NS)**
 - Complaint Process – NS has existing complaint process and procedures, which include timelines, a Complaint Form, and a defined public health nuisance ordinance.
- **Tri-County Health Department**
 - Local Food Production & Access to Healthy Food Options – Support community design that increases physical activity and access to healthy food.
 - Animal Slaughter & Meat Processing – Due to potential health risks, the processing of meat for public consumption requires regulation and oversight. Also, any processing of offal is not supported due to potential for nuisance conditions.
 - Livestock Boarding Facilities – To minimize potential of nuisance conditions, a variety of recommendations are provided for the keeping of livestock.
 - Wastewater – On-site Wastewater System Abandonment – There is no record of a septic system being permitted, thus the existing system must be abandoned in accordance with applicable regulations.
- **South Adams County Water & Sewer District**
 - Water & Sewer Service – Existing house currently served by residential water and sewer service. Additional, separate services required if garage becomes dwelling unit.
 - New Lots or Structures - Buildings on the property, or proposed new lots, which would have water and sewer in them, are required to have their own services.
 - Existing Well - The property is included in the District. Any wells on site should have been physically abandoned and certified that it was for Inclusion. Issues related to continued use of existing well, and use of well for commercial vs. residential agriculture needs additional input.
- **Rocky Mountain Arsenal**
 - Trails & Horse Access - Equestrian use is not allowed within the boundary fence of the Rocky Mountain Arsenal NWR, but equestrian use of the 26 mile perimeter trail is allowed.

Next Steps

1. PUD concept Schematic submittal
 - a. DRT Team analysis
 - >>b. Planning Commission review and comment
2. PUD zone document and PUD Development Permit submittal
 - a. Planning Division works with applicant on zone doc material
 - b. DRT analysis of both the Zone Document and PUD Development Permit
 - c. Applicant revises as necessary for resubmittal
 - d. PUD zone document is finalized for Planning Commission presentation
3. PUD zone document – Planning Commission will review and provide a recommendation to City Council at a public hearing
4. PUD zone document final version presented to City Council at a public hearing

The PUD concept schematic does not necessitate action by the Planning Commission for a recommendation of approval or denial. The concept schematic is presented as an informational item only so that the applicant has a clearer understanding of general direction. The Planning Commission is encouraged to comment on the concept schematic and provide vital feedback to the applicant at this time.

Planning Commission Feedback on Proposal

Staff is seeking feedback/discussion from Planning Commission on the following project component and issues:

- Urban Farm Zoning Designation & Commercial vs. Personal Use
 - Produce Production & Processing
- Housing and Manure Management, and Livestock Processing
 - Livestock Densities
- Riding Club
- Development Standards
 - Greenhouses
 - Accessory Dwelling Unit (ADU)
- Complaint Process
- Commerce City Agricultural Zoning vs. Urban Farm PUD

Additional feedback/comments on other relevant issues may also be provided by Planning Commission to the applicant regarding the PUD Concept submittal.