



# Commerce City

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## Council Communication

File Number: PUDA23-0002

**Agenda Date:** 4/1/2024

**Version:** 2

**Status:** Agenda Ready

**In Control:** City Council

**File Type:** Zoning Ordinances

AN ORDINANCE APPROVING THE REUNION PUD ZONE DOCUMENT AMENDMENT NO. 6 TO MODIFY ALLOWED USES, INCLUDING THE ADDITION OF MARIJUANA USES, CREATE SETBACK REQUIREMENTS FOR A SINGLE MEDICAL MARIJUANA CENTER AND RETAIL MARIJUANA STORE, AND INSTITUTE NEW AND MODIFIED DEVELOPMENT STANDARDS FOR THE 1.48-ACRE LOT LOCATED AT 18494 E. 104TH AVENUE

### Summary and Background Information:

The immediate surrounding area is comprised of various commercial uses. The site itself is vacant, and is surrounded by other properties within the Reunion PUD.

This property is currently part of Parcel 4-F of the Reunion PUD Amendment No. 1, which is designated in the PUD as "Mixed-Use", and allows for a variety of commercial and residential uses on the property. Because residential uses are technically allowed on the property, and due to the fact that there are other properties within 1000 feet of the subject property which are zoned agricultural, residential, and mixed-use, a marijuana dispensary would not be allowed on this site with respect to the current LDC distancing requirements. Therefore, this PUD Amendment proposes to create its own distancing requirements that would allow a dispensary to exist on the site, while also attempting to be in keeping with the intent behind the distancing requirements. The proposed PUD Amendment hopes to accomplish this by proposing a 500-foot distancing requirement from existing residential uses, instead of having a requirement from properties that are simply zoned agricultural, residential, or mixed-use, but do not contain residential uses. If approved, this PUD Amendment would only apply to this specific 1.48-acre site at the corner of E. 104th Avenue and Tower Road.

A concurrent PUD Development Permit (PUDP23-0007) is under administrative review. An approximately 12,000 square foot building is proposed, with units for up to five individual tenants, including a restaurant and a combined medical marijuana center and retail marijuana store. Per the proposed PUD Amendment, one of the tenant spaces would be a minimum 2,000 sq. ft. guaranteed restaurant space. Another tenant space would be a single medical marijuana center and retail marijuana store, occupying a maximum of 2,500 square feet. Currently the City only has marijuana retail facilities located south of E. 72nd Avenue. The other uses would be subject to the proposed use table in the PUD Amendment, which has removed all of the currently allowed residential uses, as well as some more intensive commercial uses, such as gas stations, car

washes, and auto repair shops, which could currently be permitted on the site. According to the most recent submittal of the development plan, the site will also provide thirty (30) percent more parking than is required, which should mitigate any parking issues that the new development could cause for the existing commercial development that surrounds the site.

This proposed PUD Amendment also proposes several development standards for the site that exceed Land Development Code (LDC) requirements. Regarding architectural requirements, the PUD Amendment institutes a requirement that at least 45% of the wall area of the building facade(s) shall be fenestration (i.e. windows, doors, or faux windows), where the LDC has no such requirement. In addition, the PUD amendment requires significantly more façade treatments than are required for similar commercial development by the LDC. Furthermore, the proposed PUD Amendment will require a gathering space on site with several amenities, which is not required at all by the LDC. Finally, although the LDC does not require a sustainability element, the PUD Amendment proposes several sustainability requirements that will have site design impacts, as well as impacts to how the proposed commercial structure will be built and operated.

The subject property is located at the intersection of E. 104th Ave. and Tower Road, which are both principal arterial roadways. Access to the subject property will be via an existing private drive, which connects to Yampa Street and Tower Road.

The site will be able to meet all of the standards proposed by this PUD Amendment, as well as all relevant City standards and Land Development Code (LDC) requirements.

A full analysis of the approval criteria is provided in the attached PUD Zone Document Amendment report. Relevant approval criteria are as follows (LDC Sec. 21-3251(3)):

A PUD zone document may be approved only if:

- a) The PUD zone document is consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city, or reflects conditions that have changed since the adoption of the comprehensive plan;
- b) The PUD zone document is consistent with any previously reviewed PUD concept schematic;
- c) The PUD:
  - i. Addresses a unique situation, confers a substantial benefit to the city, or incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District) and represents an improvement in quality over what could have been accomplished through strict applications of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; unique architecture or design, or increased choice of living and housing environments; or
  - ii. The PUD is required to avoid completely prohibiting a legal,

- permitted business use within the city;
- d) The PUD complies with all applicable city standards not otherwise modified or waived by the city;
  - e) The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features;
  - f) To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community;
  - g) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development;
  - h) As applicable, the proposed phasing plan for development of the PUD is rational in terms of available infrastructure, capacity, and financing; and
  - i) The same development could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications.

**Staff Responsible (Department Head):** Jared Gerber, Community Development Director

**Staff Presenting:** Jennifer Jones, Planning Manager

**Financial Impact:** N/A

**Funding Source:** N/A

**Planning Commission Recommendation:** On March 5, 2024, this case was presented to the Planning Commission. The Planning Commission held a public hearing, took testimony, and voted (3 to 1, with 1 abstaining) to forward the PUD Zone Document Amendment request to City Council with a recommendation for denial.

**Action Alternatives:**

Deny the application, in accordance with the PC recommendation; or  
Approve the application