

Request for Comments

Case Name: Deshazer Farm House
Case Number: RCU2018-00031

August 6, 2018

Adams County Planning Commission is requesting comments on the following request:

Conditional Use Permit to allow an existing Caretaker Dwelling to remain.

This request is located at 35100 E 120TH AVE

The Assessor's Parcel Number is 0172700000203

Applicant Information: CHARLES DESHAZER
35100 E 120TH AVE
HUDSON, CO 80642

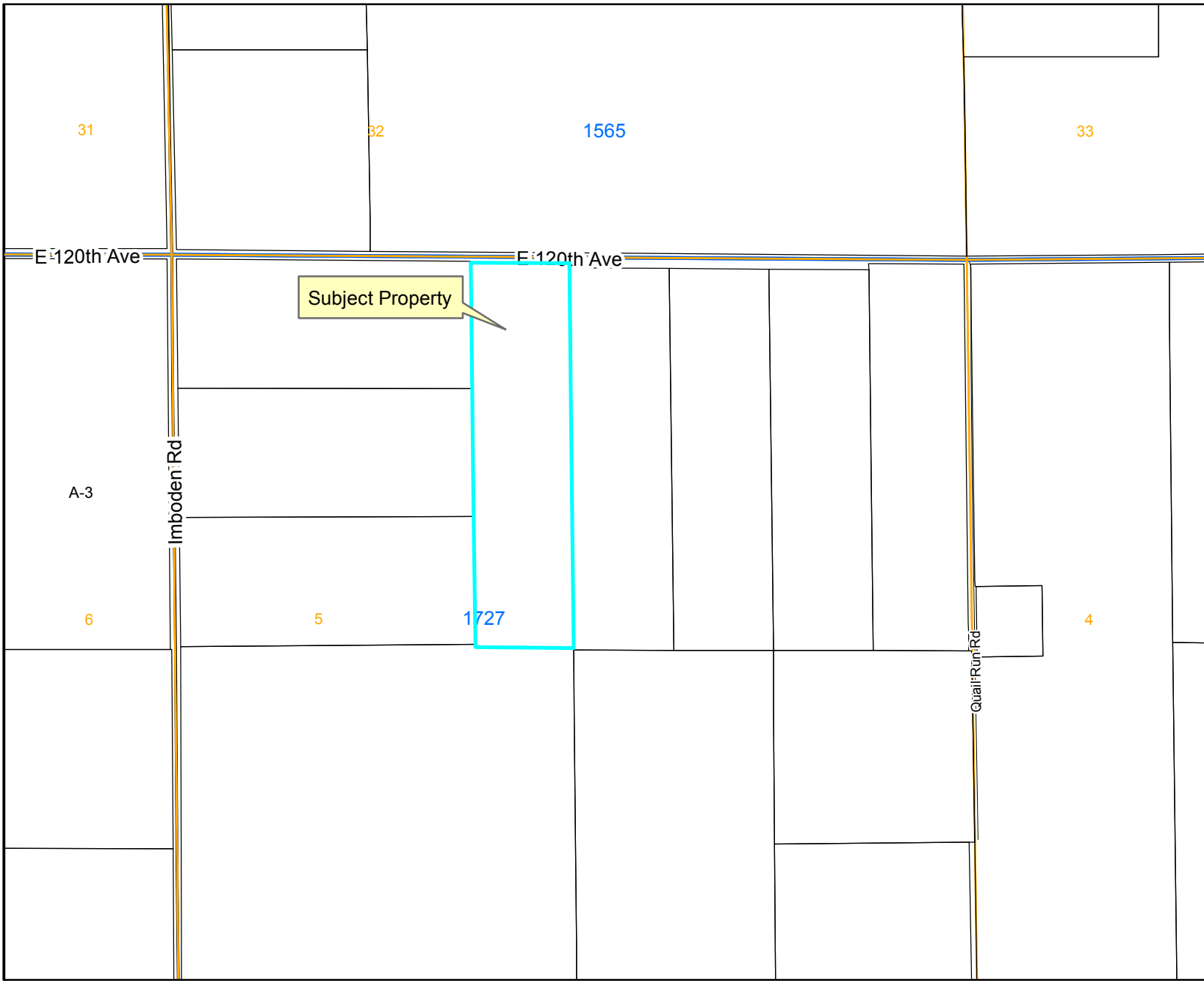
Please forward any written comments on this application to the Department of Community and Economic Development at 4430 South Adams County Parkway, Suite W2000A Brighton, CO 80601-8216 (720) 523-6800 by 08/24/2018 in order that your comments may be taken into consideration in the review of this case. If you would like your comments included verbatim please send your response by way of e-mail to AGibson@adcogov.org.

Once comments have been received and the staff report written, the staff report and notice of public hearing dates will be forwarded to you for your information.

The full text of the proposed request and additional colored maps can be obtained by contacting this office or by accessing the Adams County web site at www.adcogov.org/planning/currentcases.

Thank you for your review of this case.

Anna Gibson
Case Manager



DeShazer Farm House
RCU2018-00031

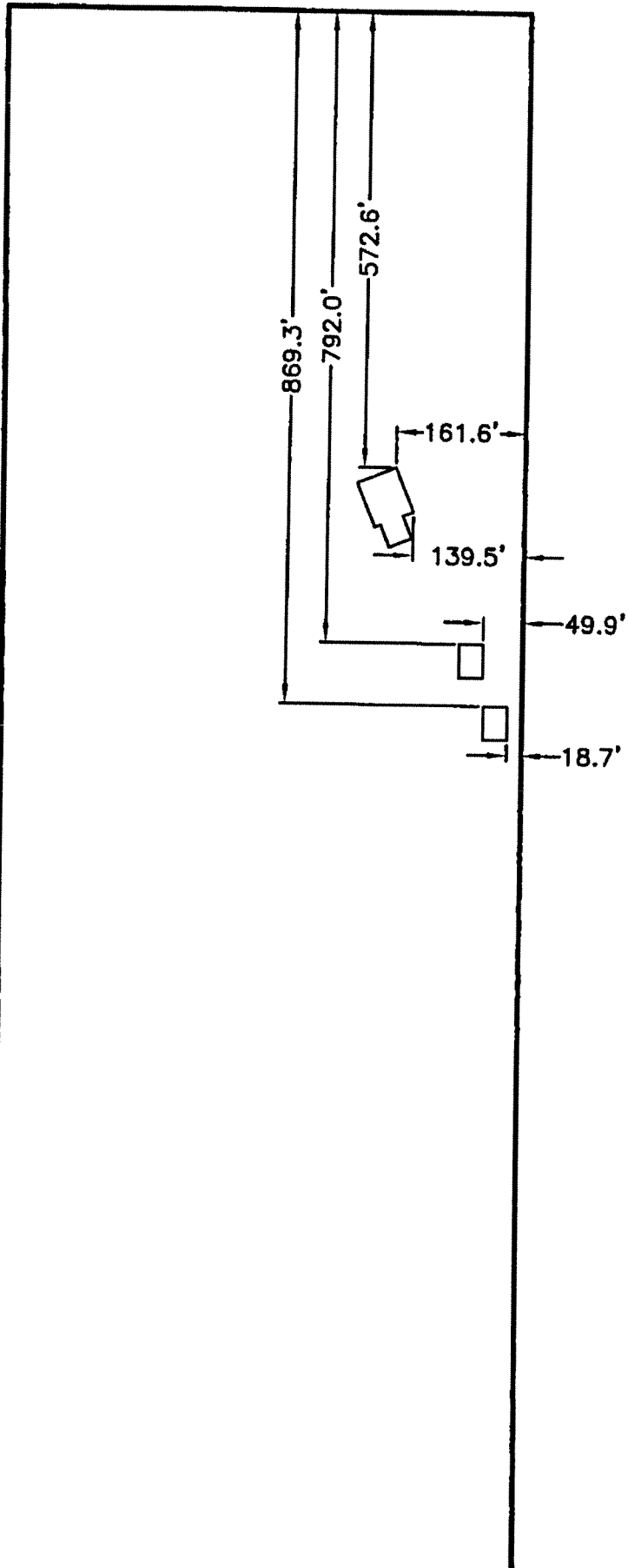


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ADAMS COUNTY
COLORADO

This map is made possible by the Adams County GIS group, which assumes no responsibility for its accuracy



Written Explanation of the Project

I. Background

Mr. Deshazer is applying for a Conditional Use Permit for a detached home that exists on his property for the purpose of providing housing to a farm laborer, Mr. Schenderlein, who works on the existing farm operation (the "Farm House"). In addition to the Farm House, a primary dwelling also exists on the same lot (the "Primary Dwelling"). The subject property is located at 35100 E. 120th Ave, Hudson, Colorado, 80642 (the "Property").

The Property is approximately 39 acres in size and is zoned A-3 to allow for agricultural use. The Property is located east of the corner of 120th and Tower Road and is surrounded by A-3-zoned properties. Adjacent properties located east and west of the Property are approximately the same acreage while north and south of the Property are A-3-zoned properties of larger acreage.

Currently, with substantial farming assistance from Mr. Schenderlein, Mr. Deshazer maintains a farm with both animals and crops on the Property. Under the Adams County Code, accessory dwellings, such as the Farm House, are permitted on A-3-zoned parcels, so long as the owner meets the criteria for a Conditional Use Permit. Upon a sufficient showing of evidence and requisite approval, structures such as the Farm House shall be permitted as conditional uses of one's property in Adams County.

With respect to Mr. Schenderlein's employment as a farm employee, there are a few key points worthy of mention. Mr. Deshazer is not himself a full-time farmer; rather, he works long hours in his practice as a counselor and officer. In order for the farm to remain operational, a worker must remain on-site, especially during the times Mr. Deshazer is unable to be at the Property to assist with farming operations. The Farm House is essential for the maintenance and operation of the farm because it houses Mr. Schenderlein, who tends to the farm while Mr. Deshazer is away or otherwise unavailable to engage in farming activities. Mr. Schenderlein's duties as a farmhand include, but are not limited to: feeding and tending to animals on the farm, repairing and performing maintenance on farming machinery, repairing and performing maintenance on fences and other necessary structures. In exchange for these services, Mr. Schenderlein is provided a place to reside in the Farm House. Without Mr. Schenderlein tending to the Property and associated operations while Mr. Deshazer works at his own trades, the farm would cease operation. Mr. Deshazer intends to expand farming activities on the Property if granted a Condition Use Permit, such as purchasing more livestock and planting and harvesting more crops.

In appraising the market value of properties, including agricultural land, Colorado appraisers often consider the "highest and best use" of a given property. If a parcel of land is zoned to allow for agricultural use—as is Mr. Deshazer's property—and an owner did not use the land to the highest extent permitted by municipal ordinances, the owner would be forfeiting property value, as he would not be utilizing such property according to its highest and best use. Pursuant to the discussion above, if Mr. Deshazer's farm were to cease operation, the Property would be reduced to an open range parcel. This limited use would make it more difficult to re-cultivate or take measures necessary for farming in the future. As such, Mr. Deshazer would forfeit the highest and best use of his land. This would have a direct negative financial impact on

Mr. Deshazer and the Property, as it would decrease the current and future value of the Property and put him at a financial disadvantage when he does choose to sell the Property. The loss of the Farm House would likely result in a reduction or termination of farming operations on the Property, thus reducing farm operations in Adams County.

Because the Farm House already exists and there are no plans to further improve it, other than ensuring full compliance with Adams County zoning and building codes, this application does not include a site plan showing proposed development. In lieu of such plans, Mr. Deshazer has included GIS renderings of the Farm House pulled from the Adams County website.

Mr. Deshazer does not have a building permit for the Farm House, but he is in the process of obtaining one retroactively, as it is a condition to obtaining a Conditional Use Permit implicated by this application.

II. Condition Use Permit Requirements

Having established some background on the Property and its improvements, it is necessary to explain why the Planning Commission (“Commission”) should recommend the Board of County Commissioners (“Board”) approve Mr. Deshazer’s application for a Conditional Use Permit. Section 2-02-08-06 of the Adams County Development Standards and Regulations (the “ACDSR”) sets out the criteria for Conditional Use Permit recommendation and approval. To recommend approval and to approve a Conditional Use Permit, the Commission and the Board must examine the following 8 criterion (each of which is substantively examined in Sections II.A-H below):

- The conditional use is permitted in the applicable zone district.
- The conditional use is consistent with the purposes of the County’s standards and regulations.
- The conditional use will comply with the requirements of the County’s standards and regulations including, but not limited to, all applicable performance standards.
- The conditional use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the immediate area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County. In making this determination, the Commission and the Board shall find, at a minimum, that the conditional use will not result in excessive traffic generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, or inappropriate hours of operation.
- The Conditional Use Permit has addressed all off-site impacts.
- The site is suitable for the conditional use including adequate usable space, adequate access, and absence of environmental constraints.

Checklist No. 3

- The site plan for the proposed conditional use will provide the most convenient and functional use of the lot including the parking scheme, traffic circulation, open space, fencing, screening, landscaping, signage, and lighting.
- Sewer, water, storm water drainage, fire protection, police protection, and roads are to be available and adequate to serve the needs of the conditional use as designed and proposed.

As this explanation demonstrates below, Mr. Deshazer's Conditional Use Permit application satisfies the aforementioned requirements, and therefore, the Commission should recommend the Board approve this application for a Conditional Use Permit.

A. The Adams County Development Standards and Regulations permit an accessory agricultural use for A-3 zoned property.

First, Mr. Deshazer's conditional use is permitted in the applicable zone district. According to ACDSR § 3-10-03, accessory agricultural uses are permitted in areas zoned A-3 in association with a permitted principal use. A Farm Employee Dwelling (as defined in ACDSR §4-03-02 and further described in Section II.C below) is a permitted accessory use in association with the primary agricultural use of farming.

B. Mr. Deshazer's conditional use is consistent with the purpose of ACDSR § 2-02-08.

Second, Mr. Deshazer's conditional use is consistent with the purpose set out in ACDSR § 2-02-08-01. Said section states the purpose of § 2-02-08 is "to detail the steps for obtaining a Conditional Use Permit. Conditional uses are those uses which are presumptively compatible with other land uses authorized or permitted in a zone district, but, if approved, which require more discretionary review than those uses which are authorized."

The uses implicated in this application are presumptively compatible with the land uses authorized in the applicable zone district. The Farm House is not only an extension of the agricultural use permitted under the A-3 zoning, but so much is necessary if agricultural uses are to continue. That is, if this application is denied and Mr. Schederlein is unable to reside in the Farm House, all agricultural uses would be dramatically reduced or terminated.

C. The Farm House meets all necessary performance standards to qualify as a Farm Employee Dwelling.

Third, Mr. Deshazer's conditional use will comply with the requirements of the ACDSR including all applicable performance standards. According to ACDSR § 4-03-02-01.8, a Permanent Structure used as a Farm Employee Dwelling is an acceptable agricultural accessory use. ACDSR § 4-03-02-02-03.2 sets out the following performance standards for a Permanent Structure to qualify as a Farm Employee Dwelling:

Checklist No. 3

- a. Permit Required: A Conditional Use Permit approval shall be required for the use of an additional single family or multiple family dwelling as a farm employee dwelling.
- b. Compliance: A single family dwelling intended as such must comply with the minimum requirements of the R-1-C District. All permanent structures shall meet the setbacks for accessory structures and the requirements of the 1997 Uniform Building Code, as amended.
- c. Provision of Water and Sewer: Proof of adequate provisions for water, sewer, fire protection, other utilities and access shall be provided.
- d. Conformance to Subdivision and Zoning Code: No farm employee dwelling shall be deeded, leased, or rented without conforming to Adams County subdivision and zoning standards and regulations.

First, Mr. Deshazer will be, upon the approval of the attached application, in compliance with the first performance standard. Second, the Farm House meets all requirements of the R-1-C District, meets the setbacks for accessory structures, and the requirements of the 1997 Uniform Building Code. Mr. Deshazer is in the process of (and committed to) obtaining a building permit retroactively, which will satisfy the Compliance performance standard as soon as the permit is obtained. Third, attached documentation proves access to adequate water, sewer, fire protection and other utilities. Finally, attached documentation provides that the Farm House complies with zoning requirements of Adams County.

To be clear, Mr. DeShazer will take all necessary and reasonable steps to obtain a building permit, including without limitation conducting appropriate permit inspections and associated approvals.

D. The Farm House conforms with, and is not detrimental to, the surrounding area.

Fourth, the conditional use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the immediate area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County. As previously mentioned, the Property is approximately .59 acres and is zoned to allow for agricultural use. Furthermore, the Property is surrounded by several other agricultural operations; in fact, the area consists almost exclusively of other farms. Moreover, many of the surrounding farms include several buildings on their premises. Therefore, allowing Mr. Deshazer to keep a Farm Employee Dwelling on the Property would in no way constitute a detriment to the neighborhood or the area at large, as such a use is consistent with surrounding properties and their subsequent uses.

E. The Farm House's off-site impact is no different than any other residential dwelling.

Fifth, the Conditional Use Permit has addressed all off-site impacts. Notably, the permit requested concerns merely one additional home on an large property. Therefore, Mr. Deshazer does not expect there to be any significant off-site impacts outside of those that existed before

the Farm House's construction. Off-site impacts that exist might include carbon emissions and/or pollution that stem from an additional vehicle enjoying access to the Property as well emissions associated with heating and cooling the structure, depending on weather conditions. In any event, the off-site impacts of the additional accessory dwelling are insignificant if present at all.

F. The Property is suitable for the Farm House.

Sixth, the site is suitable for the conditional use including adequate usable space, adequate access, and absence of environmental constraints. Again, the Property is approximately 39 acres of farmland, allowing plenty of space for the Farm House. Moreover, the structure stands at the southern-most end of the Property, past the primary dwelling and at the end of the access road. No environmental constraints exist. Therefore, the structure is consistent with the sixth factor.

G. The Farm House site plan provides the most convenient and functional use of the Property.

Seventh, the site plan for the proposed conditional use provides the most convenient and functional use of the lot including the parking scheme, traffic circulation, open space, fencing, screening, landscaping, signage, and lighting. Related to the analysis under the sixth factor, the Farm House satisfies the seventh factor's requirements, too. In short, the placement of the Farm House is unquestionably convenient and functional to Mr. the Property. The structure exists on the southern-most side of the Property, with the access road connecting to a highway on the Property's north end. Furthermore, the primary dwelling exists just north of the Farm House, avoiding traffic circulation issues entirely. Fencing exists immediately to the east of the Farm House to clearly delineate Mr. Deshazer's Property from his neighbors' to the east.

H. Public utilities and services are available and adequate.

Eighth, sewer, water, storm water drainage, fire protection, police protection, and roads are available and adequate to serve the needs of the conditional use as designed and proposed. Included in this application are the relevant water and sewage documentation that encompass the Farm House. Because the Farm House is a single family dwelling, it does not substantially alter the prior needs of the Property as far as access to public services is concerned. Furthermore, as the Farm House is located approximately 100 feet to the southeast of the primary residence and enjoys connection to the same access road.

III. Conclusion

This application meets, or will soon meet, all Criteria for Approval set forth in ACDSR §2-02-08-06 and should therefore be recommended for approval by the Commission and ultimately approved by the Board. To refuse Mr. Deshazer a Conditional Use Permit would effectively deny him the highest and best use of the Property, thereby diminishing the current and future market value of the same. Therefore, the Commission should recommend approval and the Board should approve Mr. Deshazer's request for a Conditional Use Permit in order to keep his farm on the Property operational.