

March 22, 2019

Domenic Martinelli, City Planner
Commerce City Community Development
7887 East 60th Avenue
Commerce City, CO 80022

Re: 91st & Monaco Conditional Use Permit

Hello Domenic:

The Applicant, A-1 Organics located at 9109 Monaco Street, is requesting a Conditional Use Permit (CUP) that would allow the stacking/piling of mulch stored outdoors to a maximum height of 25 feet versus the current standard of 8 feet. This CUP would require all development of the property to continue to follow all applicable standards for the Industrial-2 zone district except for allowable outdoor storage stacking/piling height.

By this letter and the attached narrative, A-1 Organics amends and clarifies its CUP request, from the request presented to the Planning Commission on February 5, 2019 as follows:

- i. To request only an 18-month use permit in accordance with Condition A of the amended Staff Report instead of the 36-month period requested at the Planning Commission hearing (Condition A: "This conditional use permit shall expire 18 months after the date of approval. The applicant shall be required to renew the conditional use permit prior to the expiration date in order to continue utilizing the site."); and
- ii. To request a 100-foot setback from adjacent residential properties in accordance with Condition B of the amended Staff Report instead of the 75-foot setback requested at the Planning Commission hearing. (Condition B: "All mulch piles shall be a minimum of 100' from adjacent residential properties at any given time, measured from the property line.")

With this revision from the CUP as presented to the Planning Commission, A-1 Organics' CUP request now complies in all respects with ALL conditions enumerated in the amended Staff Report, prepared for the February 5, 2019 Planning Commission Hearing, which recommended approval of the CUP request to the Planning Commission.

A-1 Organics requires the CUP, and the 25 foot pile heights requested therein, in order to effectively and efficiently operate in accordance with best industry practices. The company provides organic composts, soils, mulches, and organic recycling services for landscaping and soil amendment purposes. When stacked in taller piles, the materials stay moist and compact, and are less sensitive to weather, wind, and erosion. Taller pile heights also allow for more efficient use of space and create a reduced surface that reduces fire danger. The proposed pile heights are in compliance with International Fire Code, as well as local fire code standards. Shorter piles create a greater need for land area and greater exposure of the materials to the environment, making them more likely to dry out, erode, blow away, and cause negative impacts to adjacent areas.

A-1 Organics has operated with the same pile heights, as expressly authorized by Commerce City, since the time it moved on the site at the suggestion of the City and as expressly authorized throughout the duration of this process. A-1 Organics has always operated in a responsible manner that limits potential adverse impacts regardless of pile height. A Dust Control and Mitigation Plan, submitted with the application, describes the use of wind monitoring, applied water, road improvements, and setback distances to reduce dust generation. In addition, A-1 Organics is committed to install an 8-foot tall net along the site's eastern edge, as shown on the Development Plan, to prevent mulch from blowing onto the adjacent residential property, and a demarcation pole will be erected onsite denoting the maximum height that mulch/materials may be stacked. These actions, as well as the other actions included in the Dust Mitigation Plan and included as Conditions in the Amended Staff report, minimize air quality impacts, create an ample buffer between existing residential uses adjacent to the property, and ensure compliance with stacking height.

We believe these additional actions will allow this facility to continue to operate successfully while respecting the surrounding community.

Finally, as explicitly recognized by the amended Staff Report,

“the site meets a number of goals and objectives within the city’s comprehensive plan, specifically in Chapter 15 regarding environmental conservation and stewardship, and conformance with the comprehensive plan designation of industrial / distribution. The site is currently conforming to all LDC regulations (aside from pile heights) and the currently approved development plan for the site.”

A-1 Organics provides a critical service to Commerce City and its residents, and its operations are an important component to the advancement of the City’s Comprehensive Plan, as recognized by the DRT/Planning Department. However, as it has been the case since it moved onto the site approximately three years ago, its operations require, and industry best practices mandate, pile heights in excess of the 8-foot limit.

A-1 Organics will be unable to continue its operations at the site without the ability to operate with piles up to 25 feet as requested and expressly permitted via CUP under the newly enacted regulation. If A-1 Organics is unable to continue its operations at the site as maintained for the past three years, it will be forced to relocate, abandoning the property and the highest beneficial use thereof. This will compromise the recycling services available to Commerce City and its residents, will remove a strong locally-owned business and employer with a long-term Colorado history from its boundaries, and will jeopardize the City’s ability to advance its Comprehensive Plan.

The project narrative supporting the CUP follows this letter. Please let us know if you have any questions or require any additional information. We look forward to working with you throughout the review and approval of this project.

Sincerely,

Norris Design



Libby Kaiser
Project Manager

CONDITIONAL USE PERMIT APPROVAL CRITERIA – SECTION 21-3230

(a) All of the following criteria are met:

- (i) The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;

An organic recycling facility is a use by right in the Industrial-2 zone district and A-1 Organics has been in operation on this site since July 2015. Allowing A-1 Organics to stack their mulch piles as high as 25 feet versus 8 feet will not have an adverse effect on adjacent property or the character of the neighborhood. The facility is in an isolated area of Commerce City, in between gravel ponds and Highway 85. Visual impacts will be mitigated by existing topography as well as existing landscaping. Northeast of the project site are a couple rural residential and stable uses located within unincorporated Adams County that, while adjacent, have a significant difference in elevation and have extensive landscaping in mature trees that screen the mulch piles from these properties. Nevertheless, the applicant will build an 8-foot tall net along the eastern property line to further screen the piles and prevent mulch from blowing onto these neighboring properties.

Taller pile heights will not impact traffic conditions, parking, or public improvements. The site fronts onto Monaco Street, which is a two-way, two-lane road that provides convenient connections to the local and regional transportation system; however, it lacks sidewalks. A single access point from Monaco Street provides ingress and egress to the site. Traffic generated from the facility, regardless of pile height, can be adequately handled by the existing roadway system, according to a Traffic Letter included with this submittal. All parking will be contained onsite.

- (ii) Any adverse effect has been or will be mitigated to the maximum extent feasible, including but not limited to sufficient landscaping and screening to ensure harmony for adjoining uses;

Due to the topography of the property and the nature of adjacent uses, approving this height exception will have limited adverse impacts on the surrounding land uses. To the south is a gravel mining operation located within unincorporated Adams County. This use is just beginning operations and should be operational for the next several decades, based on their filed plan of operation with Adams County and the State of Colorado. The uses to the west and north are in unincorporated Adams County and utilized for water storage and generally inaccessible to the public. Beyond the reservoirs is a public trail, which is located approximately 1,800 feet from the proposed stockpiles. Given the significant distance and the intervening foreground objects such as trees and waterbodies, the visual impacts on trail users are negligible.

To the northeast are a couple rural residential and stable uses located within unincorporated Adams County that, while adjacent, have a significant difference in elevation and have extensive landscaping in mature trees that screen the mulch piles and operations from the properties. An 8-foot tall net will be placed along the eastern edge of the property along to further screen the property and prevent mulch from blowing offsite. To the east, across Monaco St, is an existing truck terminal and truck parking for a motel. Neither of these uses should be adversely impacted, and being located on the east side, will have an extremely limited view of the material stockpiles with the significant change in topography.

- A Dust Control and Mitigation Plan, submitted with this application, describes the use of wind monitoring, applied water, road improvements, and setback distances to reduce dust generation. A summary of site operations and dust control measures is included in the Section 21 narrative, also included with this application.***
- (iii) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;
As mentioned, the project site is in an isolated area of Commerce City, in between gravel ponds and Highway 85. A long access road leads from Monaco Street to the bulk of the site, which is surrounded on three sides by gravel ponds and a gravel mining operation. The site's industrial designation and the character of surrounding uses are suitable for the organic recycling facility. Existing improvements and natural features are also suitable. An agricultural ditch borders the site's western boundary and the South Platte River is located further west. Nearly 22% of the site is within the 100-year floodplain, and this area will remain open space. Site topography slopes westward away from Monaco Street toward the floodplain.
- (iv) The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;
A-1 Organics has been in operation since July 2015. Existing improvements, facilities, and services adequately serve the facility, which does not impose an undue burden upon the city or its residents. Nevertheless, A-1 Organics is committed to constructing an 8-foot tall net along its eastern boundary adjacent to existing residential uses to help screen the piles and prevent mulch from blowing offsite. The Applicant will also improve the road base of the eastern-most north/south fire route, upgrading it to recycled asphalt to help suppress dust generated from truck traffic, and a demarcation pole will be located onsite denoting the maximum 25-foot pile height, as shown on the Development Plan.
- (v) The applicant has provided adequate assurances of continuing maintenance;
A-1 Organic's Dust Control and Mitigation Plan assures the site is continually operated in a responsible manner with the most intensive operations occurring at the "back" of the site with dust suppression measures being applied regularly and holistically across the entire site. To help with trash, contractors regularly pick up debris to maintain a clean, attractive site and prevent trash from blowing into retail material and ending up at a customer's site. The Applicant has also agreed to upgrade a limited section of road base and build an 8-foot tall net, which will be maintained as needed.
- (vi) There is no evidence to suggest that the use violates any federal, state, or local requirements; and
The organic recycling facility is an allowed use by right in the Industrial-2 zone district. It does not violate any federal, state, or local requirements.
- (b) One of the following criteria is met:
- (vii) There is a community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide and maintain a proper mix of uses both within the city and the immediate area of the proposed use; or

A-1 Organics is an eco-friendly operation providing natural, non-toxic compost and mulch that diverts yard waste from local landfills, conferring substantial public benefits. Commerce City and its residents benefit from having such a facility in the city limits, as its proximity increases its convenience. For example, the Commerce City Police Department uses A-1 Organics to recycle illegal marijuana plants.

- (viii) The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan and all other plans or programs adopted by the city.
The use is allowed by right in the Industrial-2 zone district. This CUP is only requesting the ability to stack materials higher than is allowed by the City's Land Development Code, Sec. 21-5256. Recycling Facilities / Material Resource Recovery Facilities. These piles with increased heights are limited in where they can be located on the property and require additional setbacks from adjacent residential properties.

The Comprehensive Plan envisions the area where A-1 Organics is located, called the Irondale Focus Area, as remaining predominantly industrial. Approving this CUP is consistent with the Comprehensive Plan's goals of retaining industrial uses and associated jobs that contribute to the City's fiscal stability. There is not enough land at the current site to allow A-1 Organics to maintain its mulch volume if restricted to 8' high piles. Without the requested CUP the facility likely would have to move from Commerce City.

CONDITIONS

A-1 Organics will comply with the following conditions, set forth by the Development Review Team.

- A. This conditional use permit shall expire 18 months after the date of approval. The applicant shall be required to renew the conditional use permit prior to the expiration date in order to continue utilizing the site.
- B. The conditional use permit is granted only for the storage of dyed mulch chips, inbound recyclable wood product, soil, mulching material stackers, and raw wood chips at a height of no greater than 25'. All other outdoor storage on the property must comply with all outdoor storage requirements that apply to a property zoned I-2, as currently adopted or amended by the city. Any deviations from this condition will require an amendment to this application.
- C. All mulch piles shall be a minimum of 100' from adjacent residential properties at any given time, measured from the property line.
- D. A minimum setback of 500' for grinding and screening operations shall apply from adjacent residential properties, measured from the property line.
- E. Grinding operations will not occur on the site when wind speeds exceed 15 miles per hour for a duration of at least 10 minutes.
- F. The applicant shall construct and maintain a minimum of an 8' high net on the east property boundary to prevent any woodchips from blowing onto neighboring properties.
- G. The applicant shall construct and maintain a 25' demarcation pole on the subject property, in order to assist with ongoing enforcement of the 25' high pile restriction.
- H. Primary drive aisles of the outdoor storage area shall be paved with recycled asphalt and maintained by the applicant, as indicated in the approved development plan for case D-255-14-15-16-19.
- I. Water trucks shall be kept and utilized on site during business hours for the spraying of mulch piles and drive aisles.
- J. The property shall act in accordance with the Dust Control and Mitigation plan, included as exhibit A.
- K. Due to the nature of the operations, the applicant will maintain the premises to be free of garbage, trash, and excessive woodchip debris at all times.
- L. The applicant shall comply with all federal, state, and local law.