



Commerce City

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Council Communication

File Number: CU-121-19-21

Agenda Date: 4/5/2021

Version: 1

Status: ATS Review

In Control: City Council

File Type: Conditional Use
Permit

A-1 Organics is requesting a renewal of a Conditional Use Permit, which allows for the storage of wood chips and mulch piles up to 25', for the property located at 9109 Monaco Street, zoned I-2 (Medium Intensity Industrial District). The existing Conditional Use Permit was granted in June 2019 for a term of 18 months

Summary and Background Information:

The existing property is approximately 31 acres in size and currently zoned I-2, Medium Intensity Industrial District. The applicant is currently operating an organic waste recycling and mulching facility on the west half of the site, and is requesting renewal of the existing conditional use permit to allow for the storage of mulch and associated materials up to 25' in height, when a maximum of 8' in height is allowed by the code.

The applicant has been operating at the site since 2015 in such capacity, and received a Conditional Use Permit in 2019 for an initial 18-month term, making the site fully in compliance with the Land Development Code. In their renewal application, the applicant has adequately demonstrated ongoing compliance with the conditions placed upon the Conditional Use Permit granted in 2019. These conditions include: i) installation of all required site improvements, ii) shutting down site operations if wind speeds of 15 mph are sustained for 10 or more minutes, iii) operating in compliance with the approved dust mitigation plan, iv) utilizing water trucks for dust suppression, and v) keeping the facility generally free of garbage, trash, and excessive woodchip debris at all times. No formal enforcement actions have been exercised by the City, the Colorado Department of Public Health & Environment (CDPHE), or the Environmental Protection Agency (EPA) during that time period. No formal complaints have been submitted to the City during the initial 18-month Conditional Use Permit term.

The renewal of this conditional use permit would allow their existing pile heights to continue operating at a maximum of 25' in height. The remainder of the site, and associated operations, are permitted by-right in the I-2 zone district. The subject property is a former landfill site that has significant limitations on the type of uses that can occur due to significant hardships in building construction due to the soil quality. The property is situated in a significant depression compared to adjacent properties, which reduces the visual impact that the mulch piles have on surrounding right-of-way. Because the applicant has been able to demonstrate compliance with the existing Conditional Use Permit and has not received any substantial complaints during the initial Conditional Use Permit term, staff is recommending renewal of the Conditional Use Permit for an additional 5 year

term.

Applicable Decision Criteria (for zoning application): Council will consider the related applications following a public hearing in a quasi-judicial proceeding. Council may approve, approve with conditions (recommended), or deny the application.

A conditional use permit process allows for special consideration of certain specified uses that may or may not be compatible with an area, depending on the specifics of the particular project. Per LDC 21-3230(3), Council may only approve the conditional use permit application if:

(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;
- (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;
- (iii) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;
- (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;
- (v) The applicant has provided adequate assurances of continuing maintenance;
- (vi) There is no evidence to suggest that the use violates any federal, state, or local requirements; and

(b) One of the following criteria is met:

- (i) 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
- (ii) 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.

Staff Responsible (Department Head): Jason Rogers, Community Development

Director

Staff Member Presenting: Domenic Martinelli, Planner

Financial Impact: N/A

Funding Source: N/A

Planning Commission Recommendation: On March 2, 2021, the Planning Commission held a public hearing, took testimony, and voted (5 to 0) to forward the conditional use permit request to City Council with a recommendation of approval, subject to the findings of fact.

Alternative Recommendation: One option would be for City Council to approve the request as submitted by the applicant; a second option would be to approve the request subject to no conditions; a third option would be for City Council to deny the request.

Suggested Motions:

- **To adopt the findings and recommendations of the Planning Commission:** I move to adopt the findings and recommendations of the Planning Commission in Case CU-121-19-21.

- **To approve the Conditional Use Permit as recommended:** I move to enter the findings and to approve the Conditional Use Permit in Case CU-120-21, as reflected in the permit document in the packet.