



STAFF REPORT

Planning Commission

CASE #CU-130-23

PC Date:	April 18, 2023	Case Planner:	Libby Tart
CC Date:	May 15, 2023		
Location:	4150 East 60 th Avenue, Commerce City, CO 80022		
Applicant:	Waste Connections	Owner:	Same as Applicant
Address:	5550 Franklin Street Denver, CO 80216	Address:	Same as Applicant

Case Summary

Request:	Conditional Use Permit (CUP) to allow recycling facilities as a use on a 16.91-acre property.
Project Description:	Waste Connections is requesting the approval of a Conditional Use Permit in order to allow recycling facilities in an I-3 zone district. The project will include a new 71,600 square-foot Materials Recovery Facility (MRF) and will retain three existing structures.
Issues/Concerns:	<ul style="list-style-type: none">• Ensure compliance with all regulations and compatibility with surroundings
Key Approval Criteria:	<ul style="list-style-type: none">• Land Development Code (LDC) Conditional Use Permit Approval Criteria
Staff Recommendation:	Approval with Conditions
Current Zone District:	I-3 (Heavy-Intensity Industrial District)
Comp Plan Designation:	General Industrial

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

- ☒ Vicinity Map
- ☒ Applicant's Narrative and Letters of Recommendation
- ☒ Development Plan
- ☒ Traffic Study
- ☒ City Engineer Variance Letters
- ☒ Proposed Conditions

Background Information

Site Information

Site Size:	16.91 acres
Current Conditions:	Existing brownfield site with structures and parking
Existing Right-of-Way:	South of E. 60 th Avenue
Neighborhood:	Riverside
Existing/New Buildings:	Retaining three existing buildings, constructing 71,600 s.f. new building
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Site in Floodplain	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Surrounding Properties

	<u>Existing Land Use</u>	<u>Occupant</u>	<u>Zoning</u>
North	Industrial	Denver Oil LLC	I-3
East	Industrial	Pepper Tank Company	I-3
South	Industrial	Suncor	PUD
West	Industrial	Suncor	PUD

Case History

In May 1989, a Conditional Use Permit was granted to Intermountain Chemical Company to operate a methanol plant at the site (CU-09-89). In 1993, a height exception was approved by the Board of Adjustment (A-1166-93) for structures up to 100-feet in height for the Intermountain Chemical Company.

By 2006, the methanol plant was no longer operating and a Conditional Use Permit was requested by Rentech to operate a bio-diesel refinery (CU-74-06) and a Board of Adjustment height variance up to 125-feet in height (A-1166-93-06). In November 2009, Rentech requested to amend two conditions of their existing Conditional Use Permit application (CU-74-06). The requests were to allow for additional types of biomass feedstock (namely wood chips and sugarcane bagasse) and to delete a bubble column reactor from their previous development plan that was a requirement of CU-74-06 by December 31, 2009. Rentech noted that the reactor was replaced by the Clear Fuels Gasification Area.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
CU-74-06-09	02/22/2010	Request to amend two conditions from the previous CUP	Approved with Conditions
CU-74-06	07/2006	Conditional Use Permit for a bio-diesel refinery	Approved with Conditions
BOA-1166-93-06	05/2006	Height Exception to allow 125-foot tall structures	Approved with Conditions
BOA-1166-93	1993	Height Exception to allow 100-foot tall structures	Approval with Conditions
CU-09-89	May 1989	Conditional Use Permit for a methanol plant	Approval with Conditions

Applicant's Request

Conditional Use Request:

Waste Connections requests an approval of a Conditional Use Permit to allow recycling facilities in an I-3 zone district. The site, 4150 East 60th Avenue, previously contained extensive heavy industrial uses in the form of a bio-diesel refinery and methanol plant. The property is now vacant and was purchased by Waste Connections in 2022.

The applicant currently operates out of their Denver headquarters at 5500 Franklin Street with 400 employees. They picked the property at 4150 East 60th Avenue to expand their recycling volume and

office operations within the Metropolitan area. The former brownfield site's centralized location and proximity to highways, interstates, and freight rail appealed to their goals of further reducing the carbon footprint of their operations.

For the site itself, they will be utilizing and repurposing three existing buildings on the site and demolishing six of the existing structures. A new 71,600 square-foot Materials Recovery Facility (MRF) will be constructed to process the recycling operations in the interior of the building. Waste Connections will be recycling paper, plastic, metal, glass and cardboard at this facility. The MRF is a state-of-the-art enclosed building that mechanically sorts the materials using robotics and A.I. technology to quickly process and ensure quality control with the materials being sorted. The mechanical nature of the technology allows the facility to recycle at a higher volume. The ability to process and recycle materials at a higher volume means less waste diverted to landfills and more materials repurposed for secondary use.

The applicant will also be constructing a scale house to weigh incoming and outgoing materials and adaptively reuse the other three existing structures for office and maintenance uses. The overall site is proposed to employ 90 people. Some employees will be contained in the existing, but renovated, buildings on site. Others will work directly in the MRF facility.

Operations Plan:

The recycling process will begin in the northwest corner of the MRF building where the vehicles will unload the recyclable materials at one of four drive-in doors. The front-end loaders will then load the material into the handler to sort and separate out the products. At the end of the process, semi-trucks will meet the material near the east end of the building.

All employees on site will be trained in the recognition of unacceptable materials to ensure they do not arrive into the MRF facility. If any materials are discovered at the source of scale, the materials will be refused and sent back to the customer. If any materials are discovered in the unloading process, the customer will be reloading the unacceptable materials and remove them from the site. If the customer is no longer on site, the materials will be moved a secure staging area and disposed of by a licensed company. Trained personnel will ensure site conditions are inspected daily and be a point of contact for any expressed concerns.

The facility is expected to operate Monday through Saturday. At the highest scale of production, 30 individuals will be employed throughout the day in the MRF facility. Two shifts will occur with 25 employees in the first shift and five for the second shift. The hours of operation for the MRF facility are 6 a.m. to 10 p.m. Recycling trucks will enter and leave the property between the hours of 8 a.m. and 7 p.m. Saturday work is expected to occur between 7 a.m. and 2 p.m.

The office and maintenance shop areas are expected to employ up 60 additional employees. The hours of operation for office staff will occur between 7 a.m. and 6 p.m.

The MRF will be regulated by the Colorado Department of Public Health and Environment (CDPHE), South Adams County Fire Department, and the Colorado Department of Agriculture for scale certification. The facility will be registered as a recycling facility with the CDPHE and will be subject to the initial registration and annual requirements of their code.

Overall Development Plan (as part of the CUP):

A Development Plan is proposed with the Conditional Use Permit due to the redevelopment and repurposing of the existing site. A separate Final Subdivision Plat and Floodplain Permit are under review to ensure the applicant is conveying easements, access, and detention ponds in accordance with the Land Development Code and other local, state, and federal requirements.

The proposed buildings, repurposed existing buildings, and plans to demolish six existing structures are detailed in the Conditional Use overview located on pages 1-2 of this report. The applicant will be developing 120 parking spaces from the previous 42 provided on-site and site paving to replace the existing gravel and recycled asphalt. A total of 105 parking spaces are the minimum for employee and visitor parking.

Existing chain-link and metal fencing are located throughout the perimeter of the property for security and screening. The applicant is proposing to extend the metal fencing for additional screening coverage from the Sand Creek Trail and the southern end of the property. Additional site improvements include signage along 60th Avenue, a new detention pond, upgrades to the existing retention pond and modernized downcast lighting throughout the site.

The applicant is planning to retain the existing right-of-way landscaping with an added five-foot attached sidewalk. They will be enhancing the perimeter of the property along East 60th Avenue and along the interior of the metal fence along the Sand Creek Trail with a variety of deciduous and evergreen trees and shrubs and native grasses. Rock and granite mulch will be utilized around landscaping adjacent to buildings. All proposed landscaping will be irrigated.

The MRF facility's anticipated height is up to 57-feet, with a standing seam metal roof, corrugated metal building panels, brick cladding, and split-face CMU for materials. The color palette is a variety of grays, browns, and charcoals. The scale house will contain lap siding and asphalt shingles with a matching color palette to the MRF facility.

Development Review Team Analysis

Scope of Review:

The request for consideration at this hearing is a Conditional Use Permit. The Land Development Code (LDC) sets out the specific criteria for review of a Conditional Use Permit. A Conditional Use Permit is to be reviewed by the Development Review Team (DRT) and provide Planning Commission a staff report. Planning Commission will make a recommendation to City Council, which will hold a public hearing for a final decision in accordance with the City's Land Development Code (LDC). As it relates to Conditional Use Permits, the LDC sets out the specific criteria upon which such an application can be approved or denied. Therefore, the analysis and evaluation must be limited to those criteria; no outside considerations may be the basis of a decision of approval or denial.

According to the LDC, the current zoning of I-3 allows for large recycling facilities/material resource recovery facility use subject to a Conditional Use Permit. The DRT has received an overview of the application and found the proposal to be compliant with other standards and requirements of the I-3 zone district. They are recommending approval with conditions for the CUP. In addition to members of DRT, staff has received a letter of support from the Adams County Regional Economic Partnership (AC-REP) noting that the "project is well-designed and would serve the community and region with a modern recycling facility".

Outside Agency Review:

Staff referred this application and other associate applications to several departments in the city as well as outside agencies. Staff requested additional information about operations, regulatory agencies and required permits, a litter control plan and list of materials processed within the facility. Additional architectural details, truck circulation, materials storage, and fencing details were requested throughout the review in relation to the Development Plan. All questions at the time of this report have been answered through the development review.

Additional departments requesting further review were Public Works and Parks in relation to the detention/retention ponds and landscaping and maintenance along the Sand Creek Trail. All items related to this Conditional Use request are resolved in the most recent review.

The referral agencies primarily involved in comment on the CUP involve the Mile-High Flood District, Colorado Department of Transportation, South Adams County Fire Department, Tri-County Health (now Adams County Health), South Adams County Water and Sewer District, and Xcel Energy. Comments from MHFD, CDOT, and Xcel Energy related to easements, access points, and detention/retention pond locations/maintenance with the Development Plan associated with the CUP. All comments at this point are resolved. The applicant is required to create applications with CDOT for the property through separate CDOT-related processes. South Adams County Fire Department commented on both the Development Plan in reference to fire lanes, gating, access, hydrant locations, and building requirements. They also reviewed additional proposed conditions and recommended these be retained as additional conditions to the CUP. Tri-County Health (now Adams County Health) reviewed the request and noted historic landfills located within the area and the need for a Materials Management Plan to ensure protections are occurring at the time of construction, development, and operations. They also noted an on-site wastewater treatment system that needs removal and an asbestos removal plan for the demolition of existing buildings. The applicant has addressed all concerns related to the CUP and Development Plan with both agencies at this time. The additional proposed conditions by staff were requested by the South Adams County Fire Department and health departments.

Proposed Conditions:

The proposed conditions to this Conditional Use Permit were created through conversations with the South Adams County Fire Department and former Tri-County Health Department (now Adams County Health) and were determined to be directly related to the Conditional Use Permit approval criteria found in Land Development Code section 21-3230(3).

Condition A: A Fire Mitigation and Emergency Preparedness Plan(s) shall be supplied to the South Adams County Fire Department and to the Community Development Department upon approval by the South Adams County Fire Department. All fires shall immediately be reported to the South Adams County Fire Department.

Analysis: This condition reinforces Conditional Use Permit criteria 21-3230(3)(a)(v) in that it provides adequate assurance of preparedness and continuing maintenance to the property. The South Adams County Fire Department requested that such a note be reinforced for the Conditional Use Permit.

Condition B: Copies of any applicable state or federal agency regulatory permits and inspections shall be provided to the Planning Division prior to commencement of operations.

Analysis: This condition ensures the Planning Division has a copy of permits with local, state, and federal authorities concerning maintenance, as noted in Conditional Use Permit criteria 21-3230(3)(a)(v).

Condition C: Methane detection and control devices shall be installed in all structures where and when deemed necessary by the Fire Marshal or Adams County Health Department.

Analysis: This condition is applicable as the existing conditions of this particular site could require methane detection. While it is currently unknown if Waste Connections will necessitate a methane detection or other control device, the history of the property as a brownfield site (methanol plant and refinery) generates the need for the South Adams County Fire Department and for the local health department (formerly Tri-County Health, now Adams County Health) to request this. This condition supports Conditional Use Permit criteria 21-3230(3)(a)(iii) to ensure the characteristics of this site are suitable for the proposed conditional use.

Comprehensive Plan Analysis

In reviewing the requested Conditional Use Permit, the DRT reviewed the request's compatibility with the City's Comprehensive Plan. That analysis is provided in the following table.

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

Section	Goal	Description
Environmental Conservation and Stewardship	EC 5.1	Waste Reduction, Recycling and Re-Use: Support programs for city and community facilities (in key locations) that focus on source reduction, recycling, composting, and construction materials waste diversion for reuse and exchange of materials.
Analysis:		The proposed operation of a large recycling facility with offices fulfills a need in the community by providing local, well-paying jobs with the creation of a new, centralized recycling facility. No such Materials Recovery Facility currently exists in the Denver Metro area for state-of-the-art recycling.

Section	Goal	Description
Land Use	LU 1a	Future Land Use Plan as Guide: Use of the Future Land Use Plan to guide development patterns and mix of uses and amendments to the Land Development Code (LDC).
Analysis:		The Future Land Use Plan identifies the subject property for General Industrial uses, which allows a mix of medium and heavy intense industrial uses, and generally correlates with the I-2 and I-3 zone districts. The proposed recycling facility will conform to the existing neighborhood character and conform to the existing adopted Comprehensive Land Use Map.

Section	Goal	Description
Land Use	LU 2.1	Infill Development Promoted: Promote infill development and redevelopment to use utilities and services efficiency, to support multi-modal transportation, to revitalize neighborhoods, and to maintain prosperous businesses. Infill means development of vacant unplatted parcels scattered throughout the city, or in county enclave areas.
Analysis:		Due to the size and shape of this particular lot, the floodplain surrounding it, and the history of the previous site as a brownfield site, the property is a challenging site to

Section	Goal	Description
		redevelop. By utilizing this as an infill site, the applicant is bringing a sustainable use with a demonstrated community need that conforms to the existing industrial area, brings employment opportunities to the city, and provides the opportunity for waste diversion that would have not otherwise occurred in this area.

LDC Conditional Use Permit Approval Criteria Analysis

The DRT recommendation for this case is based on the following LDC criteria, from Sec. 21-3230(3):

Approval Criteria. A Conditional Use Permit may be approved only if:

(a): All of the following are met:

Criteria (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;

Analysis: Waste Connections' proposal to adaptively reuse a former brownfields site does not result in a substantial or undue adverse effect on adjacent industrial properties, the general industrial characteristics of the neighborhood and public improvements as they presently exist or may exist in the future. The site is suitable for a large indoor recycling facility and the operations explained meet the provisions and policies of the comprehensive plan, the land development code and sustainability plan.

*Staff finds this application **meets this criterion.***

Criteria (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;

Analysis: The applicant has provided screening in the form of landscaping and fencing to ensure harmony for adjoining uses. The buildings that are being retained additionally create a screen from the right-of-way along 60th Avenue.

*Staff finds this application **meets this criterion.***

Criteria (iii): The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

Analysis: The characteristics and proposed location of the new MDF building are suitable for the proposed use. The applicant is enhancing the existing site with new parking, paving, landscaping and a detention pond on site. In addition, proposed Condition C relating to methane detection and control, if required, helps to ensure this criteria is satisfied by ensuring the specific conditions of this site are suitable for the proposed development.

*Staff finds this application **meets this criterion.***

Criteria (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;

Analysis: All agencies, districts and departments find the proposed use to be adequate to receive service. The Waste Connections use will not impose an undue burden on any of the existing improvements, facilities and services of the city or its residents.

*Staff finds this application **meets this criterion.***

Criteria (v): The applicant has provided adequate assurances of continuing maintenance;

Analysis: The applicant has indicated that any improvements or maintenance needed to the existing site will be accommodated. The large recycling facility operations are also regulated at the state and federal level in addition to the requirements of Commerce City and our water and fire districts. Further, any deficiencies in maintenance of the site will be subject to code violations from the Commerce City Neighborhood Services Division.

*Staff finds this application **meets this criterion.***

Criteria (vi): There is no evidence to suggest that the use violates any federal, state, or local requirements; and

Analysis: The current Waste Connections at 5500 Franklin Street in Denver has been in good standing at the local and state level. Staff is requesting the additional conditions of approval at the request of local authorities with the fire district and county health department.

*Staff finds this application **meets this criterion.***

(b): One of the following criteria is met:

Criteria (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

Analysis: The State of Colorado and Commerce City have both noted the need for increased waste diversion efforts to address sustainability goals. The Waste Connections recycling facility will help further expand recycling efforts locally and be adaptively repurposing a brownfield site in the process.

*Staff finds this application **meets this criterion.***

Criteria (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.

Analysis: The site is zoned I-3 and a large recycling facility is permitted subject to a Conditional Use Permit within the I-3 zoning district. The subject property is surrounded by I-3 and Industrial PUD uses and is consistent with the Future Land Use Plan.

*Staff finds this application **meets this criterion**.*

Summary:

In summary, the DRT has determined that the request meets the approval criteria for a Conditional Use Permit outlined in the LDC as provided below, the proposal meets the Comprehensive Plan goals, and the proposal is appropriate given the surrounding industrial area. After performing this analysis, the DRT is recommending that the Planning Commission forward a recommendation for **approval with conditions** to City Council.

Development Review Team Recommendation

The DRT discussed this case, CU-130-23, in a meeting on April 4, 2023. It was noted during the DRT discussion that this proposal for Waste Connections fulfills components of the Sustainability Plan. The DRT made an official recommendation of approval for this case to the Planning Commission.

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Conditional Use Permit set forth in the Land Development Code and recommends that the Planning Commission forward the Conditional Use Permit request to the City Council with a favorable recommendation, subject to the following conditions:

- A.** A Fire Mitigation and Emergency Preparedness Plan(s) shall be supplied to the South Adams County Fire Department and to the Community Development Department upon approval by the South Adams County Fire Department. All fires shall immediately be reported to the South Adams County Fire Department.
- B.** Copies of any applicable state or federal agency regulatory permits and inspections shall be provided to the Planning Division prior to commencement of operations.
- C.** Methane detection and control devices shall be installed in all structures where and when deemed necessary by the Fire Marshal or Adams County Health Department.

Recommended Motion

To recommend approval with conditions:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **4150 East 60th Avenue**, contained in case **CU-130-23**, meets the criteria of the Land Development Code and based upon such finding, recommend that the City Council approve the Conditional Use Permit subject to the following conditions:

- A.** A Fire Mitigation and Emergency Preparedness Plan(s) shall be supplied to the South Adams County Fire Department and to the Community Development Department upon approval by the South Adams County Fire Department. All fires shall immediately be reported to the South Adams County Fire Department.
- B.** Copies of any applicable state or federal agency regulatory permits and inspections shall be provided to the Planning Division prior to commencement of operations.
- C.** Methane detection and control devices shall be installed in all structures where and when deemed necessary by the Fire Marshal or Adams County Health Department.

Alternative Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at the **4150 East 60th Avenue** contained in case **CU-130-23** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Conditional Use Permit.

To recommend denial:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at the **4150 East 60th Avenue** contained in case **CU-130-23** fails to meet the following criteria of the Land Development Code:

List the criteria not met

I further move that based upon this finding that the Planning Commission recommend that the City Council deny the Conditional Use Permit.

To continue the case:

I move that the Planning Commission continue the requested Conditional Use Permit for the property located at **4150 East 60th Avenue** contained in case **CU-130-23** to a future Planning Commission agenda.