



STAFF REPORT

Planning Commission

CASE #CU-121-19

PC Date:	May 7, 2019	Case Planner:	Domenic Martinelli	Phone:	303-289-3670
CC Date:	June 3 2019				
Location:	9109 Monaco Street Henderson, CO 80640				
Applicant:	A-1 Organics	Owner:	New DUX LLC and DUX LP		
Address:	16350 WCR 76 Eaton, CO 80615	Address:	288 Clayton St Suite 204 Denver, CO 80206		

Case Summary

Request:	The applicant is requesting the approval of a conditional use permit for outdoor storage of flammable materials of up to 25'
Project Description:	The applicant is requesting a conditional use permit to allow the storage of mulch piles up to 25' in height.
Issues/Concerns:	- Fire Access - Visual impact to adjacent areas - Safe internal navigation of the property. -Dust mitigation
Key Approval Criteria:	Conditional Use Permit Approval Criteria (LDC Section 21-3230) Outdoor Storage Supplemental Regulations (LDC Section 21-5254) Performance Standards (LDC Section 21-5120)

Staff Recommendation:	Approval with Conditions
Current Zone District:	I-2 (Medium Intensity Industrial District)
Comp Plan Designation:	Industrial/Distribution

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

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| ☒ Applicant's Narrative Summary | ☒ Vicinity Map |
| ☒ Development Review Team Recommendation | ☒ Neighborhood Meeting Notes |
| ☒ Site Plan | ☒ Dust Mitigation Plan |
| ☐ | ☐ |

Background Information

Site Information

Site Size:	31 acres
Current Conditions:	The property is currently developed
Existing Right-of-Way:	Monaco Street (East)
Neighborhood:	South Platte
Existing Buildings:	Yes
Buildings to Remain?	☒ Yes ☐ No
Site in Floodplain?	☐ Yes ☒ No *Part of the west portion of the site was previously in the floodplain, and a floodplain development permit was approved by the city. FEMA issued a Letter of Map Revision for the property as well.

Surrounding Properties

Existing Land Use		Occupant	Zoning
North	Residential	Single Family Detached	ADCO
South	Industrial	Albert Frei & Sons - Aggregate Mining & Inert Fill	ADCO
East	Industrial	Werner Enterprises Trucking	ADCO
West	Open Space	South Platte River	ADCO

Case History

Case	Date	Request	Action
A-1228-95-96	March 1995	Use-By-Permit for Gravel Mining	Approval with Conditions
A-1549-02	April 2003	Use-By-Permit for Inert Material Landfill	Approval with Conditions
LF-21-02	April 2003	Landfill case for Inert Material	Approval with Conditions
MM-35-14	September 2014	Minor Modification for FAR Reduction	Approval with Conditions
FP-58-14	December 2014	Floodplain Permit for the west portion of site	Approval
Z-914-14	February 2015	Zone Change from AG to I-2	Approval
S-628-15	March 2015	Subdivision to Consolidate property into one lot	Approval
D-255-14	January 2015	Development Plan for RV / Boat Storage Facility	Approval
D-255-14-15	November 2015	Development Plan Amendment for Brown Brothers & A-1 Organics	Approval
D-255-14-15-16	December 2016	Development Plan Amendment (see below for further detail).	Approval with Conditions
AH-1742-17	July 2017	Height Exception for mulch pile storage up to 35' in height	Denied
Z-914-14-18	September 2017	Zone change from I-2 to PUD to allow for mulch pile storage up to 25' in height	Withdrawn

The subject property has several cases associated with the history of the site. The property has been zoned AG based upon city records throughout all of the case history. A use-by-permit (A-1228-95-96) was granted to the Cooley Gravel Company for gravel mining in 1995. This use-by-permit extended beyond the subject property, however, the entire subject property was part of the approval for the use-by-permit. In 2002, a use-by-permit (A-1549-02) was granted to Patrick Broda for an Inert Materials Landfill. A landfill case (LF-21-02) was also associated with the property for the Broda Landfill. On February 11, 2013, the city received a letter from the Colorado Department of Public Health and Environment (CDPHE) stating that the landfill operated by Patrick Broda had completed all

of the Post-Closure Care Plan for the Inert Materials Landfill. Approval by CDPHE released the operator, Patrick Broda, from post-closure obligations.

From September 2014 - March 2015, five land use cases were approved for redevelopment of the site into primarily an RV & boat storage site, which was never developed. Case Z-914-14 rezoned the property from AG to I-2, FP-58-14 was a floodplain permit that coincided with the Letter of Map Revision (LOMR) approved by FEMA in 2014, MM-35-14 reduced the FAR from 0.05 to 0.01, S-628-15 was a subdivision to consolidate the property into one lot, and D-255-14 was the development plan for the site. In 2015, the applicant requested a development plan amendment to accommodate A1 Organics, a composting and mulching site, which was approved in late 2015. This development plan amendment did not specify the location of mulching materials, interior fire access & site navigation, or specify the height of mulching materials.

Upon requesting a final Certificate of Occupancy for the property in late 2016, staff conducted a final planning inspection of the property. At this time, it was discovered that many aspects of the site were conducted out of compliance with the approved development plan D-255-14-15. In order to allow for a Certificate of Occupancy for the Brown Brothers, the company that occupies the main building, a Development Plan Amendment was approved in December 2016 that focused on only that section of the property. In July of 2017, the Board of Adjustment denied case AH-1742-17 for a height exception to allow mulch pile storage up to 35', finding that the use did not comply with approval criteria for a height exception regarding rights of privacy, light and air, and that the use was being evaluated under criteria meant for a structure, which would not apply to mulch piles.

Staff is concurrently reviewing case D-255-14-15-16-19 along with CU-121-19 to address the final issues with the site to make the property conform with city codes and requirements. The use of a mulching facility (with outdoor storage up to 8' in height is currently an allowed use by-right within an I-2 zone district. This conditional use permit would allow for the existing mulch pile storage of up to 25' to continue being utilized.

Applicant's Request

The applicant is requesting a conditional use permit to allow the storage of mulch piles on the property of up to 25', when a maximum of 8' in height is allowed in the I-2 zone district. The applicant states that "A1 Organics needs this provision in order to efficiently, effectively, and safely conduct business. The request for a pile height of 25 feet derives from the specific equipment used in the process which stacks the material at the given height. By stacking in larger piles, the material stays moist and compact, and is less sensitive to weather, wind, and erosion, and reduces the impacts of fugitive dust. Increased pile heights also allow more efficient use of space. 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 and blow away." The applicant has indicated that the size of the outdoor storage area along with a 25 foot height limit for mulch piles will represent maximum inventory at any given time. January - March is peak inventory time, where the mulch pile heights will be the highest, and the inventory low point occurs during the summer. As different mulch colors are more popular than others, certain mulch piles will cycle in variation more frequently than others. To the south is an active gravel mining operation located within unincorporated Adams County. The uses to the west and north are located in unincorporated Adams County and utilized for water storage and generally inaccessible to the public. As the plan is currently proposed, there is a significant grade change between the property entrance

along Monaco on the east of the property to the back side of the property where the material storage takes place. "



Development Review Team Analysis

The applicant has requested a Conditional Use Permit to allow for the storage of mulch piles on the subject property up to 25' in height. The Development Review Team (DRT) reviewed the circumstances of the subject property and applicable sections of articles III, IV, V, and VIII of the Land Development Code (LDC) as they relate to this case.

The Applicant

A1 Organics is a waste recycling company, that converts organic materials into mulch, composts, soils, and mulches for sale to the public, and has been in business since 1974. A1 operates four locations in Colorado (Eaton, Keenesburg, Englewood & Commerce City), and diverts around 350,000 tons of waste per year from landfills.

Background

In December 2018, City Council adopted Ordinance 2194, which established material pile storage over 8' in height as an allowed use in an I-2 or I-3 zone district with a Conditional Use Permit. Prior to the adoption of this ordinance, since this use specifically was not contemplated as a permitted use in the Land Development Code, there were limited options to address this specific type of use, and a process that had directly relatable approval criteria that the impacts could be evaluated under. The applicant had previously filed for a zone change to PUD (case Z-914-18) to allow for mulch pile storage after the denial of case AH-1742-17, but withdrew this application at the beginning of January 2019 in order to

have the case evaluated under the process of a Conditional Use Permit, which is now contemplated by the LDC.

Site Characteristics

The subject property is currently zoned I-2 (medium intensity industrial district). The eastern portion of the property is currently developed as Brown Brothers Trucking, with a 19,000 square foot primary structure, and landscaping along the Monaco Street right of way. The remaining western half of the site is where A1 Organics operations are currently occurring. As shown in figures 1 & 2 below, there is a significant dropoff between the eastern half of the site and the western half of the site of around 30'-35', with the eastern portion of the site having the highest elevation near Monaco Street, and the property decreasing in elevation as it reaches the west portion of the site, and the South Platte River. This portion of the site (and the existing mulch piles that are currently in place) are not visible from the majority of surrounding areas due to this significant drop in elevation.



Figure 1: Site Topography

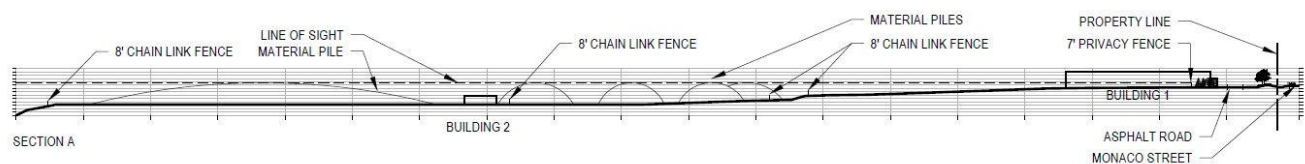


Figure 2: Site Topography Cross Section

Additionally, the site sits on a former landfill which operated from 2002, until notification of post-closure work being completed in 2013. Former landfill sites present a technical challenge in terms of

constructing any form of major structure due to poor soil quality, which puts a significant limit on the types of uses and businesses that can operate on such a site.

Comprehensive Plan & Surrounding Land Uses

The subject property is designated as Industrial / Distribution in the city's comprehensive plan, which allows for light to medium intensity industrial uses, warehousing, and manufacturing (I-1 and I-2 uses). The surrounding properties to the west and north are water storage facilities owned by the City of Thornton, that are generally not accessible to the public. To the northeast and east of A1's operations are three residential properties currently zoned A1 (agricultural) in Adams County. To the east is Werner Trucking, a trucking facility currently in unincorporated Adams County. All of these properties (aside from the water storage facilities) are designated as Industrial / Distribution in the City's comprehensive plan, meaning that if these properties were to annex and develop in the city, they would develop as a light-to-medium industrial use that would coincide with the general character of the neighborhood.

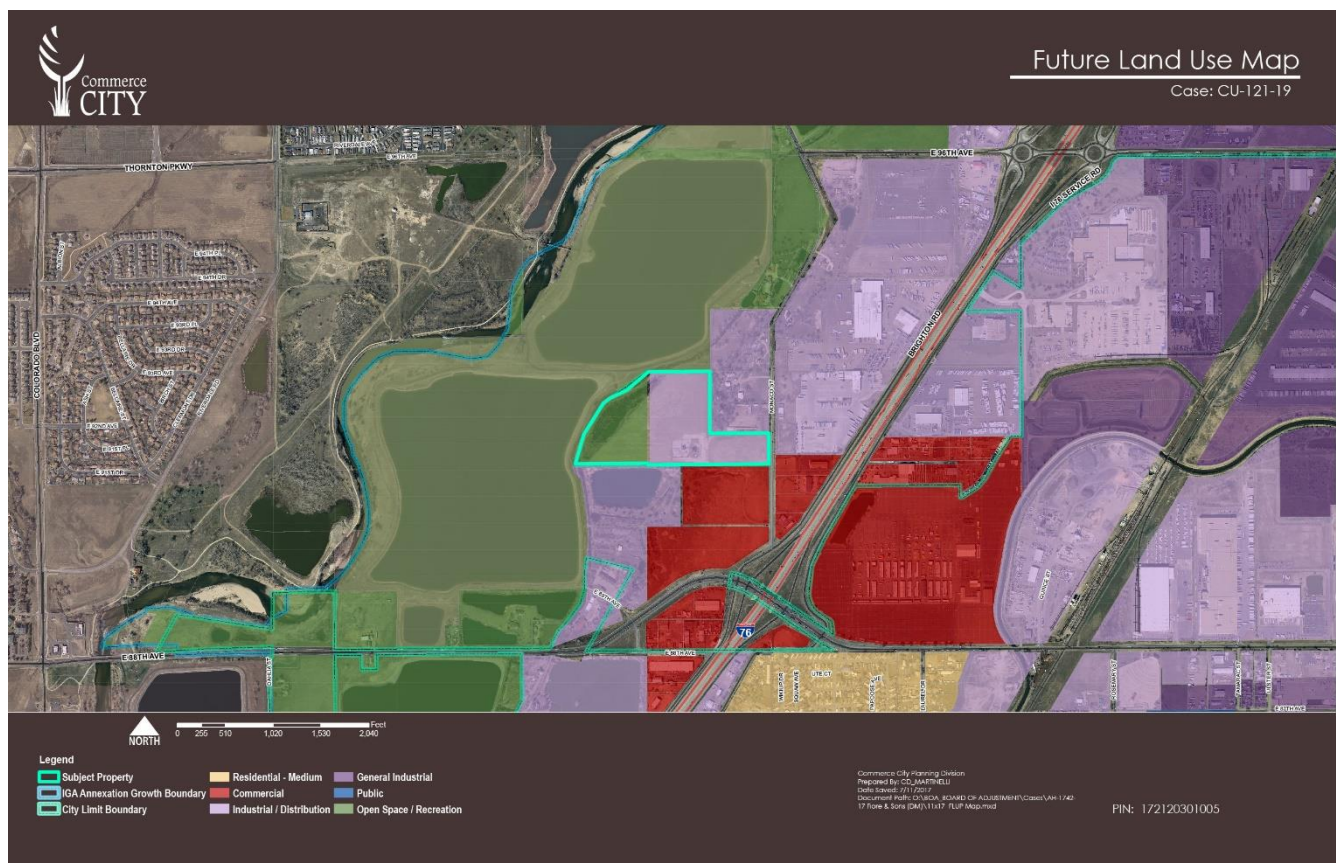


Figure 3: Future Land Use Plan

In February 2016, Adams County issued a Conditional Use Permit for an aggregate mining and inert fill site to the property on the south. The grading that has taken place as part of the mining pit screens a majority of the site from visibility on the south of the property. While aggregate mining operations on the site should occur for approximately 10 years, the comprehensive plan designation for the property is commercial.

Comprehensive Planning Documents

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

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Environmental Conservation and Stewardship	EC 5	<u>Reduce Solid Waste Disposal</u> – The city will promote programs to reduce per capita solid waste disposal through waste recycling, reduction, and re-use.
<u>Analysis:</u>	With the city’s goal of reducing solid waste disposal, A1 Organics helps further this goal by conducting operations that recycle organic waste & convert it to mulching material and compost. This allows for re-use of organic materials, and reduce the amount of organic matter that is diverted to landfills, thereby reducing solid waste disposal. By allowing for a conditional use permit to allow the business to operate efficiently and effectively as necessary, the city is encouraging the reduction of solid waste disposal and material waste diversion for the many industrial users in the city.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use and Growth	LU 1.1	<u>Growth and Future Land Use Plan Consistency</u> - Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code.
<u>Analysis:</u>	The future land use and current land use of the subject property is industrial, and the surrounding properties generally have the same classification. The development of this property as a mulch processing facility supports the goal of properties developing in alignment with the industrial use designated on the comprehensive plan (noted on the Future Land Use Map in figure 3) that is designated in the comprehensive plan. The proposed facility aligns with the standards and identified for the comprehensive plan designation, and complies with the character of the surrounding area in general.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Redevelopment and Reinvestment	LU 2.1	<u>Infill Development Promoted</u> - 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 on vacant unplatted parcels scattered throughout the city, or in county enclave areas.
<u>Analysis:</u>	The subject property has a history of varied uses in the city, and was vacant and underutilized from 2002-2015. Additionally, it’s history as a former landfill site significantly limits the types of uses the property can reasonably be used for, since soil quality is not stable enough to support the construction of any significant structure. By granting a conditional use permit to allow A1 organics to operate efficiently and safely, it will promote the redevelopment and reuse of an extremely challenging and limited site. The development history shows that redevelopment of the property had not occurred prior to this use, suggesting that development options for this site are limited. Therefore LU2.1 would not be met without the approval of this Conditional Use Permit.	

Environmental Sustainability

Chapter 15 of the City’s comprehensive plan focuses on a number of different goals and policies to reduce the environmental footprint of the city, and the impact that urban development has on the environment. A1 Organic’s operations help further a number of items that are identified in this chapter, specifically reducing greenhouse gas emissions and reducing solid waste disposal. The operations at the A1 Organics facility directly address solid waste disposal, by providing a facility where businesses and the general public can recycle organic waste material, including tree limbs, logs, untreated wood, brush, grass, leaves, sod and soil. The organic material is then converted to usable product such as mulch, topsoil, etc, rather than adding additional volume to other landfills. Organic waste decomposing in landfills accounts for 37% of manmade methane worldwide, which is a greenhouse gas that traps heat at levels much higher than carbon dioxide. Providing an opportunity for Commerce City residents to dispose of organic materials within close proximity, helps further waste diversion rates for our residents, provides partnership opportunities with the city, and advances the city’s sustainability goals within the comprehensive plan.

Site Operations & Layout

As seen in the site plan below (figure 4), general bounding areas are designated for the different types of materials that are stored on site. These bounding areas may vary with the volume and specific location of the materials within them, due to variations in seasonal inventory and other factors. These areas are generally separated by 25' drive aisles containing class 6 road base, which are denoted by concrete blocks to maintain width for adequate fire access, and bound the specific materials to their fixed locations. South Adams County Fire was a referral on the case, and has provided comment to city staff stating that the proposed layout of the site provides safe and adequate fire access in case of an emergency.

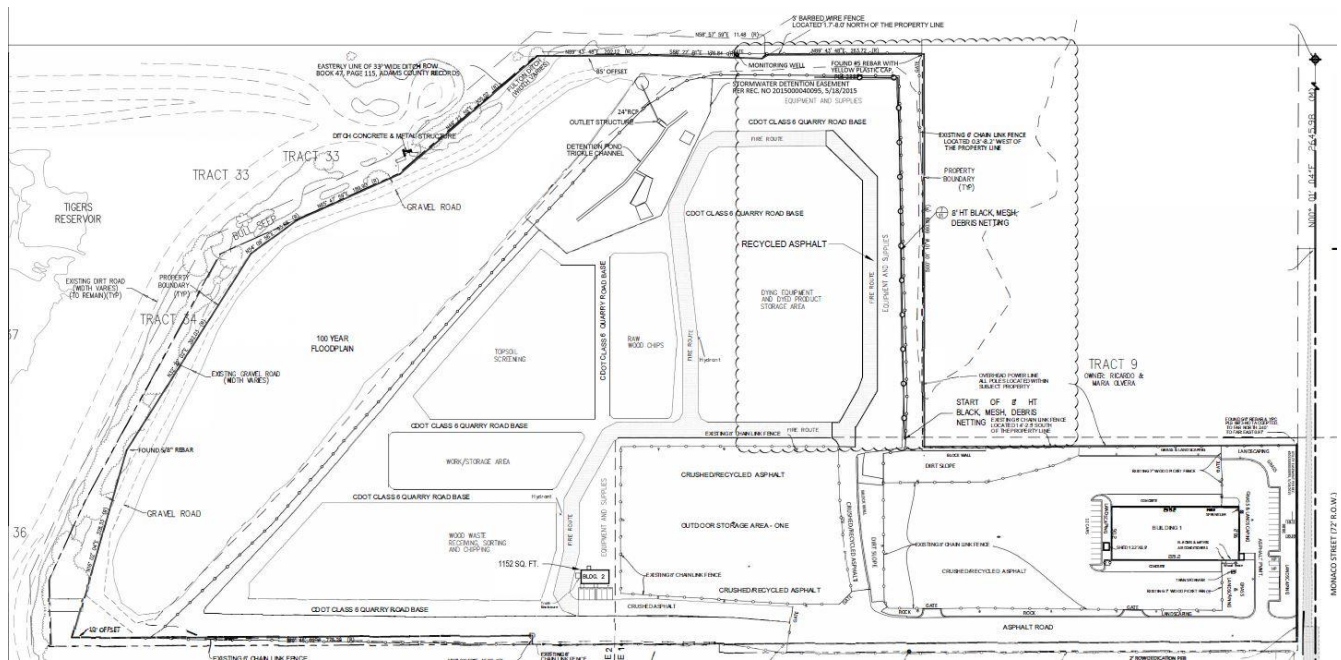


Figure 4: Current Site Plan

In-bound traffic to the site consists of either an individual customer bringing scrap wood materials, or bulk loads of high-side trailers that bring anywhere from 30-100 cubic yards of material. Drop-offs are allowed Monday-Friday, and the applicant has stated that the site sees an average of 4 inbound and outbound trucks per day. In-bound materials are received for intake on the southeast portion of the site where the material is then sorted and converted into raw woodchips through the grinding process. These raw woodchips are then transported to the central portion of the site where they are stored until the drying process occurs. The actual drying of woodchips, storage of drying equipment, and storage of final dyed product occurs on the eastern portion of A1 Organic's leased area. Final product is then transferred to other facilities for final sale. Outbound material shipment of finished mulch product usually occurs in less frequent trips than inbound trips, with trucks carrying at least 100 cubic yards of materials. No composting of organic materials occurs on the site. In terms of waste removal, A1 Organics contracts with Alpine Waste and Recycling to remove all waste generated on site as part of normal business functions, and any waste that is accidentally left on inbound trips from material drop-offs. Additionally, the applicant has proposed the construction of an 8' high net along the eastern boundary of the property, to reduce the blowing of woodchips and other debris during high wind events.



Figure 5: Aerial Imagery – June 23, 2018



Figure 6: Existing Mulch Piles & Jersey Barriers

Visual Impact



Figure 6: Photo Exhibit of Adjacent Areas

Due to the topography of the site, A1 Organics operations are not visible from the majority of surrounding areas. The property is not visible from the adjacent Monaco Street right-of-way, or East 88th Avenue traveling towards the subject property. Heavy vegetation (at least 30' high trees) exists between the subject property and the residential properties to the north in unincorporated Adams County, which provides some visual screening of the mulch piles. Some locations where the mulch piles are at the 88th Avenue bridge crossing Interstate 76, and a couple locations along the South Platte River trail where vegetation is not present, which is at a similar elevation as the A1 Organics site.

Dust Mitigation

Section 21-5120(5) of the Land Development Code regulates dust impacts for all properties in the city, stating that "no dust or particulate matter shall be emitted that is detectable by a reasonable person without instruments." While portions of the A1 operations on site do generate varying dust to some degree, the applicant is proposing a number of mitigation techniques to reduce this impact to the highest reasonable extent.

Grinding operations, which have the highest dust impacts, occur on the southwest quadrant on the site, which is the farthest from the existing residential properties in the county, at a distance of over 500'. Due to these impacts, staff is recommending the condition that all woodchip piles are no less than 100' from the eastern boundary from the site, and that all grinding equipment and operations (which has the highest fugitive dust impacts) is no less than 500' from the eastern boundary. The applicant has also provided a supplementary dust control and mitigation plan, which details other mitigation methods and practices that are conducted on site to reduce dust impacts. These include halting grinding operations on site when wind speeds exceed 15mph for a sustained period of 10 minutes or more,

reduction of traffic speed, water spraying and suppression of mulch piles and drive aisles, and implementation of dust control training program for staff. The applicant will also be paving the eastern drive aisle on the site with recycled asphalt, to reduce dust impacts from truck traffic on the drive aisles closest to existing residences. The applicant has a water truck on site that is utilized during grinding inbound wood materials into mulch. In order to prevent particle matter from spreading, the material is sprayed down as the mulch is being crushed.

In terms of dust impacts, the Conditional Use Permit to allow mulch piles of 25' in height would constitute an improvement over a scenario where the applicant operated a mulching facility with piles up to 8' in height. Larger pile heights are generally denser and moister than smaller piles, and have less debris and fugitive dust that is released from the piles during wind events. Smaller, more frequent mulch piles have more surface area that are exposed to wind and sun, leaving them more prone to dry out and be blown away during wind storms.

Conditions Relating to Operational Impacts

Because of the nature of the proposed operations, staff is recommending a number of conditions apply to the conditional use permit issued for the site:

- Condition A recommends the expiration of the permit after 18 months, in order to provide an opportunity to re-evaluate the use and assess whether or not the applicant has been in compliance with the regulations of the permit. This condition also provides an opportunity to assess whether the regulations in place have been effective, and if new conditions need to be implemented and/or revised.
- Condition B recommends that the conditional use permit only apply to the storage of dyed mulch chips, inbound recyclable wood product, mulching material stackers, and raw wood chips at a height of 25'. This ensures that the conditional use permit does not apply as a "de-facto" height limit to all outdoor storage on the property, and any new proposed outdoor storage that exceeds the height limits of the code has an opportunity to be reviewed and any potential impacts can be assessed.
- Conditions C-J are a series of recommended operational improvements that should significantly assist with dust mitigation on site. These conditions are critical to ensure that adverse impacts have been mitigated on site to the greatest feasible extent.
- Condition K is recommended in order to ensure that the site is maintained and kept in a clean and orderly fashion, and to ensure that drive aisles are kept clean and maintained for adequate navigation of the site.

Complaints and Enforcement

Since the denial of case AH-1742-17, the storage of mulch piles over 8' in height has continued while an active land use application has been in process by the city. The Neighborhood Services Division has been conducting site visits every three weeks while an active application has been in process with the city, to ensure that pile heights are not exceeding the maximum 25' height limit the applicant would be able to obtain with a Conditional Use Permit. Upon approval of the conditional use permit, the applicant will construct a 25' high demarcation pole on the property to assist with ongoing enforcement of the property. Additional site visits have been conducted by Tri-County Health Department (TCHD) and CDPHE on numerous occasions, and the site has been in compliance with the regulations that are in place at both agencies. The most recent site visit was conducted on November 19th, 2018 by Wolf Kray of CDPHE and Lisa Oliveto with TCHD. The purpose of the inspection was to evaluate the facility's

compliance with the Solid Waste Disposal Sites and Facilities Act, and the city received reports from CDPHE that found that the site was in compliance with the requirements of that act, and no other violations (from CDPHE or TCHD staff) were observed during that inspection.

The subject property had an open case with the Colorado Department of Public Health and Environment in early 2016 regarding the leaking of mulch dyes into the detention pond on site. The applicant has indicated that this was due to an on-site repair of the mulch dying equipment. Since the incident, the applicant has purchased upgraded equipment with greater material controls, and now has standard site practice of wrapping the bottoms of piles with silt socks, to prevent any material from leaching out. Silt socks also line the boundary area between the active area of the site and the wetland portion of the site to reduce leaching into this area. All of the much dyes used on the property is made from a non-toxic iron oxide.

A couple weeks prior to the original public hearing for the height exception case, staff received objections of the use from two of the residential properties in the county abutting the site (9241 Monaco Street and 9225 Monaco Street). Both residents noted issues regarding blowing dust and fine particulate matter on windy days, affecting air quality and causing respiratory issues. Since the hearing, the city has received additional complaints from the resident at 9225 Monaco Street regarding ongoing dust issues.

Neighborhood Meeting

A neighborhood meeting was held on Monday, May 30, 2018 at the Commerce City Municipal Services center. During the meeting, discussion regarding air quality and the blowing of wood chips was discussed. Two out of the ten adjacent property owners were in attendance for the meeting, while additional members of the public not on the mailing list were in attendance as well. One of the outcomes of the neighborhood meeting was discussion of constructing a net along the eastern boundary of the property to reduce blowing of debris. This item was incorporated into the application following the meeting.

Summary

Overall, the DRT believes that the specific circumstances surrounding the site warrants a recommendation of approval, subject to proposed conditions A-M. 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. Compared to other potential uses that could be allowed on the site, the A1 Organics site provides a viable use with an environmental benefit to the city, in terms of reduction of organic waste diversion from landfills. The property is also situated in a significant depression compared to adjacent properties, which reduces the visual impact that the mulch piles have on surrounding properties. In terms of dust impacts, the applicant is demonstrating a number of different mitigation methods to reduce impacts, and by allowing higher mulch piles (compared to 8' high piles which currently are allowed on the site as a by-right use), mulch piles are more compact and dense compared to shortened piles, and have less dust impacts as a result.

City Council Continuation

On February 5, 2019, after a lengthy public hearing and debate, the Planning Commission voted 5-0 to recommend denial to City Council, finding that the case did not meet the approval criteria of Land Development Code Section 21-3230(3)(a)(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 are envisioned to exist in any adopted City plan, program or ordinance; 21-3230(3)(a)(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; 21-3230(3)(a)(v): The applicant has provided adequate assurances of continuing maintenance. Originally scheduled for March 4th, 2019, the applicant requested continuation of the case one month to the April 1st, 2019 City Council hearing. The applicant made this request in order to generate more evidence for the record, specifically as it relates to air quality and a daily log of conditions on the site. This request was granted by staff. On March 27, legal counsel for A1 Organics submitted additional information and materials to be included in the packet for City Council review *in addition* to the information that had been collected over the two-month period. This information was provided after the deadline for staff to submit the city council packet, therefore was not included. The applicant was notified of the opportunity to introduce these additional materials as new evidence for the record during the city council hearing, and attempted to do so during the April 1, 2019 council hearing. Because of the length of these documents, City Council voted to continue the hearing, and have the case re-reviewed by the Planning Commission on May 7, 2019 to assess the additional documentation.

Supplemental Application Materials – Staff Analysis

Since the initial Planning Commission Hearing, the applicant provided supplemental information that can generally be classified into the following categories:

- **Daily Site Condition Report** – a general qualitative description of the A1 Organics site on a Daily basis, between the dates of February 20th and April 13th. The report describes wind speeds, whether painting or grinding operations occurred on the site, whether dust suppression controls were implemented, among other items. Review of these documents show that the applicant has generally acted in compliance with the dust control plan that was originally submitted, specifically as it relates to prohibiting grinding operations when wind speeds exceed 20mph. City staff has not explicitly verified the accuracy of what actions the applicant claims were conducted during this time.
- **Legal Brief & Supporting Exhibits (Drexler Law)** – A legal brief provided by A1 Organic's retained legal representative, which provides a rephrased and summarized applicant perspective on a number of items relating to the case. The exhibits to the brief include aerial photos, an affidavit from Bob Yost (CTO, A1 Organics) Ryan McBreen (Norris Design), and Matt Cotton (Principal of Integrated Waste Management Consulting, LLC), letters of support from a number of public and private entities and the general public, communications with previous city staff members, and various portions of documentation either included in the packet previously, or within the City's Land Development Code or adopted Comprehensive Plan.
- **Supplemental Submission** – An additional amendment to the supporting exhibits listed above, including the applicant's summary of the site history since the approval of the original development plan for the site (D-255-14-15), A statement of support from Robert Rynk, a professor at SUNY Cobleskill, and additional daily site condition reports from March 25 to April 13.

Staff's review of the supplemental information provided by the applicant *did not* provide any additional information that resulted in a change of the initial recommendation made by the Development Review Team (DRT).

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
☐	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 are envisioned to exist in any adopted City plan, program or ordinance;	As indicated in the "surrounding neighborhood" section of the DRT Analysis, the character of the neighborhood is primarily industrial / agricultural in nature. The property to the south is an aggregate mining facility, and properties to the west and north are water storage facilities along the south platte river. The properties to the east are zoned agricultural in the county. While existing residences are on the subject properties, the applicant has taken a number of significant measures to reduce any dust impacts that might arise from their proposed operations, as shown in the "dust mitigation" section of the DRT Analysis. There is additionally enough of a degree of separation between the most dust intensive processes on site and the location of residential homes to eliminate significant impacts.
☐	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;	The applicant has demonstrated a number of measures to reduce impacts, including the construction of a net on the eastern boundary of the property to catch any woodchips that may be blown away, surfacing of the eastern-most drive aisle adjacent to residential property, and many other items that are indicated in "Exhibit A", the applicant's proposed dust mitigation. The use doesn't generate significant other externalities from sound, vibration, etc. Proposed conditions A-M are necessary in order to satisfy this approval criteria.
☐	The characteristics of the site are suitable for the proposed use;	The use is suitable for the subject property based on a number of different constraints that exist on the site. As indicated in the "site characteristics" section of the DRT analysis, it's history as a former landfill site significantly limits the types of uses the property can reasonably be used for, since soil quality is not stable enough to support the construction of any significant structure. The topography and configuration of the site places A1's pile storage in a location that significantly reduces visual impact from the surrounding area. The aggregate mining pit to the south of the property also provides an additional layer of screening and buffering from the south. The future land use designation the city has for the unincorporated areas, and the majority of existing uses are compatible with the use. For adjacent properties with existing residences, the applicant has demonstrated a number of dust mitigation methods and site improvements to reduce the impact from

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
		fugitive dust on these properties, which can be found in the "dust mitigation" section of the DRT analysis.
☐	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 or the applicant has committed to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;	The use will be adequately served and not specifically cause any inability for the city to provide public services to the site.
☐	The applicant has provided adequate assurances of continuing maintenance;	The applicant has demonstrated continued maintenance of the site through specifications detailed in their dust mitigation plan, contracts with allied waste for trash removal, and has staff on site for debris removal.
☐	No evidence suggests that the use violates any federal, state, or local requirements.	The site does not appear to conflict with federal, state, or local requirements. Tri-County Health Department and CDPHE have conducted numerous site visits, and have found no violations. The previous open case with CDPHE regarding dyes leaking into nearby wetlands has been closed out and remediated.
☐	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 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.

Development Review Team Recommendation

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 previously recommended that the Planning Commission forward the Conditional Use Permit request to the City Council with a favorable recommendation, subject to the following condition(s):

CONDITIONS:

- 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 compliance 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.

Existing Motion

To recommend denial:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **9109 Monaco Street** contained in case **CU-121-19** fails to meet the following criteria of the Land Development Code:

1. Inadequate assurances of continued maintenance
2. When the proposed use does result in substantial undue and adverse effect to adjacent properties and adverse effects have not been mitigated to the maximum extent feasible and that the use does not totally comply with general purposes, goals, and objectives of standard of comprehensive plan.
- 3.

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

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 **9109 Monaco Street** contained in case **CU-121-19** 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 approval subject to condition(s):

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the property located at **9109 Monaco Street** contained in case **CU-121-19** 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. 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 compliance 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.

To continue the case:

I move that the Planning Commission continue the requested Conditional Use Permit for the property located at 9109 Monaco Street contained in case CU-121-19 to a future Planning Commission agenda.