



STAFF REPORT

Planning Commission

CASE #CU-98-12

PC Date:	August 7, 2012	Case Planner:	Jared Draper
CC Date:	TBD		
Location:	9101 Yosemite Street, Henderson, CO 80640		
Applicant:	BNSF Railroad	Owner:	Same as Applicant
Address:	2650 Lou Menk Drive, Mob-1 Fort Worth, Tx 76131	Address:	Same as Applicant

Case Summary

Request:	Conditional Use Permit to expand the existing automobile staging facility with increase staging area and additional rail spurs for a rail yard.
Project Description:	BNSF currently operates an automobile staging facility for the metro area. The staging facility is currently operated on a parcel that is zoned I-3. The adjacent parcels, owned by the applicant, are zoned I-1. Currently, one of the parcels is vacant and the other is used for stormwater detention. The request for a conditional use permit is for the expansion of the automobile staging facility and rail yard use.
Issues/Concerns:	<ul style="list-style-type: none">▪ Compatibility with surrounding properties▪ Site improvements
Key Approval Criteria:	<ul style="list-style-type: none">▪ Land Development Code, CUP Approval Criteria▪ Comprehensive Plan
Staff Recommendation:	Approval
Current Zone District:	I-1 (Light Intensity Industrial District) I-3 (Heavy Intensity Industrial District)
Comp Plan Designation:	General Industrial

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

<input checked="" type="checkbox"/> Technical Studies	<input checked="" type="checkbox"/> Vicinity Map
<input checked="" type="checkbox"/> Development Review Team Recommendation	<input type="checkbox"/> Neighborhood Meeting Notes
<input checked="" type="checkbox"/> Development Plan	<input checked="" type="checkbox"/> Development Plan Operations Narrative
<input checked="" type="checkbox"/> CUP Narrative	<input checked="" type="checkbox"/> CUP Statement of Operations

Background Information

Site Information

Site Size:	49 Acres
Current Conditions:	Automobile staging facility and rail yard
Existing Right-of-Way:	Yosemite Street to the East
Existing Roads:	Yosemite Street to the East
Existing Buildings:	Office building and guard house
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site in Floodplain	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Industrial	FedEx Freight	PUD
South	Industrial	FedEx Ground Packaging & Xcaliber	I-2
East	Industrial	Birko Corporation, Canyon State Oil	I-3
West	Industrial	Distribution Plus	I-2

Case History

The subject property was annexed into the City of Commerce City as part of the northern enclave annexation. There are three parcels that are owned by the applicant. The northern parcel is currently used for a stormwater detention area and was currently zoned I-1 in case Z-874-08. The southern parcel is currently vacant and is also currently zoned I-1 based on the result from case Z-874-08. The parcel that is currently developed lies between the two I-1 parcels and is currently zoned I-3 to accommodate the use of the property as an automobile staging facility and rail yard.

In order to expand the current automobile staging operation, the applicant requested a height variance for light poles from the Board of Adjustment in June 2012. The variance was granted for twenty-feet; therefore having light poles that are a maximum of fifty-feet (50') tall. This height was requested in order to improve safety for employees as well as maximize security on the site.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Z-874-08	March 2008	Annexation zoning from a variety of Adams County zoning designations to a variety of Commerce City zoning designations, including I-1 and I-3.	Approval
AH-1708-12	June 2012	Burlington Northern Santa Fe (BNSF) Railroad company requests a twenty-foot (20') height exception for light poles on their automobile staging facility for the expansion of this use within the City.	Approval

Applicant's Request

The applicant intends to expand the existing operation of an automobile staging facility onto adjacent property currently owned by BNSF Railroad. Multiple requests have been processed and reviewed concurrently in order to bring the property into compliance with the Land Development Code (LDC). The requested conditional use permit (CUP) is necessitated by the LDC due to the use of the property as a rail yard for unloading automobiles and staging them on the subject property.

BNSF Railroad states that the operation of this site will occur 24 hours a day, 7 days a week and employs nine full time employees. According to the applicant, the number of train crossings on Yosemite Street will not increase as the operations on the site expand. This is due to the addition of rail spurs within the site increasing the staging capacity without increasing the train traffic at the Yosemite Street Crossing.

In regards to a community interest, the applicant states:

Currently, the [vacant] land is being used as a dumping site. The industrial community will benefit from the expansion of the staging lot with improved understanding of the drainage of the area and a renovated look to the entrance enhancing the overall image.”

Due to the nature of the industry on the subject property, truck traffic on the site has been mitigated with an increased setback from the street to reduce the chance of stacking onto Yosemite Street. The circulation of trucks on the site will not negatively impact the traffic on Yosemite Street, according to the applicant.

Through the expansion of the current operation, the drainage pond will be brought to current standards and will therefore not impact the drainage for the area in any negative manner.

Development Review Team Analysis

Comprehensive Plan

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

<u>Section</u>	<u>Goal</u>	<u>Description</u>
LU	1a	<u>Future Land Use Plan as Guide:</u> Use the Future Land Use Plan to guide development patterns and mix of uses and amendments to the Land Development Code.
<u>Analysis:</u>	The expansion of the operation on the subject property is consistent with the use of this property as general industrial according to the Comprehensive Plan.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
LU	2a	<u>Infill Incentives:</u> Provide incentives for infill development potential (e.g. streamline review process, rebates, or reduced fees) and an efficient and predictable development review process.
<u>Analysis:</u>	The request for a CUP along with other requests (rezoning and consolidation) have been part of a streamline review process in order to meet the goals and deadlines of the applicant and to encourage the further development of the subject property.	

The proposed CUP application is supported by the Comprehensive Plan goals that have been provided above and the application supports the Future Land Use Plan for this area because it generally allows for industrial uses and the application promotes the City’s goal to assist with decisions based upon the Future Land Use Plan.

DEVELOPMENT REVIEW TEAM ANALYSIS

In addition to the conditional use permit request, the applicant is requesting a zone change from I-1 to I-3 in case #Z-902-12 for two parcels owned by BNSF Railroad adjacent to the parcel where the current operation exists as well as a consolidation plat for the three parcels in case #S-588-12. The conditional use permit is necessitated due to the use of the property as an automobile staging facility with rail yard to unload new vehicles, according to the Land Use Table within the LDC, Article V.

With the requested changes (zoning, consolidation plat, and conditional use permit), the applicant has submitted a development plan for the expanding operation. This development plan describes how the operation will expand along with detailing several site improvements. The development plan calls for additional rail spurs and the staging area which require both the I-3 zone district as well as a conditional use permit. During new development, the applicant indicates that the drainage area will be brought to the City's current standards and landscaping will be added to enhance the aesthetic appeal from Yosemite Street.

The following table details the existing and proposed conditions on the site:

	Current Conditions	Proposed Conditions
Vehicle Stalls	Currently the site contains approximately 1,400 vehicle stalls for automobile staging purposes.	The expansion of the existing operations proposes 3,192 vehicle stalls for the purpose of automobile staging as the business grows.
Rail Spurs	Current operations utilize two rail spurs on-site that are fed by one main spur that crosses Yosemite Street.	New development of the property proposes five additional rail spurs on-site bringing the total to seven rail spurs. However, the applicant is not proposing an increase in the number of rail spurs that cross Yosemite Street. All additional rail spurs will be contained to the subject property.
Access	The current main access for trucks loading automobiles on this site is on the northeast corner of the subject property.	The proposed access for the site is toward the southeast corner of the subject property and will alleviate traffic that may be caused by the turn from Yosemite Street to Heinz Way near the previous access. The previous access will be utilized for emergency purposes only as specified in the applicant's development plan.
Landscaping	Current landscaping along Yosemite Street is well maintained. However, the landscaping along Yosemite Street is non-existent on the vacant parcel to the south that is owned by the applicant.	The proposed development of the southern vacant lot will enhance the entrance to the site with new landscaping features. The landscaping along the entrance will improve the view of the site from the street while conforming with the existing landscaping to the north along the existing site.
Truck Traffic	Current truck traffic along Yosemite Street does not create an undue adverse impact on adjacent properties.	Proposed truck traffic will increase to a maximum of 50 trucks per day Monday-Friday and a reduced number of trucks on Saturday-Sunday, with an anticipated maximum of 25 trucks. The proposed increase in trucks posed a potential problem of stacking onto Yosemite Street. This issue has been resolved with the increased setback of the entrance gate in order to hold all stacking on the site itself.
Train Traffic	Current operations utilize two on-site rail spurs. Only one rail spur crosses Yosemite Street and is used six times per day in short intervals with the existing operation.	Due to the increased number of rail spurs on the site, the train traffic on Yosemite Street will remain the same. Since the site is fed by only one rail spur, the applicant has noted that the crossing of Yosemite Street will occur six times per day in short intervals.

The applicant and the City Staff have worked together in order to process the conditional use permit and submitted development plan. The landscaping addition will enhance the aesthetic appeal of the site as a whole. Furthermore, the plans detail how creative solutions such as large boulders, rather than jersey barriers, will be utilized for security purposes on-site.

The Development Review Team (DRT) has concluded that the requested conditional use permit is appropriate for this specific site and use. The applicant is requesting to utilize land that is currently under their ownership to expand a growing business while using rail transportation for new vehicles coming onto the property. Furthermore, the development of this property will deter any illegal dumping that has occurred in the past on the vacant lot as well as the northern parcel being used for detention.

The DRT reviewed the conditional use permit application against the Land Development Code approval criteria for a conditional use permit. The following is the analysis of the DRT:

- The request complies with the general purposes of the Land Development Code and is in accordance with the Comprehensive Plan
- The request will not result in any undue adverse impacts on adjacent properties and will be compatible with the surrounding area and its industrial character.
- The characteristics of the site are suitable for the expansion of the existing use.
- Site improvements such as a sidewalk along the right-of-way, landscaping, and improved drainage will be part of the development of this site.
- The expansion of the site will be adequately served by public services and will not create any undue burden.

In summary, Staff supports the request for a conditional use permit for the BNSF Railroad property located at approximately 9101 Yosemite Street. The expansion of the automobile staging facility and rail yard is an appropriate use for this site and improvements will be made in accordance with submitted development plan.

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
<input checked="" type="checkbox"/>	The proposed use complies with the general purposes, goals, objectives, policies, and standards of all City plans, programs, and ordinances	The use of the subject property as an automobile staging facility and rail yard is compatible with the Future Land Use Plan and meets the standards set forth in the Land Development Code.
<input checked="" type="checkbox"/>	The proposed use may result in an adverse effect but such adverse effect has been or will be mitigated to the maximum extent feasible	Any potential adverse impacts of the use have been mitigated through the installation of additional landscaping and security measures taken by the applicant. The impact to traffic is minimal and will not increase according to the applicant due to much of the train activity occurring on-site.
<input checked="" type="checkbox"/>	There is a community need for the use at the proposed location to provide or maintain a proper mix of uses both in the area	Currently, the southern parcel of the subject property is vacant and has been used for illegal dumping. The expansion of the existing operation will develop the southern parcel and enhance the aesthetic appeal. Furthermore, the proposed rezoning and consolidation of these parcels into one lot will provide additional I-3 property and match surrounding industrial uses.
<input checked="" type="checkbox"/>	The characteristics of the site are suitable for the proposed use	The site is large enough to accommodate all of the current operations along with the expansion that is requested. In addition, the proposed development plan will change the access to the site reducing congestion and potential stacking on Yosemite Street.
<input checked="" type="checkbox"/>	Landscaping and screening will insure harmony for adjoining uses	Landscaping and screening will be used to insure harmony with surrounding uses as well as increase security for the site and its operations. Current landscaping on the site is well maintained and attractive from the street.
<input checked="" type="checkbox"/>	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;	A portion of the subject property current operates an automobile staging facility and is served by the necessary utilities. Therefore, the expansion of the operations will not pose a burden to any existing facilities or utilities.
<input checked="" type="checkbox"/>	The applicant has agreed to provide continuing maintenance	The applicant's site is currently well maintained and there have been no issues with the applicant maintaining the site.
<input checked="" type="checkbox"/>	No evidence suggests that the use violates any federal, state, or local requirements.	Staff did not receive any comments to suggest that the applicant or proposed use is not in compliance with all federal, state, and local requirements.

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 recommends 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. In the future, **if the use of the subject property is changed from the current use as a transloading facility**, a new development plan shall be required.
- B. The detention area identified on the development plan dated July 25, 2012 shall only be used for stormwater detention purposes.
- C. All trash, debris, and illegal dumping shall be removed from the drainage area prior to issuance of a building permit.
- D. Any future outdoor storage on the site shall be screened in accordance with the standards set forth in the Land Development Code.

Recommended Motion

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 **9101 Yosemite Street** contained in case **CU-98-12** 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. In the future, **if the use of the subject property is changed from the current use as a transloading facility**, a new development plan shall be required.
- B. The detention area identified on the development plan dated July 25, 2012 shall only be used for stormwater detention purposes.
- C. All trash, debris, and illegal dumping shall be removed from the drainage area prior to issuance of a building permit.
- D. Any future outdoor storage on the site shall be screened in accordance with the standards set forth in the Land Development Code.

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 **9101 Yosemite Street** contained in case **CU-98-12** 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 **9101 Yosemite Street** contained in case **CU-98-12** fails to meet the following criteria of the Land Development Code:

List the criteria not met

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