



STAFF REPORT

Planning Commission

CASE #CU-108-15

PC Date:	December 2, 2015	Case Planner:	Caitlin Hasenbalg Long
CC Date:	December 21, 2015		
Location:	9985 E 104 th Ave, Henderson CO		
Applicant:	Recycling Connections	Owner:	RCI Investments
Address:	9985 E 104 th Ave, Henderson CO	Address:	9985 E 104 th Ave, Henderson CO

Case Summary

Request:	Conditional Use Permit for expansion of an existing metal recycling facility.
Project Description:	The existing Recycling Connections recycling business was unilaterally annexed into the City in the Northern Enclave annexation in 2007, and has been in operation as a legal non-conforming use since that time. The applicant has purchased adjacent property and now wishes to expand the existing operation onto that property. The Land Development Code (LDC) currently requires a Conditional Use Permit for any recycling facilities in the I-3 zone district. The LDC also requires non-conforming businesses to come into compliance with LDC standards when they expand the non-conforming use. The applicant has also submitted applications for a subdivision plat to consolidate the properties into a single lot, and for minor modifications to fence height and setback.
Issues/Concerns:	<ul style="list-style-type: none">• Impacts to adjacent properties• Referral agency responses• Aesthetics from East 104th Avenue
Key Approval Criteria:	<ul style="list-style-type: none">• Compliance with the Comprehensive Plan• 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.*

- | | |
|---|---|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Applicant's Statement of Operations |
| <input checked="" type="checkbox"/> Development Plan | <input checked="" type="checkbox"/> Vicinity Map |

Background Information

Site Information

Site Size:	4.77 acres
Current Conditions:	Existing metal recycling facility on west property; east property is vacant
Existing Right-of-Way:	East 104th Avenue to the south; Florence Street to the west; Havana Street to the east
Neighborhood:	Di Giorgio
Existing Buildings:	Two storage warehouses and one office structure
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

Existing Land Use		Occupant	Zoning
North	Public/Utility	South Adams County Fire Protection District, Fire Station No. 5	PUBLIC , I-3
South	Industrial	First Creek Business Center	I-2
East	Industrial	Aim High Equipment Rental & Sales	I-3
West	Industrial	Groendyke Transport	PUD

Case History

There are two cases in the history of the subject property, as shown below:

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
AN-220-07	December 2007	Annexation into Commerce City	Approval
Z-876-08	March 2008	Annexation Zoning	Approval with Conditions

Prior to its incorporation into Commerce City, the subject property was subdivided into two lots in the Marathon Subdivision. It was then annexed as part of the Northern Enclave Annexation in 2007, and zoned in 2008 to I-3 to match the previous Adams County Zoning and existing use. The existing metal recycling business has been in operation as a legal non-conforming use since that time.

Applicant's Request

The applicant states that "RCI Investments LLC is a metal recycling business owned by member of the Brienza family. The Brienzenas acquired Lot 1 (1.986 acres) in 2005, before the property was unilaterally annexed into the City. RCI subsequently acquired Lot 2 (2.785 acres) in 2011 from a heavy equipment company... RCI's use is thus considered a legal non-conforming use on Lot 1, but Conditional Use approval is required for Lot 2 along with a Plat Consolidation request to combine the existing 2 lots into 1 lot." The applicant further states "Both lots were fully developed with existing buildings and outdoor storage use areas before RCI acquired either lot." At this time, "no new buildings are proposed, as it is the company's intent to utilize the buildings as-is, install hard surface for employees and visitors in front of the larger building on this existing lot, install screen fencing along all street frontages and the north property line, install landscaping in front of the buildings and along all the street frontages, and grade and cover with recycled asphalt the area behind the 1 building on existing Lot 1 and the 2 buildings on existing Lot 2 for outside operations and temporary outside storage."

According to the applicant, "Recycling Connections Inc (RCI) is a scrap metal recycling yard that receives different types of metals, and some minor amount of electronic equipment. There are 6 major types of metals that are accepted and processed. These are: Aluminum, Copper, Brass, Lead,

Stainless Steel, and Steel. Each different metal is broken down into several categories, separated, and then prepared for shipping." Additional details about the process and operations of the site can be found in the applicant's narrative.

Development Review Team Analysis

Based on the applicant's description of his operation, the proposed use would be categorized as a material resource recovery facility, or recycling facility. Material Resource Recovery Facilities are defined in the Land Development Code (LDC) as facilities used to collect, sort, and consolidate recyclable materials, including various metals, for use as raw material to produce new items at other locations. The Land Use Table in the LDC indicates that a Conditional Use Permit is required for recycling facilities and material resource recovery facilities in the I-3 zone district. Therefore, approval of this Conditional Use Permit is needed before the applicant can expand the metal recycling operation onto Lot 2.

Comprehensive Plan:

The Development Review Team (DRT) began by reviewing the Conditional Use Permit (CUP) request against the goals found in the City's Comprehensive Plan. That analysis is provided below:

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>
Land Use	LU 1a	Future Land Use Plan as Guide: Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code (LDC).
<u>Analysis:</u>	The Future Land Use Plan identifies the subject property for General Industrial uses, which includes medium and heavy intensity industrial uses and production. As a recycling facility which processes scrap metal, the proposed use fits within the characteristics of the designated future land use.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Fiscal Stability	FS 2.2	Core Employment Uses: Retain and strengthen the industrial and employment land base by ensuring that the new employment is consistent with the designations on the Future Land Use Plan map.
<u>Analysis:</u>	Recycling Connections is a successful existing business in Commerce City which strives to expand its recycling facility operations onto an adjacent vacant lot. The overall use is consistent with the Future Land Use Plan. This expansion would include significant investment in the property to ensure a safe and attractive facility.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Environmental Conservation and Stewardship	EC 5.2	Partnerships with Private Companies to Reduce Waste: Support partnerships with private companies to promote waste reduction, recycling, re-use, composting, and the overall goal of reducing solid waste disposal.
<u>Analysis:</u>	This recycling facility promotes environmental conservation and stewardship by diverting scrap metal from being disposed in a landfill and providing an alternative source of materials. Expanding the facility will allow additional material to be processed.	

Operations:

Recycling Connections is open to the public from 8 am to 4:30 pm Monday through Friday, and from 8 am to 12:30 pm on Saturday. The business employs between 10 and 15 people at a time.

Site Layout:

The overall site consists of approximately 4.8 acres located northeast of the intersection of East 104th Ave and Florence Street, to the west of Havana Street. This includes the western portion which is location of the current recycling facility operations and the eastern portion which will be the expansion area. There is one large warehouse building along the western side of the property intended for small item sorting and storage; one office building towards the south along East 104th Ave; and several smaller warehouse/storage buildings in the interior. New paved parking will be provided in front of the large warehouse and office buildings, and a yard area with a recycled asphalt surface will be provided in the rear. Screen fencing will also be provided along the rights-of-way and public uses to block the view of the outdoor storage and stacking associated with the use. Minor Modification requests are also under review to increase the screen fence height along the rights-of-way and to reduce the fence setback along Florence street to 10 feet to allow for adequate vehicle circulation. New landscaping will also be provided along Florence Street, Havana Street, and East 104th Ave to enhance the streetscape along this major arterial corridor.

Customers with small loads of materials will enter the site from the Florence Street access and proceed to the west of the large warehouse to the material scale and unloading area. Once they are done, they may park in the front parking lot to go to the payment office, and then exit the site on East 104th Ave or return to Florence Street. Large loads will also enter the site from the Florence Street access, where they will proceed through the vehicle scale to the west of the large warehouse building to determine the full weight of the load. They will then to go the appropriate material unloading area, and then circle back through the vehicle scale to determine the empty weight of the vehicle. Large vehicles may exit the site from either the Florence Street access or the East 104th Ave access.

Neighborhood Context:

The subject property in this case is located in an area developed for general industrial purposes, with adjacent properties being zoned for high-intensity industrial uses. The adjacent properties on the north side of East 104th Ave are zoned I-3, which allows for the widest variety of industrial uses, while the adjacent property to the south of East 104th Ave is zoned I-2, which allows for medium intensity industrial uses, including outdoor storage. The specific industrial users in the surrounding area include hazardous material transport, heavy equipment sales and service, oil and gas drilling equipment suppliers, and other general industrial uses such as trucking and storage. Directly to the north is South Adams County Fire Protection District Fire Station No. 5. SACFD has expressed no opposition to the proposed expansion, and has worked with the applicant to ensure adequate fire access into the site. The proposed aluminum recycling facility requires a similar level of scrutiny as the surrounding uses, making it fit within the overall context of this industrial neighborhood.

Traffic:

As an operation that generates regular customer traffic, the access and circulation were carefully reviewed. With the reconstruction of East 104th Ave, the access into the site from East 104th Ave was converted from a full movement access to a right-in right-out access to minimize conflicts with through traffic on the roadway. A new full movement access was provided along Florence Street instead, which has a signalized intersection at East 104th Ave. This allows for better control of traffic entering and exiting the site.

The applicant also worked with the Public Works Department to create an internal circulation plan to minimize conflicts between passenger vehicles and trucks. This is the result of the split between large

load and small load areas. There is no opposition from the Public Works Department regarding the proposed expansion.

Tri-County Health Department (TCHD):

TCHD recommended that the applicant create a mosquito control plan for the proposed drainage pond, and provided resources on how to properly abandon a well and septic tank which may be located on the property.

Approval Criteria:

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
<input checked="" type="checkbox"/>	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;	The proposed use will not result in substantial or undue adverse effect on adjacent property or the character of the neighborhood. The surrounding area is characterized by heavy industrial uses, including hazardous material transport, heavy equipment sales and service, and outdoor storage, and is zoned I-3 to allow for such uses. The applicant worked closely with the Public Works Department on the design of the reconstructed E 104 th Ave and on creating an internal circulation plan to ensure that the customer traffic generated by this business does not negatively impact traffic on E 104 th Ave or the surrounding properties. In addition, adequate paved parking is provided on site for employees and customers.
<input checked="" type="checkbox"/>	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 will mitigate the impact of the expanded recycling facility by installing a 7-foot screen-style fence to shield the view of the outdoor storage from the public right-of-way along E 104 th Ave, Florence Street, and Havana Street. Appropriate landscaping will also be provided along the rights-of-way and around the detention pond to soften the appearance of the screen fence and increase the long-term screening potential.
<input checked="" type="checkbox"/>	The characteristics of the site are suitable for the proposed use;	The existing site has sufficient space for much of the use to be conducted indoors, and will have a suitable surface for the outdoor storage and stacking. In addition, although it is highly visible from Havana Street and E 104 th Ave, the location in a heavily industrial area ensures that the proposed use is compatible with the surrounding area, and adequate landscaping and screen fencing has been provided to provide an attractive public appearance.
<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;	The subject property is already developed, and will be adequately served by existing city services. The amount of traffic expected will be reasonably accommodated on the newly reconstructed E 104 th Ave and Florence Street. One of the adjacent uses is SACFD Fire Station

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
		No. 5, which could quickly serve the property if needed.
<input checked="" type="checkbox"/>	The applicant has provided adequate assurances of continuing maintenance;	The applicant has agreed to conditions of approval requiring the development of the site in accordance with the approved development plan, including landscaping. He understands that the violation of these conditions could result in the revocation of this Conditional Use Permit and the termination of his use at this site.
<input checked="" type="checkbox"/>	No evidence suggests that the use violates any federal, state, or local requirements.	There is no indication that the use violates any federal, state, or local requirements. City permits will be issued for all proposed work to be done.
<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 proposed use complies with all applicable regulations, requirements, and standards. The use as a metal recycling facility is consistent with the Comprehensive Plan not only as a General Industrial use as identified on the Future Land Use Map, but also as a use which promotes the reduction of solid waste disposal and encourages the recycling and reuse of resources. The applicant has indicated that all other ordinances will be followed, including that all dismantling will be conducted indoors, that any outdoor storage must be located on an approved dust-free surface, and that any outdoor storage must be screened from view from the public-right-of-way.
<input checked="" type="checkbox"/>	One of the following criteria must be met: 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.	As shown in the analysis provided earlier, the use complies with the general purposes, goals, objectives, policies, and standards of the Comprehensive Plan.

Conditions:

Based on the DRT's analysis of this case, staff is proposing six conditions which deal with the current upgrades to the site, certain limitations on the types of materials that can be accepted, and the continued use of the subject site as a recycling facility. The proposed three-year expiration is consistent with the expiration timeframe approved for similar types of uses, including Rocky Mountain Recycling, and allows for a regular review to ensure that the use is still appropriate for the location. All of the conditions are listed in detail in the next section of this report. The applicant is aware of and agrees to these proposed conditions.

Summary:

Recycling Connections is requesting approval of a Conditional Use Permit to expand the operations of an existing legal non-conforming metal recycling facility. This would allow for the existing business to grow while also enhancing the appearance of the site.

The site was originally developed in Adams County, but does meet most of the current standards for industrial development. The overall site layout provides adequate parking, and provides an appropriate surface for vehicle traffic and outdoor storage. In addition, the applicant is proposing to upgrade the appearance of the site with additional landscaping along Florence Street, East 104th Avenue, and Havana Street as well as with a new screen-style fence. The Conditional Use Permit will need to be renewed in 3 years to ensure that any potential impacts are mitigated sufficiently and that the use is still appropriate for the subject property.

The surrounding area is developed for industrial purposes, including several other heavy industrial uses, and is identified for future general industrial uses. The outdoor storage and stacking will be concealed with a screening fence and landscaping along public rights-of-way. In addition, although the traffic volume is relatively high, the recently reconstructed East 104th Avenue and Florence Street have been designed for the anticipated traffic, and the appropriate access points into the site have been provided. An internal circulation plan has also been reviewed by the Public Works Department to ensure minimal conflicts between users. Therefore, there is no expected adverse impact to adjacent properties, the character of the neighborhood, traffic conditions, parking, or public improvements.

Based on the information provided by the applicant as well as analysis of the Comprehensive Plan, the Land Development Code, and the Approval Criteria for Conditional Use Permits, the DRT recommends approval of the Conditional Use Permit.

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 recommendation for approval, subject to the following condition(s):

CONDITIONS:

1. The conditional use permit will expire on December 21, 2018. A renewal of the conditional use permit in accordance with the Land Development Code will be required to extend operations beyond this date.
2. The materials accepted for recycling will be limited to those shown on the list included with the submitted narrative dated September 17, 2015. Any additional materials will require an amendment to the CUP.
3. Whole crushed cars can be stored on the site for no longer than 72 hours. No vehicle crushing will be allowed to occur on the site, and no storage of inoperable vehicles will be permitted.
4. Except for landscaping, the site must be developed according to the approved development plan dated October 29, 2015, including fencing and paving, prior to commencement of the expansion to the east side of the property. Separate fencing and grading permits will need to be submitted, and final inspections approved, before such expansion can occur.
5. Landscaping must be installed as shown on the approved landscape plan by September 21, 2016.
6. The applicant shall notify the Community Development Department in writing if the recycling facility is ever discontinued by Recycling Connections, Inc.

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 **9985 East 104th Avenue** contained in case **CU-108-15** 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:

- 1. The conditional use permit will expire on December 21, 2018. A renewal of the conditional use permit in accordance with the Land Development Code will be required to extend operations beyond this date.*
- 2. The materials accepted for recycling will be limited to those shown on the list included with the submitted narrative dated September 17, 2015. Any additional materials will require an amendment to the CUP.*
- 3. Whole crushed cars can be stored on the site for no longer than 72 hours. No vehicle crushing will be allowed to occur on the site, and no storage of inoperable vehicles will be permitted.*
- 4. Except for landscaping, the site must be developed according to the approved development plan dated October 29, 2015, including fencing and paving, prior to commencement of the expansion to the east side of the property. Separate fencing and grading permits will need to be submitted, and final inspections approved, before such expansion can occur.*
- 5. Landscaping must be installed as shown on the approved landscape plan dated October 29, 2015, by September 21, 2016.*
- 6. The applicant shall notify the Community Development Department in writing if the recycling facility is ever discontinued by Recycling Connections, Inc.*

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 **9985 East 104th Avenue** contained in case **CU-108-15** 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 **9985 East 104th Avenue** contained in case **CU-108-15** 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.

To continue the case:

I move that the Planning Commission continue the requested Conditional Use Permit for the property located at **9985 East 104th Avenue** contained in case **CU-108-15** to a future Planning Commission agenda.