



STAFF REPORT

Planning Commission

CASE #CU-124-20

PC Date: July 1, 2020

Case Planner: Braylan Marin

CC Date: July 20, 2020

Location: 9750 E. 96th Avenue
Henderson, CO 80614

Applicant: Westminster Auto Parts / DBA
Stadium Auto Parts INC.

Owner: Westminster Auto Parts / DBA
Stadium Auto Parts INC.

Address: 2323 W. Mulberry Pl
Denver, CO 80204

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Denver, CO 80204

Case Summary

Request: Conditional Use Permit for an Auto Salvage Yard operation

Project Description: The applicant is requesting a Conditional Use Permit in order to construct and operate an auto salvage yard. A 31,000-square foot building with office space, a vehicle dismantling area, and warehouse storage area is proposed on the 25-acre site, as well as an outdoor storage area, above ground storage tanks, fencing, landscaping, and typical site improvements.

Issues/Concerns:

- Compliance with the Land Development Code
- Compliance with FRICO requirements
- Impacts to adjacent properties and rights-of-way

Key Approval Criteria:

- 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.*

- ☒ Applicant's Narrative
- ☒ Development Plan

- ☒ Vicinity Map

Background Information

Site Information

Site Size:	25.18 Acres
Current Conditions:	Vacant
Existing Right-of-Way:	96 th Ave.
Neighborhood:	Phelps Tointon
Existing Buildings:	None
Buildings to Remain?	<input type="checkbox"/> Yes <input checked="" 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	Mckinney Trailer Rental	PUD
South	Industrial	Precast Concepts LLC	I-3
East	Public/Utility	FRICO Burlington Ditch	PUD
West	Industrial	Various Heavy industrial uses	I-3

Case History

There are two relevant 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	Dec. 3, 2007	Annexation from ADCO into Commerce City	Approval
Z-875-08	Feb. 8 2008	Annexation Zone Change from ADCO to Industrial I-3	Approval

The subject property was annexed in 2007 as part of a City lead effort to annex areas of the City that were critical for the expansion of the City. The property was then zoned with an I-3 designation but due to the size and shape of the land, it has been difficult for previous land owners to develop the site according to the Land Development Code Requirements.

Applicant's Request

Proposed Operation Overview:

The applicant's business operations relies on the purchasing of total loss vehicles from insurance companies, dismantling of vehicles and the resell of all workable parts. Vehicles purchased at auction are taken to the dismantling facility area where pieces and components such as engines, transmissions, alternators, headlights etc. are removed, drained of fluids, catalogued and ready to be sold online or on-site. Vehicle fluids are stored outside in approved containers and used for a number of on-site purposes, such as heating the building and selling for recycled use.

Once all reusable parts have been removed from a vehicle, employees will move the car shells to the outdoor storage area through a 24-ft wide access road, where they will remain for 140 days, before moving into the next cycle of the recycle process. During this time, exterior pieces such as bumpers, doors, side mirrors, etc., will be removed from shells and sold. At no time during the 140 days, are vehicle shells stacked on top of each other. The vehicle shells will be parked five to a row, on recycled asphalt in order to avoid potential soil contamination and reducing dust from being blown into neighboring sites.

Based on current operation levels, Stadium estimates that over one thousand totaled vehicles will pass through the new location per year, with an average of five trailer trucks bringing four to five vehicles onto the site, per day, for a maximum 25 new vehicles per week. Additionally, crushed vehicles will be picked up once a month.

At this time, Stadium Auto Parts estimates that all 29 employees from both their Denver and Westminster locations will be relocated to this new site. Once the site is fully developed, the applicant expects to add ten additional employees to its operation to manage the new volume of business. The site will operate Monday through Friday from 8:00 a.m. to 5:00 p.m.

Development Review Team Analysis

Salvage Yards are identified as a conditional use in I-3 zone districts by the City's Land Development Code. Therefore, approval of this Conditional Use Permit is required in order for the proposed development to occur. The proposed development has been reviewed by DRT and has found the proposal to be compliant with all other standards and requirements of the I-3 zone district. As part of any CUP, the proposed development is presented to the City's Planning Commission for a formal recommendation. The proposed recommendation is taken by City Council who further reviews the project and can choose to approve, approve with conditions, or deny the proposed development.

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

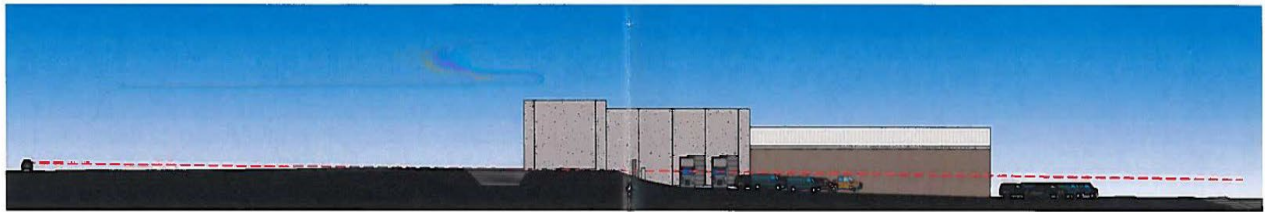
The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

Section	Goal	Description
Environmental Conservation and Stewardship	EC 5.2	Partnership 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.
Analysis:	The proposed operation of a salvage yard fulfills a need in the community by providing affordable reused vehicle parts and diverting them from landfills. This minimizes the amount of waste and provides alternatives to consumers.	
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).
Analysis:	The Future Land Use Plan identifies the subject property for General Industrial uses, which allows a mix of medium and heavy intensity industrial uses, and generally correlates with the I-2 and I-3 zone districts. The proposed salvage yard facility will house offices for the site employees along with specialized work bays and storage yard space.	
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 property has remained undeveloped even before it was annexed into the city in 2007. Additionally, the site is limited to only one access point located along E. 96 th . Ave, making it difficult for additional businesses to locate on that site. By choosing this site, Stadium Auto Parts will make use of a very prominent site and be able to continue expanding its business growth, while	

Section	Goal	Description
	at the same time it will help invigorate the neighborhood through their perimeter landscaping, making the site one of the greenest in the area.	

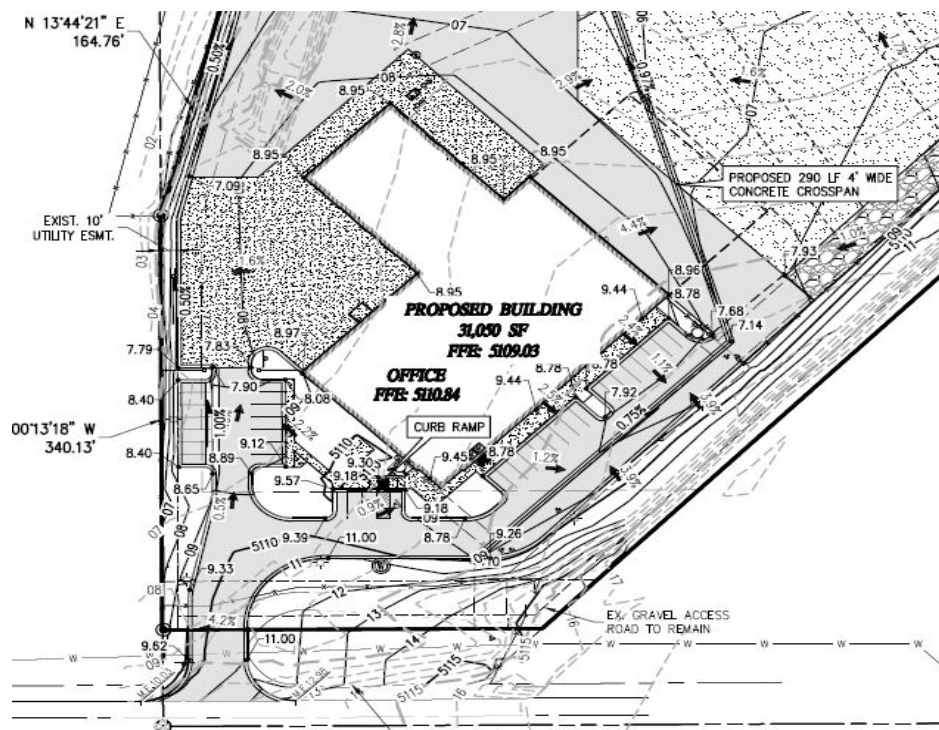
Neighborhood Context:

The subject property is approximately 25 acres and runs north from E. 96th Ave for about a half-mile. This site is located in an area developed and planned for general industrial purposes, with adjacent properties to the north, west, and south designated for high intensity industrial uses and currently zoned I-3 (which allows the broadest variety of industrial uses). East of the property runs the O'Brian Canal, managed by Farmers Reservoir and Irrigation Company (FRICO). Due the location of the canal and its high embankments, the topography surrounding the site creates an additional level of concealment to the subject property along the east side of the property. Moreover, the proposed entrance to the site along E. 96th Ave will incorporate a Concrete Masonry Wall (CMU) wall and landscaping to reduce visibility of the outdoor storage to daily commuters. Both the topography of the site, as well as the surrounding industrial uses, make this site appropriate for the proposed salvage yard operation and inoperable vehicle storage.



Site Layout:

The proposed building will be 32,000 square feet, located on the southern portion of the property and it will consist of a dismantling area, a parts warehouse, shipping area and office space. The front of the property will serve as customer parking as well as an employee rest area. There are designated fire access routes throughout the entirety of the building as well as the outdoor storage area with fire extinguishers placed every 500 feet in order to ensure safety.



Minor Modification (MM-122-20):

As part of this conditional permit, the applicant has also applied for a minor modification for a 50% reduction in Floor Area Ratio. In exchange of this approval, the application has agreed to install an additional 25' wide landscape buffer along the O'Brian Canal in addition to the required landscape standard per Sec. 21-7510. This will result in a 50% increase in landscape buffer along the east side of the property. Additionally, the applicant has agreed to install a pre-cast cement wall along E. 96th Ave. in order to further conceal the use from daily traffic. By incorporating these elements into their development, the applicant has met the approval criteria for Minor Modification, per Sec. 21-3215.

Phases of the Project:

The applicant intends on completing this development in two phases due to the length of the site. The first phase of the project will consist of 15 acres that includes the initial warehouse, landscaping, access roads, perimeter fencing and outdoor storage area as depicted on the site plan. This phase will also include all utilities for the site. The second phase will be completed two years after the opening of phase one and it will encompass the rear outdoor storage area and all remaining site work improvements as shown on the approved development plan.

Traffic Conditions:

The impact to the existing truck traffic in this area is expected to be minimal. The applicant will receive a maximum of five truck deliveries per day. The proposed use is estimated to generate around 38 vehicle trips per day. Due to the nature of the industrial uses surrounding this site, the proposed use is not expected to heavily impact the existing traffic conditions. A Public Improvement Agreement (PIA) will be required for this project. Improvements in the PIA include widening (pavement, curb, gutter and sidewalk) of E. 96th Avenue and associated landscaping in order to adhere to the standard cross section for a minor arterial in Commerce City.

Salvage Yard Operations:

The Applicant has ensured that the impacts to adjacent properties will be mitigated to the maximum extent feasible. The proposed development plan includes the installation of screen-style fencing around the property to ensure that the view of vehicles being stored in the rear of the property is properly screened from public view. Perimeter landscaping will also act as an additional buffer and will screen the property from both adjacent property owners and daily traffic along E. 96th Avenue.

The dismantling of vehicles will occur inside the proposed building facility and vehicle shells will be transported to the rear of the property where they will be lined up five in a row. There will not be stacking of car shells in the outdoor storage area. All vehicle shells will be placed on a dust-free surface approved by the City's Public Works Department, eliminating the risk of soil contamination of the subject property due to vehicle fluids. A detention pond will be constructed on-site along the west side of the property in order to capture the anticipated water run-off from the new paved surface and prevent flooding of the adjacent properties or dumping water into the O'Brian Canal.

Licenses and Permits:

Stadium Auto Parts dismantling process requires that vehicle fluids be removed from all removed pieces as well as the car shells in order to be properly cleaned and stored for resale. This will be done at a designated washing station with an underground sand/oil interceptor that is connected to the sites sewer line. While most vehicle fluids will be drained and placed on specific tanks for resale and reuse,

some of the processed oil will end up on the sand/oil interceptor that separates the remaining oil from water. A third party will then pick up that oil, reprocess it, and sell as a lubricant to other businesses. In order to assure that water leaving the site does not contaminate water supply, the applicant will obtain a Storm Water permit from the Environmental Protection Agency (EPA) through South Adams Water and Sanitation District, as required by the Clean Water Act in order to limit the level of pollutants that can be discharged into the sewer. Lastly, in order to properly operate as salvage yard / auto parts resale dealer, Stadium auto parts will obtain a Colorado Dealers License in order to purchase the totaled vehicles and properly resell auto parts.

O'Brian Canal and Future Trail:

Through the City approved *Prairieways Action Plan: Guidelines for Parks, Trails and Open Space* the Commerce City Parks and Recreation Department has envisioned a future Regional Multi-Use Trail that would run along the entire east side of the property, along the O'Brian Canal. Although there is no set date for improvements on this part of the trail, the proposed landscaping on the east side of the property will provide a new City amenity in the future in the form of increased urban canopy, while providing concealment of the outdoor storage area.

Neighborhood Meeting:

As part of this project, the applicant held two neighborhood meetings on December 4, 2019 and March 3, 2020 at Bison Ridge Recreation Center. As part of the neighborhood meetings, the applicant reached out to all property owners within a 500 ft. radius from the subject property. The purpose of the meetings was to provide the adjacent neighbors the opportunity to see the proposed development and answer any questions from attendees. The main concern for property owners that attended the meeting was the potential for a rise in crime in the area, due to the proposed use. However, there is no indication that this will be the case once Stadium begins operations on the new site.

Other Agency Comments:

Both Commerce City police and South Adams Fire Department were provided copies of the application for their review. No objections were received from either agency.

FRICO requested that the applicant provide and maintain a buffer of at least ten-feet from the toe of the embankment on the east side of the property in addition to a 15-foot landscape buffer, in order to mitigate future landscape roots from extracting water from the O'Brian Canal.

Conditions:

Based on DRT's analysis of this case, staff is proposing three conditions that deal with the use of the subject property as a salvage yard with inoperable vehicle storage.

- A. This Conditional Use Permit is for the storage and salvage of vehicles to include passenger cars, single axle trucks, one-ton trucks, vans, delivery vans, class C RV's and small type shuttle buses; all such vehicles not to exceed 22 feet in length. No other types of vehicles, including but not limited to tractor trailers, semi-trucks, full size buses, boats, heavy construction vehicles, or mobile homes as defined in the LDC, are permitted. The storage or salvage of any other type of vehicle requires an amendment to this CUP.
- B. All work performed on vehicles, including repair, draining of fluids, and dismantling, shall occur entirely within the building. Applicant can perform dismantling of additional pieces

from car shells in the outdoor storage so long as it does not require the drainage of fluids prior to removing the additional pieces.

- C. Following the commencement of the use, and in the interest of maintaining harmony with adjoining land uses, the applicant will provide the director with a report detailing all complaints the applicant has received from adjoining landowners during the preceding calendar year, as well as the manner in which the applicant disposed of those complaints. The first report will be due on or before January 31 of the year following the commencement of the use (e.g., if the use commences on August 1, 2021, the first report will be due January 31, 2022 and will encompass the period between August 1, 2021 and December 31, 2021) and subsequent reports will be due on or before January 31 of every year thereafter.

On or after August 30, 2025, the director will review the applicant's reports, as well as any violations reported to the city. If the reports and reported violations, if any, indicate that the use is not compliant with the Conditional Use Permit approval criteria, the director may submit the Conditional Use Permit to the Planning Commission and City Council for review at duly noticed public hearings. This review will be for the limited purpose of identifying and imposing conditions reasonably necessary to address the complaints demonstrating noncompliance with the Conditional Use Permit approval criteria and will be rationally related to the Conditional Use Permit approval criteria.

Condition A. Staff believes it is important to clearly define the types of "autos" and other vehicles that are appropriate to be salvaged at this location. This is important as it relates to sufficient mitigation measures and likely impacts to adjacent properties. The salvage and crushing of typical passenger cars is considered to be less intense than the salvage and crushing of much larger, heavier vehicles such as construction equipment, large travel and school buses, or motor coach RVs. Staff has had issues with the storing of inoperable school buses, touring buses, and large RVs in the past, causing unsightly properties and resulting in complaints by surrounding businesses and residents. The length limitation on this condition should help all parties with clear expectations and prevent the utilization of large vehicles. As new operations wish to develop within the City, Staff is tasked with trying to prevent as many potential negative effects as possible. Staff feels that Condition A is necessary in order to fully satisfy approval criteria 21-3230(3)(a)(i) and (ii). Without limiting the types of vehicles allowed to be processed on this site, it is impossible to provide assurances that *"the proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood"* or that *"any adverse effect has been or will be mitigated to the maximum extent feasible..."*

Condition B. Condition B is included to provide clear and predictable expectations as it relates to site safety and environmental protections. While it is imperative that all fluids are drained within the building with proper equipment and safety precautions to prevent any leaks or spills into the ground or the O'Brian Canal, staff recognizes the operational need for minor dismantling (such as removing a bumper or headlight) for specific customer requests. This condition helps satisfy approval criteria 21-3230(3)(a)(i), (ii), and (v). If all dismantling were performed outdoors, anywhere on the site, with hazardous fluids potentially leaking, draining, or being dumped on the ground or into nearby water sources, the proposal would fail to meet the approval criteria.

Condition C. At this point all reviews of this proposed use have been conducted solely based on paper plans, a written explanation of the business model, and from professional knowledge of similar operations. Due to the significant land use implications of a salvage yard, a follow-up review, once the site is fully developed and operational, is necessary to fully evaluate the impacts of this use. Five years is the proposed timeframe for the follow up review by staff, outside agencies, Planning Commission, and City Council. Five years is recommended in order to allow the business time to full develop the site, install all improvements, and get their operation up

and fully functional. Only at this time will the City truly be able to evaluate how this business is impacting the site itself, the surrounding properties, the associated City services (such as roadways and traffic volume), and how the site is being maintained. The Land Development Code description of a conditional use permit, found in §21-3230(1) explains that it is *“the specifics of the particular project”* that are to be considered to determine if the use is or is not *“compatible with an area.”* Different from a use allowed by right, uses only allowed with a Conditional Use Permit should be carefully and specifically evaluated to ensure that they are suitable and that appropriate mitigation measures are in place. By having a yearly report provided however, both the applicant and the City can get ahead of any issues that may develop, and mitigate them more quickly. The yearly report will also help to build the relationship between the applicant and surrounding properties. Examples of additional mitigation measures that could reasonable be imposed by Council with the five year review include a required addition of trees in a certain area to help screen views, a limitation of hours of operation due to unforeseen noise complaints, a higher fence requirement, or something of a similar nature.

Summary:

Stadium Auto Parts is requesting the approval of this Conditional Use Permit in order to construct their new headquarters and continue to expand their business in Commerce City. The property has a zoning designation of I-3 and it is surrounded by other properties with the same I-3 zoning designation, which complies with the intent of the General Industrial Future Land Use designation that the City envisioned through the Comprehensive Plan in 2010. Along with the administrative approval of the Minor Modification, the site has met all standards and is compliant with the Conditional Use Permit approval criteria below. Therefore, based on the information provided above and the detailed analysis related to the Conditional Use Permit criteria listed below, DRT recommends that the Planning Commission forward a recommendation of approval with conditions to City Council.

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 character of this area is heavy industrial in nature and the existing surrounding uses are considered heavy industrial uses.
<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 has provided additional landscaping in order to buffer incompatible use as well as enhanced screening along the perimeter in order to ensure harmony with the adjacent properties.
<input checked="" type="checkbox"/>	The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvement features;	The site is long and narrow and due to its topography, it sinks low enough that the perimeter landscape as well as the proposed fencing will screen the outdoor storage yard.
<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	The requested use will be adequately served by the necessary utilities and infrastructure. The

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
	applicant has committed to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;	applicant has committed to making the required roadway improvements.
<input checked="" type="checkbox"/>	The applicant has provided adequate assurances of continuing maintenance;	The applicant has agreed to a number of assurances, such as maintenance of all perimeter and site landscaping as well as purchasing the land in order to remain in place for the foreseeable future.
<input checked="" type="checkbox"/>	There is 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.
<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 request complies with the City's plans and ordinances.
<input checked="" type="checkbox"/>	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 request is compliant with the purpose, goals, and objectives of the comprehensive plan as outlined above.

Development Review Team Recommendation

Based upon the previous analysis, 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 with conditions**.

Recommended Motion

To recommend approval:

I move that the Planning Commission enter a finding that, subject to conditions, the requested Conditional Use Permit for the property located at 9750 E. 96th Avenue, contained in case CU-124-20, 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 is for the storage and salvage of vehicles to include passenger cars, single axle trucks, one-ton trucks, vans, delivery vans, class C RV's and small type shuttle buses; all such vehicles not to exceed 22 feet in length. No other types of vehicles, including but not limited to tractor trailers, semi-trucks, full size buses, boats, heavy construction vehicles, or mobile homes as defined in the LDC, are permitted. The storage or salvage of any other type of vehicle requires an amendment to this CUP.

- B. All work performed on vehicles, including repair, draining of fluids, and dismantling, shall occur entirely within the building. Applicant can perform dismantling of additional pieces from car shells in the outdoor storage so long as it does not require the drainage of fluids prior to removing the additional pieces.
- C. Following the commencement of the use, and in the interest of maintaining harmony with adjoining land uses, the applicant will provide the director with a report detailing all complaints the applicant has received from adjoining landowners during the preceding calendar year, as well as the manner in which the applicant disposed of those complaints. The first report will be due on or before January 31 of the year following the commencement of the use (e.g., if the use commences on August 1, 2021, the first report will be due January 31, 2022 and will encompass the period between August 1, 2021 and December 31, 2021) and subsequent reports will be due on or before January 31 of every year thereafter.

On or after August 30, 2025, the director will review the applicant's reports, as well as any violations reported to the city. If the reports and reported violations, if any, indicate that the use is not compliant with the Conditional Use Permit approval criteria, the director may submit the Conditional Use Permit to the Planning Commission and City Council for review at duly noticed public hearings. This review will be for the limited purpose of identifying and imposing conditions reasonably necessary to address the complaints demonstrating noncompliance with the Conditional Use Permit approval criteria and will be rationally related to the Conditional Use Permit approval criteria.

Alternative Motions

To recommend approval (without conditions):

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at 9750 E. 96th Avenue, contained in case CU-124-20, 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 9750 E. 96th Avenue, contained in case CU-124-20, 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.