



# STAFF REPORT

## Planning Commission

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CASE NUMBER: CU-103-14			
<b>PC Date:</b>	December 4, 2013	<b>Case Planner:</b>	Paul Workman
<b>CC Date:</b>	January 6, 2014		
<b>Location:</b>	Reunion Filing #32 Lot #2		
<b>Applicant:</b>	TMac II Enterprises, LLC	<b>Owner:</b>	Drake Real Estate
<b>Address:</b>	15530 W. 64 <sup>th</sup> Avenue Arvada, CO 80007	<b>Address:</b>	496 S. Broadway Denver, CO 80209

Case Summary	
<b>Request:</b>	The applicant is requesting approval of a Conditional Use Permit (CUP) in order to have a propane tank on their property that exceeds 10,000 cubic feet capacity.
<b>Project Description:</b>	The applicant is proposing to develop the subject property with retail uses that are complimentary to the existing commercial uses. As part of the development of this lot, the applicant is requesting approval in order to have more than 10,000 cubic feet capacity of propane on the subject property.
<b>Issues/Concerns:</b>	Compliance with regulatory agency requirements.
<b>Key Approval Criteria:</b>	<ul style="list-style-type: none"> <li>Compliance with the Comprehensive Plan.</li> <li>Compliance with the approval criteria for a Conditional Use Permit.</li> <li>Compliance with regulatory requirements.</li> </ul>
<b>Staff Recommendation:</b>	<b>Approval</b>
<b>Current Zone District:</b>	PUD (Planned Unit Development)
<b>Comp Plan Designation:</b>	Commercial

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

<input checked="" type="checkbox"/> Applicant's Narrative Summary	<input checked="" type="checkbox"/> Vicinity Map
<input checked="" type="checkbox"/> Site Plan	<input checked="" type="checkbox"/> Elevations

## Background Information

### Site Information

<b>Site Size:</b>	1.877 acres +/-
<b>Current Conditions:</b>	The subject property is currently undeveloped.
<b>Existing Right-of-Way:</b>	The property is bound by private right-of-way on the north, south, and east side.
<b>Neighborhood:</b>	Reunion
<b>Existing Buildings:</b>	N/A
<b>Site in Floodplain</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
<b>North</b>	Delivery Access	King Soopers	PUD
<b>South</b>	Parking Lot	None	PUD
<b>East</b>	Undeveloped	None	PUD
<b>West</b>	Big Box Retail	King Soopers	PUD

### Case History

The following list is the relevant case history for the subject property:

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Z-781-02-04-06-11	1/10/11	Amend the original PUD Zone Document to allow for retail uses larger than 80,000 square feet.	Approved
S-578-11	8/3/11	Create 8 lots for commercial development.	Approved

Z-781-02-04-06-11:

On January 10, 2011, City Council approved a PUD Zone Document Amendment to allow for retail uses over 80,000 square feet on the subject property.

S-578-11:

On August 3, 2011 staff approved a subdivision application to create 8 lots for commercial development at the northwest corner of E. 104<sup>th</sup> Avenue and Chambers Road.

## Applicant's Request

On behalf of TMac II Enterprises, Drake Real Estate is requesting the approval of a Conditional Use Permit (CUP) in order to have an excess of 10,000 cubic feet capacity of propane on the subject property. Specifically, the tank will have 36,390 cubic feet capacity (1,000 gallons), it will be 45-inches in diameter, and will be 18-feet tall. In response to why the applicant needs to exceed 10,000 cubic feet of propane on the property, the applicant states; *"Other tenants in the Reunion retail area offer propane exchange programs of one tank size, showing a need for this service. The addition of the larger tank being proposed for personal refills will give the local residents a choice of not only refilling their standard size BBQ tanks, but they will also be able to refill other size tanks as well"*. The applicant goes on to say; *"The proposed is part of a standard overall operation for the tenant. The request for adding the proposed propane tank has looked at optimal placement to minimize substantial or undue adverse effects on neighboring properties concerning the character of the neighborhood. We are facing undeveloped land adjacent to the proposed location. Traffic patterns, circulation, and improvements in conjunction to the proposed propane tank location have all been studied and mitigated to provide to the maximum extent feasible, including but not limited to sufficient landscaping"*.

In terms of how this requests relates to the specific site, the applicant states; *"The characteristics of the site conditions including location, size, shape, and topography are suitable for the proposed propane tank. We have taken care in the design and location of the proposed propane tank to make sure it is convenient for the public to pull up for service. This will further provide safety measures where the public can fill up their propane tanks and not have to carry their tanks a distance across a parking lot. It keeps them well protected from vehicular traffic"*.

The applicant has also given assurance that the proposed tank will be maintained. Specifically, they state; *"The applicant is willing to provide further assurances that services will be maintained continually. The proposed use as previously indicated is a part of routine development of the tenant's operation and does not create an undue burden on any of the existing improvements."*

## Development Review Team Analysis

In reviewing the requested Conditional Use Permit (CUP), staff began by evaluating the request against the Comprehensive Plan. That analysis is provided in the table 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 and Growth Strategies	LU 1a	<u>Future Land Use Plan (FLUP) as a Guide:</u> Use the FLUP to guide development patterns and mix of uses.
<b><u>Analysis:</u></b>	The FLUP identifies the northwest corner of E. 104 <sup>th</sup> Avenue and Chambers Road for commercial uses. The proposed development is for end-line retail space of a commercial nature and the requested CUP is accessory to the proposed commercial development.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Economic Development	ED3a	<u>Future Land Use Plan (FLUP) to Guide Decisions:</u> Use the FLUP to guide land use decisions.
<b><u>Analysis:</u></b>	The FLUP identifies the northwest corner of E. 104 <sup>th</sup> Avenue and Chambers Road for commercial uses. The proposed development is for end-line retail space of a commercial nature and the requested CUP is accessory to the proposed commercial development.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Fiscal Stability	FS2b	<u>Reserve Land for Commercial Uses:</u> Ensure adequate land for commercial uses through the FLUP, preserve the opportunity for future retail development by designating locations.
<b><u>Analysis:</u></b>	The subject property is called out for commercial uses on the FLUP and the proposed development is for a commercial use. This property is designated for commercial development and the proposal is for commercial development.	

Once staff determined that the request was compliant with the Comprehensive Plan as outline above, staff evaluated the request against the requirements found in the Land Development Code (LDC).

**LDC Requirements:**

Section 21-5212(4):

*“No more than 10,000-cubic feet capacity for the storage of flammable gases shall be permitted on any single property without a conditional use permit.”*

Given the applicant’s request to have 36,390-cubic feet of capacity (1,000-gallons), the applicant is required to receive approval for a Conditional Use Permit (CUP) in order to have their requested propane tank.

**Proposed Location:**

As part of the review of the requested propane tank, staff did evaluate the proposed location of the tank. In conducting this analysis, staff concluded that the proposed location limited the visibility of the tank, it was not located in a major circulation route, and there were appropriate safety measures. Specifically, the tank will be placed behind the building which will provide a major visual screen and it will also be screened from the future E. 106<sup>th</sup> Avenue by the wall that was installed with the King Soopers development. The proposed location of the tank is not in a major circulation route where it would be subject to major vehicular traffic. To the limited extent there will be vehicles around the tank, bollards and a curb are proposed to be installed around the tank.

**The DRT Review:**

Given the nature of the request, it was important that the South Adams County Fire District (SACFD) and the Tri-County Health Department (TCHD) lead the review of this application. In response to the request, the SACFD commented that; *“The proposed vertical propane tank will have to follow the code requirements in the 2009 IFC (International Fire Code) Chapter 38 Liquefied Petroleum Gases. The distance from the building will need to be at least 25-feet and the tank will have to have all the required vehicle impact protection and safety devices listed in the code”*. The TCHD responded that the above ground tank would need to be at least 25-feet from the building and that the applicant will need to receive a permit from the fire department for the tank. The applicant understands that the proposed tank will need the appropriate permit approvals and the proposed location for the tank exceeds the 25-foot minimum setback requirement.

**The DRT Review Summary:**

As previously stated, the DRT determined that the request is compliant with the adopted Comprehensive Plan and the proposed location of the tank is appropriate. Furthermore, the SACFD and the TCHD have no objections to the request. Given the analysis provided above and the request’s compliance with the CUP approval criteria listed below, staff is recommending approval of the request.

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;	The requested propane tank will not result in an adverse effect on adjacent property. It has been placed in an area that is screened from view, it is not located in a heavy traffic area, and there will be adequate protection measures from the limited vehicle traffic.
☒	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;	Protective bollards and a curb have been identified.
☒	The characteristics of the site are suitable for the proposed use;	The site is relatively flat, which accommodates the proposed tank with little to no impact on adjacent properties.
☒	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 proposed to be developed for commercial uses. As part of this development, the site will have the necessary improvements, utilities, and services. The proposed propane tank will have no impact on these services.
☒	The applicant has provided adequate assurances of continuing maintenance;	The applicant’s narrative states that they will provide continual and adequate maintenance of the tank.
☒	No evidence suggests that the use violates any federal, state, or local requirements; and	There has been no indication that the proposed tank violates any federal, state, or local requirement.
☒	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 detailed above, the proposed propane tank complies with the Comprehensive Plan and subject to the approval of the requested CUP the tank will be compliant with the LDC.

## 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.

### **\*Recommended Motion\***

To recommend approval:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property known as Reunion Filing #32 Lot #2 contained in case CU-103-14 meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Conditional Use Permit.

### Alternative Motions

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 known as Reunion Filing #32 Lot #2 contained in case CU-103-14 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:

*List the conditions*

To recommend denial:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property known as Reunion Filing #32 Lot #2 contained in case CU-103-14 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.