



# STAFF REPORT

## Planning Commission

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### CASE #CU-109-15

<b>PC Date:</b>	December 2, 2015	<b>Case Planner:</b>	Caitlin Hasenbalg Long
<b>CC Date:</b>	December 21, 2015		
<b>Location:</b>	5245 East 48 <sup>th</sup> Avenue		
<b>Applicant:</b>	USA Enterprises, LLC	<b>Owner:</b>	Stelar Group, LLC
<b>Address:</b>	5245 East 48 <sup>th</sup> Avenue Denver, CO 80216	<b>Address:</b>	9920 East Walsh Place Denver, CO 80247

### Case Summary

<b>Request:</b>	Conditional Use Permit for an existing salvage yard.
<b>Project Description:</b>	The applicant is requesting approval for a vehicle salvage yard. The subject site occupies the southeastern portion of a property owned by the applicant and developed with several buildings. The northwestern portion of the property is not included as part of this application, and is leased to other users. The applicant uses the subject site as a storage yard for inoperable vehicles from which parts are salvaged, sorted and organized inside the warehouse, and sold wholesale. The applicant proposes to bring the property into compliance with current standards for screening and landscaping.
<b>Issues/Concerns:</b>	<ul style="list-style-type: none"><li>• Impacts to adjacent properties</li><li>• Referral agency responses</li></ul>
<b>Key Approval Criteria:</b>	<ul style="list-style-type: none"><li>• Compliance with the Comprehensive Plan</li><li>• Conditional Use Permit Approval Criteria</li></ul>
<b>Staff Recommendation:</b>	Approval with Conditions
<b>Current Zone District:</b>	I-3 (Heavy Intensity Industrial District)
<b>Comp Plan Designation:</b>	General Industrial

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

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

## Background Information

### Site Information

<b>Site Size:</b>	3.45 acres
<b>Current Conditions:</b>	Developed with an existing industrial building
<b>Existing Right-of-Way:</b>	East 48th Avenue to the south; Forest Street to the west
<b>Neighborhood:</b>	Sand Creek
<b>Existing Buildings:</b>	26,100 sf warehouse
<b>Buildings to Remain?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Site in Floodplain</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Surrounding Properties

Existing Land Use		Occupant	Zoning
<b>North</b>	Undeveloped	Vacant; former landfill site	I-3
<b>South</b>	Industrial	Presidential Worldwide Transportation, Mexhass, Corporate Ground Transport	Denver
<b>East</b>	Industrial	Lackey Distributing Inc.	I-3
<b>West</b>	Industrial	Stairs Inc., Platte Valley Aluminum, Fay Engineering	I-3

### Case History

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

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
S-71-81	August 1981	Chevron U.S.A. Subdivision Filing 1 (2 lots)	<b>Approval with Conditions</b>
S-177-91	October 1991	Chevron U.S.A. Subdivision Filing 2 (3 lots)	<b>Denial</b>
S-179-93	August 1993	Chevron U.S.A. Subdivision Filing 2 (3 lots)	<b>Approval</b>

Records indicate that the subject property has been zoned I-3 since 1962. The building which the applicant uses for USA Enterprises was constructed in 1964. In 1981, the overall property was subdivided into 2 lots in the Chevron U.S.A. Subdivision to prepare a portion of it for sale. Later, a training facility was built on one of the lots, which was further subdivided in 1993 in order to sell the training facility.

## Applicant's Request

USA Enterprises has submitted this application for a Conditional Use Permit for a salvage yard and inoperable vehicle storage in the I-3 zone district. The applicant has provided the following summary of his operations:

### Overview:

*USA Enterprises' operation is based on the need of recycling and reusing automotive parts. The salvage yard and inoperable vehicle storage facility will take damaged vehicles, remove the reusable parts and resell them. Other products such as scrap metal will be sent to the appropriate recycling facility. While sales are currently 100% wholesale, approval of this CUP and its corresponding uses will convert the business to retail effectively increasing revenue and taxes. As of today, revenue in wholesale is around \$800,000 annually. Moving to retail will generate approximately \$1,300,000.*

### Process

Damaged vehicles are delivered to the site or purchased from local auto auctions. Once the automobile is on site, it is taken to an automotive lift where the following standard procedures are carried out:

- All fluids are drained and put into proper containers, to be disposed of by the following means:  
Disposal of Hazardous Materials and Waste: VEOLIA Environmental services: 91131 East 96th Ave Henderson, CO 80640.  
Disposal of Car Batteries: WALTER'S Auto Specialties, Inc: 1998 W. Hamilton Place Sheridan, CO 80110.  
Disposal of Metal: EVRAZ: 5601 York St. Denver, CO 80216 and Denver Metal Recycling: 4770 Ivy St.- Unit C Denver, CO 80216.  
Disposal of Oil: TERMO FLUIDS the Responsible Solution: 4845 Forest St Denver, CO 80022.  
Disposal of Tires: Colorado Tires Recycling, LLC: 5101 Columbine St. Denver, CO 80216.
- All useable engines and transmissions (along with other useable parts) are inventoried and put onto shelves within the existing building's storage area.
- Cars do need to be kept on the yard for the purpose of selling structural parts, but will be drained of all fluids (except for cars waiting in line to be processed). All necessary equipment is on site in order to process incoming automobiles, i.e., forklifts, large & small containers, storage tanks, shelves, etc...

### Hours and Days of Operations

Monday – Friday: 8am – 6pm

Saturday: 9am – 3pm

Sunday: Closed

Holidays – Closed most major holidays

### Number of Employees

11 initially with potential growth of up to 24.

### Number of Parking Stalls

At the front of the building there are 8 parking stalls. Overall employees will park on site inside the lot where there is availability for 15 more parking stalls.

### Average Daily Trips

On average there are four (4) deliveries a day. Per the 5th edition of the Traffic Engineering Handbook this type of business is expected to generate 50 trips per day.

### Description of Hazardous Materials

The hazardous materials on site are the used oil and antifreeze drained from the salvaged vehicles. This material is stored on site inside the building in two 500 gallon special recycling containers. Roughly every three (3) months Safety-Kleen comes and removes these materials for recycling.

### Summary

USA Enterprises operations will have no adverse impacts on the surrounding businesses or neighborhood and provides good jobs to the community while offering quality recovery of used auto parts.

## Development Review Team Analysis

The applicant first began the salvage yard use of the subject site in 2012 as a tenant of the property. Following an investigation into the site, the Neighborhood Services Division issued a Notice of Violation in 2013 regarding the salvage yard and inoperable vehicle storage. In early 2014, South Adams County Fire Protection District (SACFD) alerted the Neighborhood Services Division to potential building and fire code violations, which the applicant has since worked with SACFD and the Building Safety Division to resolve due to serious safety concerns for employees. During that time, the applicant was referred to Planning staff for information on the required approval process for the salvage yard and inoperable vehicle storage. The Land Use Table in the LDC indicates that a Conditional Use Permit is required for salvage operations and inoperable vehicle storage in the I-3 zone district. Staff has worked with the applicant since that time to prepare and submit this application. Approval of this Conditional Use Permit would make the existing salvage operation a legal and conforming use for the applicant; it does not run with the land, so any change in the operator would require a separate application.

### Comprehensive Plan:

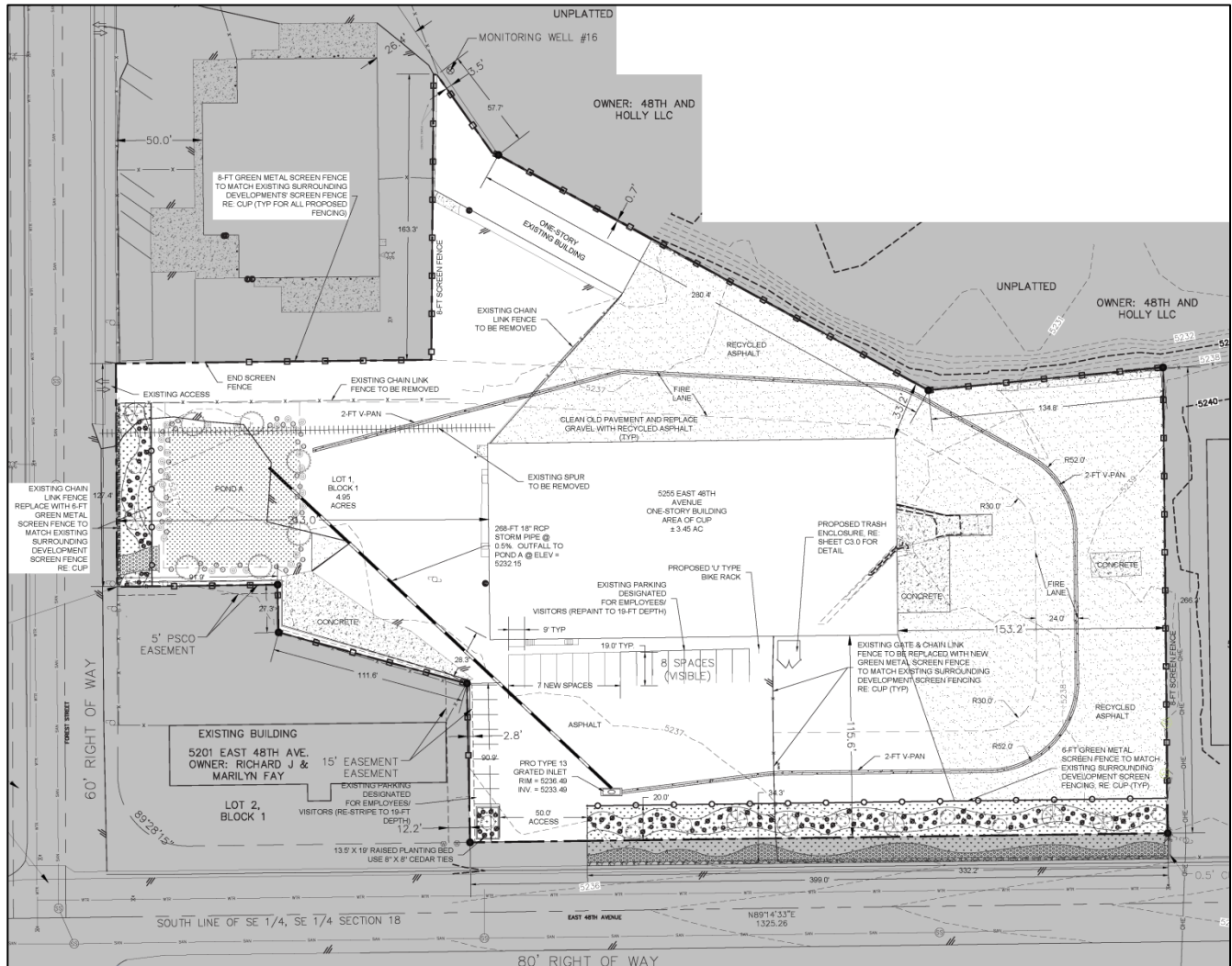
The Development Review Team (DRT) began by reviewing the Conditional Use Permit (CUP) request against the goals found in the City's Comprehensive Plan. That analysis is provided below:

#### 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).
<b><u>Analysis:</u></b>	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 salvage yard which processes inoperable vehicles for use of parts, the proposed use fits within the characteristics of the designated future land use.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Redevelopment and Reinvestment	RR 3.1	Property Maintenance: Increase and enforce current property maintenance requirements to improve safety, appearance, and function of neighborhoods.
<b><u>Analysis:</u></b>	Through the approval of the Conditional Use Permit, the applicant will install significant improvements to the site in terms of surfacing, drainage, and landscaping to bring the property into compliance with various standards. This will enhance the appearance of the property along the southern boundary of the city.	
<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.
<b><u>Analysis:</u></b>	The operation of a salvage yard fills a niche need in the community by providing affordable reused vehicle parts and diverting them from landfills. Any reusable parts are removed and sold, while scrap metal and other materials are sent to the appropriate recycling facilities. This minimizes the amount of waste and provides alternative options to consumers.	

The subject site consists of approximately 3.4 acres at the southern end of a 5-acre property located northeast of the intersection of Forest Street and East 48th Avenue. The subject site includes the 26,000 square foot building located at 5255 East 48<sup>th</sup> Avenue as well as paved parking in front of the building, and a yard area extending around the building. A fire access route will be provided through the site to ensure safety. Additional landscaping, including street trees and ornamental grasses, will also be provided along Forest Street and East 48<sup>th</sup> Avenue to enhance the street presence.





**Neighborhood Context:**

The subject property in this case is located in an area developed and planned for general industrial purposes, with adjacent properties being zoned for high-intensity industrial uses both within and outside of Commerce City. The adjacent properties within the city are zoned I-3, which allows for the widest variety of industrial uses. The adjacent properties in the City and County of Denver are zoned for similar industrial uses, including metal recycling and asphalt production. This site is relatively isolated from the rest of the city, located to the south of the Union Pacific Railroad and the 55-acre former landfill, which is currently vacant. It can only be accessed through Denver from the west, or through Stapleton Industrial Park to the east. The remote location along with the surrounding industrial uses makes this site appropriate for the proposed salvage yard operation and inoperable vehicle storage.

**Truck Traffic:**

The impact to the existing truck traffic in this area is expected to be minimal. The applicant receives 4 truck deliveries per day, and the use generates around 50 vehicle trips per day. Given the nature of the heavy intensity industrial uses in the surrounding area, this use is not expected to significantly impact the existing traffic conditions. However, the applicant has signed a Public Improvements Agreement for future roadway improvements along the frontage of the subject property at such time as the Public Works Department deems it necessary.

**Salvage Yard Operations:**

The applicant will ensure that the impacts of the salvage yard and inoperable vehicle storage to the adjacent properties are mitigated to the maximum extent feasible. This includes installing screen-style fencing around the perimeter of the property to ensure that the view of the vehicles being stored is screened from public view and from the first floor of buildings on adjacent properties and landscaping along the frontages on East 48<sup>th</sup> Avenue and Forest Street to soften the appearance of the use.

All dismantling of vehicles will take place inside the building, and car frames will not be allowed to be stacked on one another in the yard. This is the subject of one of the recommended conditions of approval. Furthermore, all storage of the inoperable vehicles will take place on a dust-free surface approved by the City's Public Works Department or inside the warehouse building, eliminating the risk of contaminating the subject property with vehicle fluids. A drainage pond will be provided on-site to capture the anticipated water run-off from the new paved surface and prevent flooding of adjacent properties.

**Referral Agency Comments:**

Responses from additional referral agencies included the City's Economic Development Division, South Adams County Fire District (SACFD), and Tri-County Health Department (TCHD).

The Economic Development Division expressed concern about whether the salvage yard use is the highest and best use of I-3 land. However, they neither supported nor opposed this Conditional Use Permit request.

SACFD indicated all previously existing fire code issues have been addressed, and that the applicant will need to maintain a 20-foot wide fire access road through the property.

TCHD relayed the existence of a former landfill site adjacent to the northeast of the subject property, and indicated that their records shows continued monitoring of gas extraction wells, which protect nearby buildings from potential flammable gasses. TCHD also informed the applicant that permits for the operation would be needed from the Colorado Department of Public Health and Environment (CDPHE). This item is the subject of another recommended condition of approval.

**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. Adequate employee and customer parking is provided on site. The Public Works Department has no concerns with the level of traffic anticipated from the salvage yard use at this time, and a Public Improvements Agreement has been executed for future roadway improvements.
<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 screen-style fence to shield the view of the inoperable vehicle storage from the public right-of-way along East 48 <sup>th</sup> Avenue and Forest Street, as well as from the first floor of buildings on adjacent properties. 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 as it grows over time.
<input checked="" type="checkbox"/>	The characteristics of the site are suitable for the proposed use;	The existing site has sufficient space as much of the use is conducted indoors, and will have a suitable surface for the outdoor inoperable vehicle storage. In addition, the location in a heavily industrial area ensures that the proposed use is compatible with the surrounding area, and adequate landscaping and screen-style fencing will be installed 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 is adequately served by existing city services. A drainage pond will be provided on site to collect stormwater from the new paved yard surface. The existing building is sprinkled, and the fire department has no objections to the approval of the CUP. These improvements ensure that there will not be an undue burden imposed on city services.
<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.



Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
<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, and the applicant will be required to provide the City with a copy of the State permit required by CDPHE.
<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 salvage yard and inoperable vehicle storage 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 all outdoor storage or inoperable vehicles must be located on an approved dust-free surface, and that all outdoor storage of inoperable vehicles 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 seven conditions which deal with the current upgrades to the site, certain limitations on the stacking of materials, the requirement for compliance with state regulatory agencies, and the continued use of the subject site for a salvage yard and inoperable vehicle storage. The proposed three-year expiration is consistent with the expiration timeframe approved for similar types of uses, and allows for a regular review to ensure that the use is still appropriate for the location. These conditions are listed in detail in the next section of this report. The applicant is aware of and agrees to these proposed conditions.

### Summary:

USA Enterprises is requesting approval of a Conditional Use Permit for a salvage yard and inoperable vehicle storage. This would allow for the existing business to become legal and conforming.

The site was originally developed in 1964. The overall site layout provides adequate parking, and will provide an appropriate surface for vehicle traffic and storage of inoperable vehicles. In addition, the applicant is proposing to upgrade the appearance of the site with a new screen-style fence around the perimeter of the site and additional landscaping along Forest Street and East 48<sup>th</sup> Avenue. 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 storage of inoperable vehicles will be concealed with a screening fence and landscaping along the public rights-of-way. In addition, a Public Improvements Agreement has been executed for future roadway improvements along the property's frontages at such time as the Public Works Department determines it to be necessary. 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 property must be improved as shown on the approved development plan dated November 11, 2015, including drainage, landscaping, fencing, and paving, by December 21, 2016.
3. Any expansion of the salvage yard or inoperable vehicle storage to areas outside of what is depicted on the approved development plan dated November 11, 2015, will require an amendment to this CUP.
4. All work performed on vehicles, including repair, draining fluids, and dismantling, shall occur entirely within the building. No repair or dismantling shall be performed outside.
5. All vehicles stored in the yard shall be arranged in a single layer, with no stacking on top of each other.
6. Copies of any state regulatory agency permits shall be provided to the City's Planning Division within 90 days of their effective date.
7. The applicant shall notify the Community Development Department in writing if the usage of the property as a salvage yard and inoperable vehicle storage is ever discontinued by Stefan Masini or USA Enterprises.

## **\*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 **5255 East 48<sup>th</sup> Avenue** contained in case **CU-109-15** 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 property must be improved as shown on the approved development plan dated November 11, 2015, including drainage, landscaping, fencing, and paving, by December 21, 2016.*
- 3. Any expansion of the salvage yard or inoperable vehicle storage to areas outside of what is depicted on the approved development plan dated November 11, 2015, will require an amendment to this CUP.*
- 4. All work performed on vehicles, including repair, draining fluids, and dismantling, shall occur entirely within the building. No repair or dismantling shall be performed outside.*
- 5. All vehicles stored in the yard shall be arranged in a single layer, with no stacking on top of each other.*
- 6. Copies of any state regulatory agency permits shall be provided to the City's Planning Division within 90 days of their effective date.*
- 7. The applicant shall notify the Community Development Department in writing if the usage of the property as a salvage yard and inoperable vehicle storage is ever discontinued by Stefan Masini or USA Enterprises.*

## **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 **5255 East 48<sup>th</sup> Avenue** contained in case **CU-109-15** 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 **5255 East 48<sup>th</sup> Avenue** contained in case **CU-109-15** 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 **5255 East 48<sup>th</sup> Avenue** contained in case **CU-109-15** to a future Planning Commission agenda.