



L.G. EVERIST, INC.

ROCK SOLID SINCE 1876

7321 E. 88TH AVENUE, SUITE 200

HENDERSON, COLORADO 80640

PHONE 303-287-9606 • FAX 303-289-1348

October 20, 2016

Mr. Paul Workman
City Planner
City of Commerce City
7887 E. 60th Avenue
Commerce City, CO 80022

RE: Conditional Use Permit 21-91-94-96-97 - Condition Removal Request

Dear Paul:

L.G. Everist, Inc. respectfully submits this Development Review Application, narrative and related materials to request removal of Condition "N" from our Commerce City CUP. The narrative explains how Condition N is unnecessary, and the removal of Condition N will be beneficial to Commerce City and L.G. Everist.

Although it is not necessary, there are other conditions which have been long addressed and completed, and could be removed in this updating process. See the narrative for details.

L.G. Everist is maintaining compliance with all conditions in our CUP, and we request that this process does not "open" the CUP to additional unnecessary conditions that do not apply to the compliant, established operations within our CUP.

Note: Throughout the older permitting files, both L.G. Everist, Inc. and Andesite Rock Company are listed as the owner/operator/permittee for this CUP. Andesite Rock was a wholly-owned subsidiary of L.G. Everist. In 2007, L.G. Everist informed Commerce City that the Andesite Rock Company name was being retired and all former Andesite Rock Company operations would operate under the name of L. G. Everist, Inc. This was a name change only, there was no change in ownership.

If you need further information from us to complete the application, please let us know. I can be contacted by telephone at 303-286-2247 (office), 303-514-2778 (cell), or via email at lmshults@lgeverist.com. I look forward to hearing back from you soon.

Sincerely,

Lynn Mayer Shults
Regulatory Manager

cc: L. G. Everist, Inc.

Attachments

- Development Review Application (2p) - signed and notarized
- Review Fee of \$250.00
- General Warranty Deed with complete legal description - need this
- Narrative - information about the CUP and this Condition Removal Request (15 copies)
- 1 electronic copy of all documents in .pdf format, emailed to PWorkman@c3gov.com

NARRATIVE for Development Review Application

1. Purpose of Application

The purpose of the application is to remove Condition N from CU-21-91-94-96-97, in order to streamline and unburden the permitting process for Commerce City, L.G. Everist, and lessees.

Condition N quoted as follows:

"N. The Conditional Use Permit is approved for the applicant only. In the event that any operation of the property, including any Use-by-Right or Conditional Use, is proposed to be conducted by an individual or entity that is not LG Everist Inc., or a wholly-owned subsidiary thereof, application must be made to the Director of the Department of Community Development or his/her designee for specific approval of the operator. Prior to any grant of approval by the Director of the Department of Community Development or his/her designee, the application shall be referred to the City Council for review and determination as to whether the decision on the application must be made by the City Council instead of by the Director of the Department of Community Development or his/her designee.

In the event that a decision on the application made by the Director of the Department of Community Development or his/her designee is a denial, the applicant may appeal to the City Council for specific approval of the operator provided that such appeal is filed with the City Manager within thirty (30) days after written notification of such denial is given to the applicant."

Please note, some of the other conditions in the CUP are obsolete as well, since they have been satisfied many years ago. The multiple operations within L.G. Everist's CUP have remained compliant for over 20 years with the conditions and standards required by Commerce City and other government agencies.

2. If applicable, the benefit of removing the condition

Condition N has required L.G. Everist to request approval from Commerce City's Director of Community Development for each new lessee (i.e. change of operator) occurring at our 88th Avenue Transload Yard. Removal of Condition N would benefit both Commerce City and L.G. Everist by reducing the paperwork, staff review time, and hearing burdens related to approving a new lessee.

Condition N is truly unnecessary, since lessees on the L.G. Everist property, even though they are within the CUP, go through the Commerce City permitting processes (building, electrical, etc.) as applicable to their operations. Of course, lessees must also fulfill any applicable federal and state requirements.

Therefore, once a lessee is approved for their business operations through the Commerce City permitting process, having to go through more paperwork and another hearing for a second approval in order to operate within L.G. Everist's CUP seems redundant.

3. The current use of the property

The property is zoned I-3, and is being used as intended and approved in the Conditional Use Permit, and in subsequent additions and amendments. The multiple industrial uses throughout the site, include:

- sand and gravel related uses, including importation, storage/stockpiling, sales.
- concrete batch plant
- asphalt and concrete recycling
- transload of materials approved of in the CUP, including building materials (lumber), bulk construction materials (flyash, lime, cement, de-icing salts, specialty sands)
- maintenance/shop buildings
- fleet vehicle parking
- antifreeze recycling and storage
- L.G. Everist's office building

4. How the property complies with the existing condition(s)

The property and uses within its borders comply with the existing conditions of the CUP, and have complied for 20+ years. Some conditions are on-going operations standards, with which the operators are maintaining compliance. And, as mentioned in the cover letter, some conditions listed in the 1997 amended CUP Resolution were items to be addressed within a few years of start-up - all of those conditions have been completed.

Conditions addressed, which could be removed from CUP

- AC/DC lanes (Condition A) - installed as required
- Landscaping and Fencing (Conditions B, C, L, U) - various landscaping conditions around the site, all completed and maintained, with mature trees
- First Year Review (Condition O) - review was done in 1998, addressed landscaping
- Parking Areas (Condition T) - primary parking areas have been paved. Secondary parking areas are gravel. All areas are maintained, and have regular street sweeping and/or water sprays.

5. Discusses any violations (current and historic) and how they have been resolved

There have been no violations to the CUP. During an inspection in 1998, the Commerce City inspector noted that the landscaping - specifically the number of trees - was low. L.G. Everist had planted trees the year before, but many had died during the winter, so L.G. Everist re-planted those trees and added more.

6. If applicable, discuss how the operations have changed since the last approval

The property is zoned I-3, and is being used as intended and approved in the Conditional Use Permit, and in subsequent additions and amendments. The multiple industrial uses throughout the site, include:

- sand and gravel related uses, including importation, storage/stockpiling, sales.
- concrete batch plant
- asphalt and concrete recycling
- transload of materials approved of in the CUP, including building materials (lumber), bulk construction materials (flyash, lime, cement, de-icing salts, specialty sands)
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- fleet vehicle parking
- antifreeze recycling and storage

Changes to the transload over the years - additional silos have been permitted (building permits, etc.) and added since the beginning of this CUP.

The asphalt batch plant moved out this year, and the area is now leased by a lumber company.

7. How the proposal will meet the requirements of the Land Development Code

The conditional uses at the site are appropriate for the zoning (I-3). The conditional uses continue to comply with and meet the area standards and setback requirements of the Commerce City Land Development Code: Sec. 21-4355, I-3 Heavy-Intensity Industrial District; and Sec. 21-5330, Batch Plants.

The use promotes economic development, prevents overcrowding, and reduces congestion in the streets (by bringing products in by rail).

8. How the use is in harmony with the neighborhood

The uses at the site are in harmony with the surrounding zoning and uses. The Mile High Marketplace is located to the west, and zoned Commercial. There are various properties to the west, north, and east that include Union Pacific ROW and "Public"-zoned properties with plans for industrial and utility uses. There are large industrial warehouses on the east, zoned I-2. And across 88th Avenue to the south, there is a mix of uses, including a grading/fill site in Agricultural zoning, more Public-zoning properties listed as future industrial use, and a small agricultural-zoned property in unincorporated Adams County.

9. Discuss the community need for the use

The bulk construction and aggregate materials which are transloaded at this site are used in many local applications, including local roads, highways, buildings, and other municipal, utility, and industrial uses. Many of the products coming in by rail are transported locally by truck to nearby concrete batch plants (one on site, and many others off-site) and asphalt batch plants. The de-icing aggregates that come in by rail are picked up by truck and used throughout the region by CDOT, counties, and municipalities to maintain safe roads in the winter. Having rail transload yards within close proximity to the materials' final destination reduces truck traffic and transportation costs.

10. Discusses how any impacts to adjacent property owners have been and will continue to be mitigated

As mentioned above, the property is surrounded by properties with similar industrial uses (current or proposed). There are fairly significant set-backs to surrounding properties, and well maintained, mature landscaping around the L.G. Everist CUP property. At the south side, the front entrance has mature landscaping with trees, bushes, an irrigated grassy berm, rock wall, and entrance gate. L.G. Everist has planted trees all along a berm bordering the O'Brian Canal, which runs along the west and north boundaries of the property. The canal helps maintain a natural set-back from the adjacent properties. The east side of the site is along the UPRR 200-foot wide Right-of-Way, and past that to the east are Public and Industrial sites. The setbacks and landscaping reduce visual and noise impacts, keeping the operations well within compliance. Finally, the highest volume of work done on site is during daylight hours, with the minimal impact operations (maintenance) being conducted longer hours as needed. Some hauling and rail car unloading may occur in later hours as needed, sometimes for public projects.

11. Identify the anticipated number of employees

The number of employees varies slightly with the seasons, increasing in the summer months. L.G. Everist has about 20 employees on site. We do not have the employee numbers for our lessees.

12. Identify the hours of operation

The hours of operation are already listed in our existing CUP - Conditions D, E. The hours of operation on site and truck traffic are generally 6am to 6pm, Monday through Saturday, with some pre-loading occurring between 4am and 10pm, as listed in our CUP. Most transloading and maintenance occurs during the day, between the listed hours of 7am to 10pm. Sometimes transloading and maintenance occurs from 10pm to 7am, while maintaining the limit of 70 decibels at the property line.

If any operators within the CUP win a public project requiring low-traffic hours, hauling may occur during evening and Sunday hours. Those operators shall notify Commerce City of the hauling schedule.

13. Discusses the anticipated number of vehicles or deliveries to the site.

Average number of trucks on a daily basis for LGE over last 5 years is 51/day.

14. Discusses any buffering of adjacent properties.

The buffering has been discussed above, please see the answers to questions 8 and 10.