



# STAFF REPORT

## Board of Adjustment

---

### CASE #AH-1742-17

<b>BOA Date:</b>	April 11 <sup>th</sup> , 2017	<b>Case Planner:</b>	Domenic Martinelli	<b>Phone:</b>	303-289-3670
<b>Location:</b>	9109 Monaco				
<b>Applicant:</b>	Fiore & Sons, Inc.	<b>Owner:</b>	Same as Applicant		
<b>Address:</b>	730 W 62 <sup>nd</sup> Ave Denver, CO 80216	<b>Address:</b>	Same as Applicant		

### Case Summary

<b>Request:</b>	The applicant is requesting the approval of a 27 foot height exception.
<b>Project Description:</b>	The applicant is requesting a height exception to allow the storage of mulch piles up to 35' in height.
<b>Issues/Concerns:</b>	<ul style="list-style-type: none"><li>- Fire Access</li><li>- Visual impact to adjacent areas</li><li>- Safe internal navigation of the property.</li></ul>
<b>Key Approval Criteria:</b>	<ul style="list-style-type: none"><li>-Height Exception Approval Criteria (LDC Section 21-3220)</li><li>-Outdoor Storage Supplemental Regulations (LDC Section 21-5254)</li></ul>
<b>Staff Recommendation:</b>	Approval with Conditions
<b>Current Zone District:</b>	I-2 (Medium Intensity Industrial District)
<b>Comp Plan Designation:</b>	Industrial/Distribution

### 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"/> Development Review Team Recommendation | <input type="checkbox"/> Neighborhood Meeting Notes |
| <input checked="" type="checkbox"/> Site Plan                              | <input type="checkbox"/>                            |
| <input type="checkbox"/>   | <input type="checkbox"/>                            |

## Background Information

### Site Information

<b>Site Size:</b>	31 acres
<b>Current Conditions:</b>	The property is currently developed
<b>Existing Right-of-Way:</b>	Monaco Street (East)
<b>Neighborhood:</b>	South Platte
<b>Existing Buildings:</b>	Yes
<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 *Part of the west portion of the site was previously in the floodplain, and a floodplain development permit was approved by the city. FEMA issued a Letter of Map Revision for the property as well.

### Surrounding Properties

Existing Land Use		Occupant	Zoning
<b>North</b>	Residential	Single Family Detached	ADCO
<b>South</b>	Industrial	Albert Frei & Sons - Aggregate Mining & Inert Fill (under construction)	ADCO
<b>East</b>	Industrial	Werner Enterprises Inc.	R-1
<b>West</b>	Open Space	South Platte River	ADCO

### Case History

Case	Date	Request	Action
A-1228-95-96	March 1995	Use-By-Permit for Gravel Mining	Approval with Conditions
A-1549-02	April 2003	Use-By-Permit for Inert Material Landfill	Approval with Conditions
LF-21-02	April 2003	Landfill case for Inert Material	Approval with Conditions
MM-35-14	September 2014	Minor Modification for FAR Reduction	Approval with Conditions
FP-58-14	December 2014	Floodplain Permit for the west portion of site	Approval
Z-914-14	February 2015	Zone Change from AG to I-2	Approval
S-628-15	March 2015	Subdivision to Consolidate property into one lot	Approval
D-255-14	January 2015	Development Plan for RV / Boat Storage Facility	Approval
D-255-14-15	November 2015	Development Plan Amendment for Brown Brothers & A-1 Organics	Approval
D-255-14-15-16	December 2016	Development Plan Amendment (see below for further detail).	Approval with Conditions

*The subject property has several cases associated with the history of the site. The property has been zoned AG based upon city records throughout all of the case history. A use-by-permit (A-1228-95-96) was granted to the Cooley Gravel Company for gravel mining in 1995. This use-by-permit extended beyond the subject property, however, the entire subject property was part of the approval for the use-by-permit. In 2002, a use-by-permit (A-1549-02) was granted to Patrick Broda for an Inert Materials Landfill. A landfill case (LF-21-02) was also associated with the property for the Broda Landfill. On February 11, 2013, the city received a letter from the Colorado Department of Public Health and Environment (CDPHE) stating that the landfill operated by Patrick Broda had completed all of the Post-Closure Care Plan for the Inert Materials Landfill. Approval by CDPHE released the operator, Patrick Broda, from post-closure obligations.*

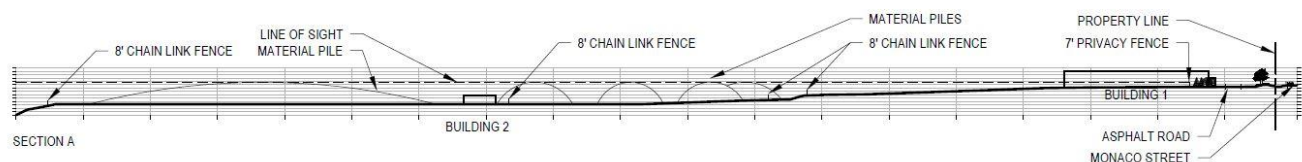
*From September 2014 - March 2015, five land use cases were approved for redevelopment of the site into primarily an RV & boat storage site, which was never developed. Case Z-914-14 rezoned the property from AG to I-2, FP-58-14 was a floodplain permit that coincided with the Letter of Map Revision (LOMR) approved by FEMA in 2014, MM-35-14 reduced the FAR from 0.05 to 0.01, S-628-15*

was a subdivision to consolidate the property into one lot, and D-255-14 was the development plan for the site. In 2015, the applicant requested a development plan amendment to accommodate A1 Organics, a composting and mulching site, which was approved in late 2015. This development plan amendment did not specify the location of mulching materials, interior fire access & site navigation, or specify the height of mulching materials.

Upon requesting a final Certificate of Occupancy for the property in late 2016, staff conducted a final planning inspection of the property. At this time, it was discovered that many aspects of the site were conducted out of compliance with the approved development plan D-255-14-15. In order to allow for a Certificate of Occupancy for the Brown Brothers, the company that occupies the main building, a Development Plan Amendment was approved in December 2016 that focused on only that section of the property. Staff is concurrently reviewing case D-255-14-15-16-17 along with AH-1742-17 to address the final issues with the site to make the property completely conform with city codes and requirements.

## Applicant's Request

The applicant is requesting a height exception to 35' in height to allow the storage of mulch piles on the property, when a maximum of 8' in height is allowed in the I-2 zone district. The applicant states that "A1 Organics needs the ability to stack mulch piles to a height of 35 feet in order to efficiently, effectively, and safely conduct business. The request for a pile height of 35 feet derives from the specific equipment used in the process which stacks the material at the given height. By stacking in larger piles, the material stays moist and compact, and is less sensitive to weather, wind, and erosion. Pile heights also allow more efficient use of space. Shorter piles create a greater need for land area and greater exposure of the materials to the environment, making them more likely to dry out, erode and blow away." The applicant has indicated that the size of the outdoor storage area along with a 35 foot height limit for mulch piles will represent maximum inventory at any given time. January - March is peak inventory time, where the mulch pile heights will be the highest, and the inventory low point occurs during the summer. As different mulch colors are more popular than others, certain mulch piles will cycle in variation more frequently than others. The applicant believes that the use will not cause adverse situations for the surrounding properties based on the following: "Due to the topography of the property and the nature of adjacent uses, approving this height exception will have no adverse impacts on the surrounding land uses. To the south is a planned gravel mining operation located within unincorporated Adams County. This use is just beginning operations and should be operational for the next several decades, based on their filed plan of operation with Adams County and the State of Colorado. The uses to the west and north are located in unincorporated Adams County and utilized for water storage and generally inaccessible to the public. As the plan is currently proposed, there is a significant grade change between the property entrance along Monaco on the east of the property to the back side of the property where the material piling is proposed to take place. "



## Development Review Team Analysis

The applicant has requested a 27 foot height exception from 8' to 35' to allow for the storage of mulch piles on the property. The Development Review Team (DRT) reviewed the circumstances of the

subject property and applicable sections of articles III, IV, V, and VIII of the Land Development Code (LDC) as they relate to this case. According to LDC Section 21-5254(7 & 7a), outdoor storage may be stacked to a height of 8 feet or the height of any screening fence. Additionally, outdoor storage may not be visible to a pedestrian at ground level looking at the storage facility from a public facility such as a city park, trail, or open space, or from the first floor level of any building not on the subject property.

In February 2016, Adams County issued a Conditional Use Permit for an aggregate mining and inert fill site to the property on the south. The proposed grading to take place as part of the mining pit will screen a majority of the site from visibility on the south of the property. The subject property sits on varied topography, with the eastern portion of the site having the highest elevation near Monaco Street, and the property decreasing in elevation as it reaches the west portion of the site, and the South Platte River. The exhibit below shows a topographic map of the subject property.



Due to the topography, the mulch piles should be reasonably screened from any areas mentioned in LDC Section 21-5254(7). Specifically, the property is not visible from the multi-use regional trail from the other side of the South Platte River, and the Monaco Street right of way. Heavy vegetation exists between the subject property and the residential properties to the north in unincorporated Adams County.

As it relates to site operations, in-bound traffic to the site consists of either an individual customer bringing scrap wood materials, or bulk loads of high-side trailers that bring anywhere from 30-100 cubic yards of material. Outbound material shipment of finished mulch product usually occurs in less frequent trips of trucks carrying at least 100 cubic yards of materials. Drop-offs are allowed Monday-

Friday, and the applicant has stated that the site sees an average of 4 inbound and outbound trucks per day.

Staff had initial questions regarding the fluidity of the location of mulch piles, and emergency access deep into the site. This issue is specifically addressed in the site plan of the development plan amendment, which notates locations on the property where specific types of materials will be stored. These areas are separated by 25' wide emergency fire access routes that bound specific material locations with a fixed area, to maintain proper separation and width between piles. South Adams County Fire was a referral on the case, and has provided comment to city staff stating that the proposed layout of the site provides safe and adequate fire access in case of an emergency.

The subject property had an open case with the Colorado Department of Public Health and Environment in early 2016 regarding the leaking of mulch dyes into the detention pond on site. The applicant has indicated that this was due to an on-site repair of the mulch dyeing equipment. Since the incident, the applicant has purchased upgraded equipment with greater material controls, and now has standard site practice of wrapping the bottoms of piles with silt socks, to prevent any material from leaching out. All of the much dyes used on the property is made from a non-toxic iron oxide.

Staff also had initial questions regarding wind, and the potential for having mulch product being blown or swept away into water bodies at the back of the property. The applicant has a water truck on site that is utilized during grinding inbound wood materials into mulch. The material is sprayed down as the mulch is being crushed down, to prevent particle matter from spreading as this process occurs. In terms of waste removal, A1 Organics contracts with Alpine Waste and Recycling to remove all waste generated on site as part of normal business functions, and any waste that is accidentally left on inbound trips from material drop-offs.

Overall, the DRT believes that the specific circumstances surrounding the site warrant the allowance of a height exception. The topography of the subject property and the existing uses to the south adequately screen the property from adjacent right-of-way, the South Platte River trail, and other areas that are defined within LDC Section 21-5254(7). The applicant also has the mulch piles placed in a strategic location in the back of the site that prevents visibility. While normally, the maximum height allowed for outdoor storage in an I-2 zone district is 8 feet, the applicant has demonstrated how this requested height of 35 feet is necessary for their business to operate in a safe and effective manner.

Criteria Met?	Sec. 21-3220. Height Exceptions	Rationale
<input checked="" type="checkbox"/>	The structure and development, if applicable, complies with all other standards not specifically waived by the city;	Once a height adjustment is approved, the applicant has completed all necessary work to have the site in compliance with all outdoor storage requirements listed in Land Development Code Section 21-5254, as well as the specific requirements detailed in Development Plan case D-255-14-15-16-17.
<input checked="" type="checkbox"/>	The exception would have minimal effect upon adjacent properties with respect to solar access, visual access, and rights of privacy, light, and air	Due to the surrounding uses and topography of the subject property, the mulch piles will not be visible from any adjacent properties, public facilities, or from the adjacent street front. The aggregate mining pit to the south of the property will also provide an additional layer of screening and buffering from the south. Beyond the reservoirs is a public trail, which is located approximately 1,800 feet from the proposed stockpiles. Given the significant distance and the intervening foreground objects such as trees and waterbodies, the visual impacts on trail users will be negligible.
<input checked="" type="checkbox"/>	The exception will not interfere with the city's ability to provide public services to the site at the level currently enjoyed by the area, or at adequate levels per existing city policies and regulations	The exception will not specifically cause any inability for the city to provide public services to the site.
<input checked="" type="checkbox"/>	There is no evidence to suggest that the exception would interfere with or complicate emergency services or otherwise impair public safety; and	The proposed height exception should not interfere or complicate emergency services. South Adams County Fire District was referred on the case, and does not have any comments related to the internal fire access at the back of the property, and the applicant has provided multiple hydrants on site. The delineation of fire lanes shown on the development plan provide adequate access for emergency services.
<input checked="" type="checkbox"/>	The exception provides a demonstrated benefit to the city	By allowing the height exception, it will allow a previously vacant property that was underutilized for more than 10 years to be used in a capacity that generates tax revenue for the city. Additionally, the A1 Organics composting business provides an environmental benefit for the area, by allowing industrial users to recycle wood materials for alternate purposes. The applicant states that the company has diverted more than 8 million cubic yards of material from landfills.

## Comprehensive Planning Documents

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

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Environmental Conservation and Stewardship	EC 5.1	<u>Waste Reduction, Recycling and Reuse</u> -Support programs for city and community facilities (in key locations) that focus on source reduction, recycling, composting, and construction materials waste diversion for reuse and exchange of materials. The city, within its operations and buildings, will encourage recycling.
<b><u>Analysis:</u></b>	A1 Organics is a company that recycles organic waste & converts it to mulching material and compost. By allowing for a height exception to allow the business to operate efficiently and effectively as necessary, the city is encouraging the reduction of solid waste disposal and material waste diversion for the many industrial users in the city.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use and Growth	LU 1.1	<u>Growth and Future Land Use Plan Consistency</u> - Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code.
<b><u>Analysis:</u></b>	The future land use and current land use of the subject property is industrial, and the surrounding properties generally have the same classification. The proposed facility aligns with the standards and identified for the comprehensive plan designation, and complies with the character of the surrounding area in general.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Redevelopment and Reinvestment	LU 2.1	<u>Infill Development Promoted</u> - 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 on vacant unplatted parcels scattered throughout the city, or in county enclave areas.
<b><u>Analysis:</u></b>	The subject property has a history of varied uses in the city, and was vacant and underutilized from 2002-2015. By granting a height exception to allow A1 organics to operate efficiently and safely, it will promote the redevelopment and reuse of infill properties in the city.	

## Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Height Exception set forth in the Land Development Code and recommends that the Board of Adjustment approve/deny the request, subject to the following condition:

### **CONDITIONS:**

A. The height exception of 35' is granted *only* for the storage of dyed mulch chips, inbound recyclable wood product, mulching material stackers, and raw wood chips. All other outdoor storage on the property must comply with all outdoor storage requirements that apply to a property zoned I-2, as currently adopted or amended by the city. Any deviations from this condition will require an amendment to this application.

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

### ***To recommend approval subject to condition(s):***

I move that the Board of Adjustment find that upon satisfying the following conditions:

*A. The height exception of 35' is granted only for the storage of dyed mulch chips, recycled wood waste, and raw wood chips. All other outdoor storage on the property must comply with all outdoor storage requirements that apply to a property zoned I-2, as currently adopted or amended by the city. Any deviations from this condition will require an amendment to this application.*

the requested Height Exception for the property located at **9109 Monaco Street** contained in case **AH-1742-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Height Exception.

## **Alternative Motions**

### ***To recommend approval:***

I move that the Board of Adjustment find that the requested Height Exception for the property located at **9109 Monaco Street** contained in case **AH-1742-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Height Exception.

### ***To recommend denial:***

I move that the Board of Adjustment deny the requested Height Exception for the property located at **9109 Monaco Street** contained in case **AH-1742-17** because it fails to meet the following criteria of the Land Development Code:

*List the criteria not met*