



# STAFF REPORT

## Planning Commission

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### CASE #CU-81-08-10-12-17 & CU-82-08-10-12-17

|                   |                                                    |                      |                   |
|-------------------|----------------------------------------------------|----------------------|-------------------|
| <b>PC Date:</b>   | June 6, 2017                                       | <b>Case Planner:</b> | Jenny Axmacher    |
| <b>CC Date:</b>   | August 7, 2017                                     |                      |                   |
| <b>Location:</b>  | 6495 & 6541 Brighton Blvd, Commerce City, Co 80022 |                      |                   |
| <b>Applicant:</b> | Rocky Mountain Recycling                           | <b>Owner:</b>        | Same as Applicant |
| <b>Address:</b>   | 6510 Brighton Blvd, Commerce City, Co 80022        | <b>Address:</b>      | Same as Applicant |

### Case Summary

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Request:</b>               | Renewal of 2 Conditional Use Permits for Scrap Yards                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Project Description:</b>   | The applicant requests to continue operating a non ferrous metal baler on site at 6495 Brighton Blvd. The metal baler will be used to package aluminum, copper, etc. collected by Rocky Mountain Recycling, for shipment and recycling. The bales will then be stored on site until they can be shipped out by truck in conjunction with the site in CUP-82-02. The applicant also wishes to continue operating a recycling operation/scrap yard on site at 6541 Brighton Blvd. |
| <b>Issues/Concerns:</b>       | Whether the continued operation of a scrap yard is appropriate on these two adjacent sites.                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Key Approval Criteria:</b> | 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.                                                                                                                                                                         |
| <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"/> Vicinity Map    |
| <input checked="" type="checkbox"/> Site Plan                     | <input type="checkbox"/> Neighborhood Meeting Notes |
| <input type="checkbox"/>                                          | <input type="checkbox"/>                            |

## Background Information

### Site Information

|                               |                                                                     |                                                                     |
|-------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|
|                               | 6495 Brighton Blvd (CU-81)                                          | 6541 Brighton Blvd (CU-82)                                          |
| <b>Site Size:</b>             | 2.12 acres                                                          | 4.5 acres                                                           |
| <b>Current Conditions:</b>    | Developed                                                           | Developed                                                           |
| <b>Existing Right-of-Way:</b> | Brighton Blvd                                                       | Brighton Blvd                                                       |
| <b>Existing Roads:</b>        | Brighton Blvd                                                       | Brighton Blvd                                                       |
| <b>Existing Buildings:</b>    | Bailing Machine                                                     | Industrial Condos                                                   |
| <b>Buildings to Remain?</b>   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Site in Floodplain</b>     | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <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>             | Residential | Residences                 | R-2           |
| <b>South</b>             | Industrial  | Storage                    | I-3           |
| <b>East</b>              | Industrial  | Rocky Mountain Recycling   | I-3           |
| <b>West</b>              | Residential | Adams Heights Neighborhood | R-2           |

### Case History – CU-81-08-10-11

*The previous case most pertinent to the current application is CU-81-08 which originally granted the current conditional use permit for a scrap yard. One of the approval conditions for this case required that the permit be renewed after October 6, 2011 and then again after January 1, 2017 if the applicant wishes to continue operations.*

| <u>Case</u>    | <u>Date</u> | <u>Request</u>                                     | <u>Action</u>                   |
|----------------|-------------|----------------------------------------------------|---------------------------------|
| CU-81-08-10-12 | 1/12        | Amend Conditions                                   | <b>Approval with Conditions</b> |
| CU-81-08-10    | 5/10        | Amend Conditions                                   | <b>Approval with Conditions</b> |
| CU-81-08       | 9/10        | CUP for a Scrap Yard                               | <b>Approval with Conditions</b> |
| AV-1667-08     | 7/8/08      | Fence height, setback variance, landscape variance | <b>Approval with Conditions</b> |
| A-930-87       | 12/87       | 20-foot rear yard setback                          | <b>Revoked</b>                  |

### Case History - CU-82-08-10-11

*The previous case most pertinent to the current application is CU-82-08 which originally granted the current conditional use permit for a scrap yard. One of the approval conditions for this case required that the permit be renewed after October 6, 2011 and then again after January 1, 2017 if the applicant wishes to continue operations.*

| <u>Case</u>    | <u>Date</u> | <u>Request</u>                   | <u>Action</u>                   |
|----------------|-------------|----------------------------------|---------------------------------|
| CU-82-08-10-12 | 1/12        | Amend Conditions                 | <b>Approval with Conditions</b> |
| CU-82-08-10    | 5/10        | Amend Conditions                 | <b>Approval with Conditions</b> |
| CU-82-08       | 9/10        | CUP for a Scrap Yard             | <b>Approval with Conditions</b> |
| A-139-74       | 8/74        | Use by permit for auto recycling | <b>Denial</b>                   |
|                |             |                                  |                                 |

## Applicant's Request

The applicant is requesting to continue operations of a scrap yard on the subject sites. The applicant operates a non-ferrous metal baler on site at 6495 Brighton Blvd, CU-81 which compresses scrap copper and aluminum materials collected at 6541 Brighton Blvd, CU-82.

On the 6541 Brighton Blvd site, the applicant installed receiving scales where customers would bring materials such as aluminum cans, copper wiring, etc. Most of the customers would be in cars or pickup trucks, and would be kept in their vehicle by receiving payment from an onsite ATM machine.

The non ferrous materials would then be accumulated and transferred to the bailing area (at 6495 Brighton Blvd. CUP 81-08) for immediate processing and bailing. Once processed, the bales would be moved to a warehouse the applicant is proposing to construct on the west side of the site, for shipment. In some cases the bales would be stored outside and the applicant is aware that the material could not be stacked higher than the fence. The applicant states that they expect to ship 5-6 truckloads of material out of the warehouse a day.

The existing industrial condo buildings on site at 6541 Brighton Blvd. will remain and will continue to be leased to their current tenants

The applicant originally developed the subject sites to completely segregate the ferrous (iron and steel) side of the recycling business from the non ferrous (copper, aluminum, etc) side by relocation all of the non ferrous recycling business operations to the subject sites, across Brighton Blvd from their original facility at 6510 Brighton Blvd. 6510 Brighton Blvd still accommodates the ferrous recycling operations today.

## Development Review Team Analysis

The Development Review Team's initial review of the applicant's proposal back in 2008 revealed multiple concerns for the overall project (including both 6495 and 6541 Brighton Blvd). The concerns were ultimately alleviated through the approval conditions imposed on the cases as well as the applicant's reassurance that this project would not result in unsightly junk yards flanking both sides of Brighton Blvd.

In considering the renewal of these cases, the DRT has concluded that the proposed location is still appropriate given the nature of the area and the surrounding land uses. The applicant completed significant upgrades to the site as a part of this project including the installation of landscaping, curbing and fencing along Brighton Blvd which improves the appearance of the corridor. Additionally, the applicant has been in compliance with the original conditions of approval and the project has not proven to be incompatible with the nearby residences. Staff also received no negative feedback from the public notification process. Therefore, the DRT is supportive of both requests.

The amended conditions approved with each previous Conditional Use Permit follows:

### CU-81-08-10-12

- A. This Conditional Use Permit will expire on January 1, 2017. The applicant will be required to apply to the Planning Commission and City Council, should they wish to renew the Conditional Use Permit. ***This is the reason for the current application.***

- B. The Conditional Use Permit is granted to the applicant only with no right of assignment unless a revision to the Conditional Use Permit is approved by the City Council after review by the Planning Commission. ***The applicant has complied with this condition and it is still applicable.***
- C. The hours of operation shall be limited to between 6 am and 10 pm, with no operation of large machinery or movement of heavy materials after 9 pm. ***The applicant has complied with this condition and it is still applicable.***

CU-82-08-10

- A. This Conditional Use Permit will expire on January 1, 2017. The applicant will be required to apply to the Planning Commission and City Council, should they wish to renew the Conditional Use Permit. ***This is the reason for the current application.***
- B. The Conditional Use Permit is granted to the applicant only with no right of assignment unless a revision to the Conditional Use Permit is approved by the City Council after review by the Planning Commission. ***The applicant has complied with this condition and it is still applicable.***
- C. The hours of operation shall be limited to between 6 am and 10 pm, with no operation of large machinery or movement of heavy materials after 9 pm. ***The applicant has complied with this condition and it is still applicable.***

It is important to note that the DRT is not recommending another approval condition requiring the renewal of either of these conditional use permits. The DRT believes Rocky Mountain Recycling has proven their commitment to compliance with the prior renewals and the City always has the ability to revoke a permit when an applicant is not in compliance, at any time.

| CU-81-08-10-12-17                   |                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Criteria Met?                       | Sec. 21-3230. Conditional Use Permits                                                                                                       | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <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 applicant is requesting to operate in an area zoned I-3 and designated in the Comprehensive Plan as general Industrial.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <input checked="" type="checkbox"/> | The proposed use: may result in an adverse effect but such adverse effect has been or will be mitigated to the maximum extent feasible.     | <p>The applicant states in their proposal of operations that they do not anticipate any adverse impacts on the adjacent property owners, and their proposed use will fit appropriately with uses in operation in the area. The applicant already operates an existing recycling operation across Brighton Blvd and this expansion ultimately should reduce the impact that that site has on its neighbors by streamlining the company's business operations.</p> <p>The DRT felt that if Rocky Mountain Recycling were to expand, a site adjacent to their existing location would be most appropriate place. That way an addition would not be altering the existing character of the area.</p> |
| <input checked="" type="checkbox"/> | There is a community need for the use at the proposed location to provide or maintain a proper mix of uses both in the area                 | Rocky Mountain Recycling currently operates at 6510 Brighton Blvd, across the street from the subject site. Due to the recent increases in metal prices, the recycling business has seen dramatic increases in supply, forcing                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

**CU-81-08-10-12-17**

| <b>Criteria Met?</b>                | <b>Sec. 21-3230. Conditional Use Permits</b>                                                                                                                                                                                                                                                                               | <b>Rationale</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     |                                                                                                                                                                                                                                                                                                                            | <p>Rocky Mountain Recycling to look for additional expansion space to store scrap material.</p> <p>As an alternative to expanding, Rocky Mountain Recycling could limit their intake of materials, regardless of market demands.</p>                                                                                                                                                                                                                                                                                                                |
| <input checked="" type="checkbox"/> | The characteristics of the site are suitable for the proposed use                                                                                                                                                                                                                                                          | The applicant has sufficient space to conduct the operations at this site without needing any further variances.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input checked="" type="checkbox"/> | Landscaping and screening will insure harmony for adjoining uses                                                                                                                                                                                                                                                           | The existing landscaping and screening adequately buffer adjacent uses. The eight foot fence on the northern and western property lines have been installed to protect the adjacent residences.                                                                                                                                                                                                                                                                                                                                                     |
| <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; | As an original condition of approval, the applicant signed a developer's agreement with the City, providing for future Brighton Blvd improvements. Brighton Blvd is currently a CDOT regulated highway. The applicant is also completed significant site improvements in conjunction with their expansion. South Adams County Fire District has reviewed this proposal and has no comments. Tri-County Health Department has also reviewed this proposal and has no comment other than recommending a mosquito control plan for the detention area. |
| <input checked="" type="checkbox"/> | The applicant has agreed to provide continuing maintenance                                                                                                                                                                                                                                                                 | The applicant's site is adequately maintained and there have been no issues with the applicant maintaining their site.                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <input checked="" type="checkbox"/> | No evidence suggests that the use violates any federal, state, or local requirements.                                                                                                                                                                                                                                      | Staff did not receive any comments to suggest that the applicant is anything other than compliant with all federal, state, and local requirements.                                                                                                                                                                                                                                                                                                                                                                                                  |

**CU-82-08-10-12-17**

| <b>Criteria Met?</b>                | <b>Sec. 21-3230. Conditional Use Permits</b>                                                                                                                                                                                                                                                                               | <b>Rationale</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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 applicant is requesting to operate in an area zoned I-3 and designated in the Comprehensive Plan as general Industrial.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <input checked="" type="checkbox"/> | The proposed use: may result in an adverse effect but such adverse effect has been or will be mitigated to the maximum extent feasible.                                                                                                                                                                                    | <p>The applicant states in their proposal of operations that they do not anticipate any adverse impacts on the adjacent property owners, and their proposed use will fit appropriately with uses in operation in the area. The applicant already operates an existing recycling operation across Brighton Blvd and this expansion ultimately should reduce the impact that that site has on its neighbors by streamlining the company's business operations.</p> <p>The DRT felt that if Rocky Mountain Recycling were to expand, a site adjacent to their existing location would be most appropriate place. That way an addition would not be altering the existing character of the area.</p> |
| <input checked="" type="checkbox"/> | There is a community need for the use at the proposed location to provide or maintain a proper mix of uses both in the area                                                                                                                                                                                                | <p>Rocky Mountain Recycling currently operates at 6510 Brighton Blvd, across the street from the subject site. Due to the recent increases in metal prices, the recycling business has seen dramatic increases in supply, forcing Rocky Mountain Recycling to look for additional expansion space to store scrap material.</p> <p>As an alternative to expanding, Rocky Mountain Recycling could limit their intake of materials, regardless of market demands.</p>                                                                                                                                                                                                                              |
| <input checked="" type="checkbox"/> | The characteristics of the site are suitable for the proposed use                                                                                                                                                                                                                                                          | The applicant has sufficient space to conduct the operations at this site without needing any further variances.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <input checked="" type="checkbox"/> | Landscaping and screening will insure harmony for adjoining uses                                                                                                                                                                                                                                                           | The existing landscaping and screening adequately buffer adjacent uses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <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; | As an original condition of approval, the applicant signed a developer's agreement with the City, providing for future Brighton Blvd improvements. Brighton Blvd is currently a CDOT regulated highway. The applicant is also completed significant site improvements in conjunction with their expansion. South Adams County Fire District has reviewed this proposal and has no comments. Tri-County Health Department has also reviewed this proposal and has no comment other than recommending a mosquito control plan for the detention area.                                                                                                                                              |
| <input checked="" type="checkbox"/> | The applicant has agreed to provide continuing maintenance                                                                                                                                                                                                                                                                 | The applicant's site is adequately maintained and there have been no issues with the applicant maintaining their site.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <input checked="" type="checkbox"/> | No evidence suggests that the use violates any federal, state, or local requirements.                                                                                                                                                                                                                                      | Staff did not receive any comments to suggest that the applicant is anything other than compliant with all federal, state, and local requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## 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, subject to the following condition(s):

### CONDITIONS:

- A. The Conditional Use Permit is granted to the applicant only with no right of assignment unless a revision to the Conditional Use Permit is approved by the City Council after review by the Planning Commission.
- B. The hours of operation shall be limited to between 6 am and 10 pm, with no operation of large machinery or movement of heavy materials after 9 pm.

## Alternatives / Motions for CU-81-08-10-12-17

### *To recommend approval:*

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **6495 Brighton Blvd** contained in case **CU-81-08-10-12-17** 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 approval subject to conditions:*

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the property located at **6495 Brighton Blvd** contained in case **CU-81-08-10-12-17** 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. The Conditional Use Permit is granted to the applicant only with no right of assignment unless a revision to the Conditional Use Permit is approved by the City Council after review by the Planning Commission.*
- B. The hours of operation shall be limited to between 6 am and 10 pm, with no operation of large machinery or movement of heavy materials after 9 pm.*

### *To recommend denial:*

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **6495 Brighton Blvd** contained in case **CU-81-08-10-12-17** 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.

## Alternatives / Motions for CU-82-08-10-11

### *To recommend approval:*

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **6541 Brighton Blvd** contained in case **CU-82-08-10-12-17** 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 approval subject to conditions:*

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the property located at **6541 Brighton Blvd** contained in case **CU-82-08-10-12-17** 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. The Conditional Use Permit is granted to the applicant only with no right of assignment unless a revision to the Conditional Use Permit is approved by the City Council after review by the Planning Commission.*
- B. The hours of operation shall be limited to between 6 am and 10 pm, with no operation of large machinery or movement of heavy materials after 9 pm.*

*To recommend denial:*

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **6541 Brighton Blvd** contained in case **CU-82-08-10-12-17** 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.