



STAFF REPORT

Planning Commission

CASE #CU-113-17

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|-------------------|--|----------------------|-------------------|
| PC Date: | November 8, 2017 | Case Planner: | Robin Kerns |
| CC Date: | November 20, 2017 | | |
| Location: | 4308 E. 60 th Avenue | | |
| Applicant: | Blue Sky LLC | Owner: | Same as Applicant |
| Address: | 4308 E. 60 th Avenue Commerce City, CO 80022 | Address: | Same as Applicant |

Case Summary

| | |
|-------------------------------|--|
| Request: | A Conditional Use Permit for manufacturing, processing, use, sale, or storage of any flammable, corrosive, explosive, or toxic substance. |
| Project Description: | The applicant is requesting a Conditional Use Permit for the sale and storage of flammable, corrosive, explosive, and toxic substance associated with a proposed 13,025 sq.ft. warehouse and (4) four 12,000 gallon storage tanks to be used in the distribution operations of roofing products. |
| Issues/Concerns: | - Keeping hazardous materials in the Floodplain |
| Key Approval Criteria: | - Compliance with Floodplain Development Permit Requirements - Compliance with the Comprehensive Plan - Conditional Use Permit Approval Criteria |
| Staff Recommendation: | Approval with Conditions |
| Current Zone District: | I-3 (Heavy Intensity Industrial District) |
| Comp Plan Designation: | General Industrial |

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

- | | |
|--|--|
| <input checked="" type="checkbox"/> Applicant's Narrative (Original & Revised) | <input checked="" type="checkbox"/> Vicinity Map |
| <input checked="" type="checkbox"/> Development Review Team Recommendation | <input checked="" type="checkbox"/> Neighborhood Meeting Notes |
| <input checked="" type="checkbox"/> Site Plan | <input checked="" type="checkbox"/> Landscape Plan |
| <input checked="" type="checkbox"/> Architecture | <input type="checkbox"/> |

Background Information

Site Information

| | |
|-------------------------------|---|
| Site Size: | 2.2 acres |
| Current Conditions: | Vacant |
| Existing Right-of-Way: | Private road to E. 60 th Avenue |
| Neighborhood: | Riverside |
| Existing Buildings: | None |
| Buildings to Remain? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Site in Floodplain | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Surrounding Properties

| <u>Existing Land Use</u> | | <u>Occupant</u> | <u>Zoning</u> |
|--------------------------|----------------|---------------------|---------------|
| North | Industrial | Pepper Tank Company | I-3 |
| South | Industrial | United Asphalts | I-3 |
| East | Industrial | United Asphalts | I-3 |
| West | Public/Utility | BNSF Railroad | I-1 |

Case History

The property was previously approved in 2007 for a Use-By-Permit for development in the Floodplain, in addition to a Development Plan for a mag-chloride facility. No subsequent development occurred and thus the case approvals expired. Although the development never occurred, the site has been utilized for outdoor storage in the past.

| <u>Case</u> | <u>Date</u> | <u>Request</u> | <u>Action</u> |
|-------------|----------------|------------------|--------------------------|
| D-153-07 | Sept. 20, 2007 | Development Plan | Approval |
| AU-1656-07 | Sept. 20, 2007 | Use-By-Permit | Approval with Conditions |

Applicant's Request

The applicant is proposing to develop the subject property, which is currently vacant, for a new warehousing and distribution facility for roofing products. The lot is 2.22 acres with a proposed building footprint of 11,250 sq.ft., and a total building of 13,025 sq.ft. There are 2 on-site designated outdoor storage areas totaling 5,793 sq.ft., and 4 on-site storage tanks with a maximum capacity of 12,000 gallons each, for a total of 48,000 gallons. The facility will be secured by a 7-foot chain link fence with access via automatic gates. All driveways and access will be new paved surface, storage areas will be recycled asphalt, with new landscaping and site lighting. Normal hours of operation will be Monday – Friday, 7 am to 5 pm, with 9 estimated full-time employees.

Development Review Team Analysis

COMPREHENSIVE PLAN ANALYSIS

The Development Review Team (DRT) began the review of this application by evaluating the request against the City's Comprehensive Plan. That analysis is as follows:

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 (FLUP) as a Guide. Use the Future Land Use Plan (FLUP) to guide development patterns and mix of uses and amendments to the Land Development Code (LDC). |
| Analysis: | | The site is proposed for hazardous industrial use, which is consistent with the FLUP. |
| <u>Section</u> | <u>Goal</u> | <u>Description</u> |
| Fiscal Stability | FS 2a | FLUP Consistency. Retain, support, and expand the community's industrial base by approving development that is consistent with the FLUP and Economic Development Strategic Plan and modifying the LDC to reflect the FLUP. |
| Analysis: | | The FLUP identifies the subject property for industrial type uses. The approval of the request will help to retain and support existing industrial uses. |
| <u>Section</u> | <u>Goal</u> | <u>Description</u> |
| Economic Development Strategies | ED 2 | Retain and Increase Strong Employment Base. Retain and strengthen the industrial base in the Historic City and Irondale Areas. |
| Analysis: | | The subject property is proposed for industrial development and is part of the Historic City's industrial area by Sand Creek, I-270 corridor. |

SITE AND SURROUNDINGS

The subject site, zoned I-3, lays south of Interstate Highway 270 and is accessed by an access easement across 4306 E. 60th Avenue road which then connects to the I-270 service road. This vacant site contains approximately 2.2 acres, and although it has never been fully developed, it was approved in 2007 for a Use-By-Permit and associated Development Plan for a mag-chloride facility in the Floodplain. The property is generally flat, and located entirely within the Sand Creek floodplain, which requires that a Floodplain Development Permit be approved as part of the building and planning approval process.

The site is bordered by existing heavy industrial developed properties also zoned I-3, and a railroad spur along the west & north sides. To the north is the Pepper Tank property with oil & gas related tanks and infrastructure. To the south and a portion to the east is the United Asphalt property which contains tanks and infrastructure associated with making a roofing asphalt product. Further to the east is the Complete Fleet Services property which contains office, warehouse/shop building and outdoor storage areas. To the west is the now vacated Rentech site which still contains numerous large tanks and warehouse buildings.

PROJECT BACKGROUND PROPOSAL

Blue Sky LLC is proposing to develop the subject property for a warehousing and distribution facility for roofing product distribution. Some of the products proposed to be stored on site are identified as hazardous by their Material Safety Data Sheets and thus, as required by the Land Development Code, a Conditional Use Permit must be approved. These products are: Suncor PG Conventional Asphalt, Suncor Industrial Asphalt Oxidizing Flux, and Hydrochloric Acid. The majority of these are by-products of the refinery process at the Suncor refinery.

In addition, any building or structure that stores hazardous materials in a floodplain is considered to be a Critical Facility, which requires it to be built at least 2 feet above the Base Flood Elevation, which is 1 foot higher than the traditional requirements for structures in the floodplain. The applicant has processed concurrently with this Conditional Use Permit (CUP), Floodplain Development Permit case

FP-72-17, and has received tentative approval pending the outcome of the subject Conditional Use Permit case.

The overall site layout includes 2 gates for truck & vehicle access, with a concrete drive aisle that does a circuitous loop through the property, and around the proposed warehouse building. The warehouse building is designed to have the office component and associated parking on the west side. This will allow offices to enjoy views of the mountains to the west. The proposed storage tank area is to the north of the building, with outdoor storage areas to the north and west of the building. More specifically, the applicant is proposing the following buildings and infrastructure:

- One (1) warehouse (Critical Facility), which includes an office, totals 13,025 sq.ft. (9,275 sq.ft. warehouse, and 3,750 sq.ft. office). The building design has anticipated construction in the floodplain, and has established a finished floor elevation 2 feet above the published floodplain elevation. The materials and products planned to be stored in the warehouse will be combination of Hazardous & Non-Hazardous materials as referenced earlier.
- Four (4) 20-foot-tall on-site storage tanks (Critical Facility) with a maximum capacity of 12,000 gallons each, for a total of 48,000 gallons. The tank storage area has been designed to be 2 feet above the established finished floor elevation, with an additional 2-foot containment area for spills and leaks, and as required by code and health department regulations. The products proposed to be stored in the storage tanks will be hazardous.
- Two (2) designated outdoor storage areas being proposed on-site, totaling 5,793 sq.ft. In accordance with Floodplain Development requirements, no hazardous materials or products are allowed to be stored in the outdoor storage yards.
- The development also provides for the construction of a new shared detention/retention facility to handle all new developed drainage flows for the proposed development at 4308 E. 60th Avenue, and existing development at 4306 E. 60th Avenue.

DEPARTMENT AND AGENCY REVIEW

The Planning Division, Public Works Department, Tri-County Health Department, South Adams County Water and Sanitation District, South Adams County Fire Protection District, and Neighborhood Services Department have reviewed this request. The Public Works Department evaluated the project location along with the proposed land use intensity and traffic generation and determined that a Traffic Study would not be required due to the anticipated vehicle intensity and the fact this site had previously been used as an outdoor storage lot.

In summary, the Development Review Team is recommending approval of this conditional use permit. The applicant is developing the property for a heavy industrial use which is similar to many of the surrounding properties and has been zoned I-3 dating back to the founding of the city. The proposed development has been designed to meet both Land Development Code requirements for industrial development, and Floodplain Development code requirements for development in the Floodplain, including of Critical Facilities in the Floodplain.

| 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 applicant states that they do not anticipate any adverse impacts on the adjacent property owners. The proposed location is an area designated as heavy industrial and the applicant states they will work in conformance with the stipulations of the Conditional Use Permit within the industrial area. |
| <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; | Through the Floodplain Development & Building Permit processes, the hazardous material containment will be designed to meet applicable codes and regulations. |
| <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 variances. As part of the development, the applicant will be installing irrigated landscaping. The submitted architectural elevations and colors for the new warehouse building meet city industrial design standards. The applicant has agreed to color all new tanks to make them more visually attractive to the surrounding area, including Interstate 270. |
| <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 Fire Protection District conducts regular inspections at all businesses operating in the city, and has reviewed the materials submitted by the applicant and deemed those storage and use plans consistent with current fire codes. |
| <input checked="" type="checkbox"/> | The applicant has provided adequate assurances of continuing maintenance; | The applicant has provided assurance that the landscape will be irrigated and maintained. |
| <input checked="" type="checkbox"/> | No evidence suggests that the use violates any federal, state, or local requirements. | The various monitoring agencies (Tri-County Health, SACFPD, SACWSD) conduct regular inspections and will notify the applicant of any code violations. |
| <input checked="" type="checkbox"/> | 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. | The subject property is zoned I-3 which conforms to the existing Comprehensive Plan designation of General Industrial. I-3 zoning allows for storage of hazardous materials with approval of a Conditional Use Permit. This area along Sand Creek is the heaviest industrial part of the city. |

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:

CONDITIONS:

- A. The Conditional Use Permit shall apply for the applicant only, with no right of assignment, unless a revision to this Conditional Use Permit is obtained.
- B. To receive a Certificate of Occupancy, the applicant shall install all proposed site improvements associated with this subject City approved Conditional Use Permit. These improvements include, but are not limited to, new construction of tanks, storage building, paving, fencing, and landscaping as identified in the approved Development Plan.
- C. In no case shall the total storage tank capacity exceed 48,000 gallons.
- D. All storage tanks shall be colored beige/tan.

Advisories:

- 1. The applicant shall meet the requirements and regulations imposed by Tri-County Health Department, as adopted or amended.
- 2. The applicant shall meet the requirements and regulations imposed by South Adams County Water and Sanitation District, as adopted or amended.
- 3. The applicant shall meet the requirements and regulations imposed by South Adams County Fire Protection District, as adopted or amended.
- 4. The applicant shall notify the Community Development Department if any of the stated uses above the scope of the Conditional Use Permit change or if the applicant intends to explore new processes that would require an amendment to the Permit, if approved.

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 **4308 E. 60th Ave.** contained in case **CU-113-17** 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 shall apply for the applicant only, with no right of assignment, unless a revision to this Conditional Use Permit is obtained.
- B. To receive a Certificate of Occupancy, the applicant shall install all proposed site improvements associated with this subject City approved Conditional Use Permit. These improvements include, but are not limited to, new construction of tanks, storage building, paving, fencing, and landscaping as identified in the approved Development Plan.
- C. In no case shall the total storage tank capacity exceed 48,000 gallons.
- D. All storage tanks shall be colored beige/tan.

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 **4308 E. 60th Ave.** contained in case **CU-113-17** 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 denial:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the property located at **4308 E. 60th Ave.** contained in case **CU-113-17** 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.

To continue the case:

I move that the Planning Commission continue the requested Conditional Use Permit for the property located at 4308 E. 60th Ave. contained in case CU-113-17 to a future Planning Commission agenda.