



## Case # CU-121-19 (continued)

A request for a conditional use permit to allow material pile storage up to 25' in height.

Applicant: A1 Organics  
Address: 9109 Monaco Street

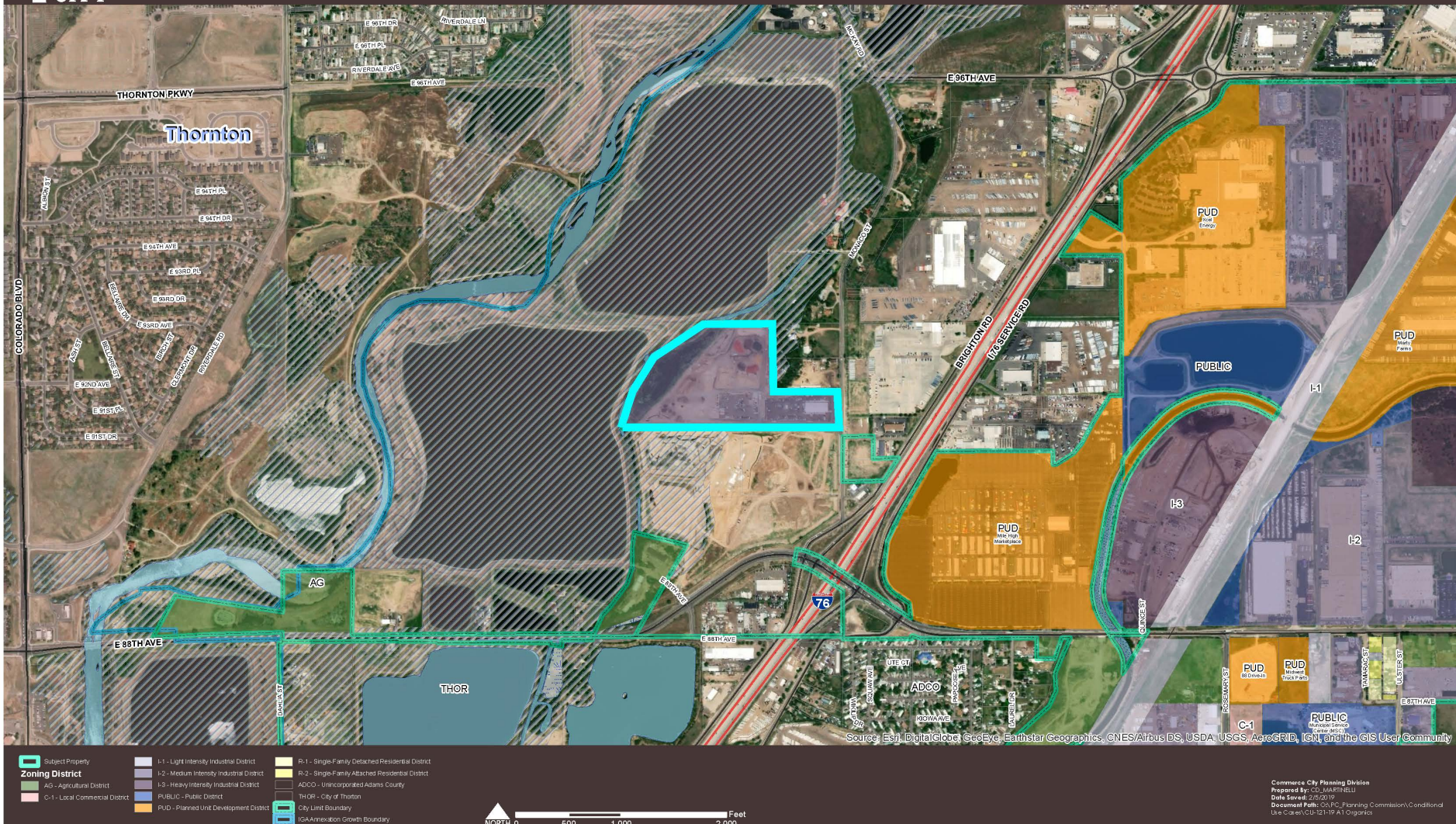


# Subject Property: Zoned I-2



### Vicinity Map

Case: CU-121-19, D-255-14-15-16-19



# Site Characteristics

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- Zoning: I-2
- Site Size: 31 acres
- Frontage: Monaco Street (ADCO)
- Floodplain: Western side
- Surrounded by ADCO properties





# Site Characteristics: Zoned I-2



# Site Characteristics

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- Significant drop-off of around 30' - 35' from the front (Monaco) to the back (Towards South Platte) of the site.
- Aggregate mining facility to the south, along with site topography provides adequate visual screening of the mulch piles from most locations.
- History as a former landfill significantly limits the uses that can occur on site.
  - Soil quality is not stable enough to support any significant structures.



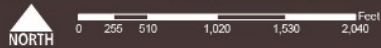
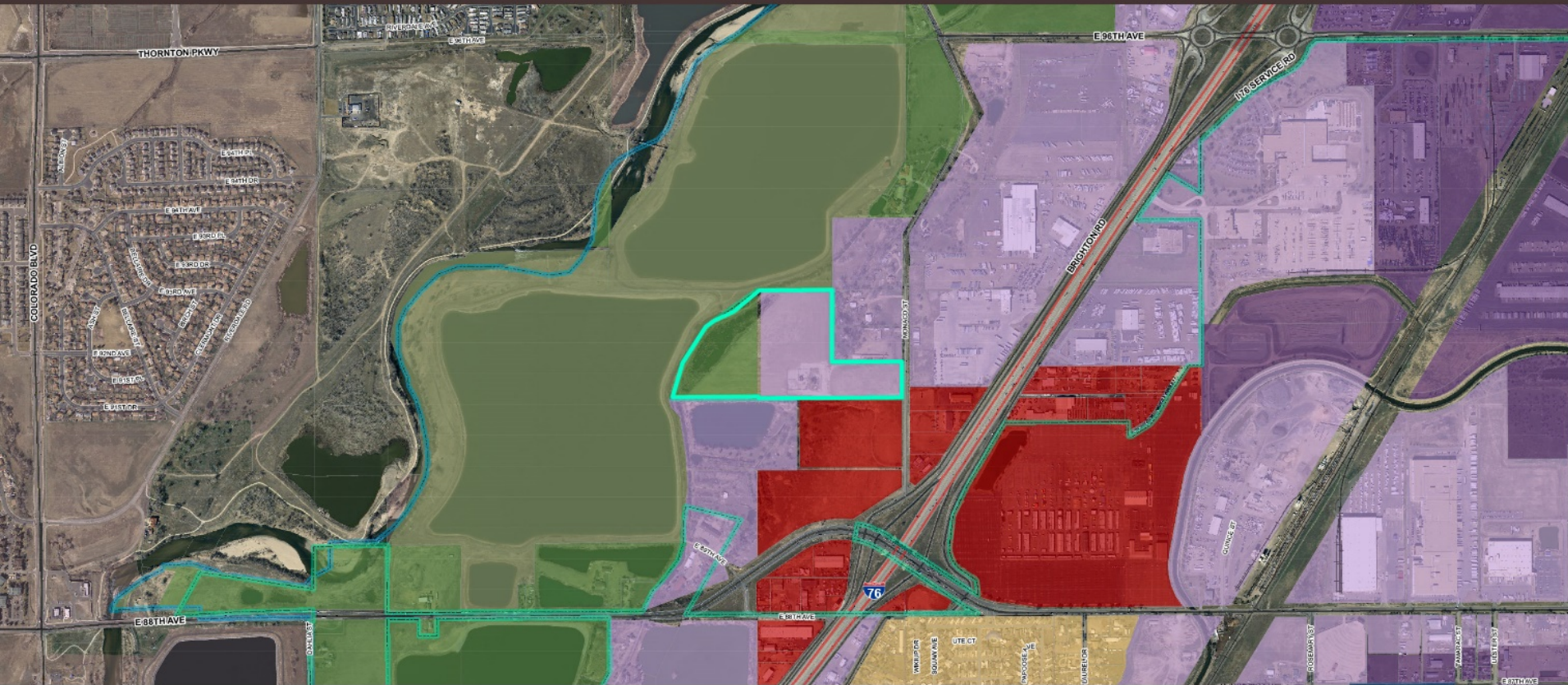


# Future Land Use



## Future Land Use Map

Case: CU-121-19



### Legend

- |                                |                           |                         |
|--------------------------------|---------------------------|-------------------------|
| Subject Property               | Residential - Medium      | General Industrial      |
| IGA Annexation Growth Boundary | Commercial                | Public                  |
| City Limit Boundary            | Industrial / Distribution | Open Space / Recreation |

Commerce City Planning Division  
Prepared By: CD\_MARTINELLI  
Date Saved: 7/11/2017  
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17 Flore & Sons (DM)\11x17 FLUP Map.mxd

PIN: 172120301005

# Site History

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- Annexed into Commerce City in 1993 (Zoned AG)
- 1995 – 2002: Cooley Gravel Company (Gravel Mining)
- 2002 – 2013: Broda Landfill (Inert landfill)
- 2014 – 2015: Various land use approvals granted for the following:
  - Eastern site removed from 100 year FEMA floodplain
  - Development Plan & subdivision approval for Brown Brothers Trucking, and RV storage and parking
- Late 2015: Development Plan amendment to allow A1 Organics to operate on lower portion of site
  - Pile heights were not indicated on the approved development plan
- 2016 – Present: Brown Brother's trucking & A1 Organics in operation on site.
- 2017: Height Exception case denied by BOA for mulch pile storage



# Applicant Request

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- A1 Organics is a waste recycling company that converts organic materials into mulch, composts, soils, and mulches for sale to the public, and has been in business since 1974.
- A1 operates four locations in Colorado (Eaton, Keenesburg, Englewood & Commerce City), and diverts around 350,000 tons of waste per year from landfills.
- According to the applicant, the height is necessary to “efficiently, effectively, and safely conduct business.”
- The request for a pile height of 25 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, and reduces the impacts of fugitive dust.
- Increased 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.





# Request before Council

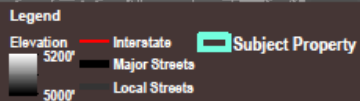
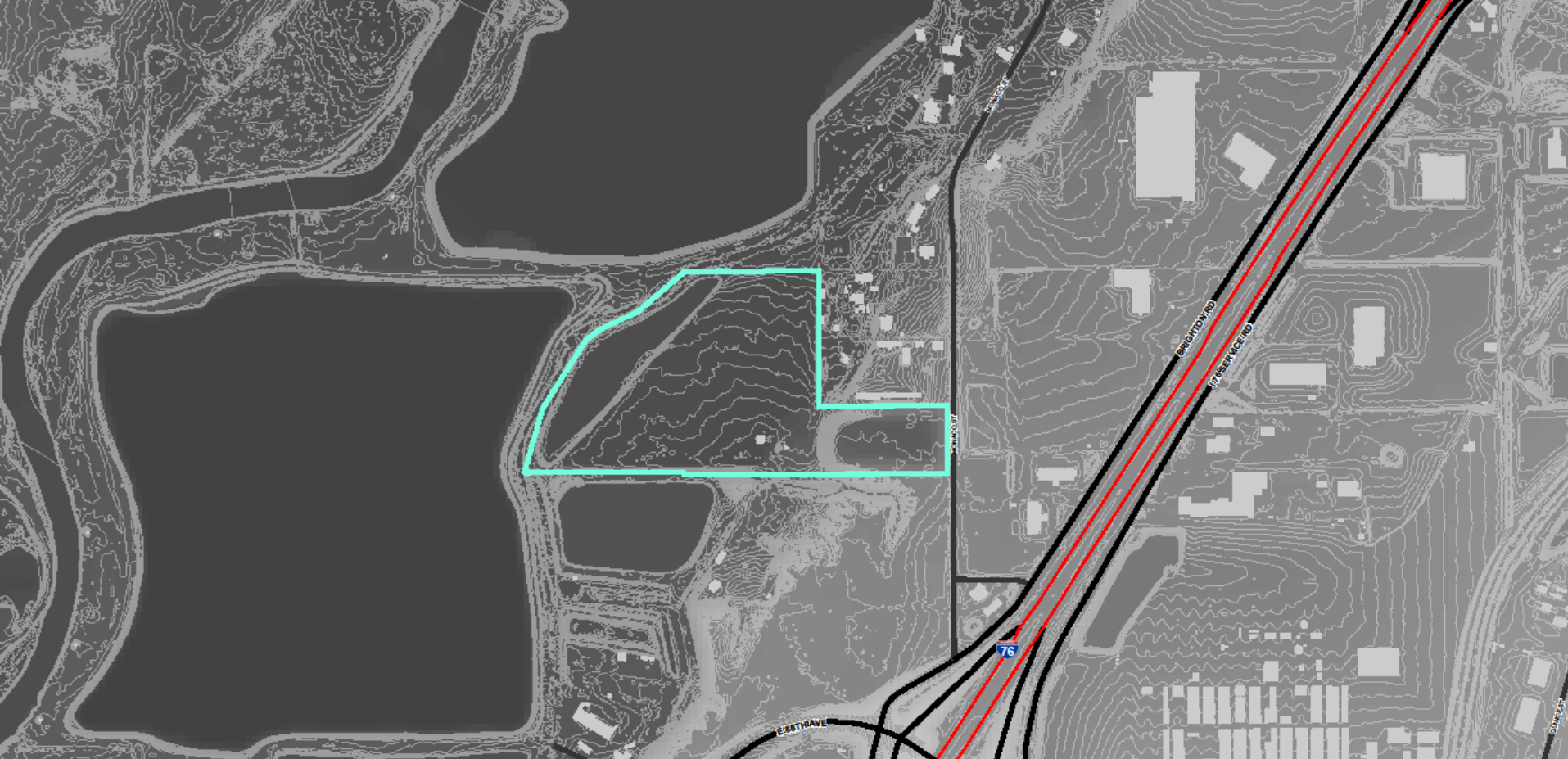
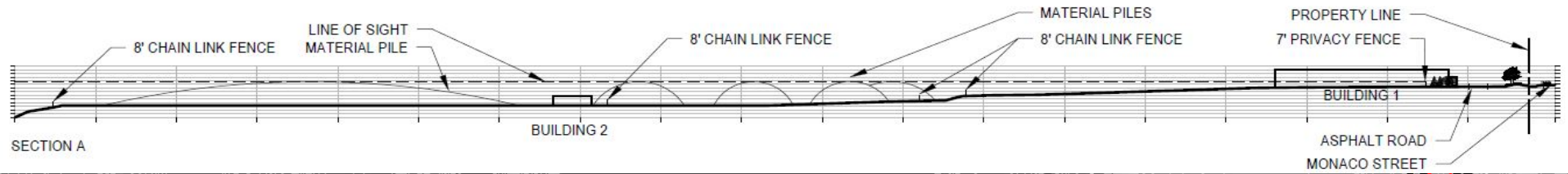
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- The Conditional Use application is for a specific and limited portion of their overall operation.
- The code allows Industrial-2 properties to have outdoor storage of up to 8 feet as a use by right. The applicant is requesting approval to store mulch piles up to 25'. Therefore a conditional use permit to allow the difference, 17', is required.

NOTE: The overall use of the site, as a mulch processor, storage, and distribution is a use by right in I-2 and is not part of the CUP application. In addition, Brown Brothers Trucking is not considered part of this request either.



# Topography



0 137.5 275 550 825 1,100 Feet

# Site Operations + Layout

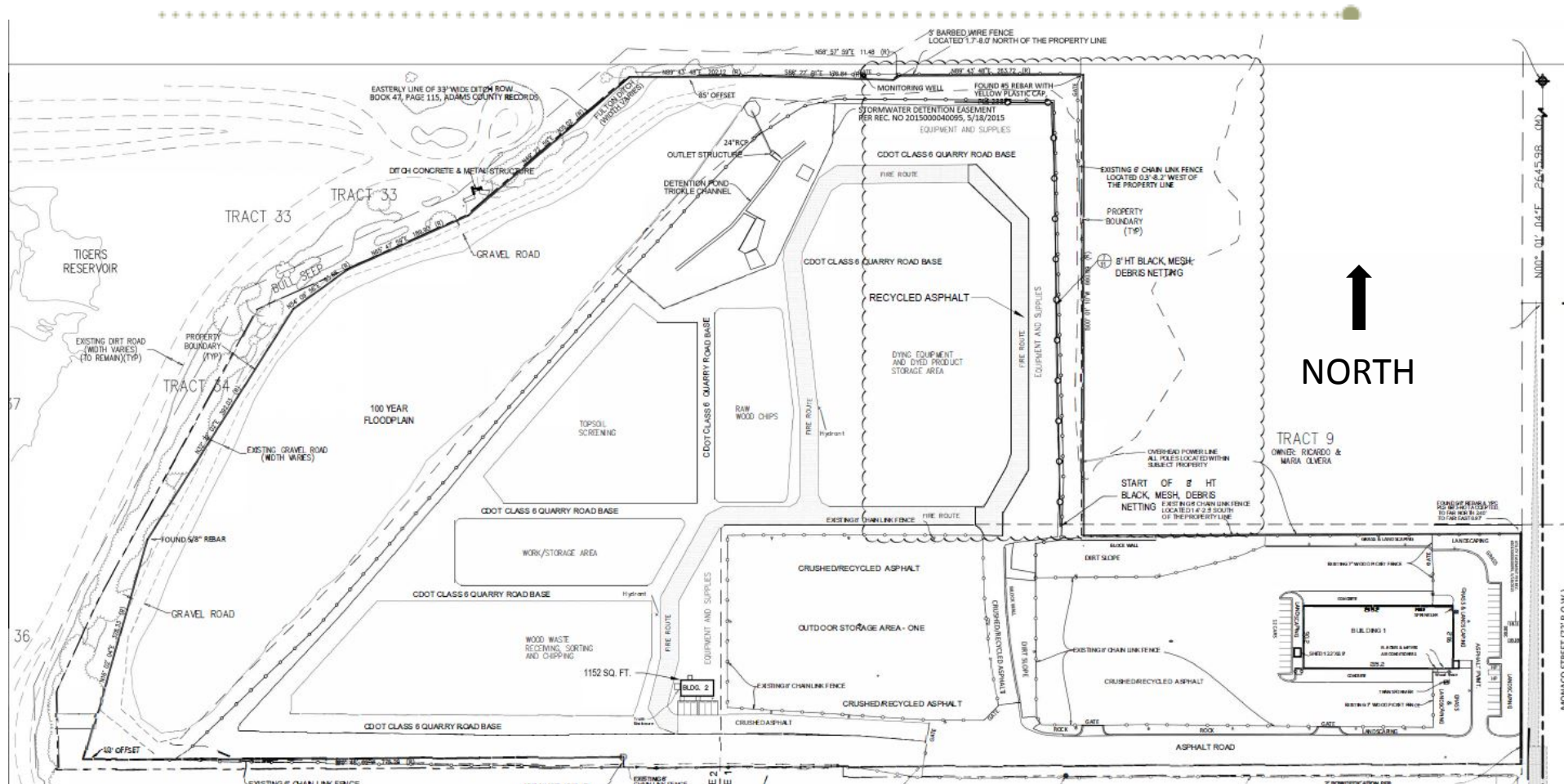
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- Recycled wood products are converted into mulch & topsoil on site
- Wood is delivered to the site by individual customers or large shipments
- Mulch is dyed on site, then delivered offsite for commercial sale.
- Incoming product & grinding operations occur in the southwest corner of site, raw woodchip storage & mulch dying occurs towards the northeast
- Volume & inventory of site fluctuates on a seasonal basis, based on demand- higher during January – March
- Proposing approximately 8-15 piles. As different mulch colors are more popular than others, certain mulch piles will cycle in variation more frequently than others
- Site Plan maintains 25' drive aisles for adequate fire access and site circulation
- Future office building on site
- Approximately 4- inbound and outbound trucks per day





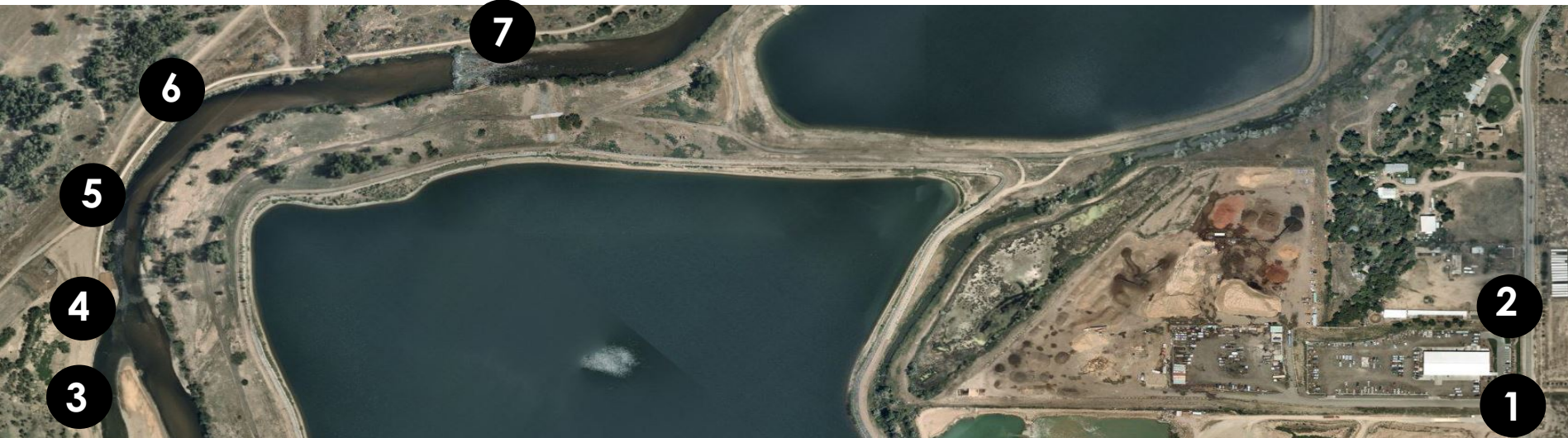
# Site Plan







# Site Visibility





# Aerial Imagery – June 2018

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# Photos – Mulching Equipment & Aerial

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# Applicant Dust/Air Mitigation Measures

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- Proposed 8' high net on the northeast side to catch woodchip debris
- Creation of a dust mitigation plan, and additional dust mitigation practices in place on site, including:
  - Operations shut down when wind speeds exceed 15mph
  - Water spraying and suppression of mulch piles & drive aisles
- Proposed demarcation pole of 25' to assist with future compliance
- Proposed 100' setback from residential properties for mulch piles and 500' setback from residential properties for grinding & screening operations
- Proposed recycled asphalt drive aisle on east property boundary to assist with dust suppression.





# Applicant Water Quality Mitigation

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- Water quality pond located at the NW corner of the site
- Silt socks line the western border of the property (between A1 and the undeveloped wetlands), and the bottom of dyed mulch piles to prevent leakage of dye materials



# Agency Analysis

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- SACFPD states that the proposed layout of the site will provide safe and adequate fire access in case of emergency
- Tri-County Health Department (TCHD) and CDPHE have inspected the property and found the site in compliance



# Neighborhood Meeting

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- Held on Monday, May 30, 2018
- Adjacent property owners, as well as other members of the public in attendance
- One outcome of the meeting was discussion of a net on eastern boundary to catch woodchip debris
  - Has since been proposed by the applicant





# CUP Approval Criteria

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In accordance with LDC Section 21-3230(3a), a CUP may be granted if all (7) of the following are met:

- i. 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 may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;
- ii. 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;
- iii. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;



# CUP Approval Criteria (cont.)

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- iv. 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. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;
- v. The applicant has provided adequate assurances of continuing maintenance;
- vi. There is no evidence to suggest that the use violates any federal, state, or local requirements; and



# CUP Approval Criteria (cont.)

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AND in accordance with LDC Section 21-3230(3b), a CUP may be granted if **one** of the following is met:

- i. There is a community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide and maintain a proper mix of uses both within the city and the immediate area of the proposed use; or
- ii. 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.





# Initial PC Recommendation

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- On February 5, 2019, the Planning Commission, after a public hearing and after receiving public comment, voted 5-0 to recommend Denial of the CUP to City Council due to several issues including concerns about air quality, water quality, and the applicant's ability to manage ongoing maintenance.



# Initial PC Recommendation

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- In recommending denial, for the specific reasons stated at the public hearing and in the motion for denial, the PC found the application did not meet the approval criteria as set forth in:
  - LDC 21-3230(3)(a)(i)
  - LDC 21-3230(3)(a)(ii)
  - LDC 21-3230(3)(a)(v)



# Additional Information For Consideration

- Since the initial planning commission hearing, the applicant has generated additional materials to be considered in the review of the case
- This includes daily logs of site activities, weather conditions, and mitigation actions taken by the applicant.

\*Staff has not verified any of the claims made in these materials





# Additional Information For Consideration

- “Legal Brief” & Supporting exhibits
  - A legal brief by Drexler law, including a re-summarized applicant perspective on a number of items related to the case, affidavits, and letters of support (for different A1 projects).
- Supplemental exhibit
  - Applicant’s summary of the site history
  - Additional daily site condition reports
  - Additional statement of support for the 9109 Monaco site
- Since the May 7 hearing, additional daily site logs, and a brief, 1-page summary of the case history were submitted.
  - Both did not affect the DRT recommendation.



# Subsequent PC Recommendation

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- On May 7, 2019, after reviewing the additional supplemental information, the Planning Commission voted 5-0 to *overturn* their previous recommend, and recommend **approval with conditions** to City Council.
- PC stated that they were content with the applicant's submitted efforts for ongoing compliance, and applicant's decision to agree to all conditions as proposed.



# Conditions

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The conditions included in the motion made by Planning Commission, were as follows:

- A. This conditional use permit shall expire 18 months after the date of approval. The applicant shall be required to renew the conditional use permit prior to the expiration date in order to continue utilizing the site.
- B. The conditional use permit is granted only for the storage of dyed mulch chips, inbound recyclable wood product, soil, mulching material stackers, and raw wood chips at a height of no greater than 25'. 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.
- C. All mulch piles shall be a minimum of 100' from adjacent residential properties at any given time, measured from the property line.





# Proposed Conditions (cont'd)

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- D. A minimum setback of 500' for grinding and screening operations shall apply from adjacent residential properties, measured from the property line.
- E. Grinding operations will not occur on the site when wind speeds exceed 15 miles per hour for a duration of at least 10 minutes.
- F. The applicant shall construct and maintain a minimum of an 8' high net on the east property boundary to prevent any woodchips from blowing onto neighboring properties.
- G. The applicant shall construct and maintain a 25' demarcation pole on the subject property, in order to assist with ongoing compliance of the 25' high pile restriction.
- H. Primary drive aisles of the outdoor storage area shall be paved with recycled asphalt and maintained by the applicant, as indicated in the approved development plan for case D-255-14-15-16-19.



# Proposed Conditions (cont'd)

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- I. Water trucks shall be kept and utilized on site during business hours for the spraying of mulch piles and drive aisles.
- J. The property shall act in accordance with the Dust Control and Mitigation plan, included as exhibit A.
- K. Due to the nature of the operations, the applicant will maintain the premises to be free of garbage, trash, and excessive woodchip debris at all times.
- L. The applicant shall comply with all federal, state, and local law.



# Required Notification

(Pursuant to LDC Sec. 21-3285)

Type of Notification	Code Required	Code Required Minimum Met	Notification Provided
Mail/Postcard to Adjacent Property Owners	Mailed Notification to property owners within 500 feet	✓	16 Adjacent Property Owners Notified
Publication/ Newspaper Notice	Notice in local newspaper	✓	Notice in Commerce City Sentinel-Express
Placard/Sign on Property	At least one sign on subject property	✓	One Sign Posted



# Public Notification

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- Before the planning commission hearing, staff received one additional request for information regarding this case.
- Since the planning commission meeting, three members of the public have provided additional documentation and photos to be included in the record.





Staff is available to answer any questions.

The applicant is also present to speak on behalf of this request and to answer any questions that the board may have.

