

Commerce City

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Commerce City, CO 80022
c3gov.com*



Meeting Minutes - Draft

Tuesday, May 7, 2019

6:00 PM

Council Chambers

Planning Commission

Call to Order

Call to order was made at 6:00 p.m. by Chairperson Popiel.

Present 5 - Chair Jonathan Popiel, Commissioner Dennis Cammack, Commissioner Karen Anderson, Commissioner L. Warren Jones, and Alternate Commissioner Jordan Ingram

Pledge of Allegiance

Roll Call

Present 5 - Chair Jonathan Popiel, Commissioner Dennis Cammack, Commissioner Karen Anderson, Commissioner L. Warren Jones, and Alternate Commissioner Jordan Ingram

Approval of Minutes:

[Pres 19-251](#) March 5, 2019 Amended

Attachments: [March 5, 2019 Amended](#)

Meeting minutes were amended to reflect the correct case number for Z-695-98-19.

A motion was made by Commissioner Jones, seconded by Commissioner Cammack, that this Presentation be recommended for approval VOTE:

Aye: 4 - Chair Popiel, Commissioner Cammack, Commissioner Anderson and Commissioner Jones

Abstained: 1 - Alternate Commissioner Ingram

[Pres 19-252](#) April 2, 2019 Minutes

Attachments: [April 2, 2019 Minutes](#)

A motion was made by Commissioner Jones, seconded by Commissioner Anderson, that this Presentation be recommended for approval VOTE:

Aye: 4 - Chair Popiel, Commissioner Cammack, Commissioner Anderson and Commissioner Jones

Abstained: 1 - Alternate Commissioner Ingram

Case(s):

[Pres 19-253](#) CUP-121-19; A1 Organics is requesting approval of a Conditional Use Permit (CUP) to allow for the outdoor storage of mulch piles up to 25' in height for the property located at 9109 Monaco Street, zoned I-2 (Medium Intensity Industrial District).

Attachments: [1 Staff Report - PC Hearing No 2](#)
 [2 V Map](#)
 [3 Narrative Part 1](#)
 [4 Narrative Part 2](#)
 [5 Brief In Support of A1 Organics CUP-121-19 for 9109 Monaco Street](#)
 [\(1-2\), As Modified](#)
 [6 Exhibits in Support of A1 Organics' Brief re CUP-121-19 REDUCED](#)
 [FILE SIZE FORMAT](#)
 [7 A1 Organic's Supplemental Submission in Advance of May 6, 2019](#)
 [Planning Commission Meeting](#)
 [8 Neighborhood Meeting Summary](#)
 [9 Exhibit B Dust Control Plan](#)
 [10 Daily Report - Monaco Site Week of Feb 18th 2019](#)
 [11 Daily Report - Monaco Site Week of Feb 25th 2019](#)
 [12 Daily Report - Monaco Site Week of March 4th 2019](#)
 [13 Daily Report - Monaco Site Week of March 11th 2019](#)
 [14 Daily Report - Monaco Site Week of March 18th 2019](#)
 [15 Development Plan](#)
 [16 PC Items Added to the Record](#)

Deputy City Attorney Matt Hader introduced the case and asked that the record reflect the file contained the relevant notification and publication information. Planner Domenic Martinelli presented the case and presented additional information which has been submitted since the previous hearing of this case. Mr. Martinelli mentioned that staff recommendation has not changed from the previous hearing in February. City Council is seeking updated PC recommendation based on additional information that was submitted over the past month.

The meeting was open to the applicant. Erin Verneris and Regina Drexler from Drexler Law, 1435 Larimer Street, representing A1 Organics. Ms. Verneris additionally named other representatives of A1 Organics; Travis Bahnsen, CEO; Kent Pendly, COO; Bob Yost, CTO and Kevin Northrup, Site Manager.

Ms. Verneris gave a presentation, with an overview of the A1 Organics business and an overview of additional materials submitted to ensure that those PC members that were not at the past hearing of February 5th were up to date. Commissioner Popiel assured Ms. Verneris that those PC members that missed the previous meeting had been given the time to listen to the recording and that they were up to date.

Ms. Verneris reviewed the following: Exhibit F - Signed Petition, Exhibit E -Endorsements/Testimonials from within the state and Exhibit V.

Ms. Verneris also stated that A1 Organics has not been operating unlawfully and read a letter dated 9/2/2014 from Jared Draper, the City Planner at the time. A1 Organics was clear in its communication and the city never stated opposition. Affidavit from Robert Yost, paragraph 4 and 5 was reviewed (Exhibit C). Commissioner Popiel mentioned he has already seen this material and requested additional, 'new' information.

Ms. Verneris, stated that City staff assured the business that they could continue operating while the CUP application was in process. Commissioner Cammack made a statement that previously during the February 5th Public Hearing, the verification was verbal from the City of Commerce City. Ms. Verneris acknowledged that this communication was not in writing.

Ms. Verneris states that there were inspections previously and there were no issues until approximately 2016.

Mr. Hader reminded the members to maintain focus on the requirements presented.

Ms. Verneris reviewed the new information provided for this Public Hearing. She presented information from Matthew Cotton, Bob Rank – both with experience in organic recycling who have reviewed the dust mitigation report, etc.

Commissioner Popiel mentioned that there is no documented industry standard to provide explanation regarding pile height.

No questions from the PC commissioners for the applicant.

Ms. Verneris added additional information regarding an email from the City of Thornton. Previously, A1 Organics has never received a complaint regarding water from the City of Thornton. The letter was in reference to mitigate migration of materials and not about the heights of the piles.

Commissioner Popiel opened the comments to the public:

Perry Johnson, 9225 Monaco, provided photos taken from his property that were date stamped 4/28/19 for the record. He is opposed to the CUP request.

Blair Gab, 9275 Monaco Street. Mr. Gab's property is located to the North and had concerns with containment of materials, where material comes from and water quality.

James Ruder, 3855 Lima St, from L&R Pallet who utilizes A1 Organics services. He explained where his pallets come from and the types of pallets processed. He is in favor of the CUP request.

David Yost, asked the applicants via the commissioners if other facilities have had any violations and asked about the agreement between A1 Organics and City of Commerce City. Mr. Yost asked how long the city had been in communication with A1 Organics. Staff provided information regarding zoning and land use as well as the request for a development plan approval. The approval did not specify pile height and if piles would have been on the site. He is in favor of the CUP request

Ryan Puckett, 9725 Brighton Rd, provided information regarding his visits to other composting sites and that A1 Organics and spoke favorable of A1 Organics operation. He is in favor of the CUP request.

Brenda Bowers 4677 E 129th Ave believes that she gets dust/debris in her eyes from A1 Organics. She is opposed to the CUP request.

Arla Johnson, 9225 Monaco St, is concerned about the dye that is used in the mulch piles and black mold. She believes her husband has been sick from the wood dust. She is opposed to the CUP request.

Perri Hall, 14475 Piccadilly works near A1 Organics, she is opposed to the CUP request.

Closed to public.

Open to applicant.

Ms. Verneris addressed the commission to respond to questions/comments from the public.

Kent Pendley - 1135 Eaton, CO – COO of A1 Organics. Addressed questions regarding the use of dyes, violations, pile height/industry standards and provided clarification that the 25ft piles meet the fire code.

Comments closed to the applicant.

Chairman Popiel requested a motion.

A motion was made by Commissioner Cammack, "I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the property located at 9109 Monaco Street contained in case CU-121-19 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. 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.**
- 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.**
- 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," seconded by Commissioner Jones, that this Presentation be recommended for approval with Conditions VOTE:

Aye: 5 - Chair Popiel, Commissioner Cammack, Commissioner Anderson, Commissioner Jones and Alternate Commissioner Ingram

[Pres 19-254](#)

Z-956-19; Cadence Development is requesting to rezone 2.33 acres from AG (Agricultural) to I-1 (Light Intensity Industrial District) for the property located at 8705 Rosemary Street (southwest corner of 88th Ave and Rosemary St).

Attachments: [Staff Report](#)
[VMAP](#)
[Narrative](#)
[Draft subdivision plat](#)
[Draft Site plan and elevations](#)
[Traffic Impact Study](#)
[Neighborhood meeting](#)

Deputy City Attorney Matt Hader introduced the case and asked that the record reflect the file contained the relevant notification and publication information. Planner Stacy Wasinger presented the case and presented information for consideration.

Staff addressed a question from the commissioner regarding a possible flyover, over the railroad tracks and the entrance on 88th Ave. There are no finalized recommendations at this time.

Staff addressed a question from the commissioner regarding the city budget and traffic.

Staff addressed a question from the commissioner regarding the future of 88th Ave and that the applicant would still like to move forward.

Kay Stallworthy, 6400 S. Fiddlers Green Circle, representing the applicant addressed the commission. Ms. Stallworthy's company helps the community, tenants and land-owners to be successful.

Ms. Stallworthy also addressed the commission regarding the values of the 7-Eleven stores, including generous donations to the community (schools, police departments, fire departments).

The franchise owner is a resident of Commerce City.

Ms. Stallworthy addressed the commission in reference to the re-zone proposal and neighborhood meeting concerns, which include the lighting affecting the local drive-in.

Commissioner Popiel opened the conversation to questions. Ms. Stallworthy added additional information regarding urban drainage and the potential impact to the property in the future.

Open to Public -no comments.

Close to public.

A motion was made by Commissioner Anderson; "I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Zone Change for the property located at 8705 Rosemary Street contained in case Z-956-19 meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change subject to the following condition: A. The final subdivision plat application shall be completed, approved, and recorded within 6 months of the date of rezone and prior to any development plan approval or prior to any building permits being issued for the property," seconded by Commissioner Jones, that this Presentation be recommended for approval with Conditions VOTE:

Aye: 5 - Chair Popiel, Commissioner Cammack, Commissioner Anderson, Commissioner Jones and Alternate Commissioner Ingram

[Pres 19-255](#)

Z-418-87-95-19: Paul J Mattorano, Jr, is requesting to remove zoning conditions at 8150 Syracuse St, currently zoned I-1 (Light Intensity Industrial District).

Attachments: [Staff Report](#)
[VMAP](#)
[Narrative 1](#)
[Narrative 2](#)

Deputy City Attorney Matt Hader introduced the case and asked that the record reflect the file contained the relevant notification and publication information. Planner Stacy Wasinger presented the case and presented information for consideration.

In response to Commissioner Cammack's question, staff responded that it would be a possibility for the city to take a look at removing impediments in the future for development.

In response to a question from the commissioner, the applicant stated that the reason for his request for this zone change now is to allow him to begin the process to allow for a smooth transition to build a car repair garage in the future.

Open to public - no comments.

Closed to public.

A motion was made by Commissioner Jones, "I move that the Planning Commission enter a finding that the requested Zone Change for the property located at 8150 Syracuse Street contained in case Z-418-87-95-19 meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zone Change," motion was seconded by Commissioner Anderson, that this Presentation be recommended for approval VOTE:

Aye: 5 - Chair Popiel, Commissioner Cammack, Commissioner Anderson, Commissioner Jones and Alternate Commissioner Ingram

Board Business:

N/A

Staff Business:

City Tour dates reviewed. Staff will reach out to the commissioners once a date is determined.

Attorney Business:

N/A

Adjournment

Meeting adjourned at 7:50 p.m.

Study Session

[Pres 19-256](#)

Commerce City Oil & Gas Transportation Impact Study

Attachments: [Study Session Memo](#)

Study Session was moved to room 2108.