Conditional Use Permit Report

Case #CUP23-0001

Planning Commission Date: March 5, 2024
City Council Date: April 1, 2024

GENERAL INFORMATION

PROJECT NAME	Rocky Mountain Recycling (RMR)
LOCATION	6425 Brighton Blvd
SITE SIZE	1.23 acres
CURRENT ZONING	I-3 (Heavy-Intensity Industrial District)
APPLICANT	Tom Wood
OWNER(S)	Rocky Mountain Recycling, Inc.
CASE PLANNER	Kathleen Taylor

REQUEST

The request is to obtain a Conditional Use Permit (CUP) for a recycling facility in the I-3 zone.

BACKGROUND AND CASE HISTORY

Rocky Mountain Recycling has been a long-standing part of the Commerce City community, in business since 1936. They recycle various metals including rebar, brass, copper, and stainless steel among others. Currently, Rocky Mountain Recycling occupies property on both sides of Brighton Blvd, just north of 64th Avenue. The existing operation totals approximately 14.5 acres across both sides of Brighton Boulevard. The existing sites, as well as the additional 1.23-acre site subject to this CUP application, are all zoned I-3 (Heavy-Intensity Industrial District). Within the I-3 zone, recycling facilities are allowed but require approval of a conditional use permit (CUP), pursuant to Land Development Code (LDC) 21-5200 (Table V-1). RMR is considered to be a Large Recycling Collection Area, as described in LDC 21-5256(2).

The existing locations operated by Rocky Mountain Recycling have Conditional Use Permits (CUPs) approved by City Council as recently as 2017, found in case numbers CUP-81-08-10-12-17 and CUP-82-08-10-12-17. The CUPs were approved with the following condition: *The hours of operation shall be limited to between 6:00 a.m. and 10:00 p.m., with no operation of large machinery or movement of heavy materials after 9:00 p.m.*

A plat consolidation (case number S23-0002) for the subject site is also under review. Pending approval of this CUP, RMR plans to consolidate this 1.23-acre lot with the 7.13-acre lot to the north. If the CUP is not approved, the lots will not be consolidated.

COMPREHENSIVE PLAN CONSISTENCY

The subject property is zoned I-3 and designated on the Future Land Use Map as Industrial/Distribution. The proposed use of a recycling center is consistent with the existing zoning. The CUP proposal meets the Land Use and Growth Goal LU-4 to retain existing industrial areas and land for future jobs. It also meets the Economic Development Goal ED-2 to retain and increase a strong employment base, as expansion will provide additional jobs within the community.

In 2023 the City published an Action Plan for Sustainability. This CUP for Rocky Mountain Recycling is consistent with the Sustainability Action Plan's Focus Area of Recycling and Waste Diversion. Within the Action Plan for Sustainability, it is explained that *"by diverting certain kinds of waste from their endpoints in landfills the City can reframe waste as 'new' materials for reuse and provide opportunities for job creation. Use of these materials can provide new business opportunities, extend the life of the landfill, reduce pollution of the natural environment, and cut air pollutants emitted by landfills." [Pg 46]*

PROJECT ANALYSIS

Site Overview

This requested CUP is for a 1.23-acre site, located at 6425 Brighton Blvd. An old building on the site has recently been demolished, leaving the site vacant and unused.

The property is just south of the existing Rocky Mountain Recycling facilities. The portion of Rocky Mountain Recycling located on the west side of Brighton Boulevard is approximately 7.13-acres and the portion on the east side of Brighton Boulevard is approximately 7.4-acres. If approved, this CUP would allow Rocky Mountain Recycling to increase their operational land area by about 8.5 percent.

Noise Impacts

The Adams County Sheriff's Office, in conjunction with Commerce City Police Department, have received no noise complaints regarding Rocky Mountain Recycling over the last two years. However, due to the existing single family residential properties in proximity to the existing Rocky Mountain Recycling facilities, previous conditional use permits included a condition limiting hours of operation; a similar condition is proposed for this CUP to provide consistency and mitigate any potential impact from operational noise.

Overall Analysis

There is adequate evidence in the record to show that the property in question currently meets, or will be able to meet once developed, all the relevant City standards and Land Development Code (LDC) requirements for the proposed conditional use. These requirements include, but are not limited to access, minimum lot area, minimum lot frontage, and setbacks.

The proposed CUP has been reviewed by the Development Review Team, including Planning; Public Works; Development Review Engineering; Parks; Building Safety; Economic Development; Energy, Equity, and Environmental (E3) Division; South Adams County Water and

Sanitation District; South Adams County Fire Department; and Xcel Energy. There are no outstanding comments or objections from review agencies regarding the proposed CUP.

CONDITIONAL USE PERMIT APPROVAL CRITERIA

A decision for this case must be based on the following criteria from Sec. 21-3230(3) of the Land Development Code. An application may be approved if:

(a): All of the following criteria are met:

Criteria (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;

The proposed use as a recycling facility is in keeping with neighborhood. It fits with the surrounding area of industrial uses. There is no evidence in the application materials or other information that suggests any undue adverse impacts will be created by increasing the size of the Rocky Mountain Recycling facilities by less than ten percent. Screening and limited hours of operation will be consistent with the existing facilities. *Therefore, it can be found that this application **meets Criteria (i)**.*

Criteria (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;

The proposed conditions to limit the hours of operation and to install screening serve to mitigate any potential adverse effects to the maximum extent feasible as allowed by the LDC. The site screening and limited hours of operation will be consistent with the existing facilities. *Therefore, it can be found that this application **meets Criteria (ii)**.*

Criteria (iii): The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

The characteristics of the site are similar to the surrounding portions of the Rocky Mountain Recycling facilities which have already demonstrated suitability for the land use. *Therefore, it can be found that this application **meets Criteria (iii)**.*

Criteria (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;

There is nothing included in the application or related information to suggest that the proposed use would create any burden on the existing improvements, facilities and/or services of the city or its residents. The applicant has submitted both a drainage plan and a traffic study to demonstrate compliance with Engineering requirements. *Therefore, it can be found that this application **meets Criteria (iv)**.*

Criteria (v): The applicant has provided adequate assurances of continuing maintenance;

The applicant's past commitment to the area has shown an assurance to continual maintenance. They plan to use the same operational and maintenance practices as the adjacent facilities. *Therefore, it can be found that this application **meets Criteria (v)**.*

Criteria (vi): There is no evidence to suggest that the use violates any federal, state, or local requirements; and

There is no evidence to suggest that the proposed use violates any federal, state, or local requirements. *Therefore, it can be found that this application **meets Criteria (vi)**.*

(b): One of the following criteria is met:

Criteria (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

As a steady business for such a long time in Commerce City, clearly the recycling of scrap metals and related materials meets a community need. The location surrounded by industrial uses and its proximity to the railroad is appropriate. *Therefore, it can be found that this application **meets Criteria (i)**.*

Criteria (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.

Rocky Mountain Recycling's use is consistent with the purpose, goals, and policies of the comprehensive plan. Specifically, it supported by the Land Use and Growth Goal LU-4 to retain existing industrial areas and land for future jobs and the Economic Development Goal ED-2 to retain and increase a strong employment base. Rocky Mountain Recycling is also consistent with the focus areas of the Action Plan for Sustainability. *Therefore, it can be found that this application **meets Criteria (ii)**.*

CONSIDERATIONS FOR DISCUSSION

1. The CUP is consistent with the Comprehensive Plan goals and objectives.
2. The facility would provide additional jobs to the community.
3. The Energy, Equity, and Environmental (E3) Division supports this application as it is consistent with the Sustainability Action Plan.
4. There is potential for noise from this operation to impact nearby properties.

5. The proposed condition limiting hours of operation provides consistency with existing facilities.
6. No noise complaints have been filed in at least two years with either Commerce City Police Department or Adams County Sheriff's Office.

POTENTIAL PLANNING COMMISSION MOTIONS

1. Approval with conditions

   I move that the Planning Commission enter a finding that the requested **Conditional Use Permit** for the property located at **6425 Brighton Blvd,** contained in case **CUP23-0001,** meets the criteria of the Land Development Code with conditions, and based upon such finding, recommend that the City Council approve the Conditional Use Permit with the following conditions:

   A. The hours of operation shall be limited to be between 6:00 a.m. and 10:00 p.m., with no operation of large machinery or movement of heavy materials after 9:00 p.m.

   B. Screening of at least six feet in height shall be installed along the Brighton Blvd frontage.

2. Approval

   I move that the Planning Commission enter a finding that the requested **Conditional Use Permit** for the property located at **6425 Brighton Blvd,** contained in case **CUP23-0001,** meets the criteria of the Land Development Code, and based upon such finding, recommend that the City Council approve the Conditional Use Permit.

3. Denial

   I move that the Planning Commission enter a finding that the requested **Conditional Use Permit** for the property located at **6425 Brighton Blvd,** contained in case **CUP23-0001,** fails to meet the following criteria of the Land Development Code and based upon such finding, recommend that the City Council deny the Conditional Use Permit.

   ➔ *List criteria not met*

4. Continuance

   I move that the Planning Commission continue the public hearing of the requested **Conditional Use Permit** for the property located at **6425 Brighton Blvd,** contained in case **CUP23-0001,** to:

   A. The next regularly scheduled Planning Commission hearing; or
   B. A date certain.

Vicinity Map

Zoning Map

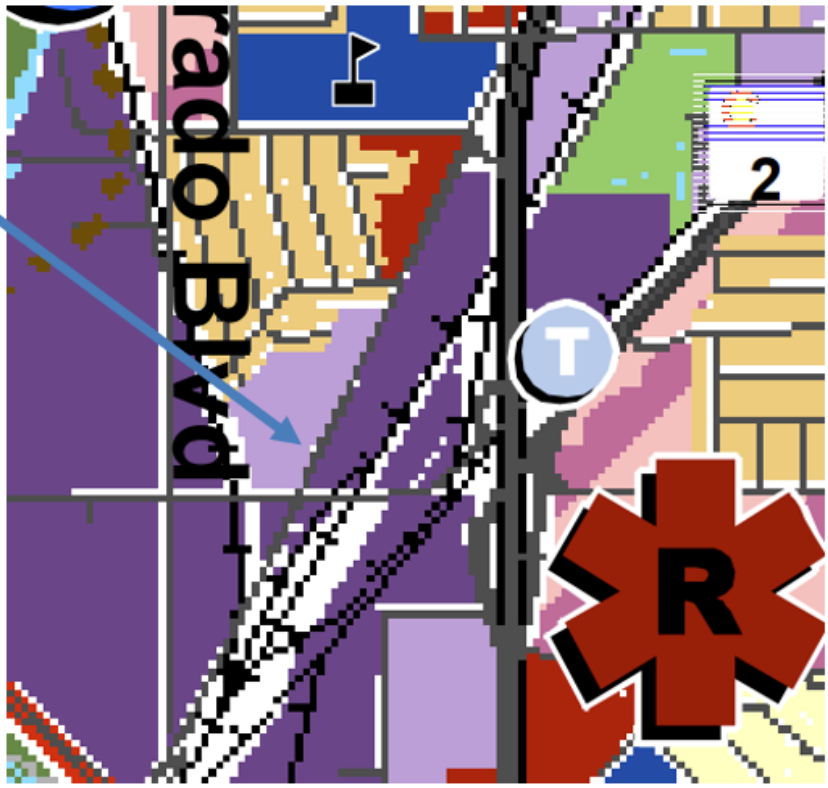
I-3 Heavy Intensity Industrial
Public
Single Family Attached Residential

Future Land Use Plan

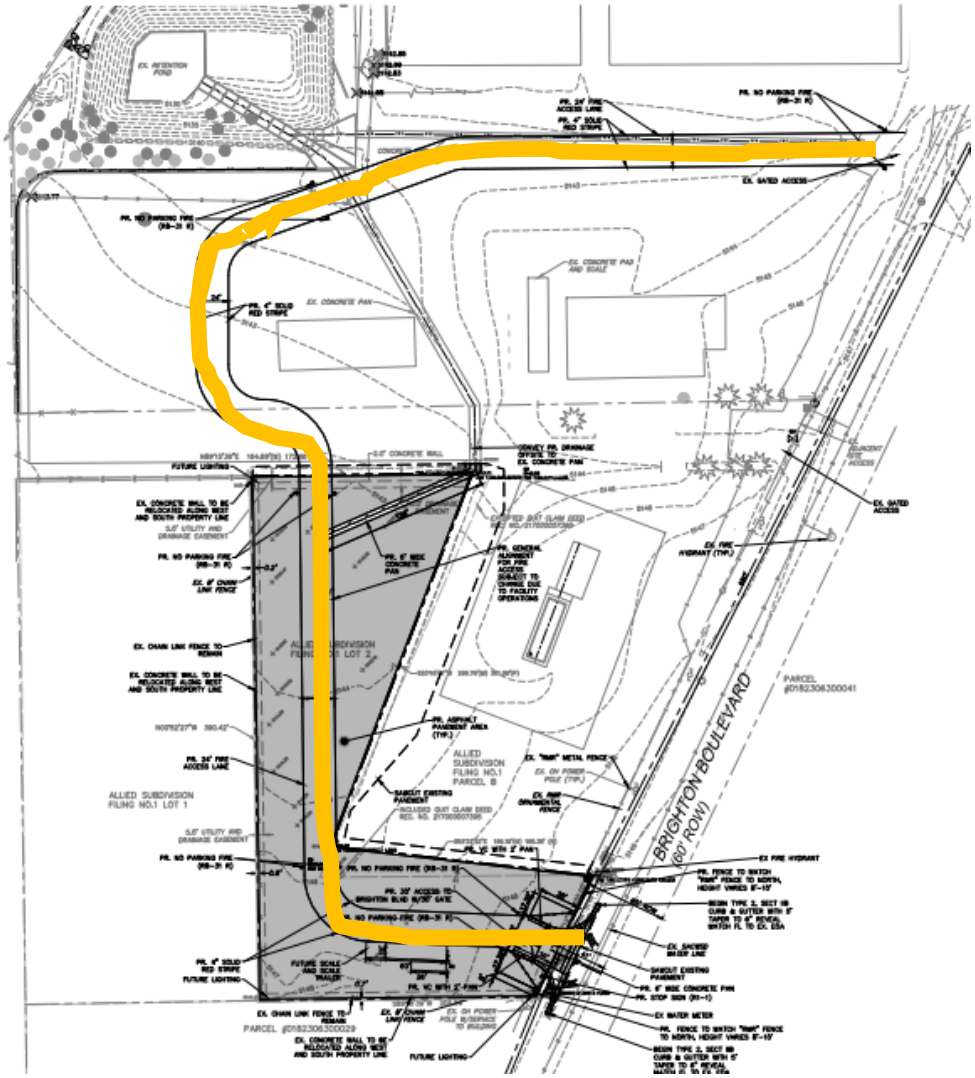
Subject Property

Light Purple =
Industrial/Distribution

Dark Purple =
General Industrial



Existing Site Photo

Brighton Blvd from the South

Proposed Connectivity Through Site