



# Case #CUP23-0002

## WISE Water Line

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Location: E-470 and East 96<sup>th</sup> Avenue rights-of-way

Applicant: Tetra Tech on behalf of Denver Water

Request: Permit for a major extension of a domestic water system

# Matter of State Interest

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- Major extensions of domestic water systems have been designated as a matter of state interest per Chapter 22 of the Municipal Code
- Matters of state interest require a permit to be processed and approved by the City
- This is not an application for a Conditional Use Permit
- The CUP record number is simply for tracking purposes as we do not have an application type for matters of state interest

# 1041 Permit

- “1041 Permit” is a reference to House Bill 74-1041 (approved in 1974) that allows local governments to identify, designate, and regulate activities of state interest through a local permitting process.
- These are commonly referred to as “1041 powers” and the process is often referred to as a “1041 Permit”.
- Any mention of a 1041 Permit for this project is referring to the process outlined in Chapter 22 of the Municipal Code

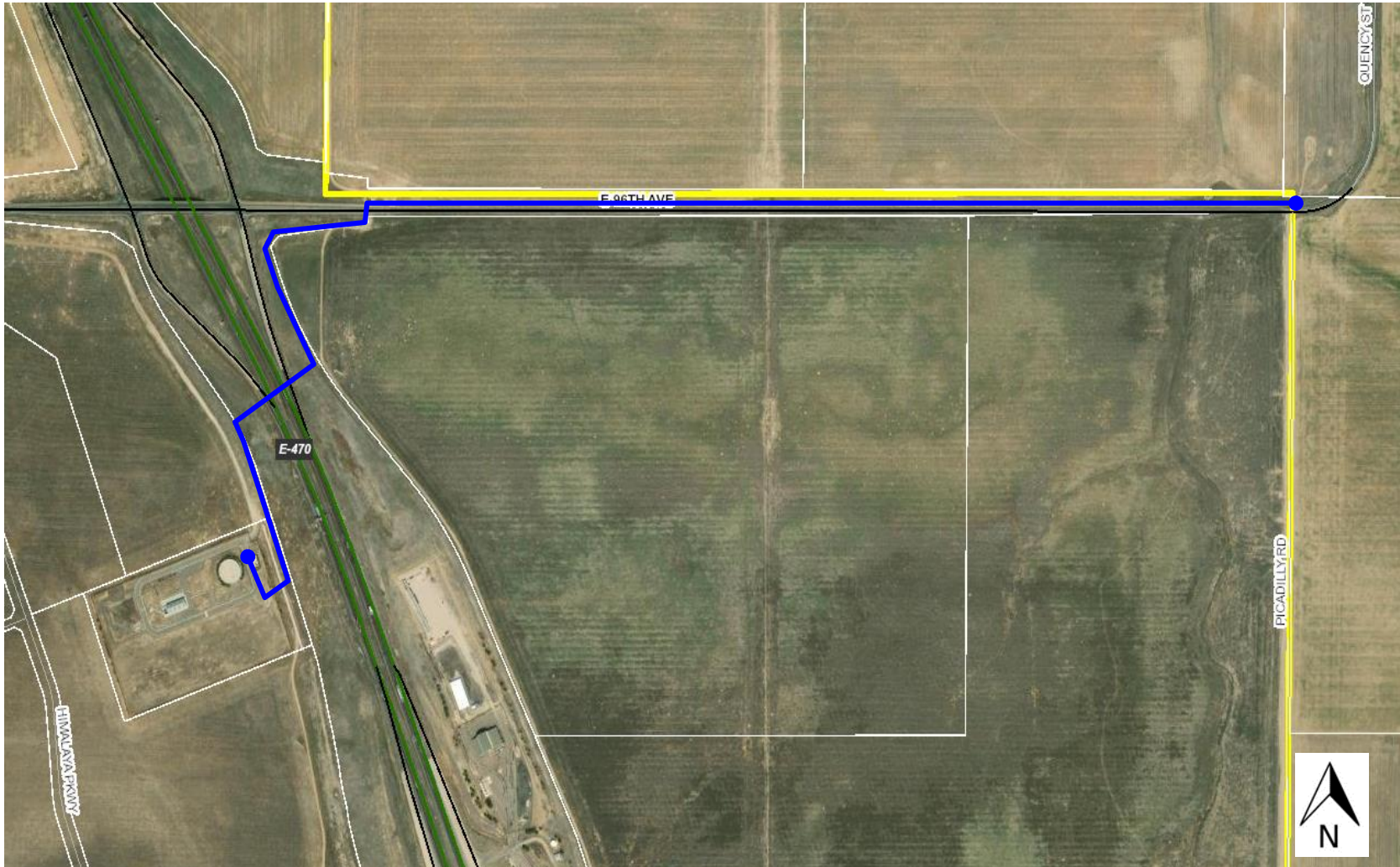


# Case Summary

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- Location: Within E-470 and East 96<sup>th</sup> Avenue right-of-way
- Request: Installation of a water line to transport potable water below-grade
- Water Line Length: 1.5 miles
- Owner and Operator of the water line: Denver Water

# Aerial



# Site Photos

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Facing east



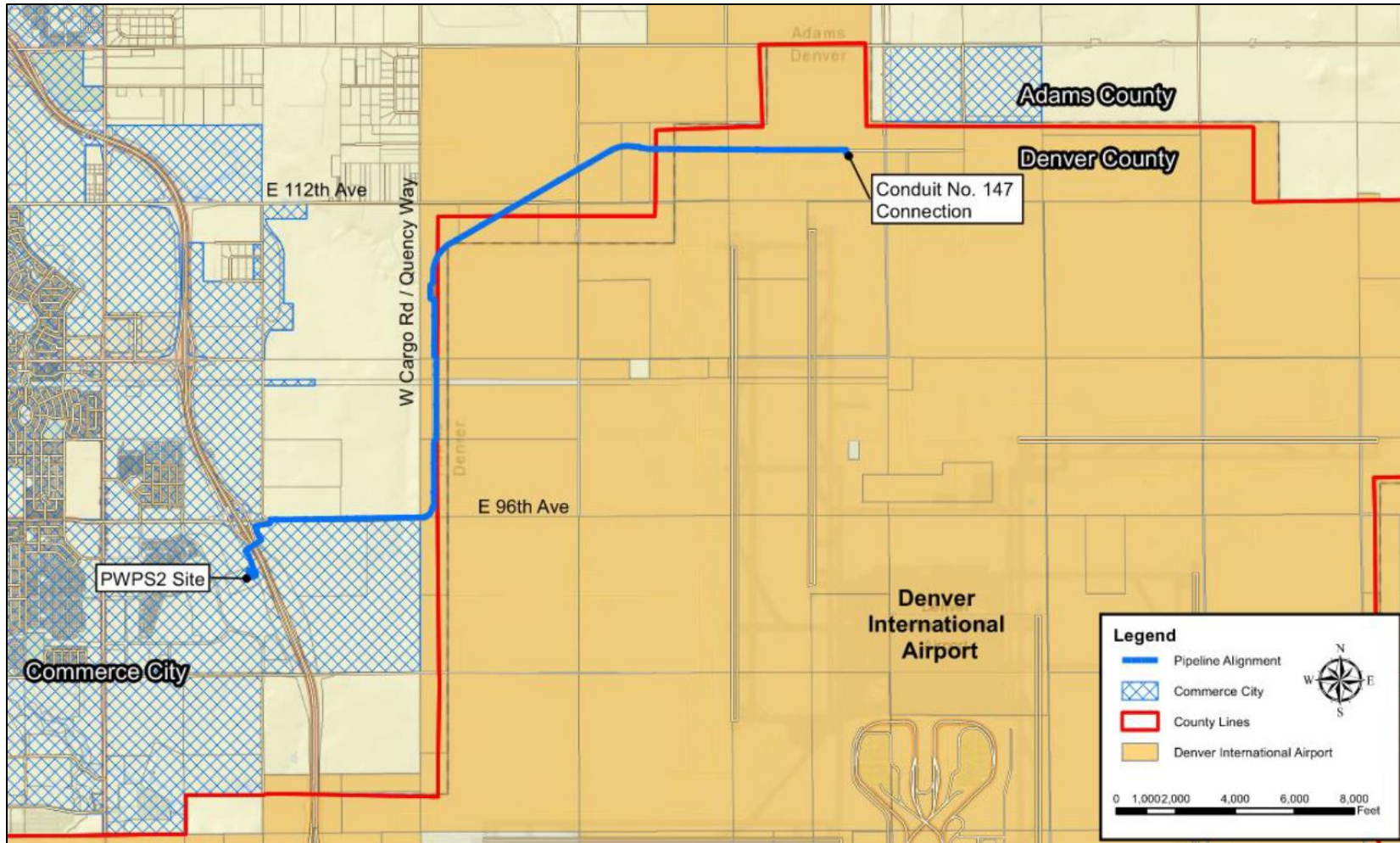
Facing west

# Case Background

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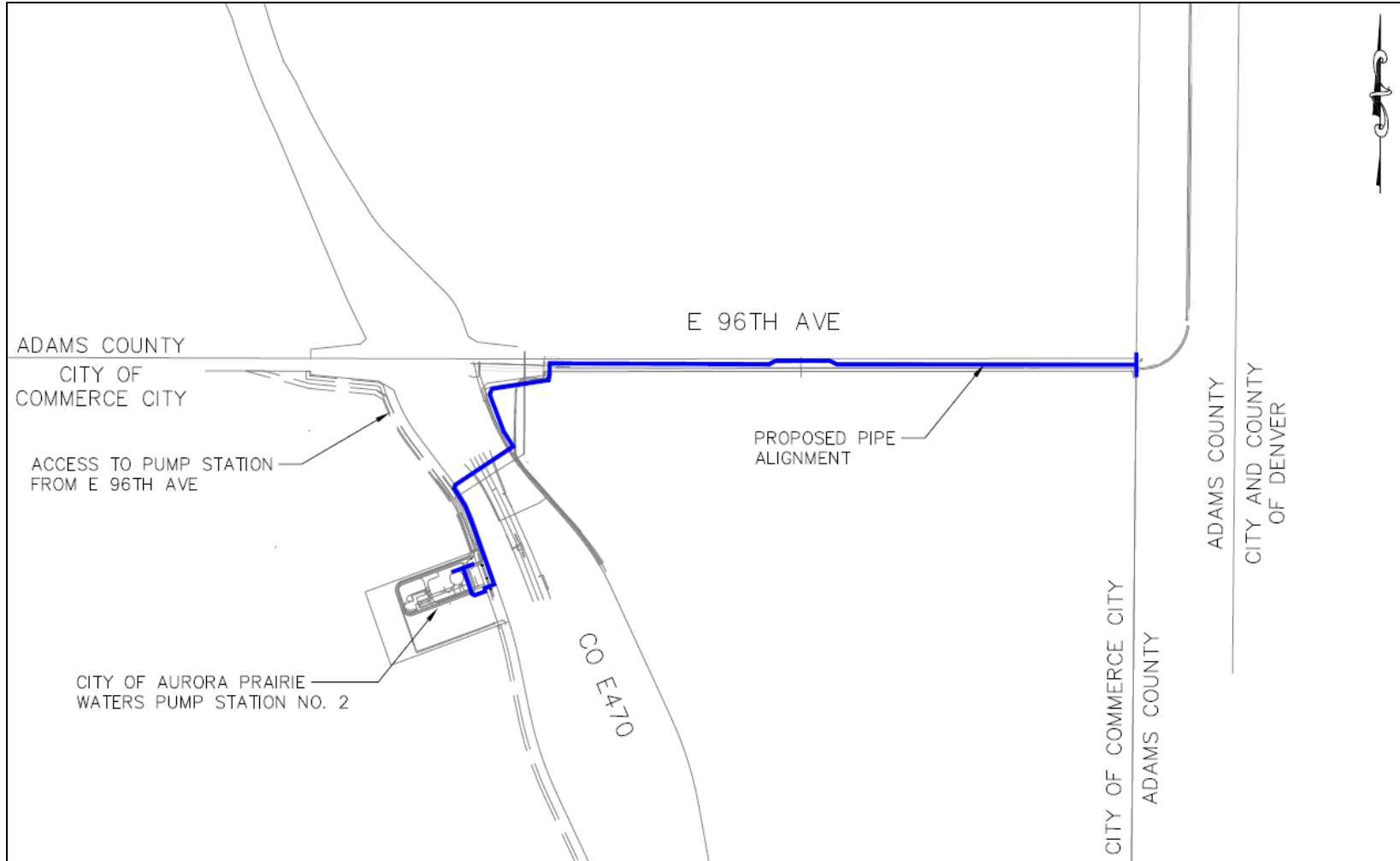
- The intent of the proposed water line is to transport potable water from Denver International Airport (DIA) to an Aurora pump station located at 19900 E 96th Avenue.
- From the pump station, the water will continue through existing lines to service South Metro Water Supply Authority.
- Excess water that the City of Denver and City of Aurora do not use can be sold and distributed to South Metro as part of a regional partnership.

# Overall Water Line Route





# Commerce City Alignment



# Case Analysis

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- DRT agencies reviewed project; no outstanding comments or objections to the proposed water line
- There is sufficient evidence in the record to demonstrate that the proposal meets the approval criteria in Municipal Code Sec. 22-30 and Sec. 22-66 subject to five proposed conditions

# Planning Commission Summary

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- This case went to Planning Commission on March 5, 2024
- No public comment was received
- Planning Commission voted 5-0 to recommend approval, subject to five conditions

# Proposed Conditions

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1. Alterations to the route of this water line outside of the approved easements and City right-of-way (ROW), or any modification requiring raising the water line or its components above-grade (except as currently proposed) will require an amendment to this permit.
2. The water line shall transport potable water only.
3. The Owner shall repair any open space, trail, road, and any appurtenances and infrastructure within right-of-way and easement areas that may be damaged during construction or maintenance.
4. The Owner shall notify the Commerce City Public Works Department if and when any permanent discontinuation of the use of this water line for water transmission takes place. The Owner shall be responsible for providing a comprehensive water line decommissioning plan for approval by the Commerce City Public Works Department inclusive of all provisions for the abandonment of the water line. The Owner shall then be responsible for implementing and completing such plan.
5. The Owner shall be responsible for the relocation and all costs related to and associated with the relocation of the water line as a result of the future expansion of East 96th Avenue. The associated costs for the relocation by the Owner may include, but are not limited to construction, vertical and horizontal adjustments, adjusting valve boxes, and adjusting vaults.



# Considerations

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- The permit is consistent with the Comprehensive Plan goals and objectives.
- The permit is for a one and a half mile section of a six-mile-long water line.
- The water line will serve the Denver metro community at large.
- There is potential for Commerce City residents to utilize this water line route in the future.
- Due to the location of the water line within existing right-of-way there are no negative impacts anticipated.



# Approval Criteria

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- Municipal Code Sec. 22-30(b):
- (1)The applicant has obtained or will obtain all property rights, permits and approvals necessary for the project, including surface, mineral and water rights. The city council may, in its discretion, defer making a final decision on an application until all necessary property rights, permits and approvals for the project are obtained.
- (2)The applicant has the necessary expertise and financial capability to develop and operate the project consistent with all requirements and conditions.
- (3)Adequate water supplies are available for the project if applicable.
- (4)The project will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan or on or near the site.



# Approval Criteria

- Municipal Code Sec. 22-30(b):
- (5) The project will not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this section, the following aspects of the environment shall be considered:
  - a. The project will not significantly deteriorate air quality.
  - b. The project will not significantly degrade visual quality.
  - c. The project will not significantly degrade surface water quality. In determining impacts to surface water quality, the city council shall consider the following:
    - 1. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water;
    - 2. Increases in point and nonpoint source pollution loads;
    - 3. Increase in erosion;
    - 4. Increases in sediment loading to water bodies;
    - 5. Changes in stream channel or shoreline stability;
    - 6. Changes in stormwater runoff flows;
    - 7. Changes in trophic status or in eutrophication rates in lakes and reservoirs;
    - 8. Changes in the capacity or functioning of streams, lakes or reservoirs;
    - 9. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
  - d. The project will not significantly degrade groundwater quality.
  - e. The project will not significantly degrade the quality of wetlands and riparian areas.
  - f. The project will not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, the city council shall consider the following:
    - 1. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes or any other habitat features necessary for the protection and propagation of any terrestrial animals;
    - 2. Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species; and
    - 3. Changes to the aquatic and terrestrial food webs.
  - g. The project will not significantly degrade soils and geologic conditions. In determining impacts on soils and geologic conditions, the city council shall consider the following:
    - 1. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential and flood hazard areas;
    - 2. Changes to stream sedimentation, geomorphology and channel stability;
    - 3. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.



# Approval Criteria

- Municipal Code Sec. 22-30(b):
- (6)The project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
- (7)The project will not cause unreasonable loss or impairment of significant cultural resources, including but not necessarily limited to historic resources or sites and archaeological artifacts or sites.
- (8)The project or its associated transmission, collector or distribution system will not create blight or cause other nuisance factors such as excessive noise or obnoxious odors.
- (9)The project will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.
- (10)The project or its associated transmission, collector or distribution system will not create an undue financial burden on existing or future residents of the city.
- (11)The project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
- (12)The planning, design and operation of the project will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.
- (13)Construction of the project will be in compliance with all city standards and regulations governing noise, dust and traffic delays.
- (14)As to those applications for which the manager has required information on the environmental impacts and costs of alternatives under subsection 22-24(c)(9) above, the project represents the least damaging alternative of reasonable cost among the alternatives analyzed.
- (15)The project is in accordance with the Comprehensive Plan, zoning and any other applicable land use designations and requirements and any applicable intergovernmental agreement affecting land use and development.
- (16)The project represents the complete, reasonably foreseeable development for the subject property as required above, except that the city council may approve development constituting less than the complete project, provided that the applicant clearly demonstrates that a lesser development constitutes a discrete phase of the complete project as supported by the applicable master planning document required herein, which can be logically and adequately reviewed as a separate project under the applicable criteria of these regulations.



# Approval Criteria

- Municipal Code Sec. 22-66:
- 1. The project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the project, or to comply with regulatory or technological requirements. The determination of whether the project is reasonably necessary may include, but is not limited to, the following considerations:
  - a. Relationship to reasonable growth projections and local land use plans.
  - b. Relationship to other water providers' service areas.
  - c. Whether the project is not in compliance with regulatory or technological requirements or will not be in compliance in the near future.
- 2. To the extent feasible, water treatment facilities shall be consolidated with existing facilities within the area. The determination of whether consolidation is feasible shall include, but is not limited to, the following considerations:
  - a. Whether there is an opportunity for consolidation.
  - b. The environmental, financial and social feasibility of consolidation.
- 3. New domestic water treatment systems shall be constructed in areas that will result in the proper use of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities. The determination shall include, but is not limited to, the following considerations:
  - a. Relationship to reasonable growth projections and local land use plans.
  - b. Proximity to other water and wastewater providers' service areas.
- 4. The project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development. The determination shall include but is not limited to the following considerations:
  - a. Relationship of the project to approved land use plans for the area.
  - b. The environmental, financial and social impacts related to such development.





The applicant is present to speak on behalf of this request and to answer any questions.

Staff is also available to answer questions after the applicant's presentation.



# Approval Criteria

- Section 22-30 – Standards for Approval of a Permit Application:
- **1. The applicant has obtained or will obtain all property rights, permits and approvals necessary for the project, including surface, mineral and water rights. The city council may, in its discretion, defer making a final decision on an application until all necessary property rights, permits and approvals for the project are obtained.**

*The applicant has indicated that they will be pursuing all necessary permits and approvals with Commerce City as well as other entities that have interest in the proposed water line. Therefore, it can be found that this application meets Criteria (1).*

- **2. The applicant has the necessary expertise and financial capability to develop and operate the project consistent with all requirements and conditions.**

*City of Denver, City of Aurora, WISE, and other interested parties have an established regional partnership and have gone through this process with existing water lines in other areas of the state. Therefore, it can be found that this application meets Criteria (2).*

# Approval Criteria

- **3. Adequate water supplies are available for the project if applicable.**

*City of Denver and City of Aurora have indicated that there is an excess supply of water and that is the purpose of the regional partnership to allow other entities to purchase the water. Therefore, it can be found that this application meets Criteria (3).*

- **4. The project will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan or on or near the site.**

*The proposed water line is within right-of-way and will not cause any loss of agricultural lands. Therefore, it can be found that this application meets Criteria (4).*

# Approval Criteria

- **5. The project will not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this section, the following aspects of the environment shall be considered:**
  - **a. The project will not significantly deteriorate air quality.**
  - **b. The project will not significantly degrade visual quality.**
  - **c. The project will not significantly degrade surface water quality. In determining impacts to surface water quality, the city council shall consider the following:**
    - **i. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water;**
    - **ii. Increases in point and nonpoint source pollution loads;**
    - **iii. Increase in erosion;**
    - **iv. Increases in sediment loading to water bodies;**
    - **v. Changes in stream channel or shoreline stability;**
    - **vi. Changes in stormwater runoff flows;**
    - **vii. Changes in trophic status or in eutrophication rates in lakes and reservoirs;**
    - **viii. Changes in the capacity or functioning of streams, lakes or reservoirs;**
    - **ix. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.**
  - **d. The project will not significantly degrade groundwater quality.**
  - **e. The project will not significantly degrade the quality of wetlands and riparian areas.**
  - **f. The project will not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, the city council shall consider the following:**
    - **i. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes or any other habitat features necessary for the protection and propagation of any terrestrial animals;**
    - **ii. Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species; and**
    - **iii. Changes to the aquatic and terrestrial foodwebs.**
  - **g. The project will not significantly degrade soils and geologic conditions. In determining impacts on soils and geologic conditions, the city council shall consider the following:**
    - **i. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential and flood hazard areas;**
    - **ii. Changes to stream sedimentation, geomorphology and channel stability;**
    - **iii. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs;**

*The applicant provided a thorough environmental report which was reviewed by applicable referral agencies. Therefore, it can be found that this application meets Criteria (5).*



# Approval Criteria

- **6. The project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.**

*Future trails, parks, open space, and recreation opportunities will not be impacted as the proposed water line is within right-of-way. Therefore, it can be found that this application meets Criteria (6).*

- **7. The project will not cause unreasonable loss or impairment of significant cultural resources, including but not necessarily limited to historic resources or sites and archaeological artifacts or sites.**

*The right-of-way within Commerce City limits does not contain significant cultural resources. Therefore, it can be found that this application meets Criteria (7).*

# Approval Criteria

- **8. The project or its associated transmission, collector or distribution system will not create blight or cause other nuisance factors such as excessive noise or obnoxious odors.**

*The initial installation of the water line may create noise and dust but the surrounding land is vacant. Once installed the underground water lien is not expected to create a nuisance to the surrounding area. Therefore, it can be found that this application meets Criteria (8).*

- **9. The project will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.**

*The applicant conducted a number of studies that included a drainage report and soil testing. It was not found that this project will be subject to significant risk from natural hazards. Therefore, it can be found that this application meets Criteria (9).*



# Approval Criteria

- **10. The project or its associated transmission, collector or distribution system will not create an undue financial burden on existing or future residents of the city.**

*The proposed water line can potentially serve future residents of Commerce City by providing potable water to new development in the area. Therefore, it can be found that this application meets Criteria (v).*

- **11. The project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.**

*The water line will be installed below grade within existing right-of-way and will have no impact on the ability to provide services once installed. Therefore, it can be found that this application meets Criteria (11).*



# Approval Criteria

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- **12. The planning, design and operation of the project will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.**

*The water being transported through this line is excess water from City of Denver and City of Aurora to be sold and distributed to other communities in need. Therefore, it can be found that this application meets Criteria (12).*

- **13. Construction of the project will be in compliance with all city standards and regulations governing noise, dust and traffic delays.**

*The applicant will obtain all necessary permits from the Public Works Department including grading and right-of-way permits. These permits will further regulate the mitigation of noise, dust, and traffic. Therefore, it can be found that this application meets Criteria (13).*



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CITY

# Approval Criteria

- **14. As to those applications for which the manager has required information on the environmental impacts and costs of alternatives under subsection 22-24(c)(9) above, the project represents the least damaging alternative of reasonable cost among the alternatives analyzed.**

*Not applicable.*

- **15. The project is in accordance with the Comprehensive Plan, zoning and any other applicable land use designations and requirements and any applicable intergovernmental agreement affecting land use and development.**

*The proposed water line is within existing right-of-way and is in accordance with goals and policies of the Comprehensive Plan. Therefore, it can be found that this application meets Criteria (15).*

# Approval Criteria

- **16. The project represents the complete, reasonably foreseeable development for the subject property as required above, except that the city council may approve development constituting less than the complete project, provided that the Applicant clearly demonstrates that a lesser development constitutes a discrete phase of the complete project as supported by the applicable master planning document required herein, which can be logically and adequately reviewed as a separate project under the applicable criteria of these regulations.**

*The proposed water line within Commerce City limits is one section of the 6 mile line that extends to Denver International Airport. For the purpose of this permit, the 1.5 mile stretch within Commerce City is the complete project. Therefore, it can be found that this application meets Criteria (16).*

# Approval Criteria

- Section 22-66 – Additional permit-approval criteria applicable to major new domestic water treatment systems and major extensions of such systems:
- **1. The project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the project, or to comply with regulatory or technological requirements. The determination of whether the project is reasonably necessary may include, but is not limited to, the following considerations:**
  - **a. Relationship to reasonable growth projections and local land use plans.**
  - **b. Relationship to other water providers' service areas.**
  - **c. Whether the project is not in compliance with regulatory or technological requirements or will not be in compliance in the near future.**
- *The water being transported through this line is excess water from City of Denver and City of Aurora to be sold and distributed to other communities in need. The line can also potentially serve future residential development in Commerce City. Therefore, it can be found that this application meets Criteria (1).*



# Approval Criteria

- Section 22-66 – Additional permit-approval criteria applicable to major new domestic water treatment systems and major extensions of such systems:
- **2. To the extent feasible, water treatment facilities shall be consolidated with existing facilities within the area. The determination of whether consolidation is feasible shall include, but is not limited to, the following considerations:**
  - **a. Whether there is an opportunity for consolidation.**
  - **b. The environmental, financial and social feasibility of consolidation.**
- *The water line connects to an existing pump station located at 19900 E 96th Ave and extends to other existing systems that will serve communities within the South Metro Water Supply Authority. Therefore, it can be found that this application meets Criteria (2).*

# Approval Criteria

- Section 22-66 – Additional permit-approval criteria applicable to major new domestic water treatment systems and major extensions of such systems:
- **3. New domestic water treatment systems shall be constructed in areas that will result in the proper use of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities. The determination shall include, but is not limited to, the following considerations:**
  - **a. Relationship to reasonable growth projections and local land use plans.**
  - **b. Proximity to other water and wastewater providers' service areas.**
- *The water line connects to an existing pump station located at 19900 E 96th Ave and extends to other existing systems that will serve communities within the South Metro Water Supply Authority. Therefore, it can be found that this application meets Criteria (3).*

# Approval Criteria

- Section 22-66 – Additional permit-approval criteria applicable to major new domestic water treatment systems and major extensions of such systems:
- **4. The project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development. The determination shall include but is not limited to the following considerations:**
  - **a. Relationship of the project to approved land use plans for the area.**
  - **b. The environmental, financial and social impacts related to such development.**
- *The surrounding area is currently vacant but future growth and development will have the potential opportunity to utilize this water line for potable water. Therefore, it can be found that this application meets Criteria (4).*