



# STAFF REPORT

## Planning Commission

### CASE #CU-97-12

<b>PC Date:</b>	Tuesday, September 4, 2012	<b>Case Planner:</b>	Steve Timms
<b>CC Date:</b>	Monday, October 1, 2012		
<b>Location:</b>	The proposed route generally originates in Commerce City at East 64th Avenue and the South Platte River. The route proceeds north and east to Brighton Road and U.S. Highway 6 until it branches into several possible routes between East 84th and East 88th Avenues. The route then continues north and east on Highway 2 and E. 96th Avenue where several alternative routes exist between East 96th Avenue and East 104th Avenue. The proposed route exits Commerce City east of E-470 and heads north towards Barr Lake.		
<b>Applicant:</b>	Public Service Company of CO	<b>Owner:</b>	Public Service Company of CO
<b>Address:</b>	1123 W 3 <sup>rd</sup> Avenue, Denver, CO 80223	<b>Address:</b>	1123 W 3 <sup>rd</sup> Avenue, Denver, CO 80223

### Case Summary

<b>Request:</b>	Public Service Company of Colorado requests approval of a Conditional Use Permit for a natural gas underground transmission pipeline as part of the Cherokee Pipeline Project, as mandated by state law. The map of the proposed alignment can be seen on the back of this sheet. Also, complete information about the project can be found on the following website: <a href="http://www.xcelenergycherokeepipeline.com">www.xcelenergycherokeepipeline.com</a>
<b>Project Description:</b>	The proposed project would consist of construction and operation of an approximately 34-mile long, 24-inch diameter steel, natural gas transmission pipeline, which would run from Fort Lupton to the Cherokee Generating Station in Adams County.
<b>Issues/Concerns:</b>	Pipeline alignment, impacts to the surrounding area, and safety.
<b>Staff Recommendation:</b>	Approval with Conditions
<b>Current Zone District:</b>	Various
<b>Comp Plan Designation:</b>	Various

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

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Overview Map               |
| <input checked="" type="checkbox"/> Alignment and Detail Sheets   | <input checked="" type="checkbox"/> Information Boards         |
| <input checked="" type="checkbox"/> Comparison of Route Segments  | <input checked="" type="checkbox"/> School District 27J Letter |
| <input checked="" type="checkbox"/> Plan and Profile Drawings     |  |

## Background Information

### **Location of Proposed Pipeline:**

As described in the attached Exhibit A, the proposed route consists of the following segments: 1, 5, 9, 12, 13, 18, 19, 26, 29, and 32.

The proposed route follows route segment 1, which originates at the Cherokee Generating Station along York Street and the South Platte River. It proceeds north and east, paralleling the existing PSCo-owned transmission line as it exits the generating station site. It crosses the South Platte River and Interstate 270 as it proceeds west, where it parallels East 64<sup>th</sup> Avenue, then continues northeast and parallels Colorado Highway 265/Brighton Road. It then follows route segment 5 to the north and parallels US-6 on the eastern side of the highway.

The proposed route continues to the east and parallels Brighton Road as it branches off US-6, where it follows route segment 9. It then follows route segments 12 and 13 east along East 84th Avenue to Colorado Highway 2. It parallels the northern side of East 84th Avenue and crosses the Union Pacific Railroad and continues east through the Irondale area. It crosses Colorado Highway 2 and follows route segment 19, which parallels the eastern side of the highway toward the northeast within the 100-foot Colorado Department of Transportation (CDOT) transportation corridor between Colorado Highway 2 and the Refuge boundary.

The proposed route proceeds east along the southern side of East 96th Avenue and the northern boundary of the Refuge.

The proposed route follows segment 26 as it parallels East 96th Avenue. It follows route segment 27 and crosses under East 96th Avenue and parallels a half-section line approximately 0.5 mile west of Potomac Street.

The proposed route is located in the dedicated ROW for a PSCo-owned transmission line along route segment 29. The route proceeds east in the transmission line ROW and crosses under E-470 as it follows segment 32. It parallels the transmission line within the PSCo-owned dedicated ROW along route segment 33 out of Commerce City.

### **Alternative Routes in Commerce City**

As described in the Route Selection Report, the alternative routes utilize a similar alignment as the proposed route, described in this section, but have different segments along Brighton Road, the Union Pacific Railroad ROW, East 88th Avenue, and East 96th Avenue. This discussion focuses on the route analysis for segments located in Commerce City along Brighton Road, the Union Pacific Railroad ROW, East 88th Avenue, and East 96th Avenue, which are represented as segments 14, 15, 16, 17, 26, 27, 28, 30, and 31. The alternative along Brighton Road, alternative segment 14, begins at East 84<sup>th</sup> Avenue and continues north along Brighton Road more than the preferred route does to the north to East 88th Avenue along segment 14. Alternative route segment 16 utilizes the Union Pacific Railroad ROW. The alternative route segment begins at the intersection of East 84th Avenue and the Union Pacific Railroad and parallels the railroad. The segment is located in private land just outside of the ROW. This segment would connect to segment 17 at the intersection of the Union Pacific Railroad and East 88th Avenue.

The alternative along East 88th Avenue, alternative segments 15 and 17, begins at the intersection of Brighton Road and East 88th Avenue, proceeds east and parallels East 88th Avenue on the northern side of the road. These segments follow East 88th Avenue on the northern side of the road along private land and cross a canal and the Union Pacific Railroad.

The alternative route segment along East 96th Avenue, segment 28, remains on East 96th Avenue after Potomac Street until it reaches Tower Road. Alternative route segment 30 turns north at Tower Road and East 96th Avenue, and would connect the alternative to the proposed route in the existing transmission line ROW just south of East 104th Avenue. Alternative route segment 31 continues east along East 96th Avenue past E-470 before turning north. Segment 27 would parallel Potomac Street between East 96th Avenue and 104th Avenue.

A more detailed plan and profile of the pipeline alignment can be seen in Exhibits A and B.

**Zoning along Route and Reason for Conditional Use Permit:**

The proposed pipeline route crosses the Commerce City Agricultural District (AG), Light Intensity Industrial District (I-1), Medium Intensity Industrial District (I-2), Heavy Intensity Industrial District (I-3), General Commercial District (C-2), and Planned Unit Development (PUD) zone districts in Commerce City. Under the Land Use Table, found within Article V of the LDC, a public utility installation is allowed with a Conditional Use Permit in all Commerce City zone districts. In addition, support activities for oil and gas operations, including pipelines, are allowed in all Commerce City zone districts with a Conditional use Permit - hence, the need for this application and review.

**Site Attributes and Surrounding Area:**

Existing land use in the Commerce City project area is varied and includes a mix of residential, commercial, parks/open space, and industrial land uses. The preferred route crosses in proximity to planned unit development areas and parallels existing roads, railroads, utility lines, and natural gas pipelines. The character of the surrounding area in the southern part of the proposed route is highly developed with a combination of industrial, commercial, and residential and transitions to master planned communities and more open space as the pipeline continues to the north and east towards the airport and Barr Lake.

## Applicant's Request

**Project Description:**

Public Service Company is proposing to construct the Cherokee Natural Gas Pipeline Project, an approximately 34-mile long, 24-inch diameter steel natural gas transmission pipeline. The proposed project would be constructed between a new gas metering facility in Fort Lupton (Fort Lupton facility) and the Cherokee Generating Station (Cherokee Station) north of Denver in unincorporated Adams County, Colorado. A gas metering facility would be constructed in unincorporated Weld County and at Cherokee Station in unincorporated Adams County. No gas metering facilities are proposed within Commerce City.

In spring 2010, the Colorado state legislature enacted the Clean Air-Clean Jobs Act, which requires regulated utilities, including PSCo, to reduce emissions from coal-fired power plants. It was prompted in part by the likely possibility of federal intervention into air regulation in the Denver-metropolitan area due to non-compliance with multiple pending air mandates. This Act requires the early retirement of the coal-fired power generator at the Cherokee Generating Station and replaces it with natural gas-generated electricity.

The project area for the natural gas pipeline was defined based on the location of the pipeline endpoints. The routing process consisted of an opportunities and constraints analysis, route refinement, preferred and alternative route selection, and public outreach. The input received during

the public outreach was used to broaden or narrow the scope of the evaluation criteria by Public Service Company of Colorado (PSCo) in the opportunities and constraints and comparative analysis.

The opportunity and constraints analysis, field reconnaissance, municipal staff route review, the comparative route matrix, input from public outreach, and future land use considerations were all factors in helping to determine the preferred and alternative routes. A full analysis of the alternative segments in Commerce City is contained within Exhibit D.

**Other Jurisdictions Affected:**

The following jurisdictions are also reviewing this pipeline through their own special use permit processes. They include Weld County, Adams County, and the city of Brighton. As of the date of this report, only Weld County has approved their portion of the pipeline. Adams County has this case scheduled for Planning Commission in September and the Board of County Commissioners in October. The city of Brighton is under a similar schedule, with hearing and approval scheduled for the fall.

## Development Review Team Analysis

Because of the unique nature of this application and project, the analysis is organized into smaller sub-categories with a brief description. Full descriptions of each of these items can be found within the overall narrative summary and operation description submitted by the applicant.

**Physical Site Characteristics Statistics:**

Item	Proposed
Total Approximate Pipeline Length	34 miles
Approximate Pipeline Length in City	12 miles
Pipeline Outside Diameter	24 inches
Approximate Width of Construction	50 feet of permanent ROW
Approximate Depth of Pipeline Trench	70 inches
Approximate Width of Pipeline Trench	36 inches
Pipeline Cover Depth	48 inches
Proposed Pipeline in Existing ROW or Utility Easements	Over 70%

The proposed pipeline route through Commerce City is significant at approximately 12 miles in length. This length is due to the unique shape of Commerce City, the location of the Wildlife Refuge, and the end point terminus. Permanent right-of-way (ROW) that would be required for the proposed project is 50 feet (25 feet on each side of the pipeline). An additional 50 feet of temporary ROW would be required for pipeline construction. These numbers seem to be standard and customary for pipeline projects of this nature. After construction, no new permanent buildings or structures will be allowed directly over the pipeline. Roadways, sidewalks, trails, grasses, and shrubs will all be allowed over the pipeline.

In addition to the ROW referenced above, Public Service Company is requesting that Commerce City, via this Conditional Use Permit, allow small changes to the pipeline alignment within 100-300 feet on either side of the proposed natural gas pipeline centerline to accommodate unforeseen locational difficulties. In areas where there is greater development, this additional distance is smaller (100 feet).

In industrial or open space areas, this distance is larger (300 feet). This buffer is shown on the attached alignment sheets (Exhibit B). Public Service Company and the City believe that the buffer of 100 to 300 feet is sufficient to allow Public Service Company to slightly modify the alignment of the natural gas pipeline to the opposite side of a street, in certain locations if necessary, without coming before the Planning Commission and City Council for approval. It is not the intent of Public Service Company, via this request, to condemn property or actively move the proposed pipeline under existing buildings. Any movement of the pipeline would still necessitate acquiring easements and approvals from property owners.

**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>
<b>EC 6.4</b>	Industry Air Emissions	Strive to make improvements in air quality by coordinating with existing businesses to improve air emissions. The City will emphasize attraction of clean, non-polluting businesses and work to retain clean industries in the city.
<b><u>Analysis:</u></b>	An important requirement of this project is air emission reductions of harmful chemicals in the air. This pipeline will help to lower harmful air emissions for residents and property owners within Commerce City.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
<b>PF 1.8</b>	Electric Providers	Coordinate with electric providers (United Power and Xcel Energy) to provide service as growth occurs).
<b><u>Analysis:</u></b>	This project has been an effective coordination between the City and Public Service Company. This pipeline will help to allow for future growth for Commerce City, its residents, and its businesses.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
<b>FS 1.7</b>	Partner with Water District/ Other Utilities	Coordinate with the utility districts to align goals and plan for future development and growth that is consistent with the Future Land Use Plan, avoiding restrictions on desirable development patterns, such as infill.
<b><u>Analysis:</u></b>	This particular project highlighted the collaboration between Public Service Company and Commerce City. The future land use plan, future roadway networks, and current and future developments were all taken into account for this proposed alignment of the pipeline.	

**Pipeline Crossings:**

Along the 13-mile stretch through Commerce City, 38 road, railroad, utility ditch, or waterbody crossings are required for the pipeline in Commerce City. The vegetation along the proposed project consists mainly of planted grass, agricultural fields, or native seed areas. Most of the alignment of the pipeline will be in areas where the land was already cleared, since the pipeline runs within existing easements, right-of-way, or power line property. Once construction in the area is completed, the right-of-way will be reseeded and monitored until final site stabilization has been achieved in accordance with the requirements of the City and state.

Diagrams of the boring and open trench methods can be seen in Exhibit E.

**Creek and Drainage Crossings:**

<b>Crossing #</b>	<b>Name</b>	<b>Crossing Method</b>
1	First Creek	Boring
2	Second Creek	Open Cut
3	Sand Creek	Boring
4	South Platte River	Boring
5	O’Brian Canal	Boring

The pipeline route crosses several creeks and waterways through Commerce City. The applicant states that the pipeline construction will be returned to preconstruction contours to allow for natural flow of any creeks. In addition, there may be needed a special groundwater management plan along First Creek, since First Creek contains the highest concentration of pollutants from the Wildlife Refuge. A special condition has been added to address this concern. In addition, City-approved floodplain permits will be required for any construction activity within a city floodplain. A condition has been added to reflect this requirement.

**Railroad Crossings:**

The proposed project would cross both the Union Pacific (UP) and Burlington Northern (BNSF) railroads. Each railroad would be bored to the appropriate depth, to minimize any disruptions or impacts. The railroads have not expressed any objection or comments to this proposal.

**Highway Crossings:**

Each state highway would be bored to the appropriate depth to minimize any disruptions or impacts. A pavement repair/restoration work zone would follow the natural gas pipeline construction and would begin approximately one week following the initiation of natural gas pipeline construction. All pavement damaged by open-cut crossings would be restored to meet existing conditions. Boring underneath roads would comply with CDOT regulations. A condition has been added to ensure that proper CDOT permits are obtained prior to construction activity.

**Access:**

Access to the proposed project would be from private PSCo owned easements and fee-owned land, private land, and county and state thoroughfares along the length of the natural gas pipeline. A temporary access road may be constructed within the temporary 50-foot wide construction easement if an existing access road does not already exist. The pipeline is proposed within a combination of private roadway easement and public road right-of-way, which will provide necessary access for required maintenance, repair, or replacement of the proposed facilities.

**Drainage and Erosion Control:**

The implementation of standard construction and erosion and sedimentation control practices would ensure the minimization of impacts to waterbodies from increased turbidity, salinity, and sedimentation. A stormwater management plan (SWMP) would be developed and implemented as a part of the grading permit to minimize erosion and prevent sediment input to waterbodies. The Commerce City Engineering Division has indicated that a Grading, Erosion, and Sediment Control plan, report, and permit is necessary for review and approval prior to the commencement of any construction activity. A condition has been placed on this application to accommodate this request.

**Provision of Services:**

**FIRE PROTECTION:** South Adams County Fire Protection District provides fire fighting to this affected area. The fire district has not indicated any opposition to this particular request.

**POLICE PROTECTION:** The Commerce City Police Department provides emergency services to this affected area. Both the police department and the office of emergency management are aware of this application and will require a copy of the approved emergency mitigation plan as a condition of application approval.

**WATER AND SANITATION:** The affected area is located within the South Adams County Water and Sanitation District. No water or sanitation service demands are generated by the proposed project. There will be coordination between PSCo and the water district with placement of utility lines and negotiating easements.

**OTHER UTILITIES:** Utility service providers in this area are Xcel Energy (Gas and Electric), United Power (Electric), Century Link (telephone), and Comcast (cable). United Power provided no comment on the application. The City did not receive a response from either Century Link or Comcast at the time this staff report was written.

**Public Notice and Input:**

In December 2011, 4 open houses were held and Public Service Company invited everyone within 750 feet of the proposed pipeline to hear a presentation about the company and an overview of the proposed pipeline and material within the pipeline. In addition, the public was given a chance to ask specific questions and give public feedback. Approximately 56 members of the public and government representatives attended the four open houses. The open houses included the following locations: (1) Brighton Recreation Center; (2) Otho Stuart Middle School in Commerce City; (3) Commerce City Recreation Center; and (4) Fort Lupton Recreation Center. Approximately 5,273 property owners were notified of these meetings. Additional information has been made available via the website.

Landowners within this area have been informed of the proposed project and will continue to be informed of any project changes. Public Service Company took these open houses very seriously and analyzed the feedback received. In several cases, changes were made to the proposed alignment as a result of feedback received at these open houses.

**Oversight of Governmental Agencies:**

There are many agencies that provide regulations for a pipeline of this nature. All of these agencies help to ensure the safest, best project possible with the least impacts to the surrounding areas. The following list highlights many of the federal, state, and local agencies that regulate this particular project:

- US Department of Transportation
- US Army Corps of Engineers
- US Fish and Wildlife Service
- Colorado Parks and Wildlife
- Colorado Department of Public Health and Environment Air Pollution Control Division
- CDPHE Water Quality Control Division

- Colorado Office of Archaeology and Historic Preservation
- Colorado Department of Transportation
- Colorado State Board of Land Commissioners
- City of Commerce City
- Adams County
- Weld County
- City of Brighton

**Promixity to Schools:**

During the route selection process, more than 70 different end-to-end route combinations were examined, and approximately half of the end-to-end routes were eliminated because of engineering constraints or proximity to residences and schools. No schools are located within 600 feet of the proposed route. The nearest school to this proposed project is the Otho Stuart Middle School located just south of the proposed alignment. School District 27J has been actively involved throughout this entire pipeline alignment process and believes they can continue to provide an effective teaching environment at Otho Stuart Middle School with the proposed pipeline alignment. Continued coordination between Public Service Company and School District 27J is essential, and a condition of approval describes one aspect of ongoing coordination. A letter of no objection from School District 27J is included as Exhibit F.

**Rocky Mountain Arsenal National Wildlife Refuge:**

Construction in proximity to the Refuge will not result in the potential for the public to be exposed to hazardous materials once used at the Refuge. A condition to perform a groundwater management plan around First Creek has been added to the conditions for extra safety.

**Above-Ground Structures:**

With the exception of the two valve sets constructed above-ground and the pipeline markers placed along the ROW and on top of the proposed alignment, the proposed project would be buried entirely underground. Upon completion of the construction and revegetation, ground disturbance and the introduction of the above-ground appurtenances would not be noticeable to the casual observer.

Pipeline markers will be placed approximately every 500 feet, or in-line of sight, on both sides of road, water, and railroad crossings, and at all changes in direction. The pipeline markers will be approximately four-feet tall.

**Valve Sets:**

Since the pipeline is underground, screening is inherently not needed. The only locations where the pipeline will be above ground will be at select valve set stations, located at approximately East 103<sup>rd</sup> Avenue and Tower Road and East 96<sup>th</sup> Avenue and Highway 2. The height of the valve set stations will be no greater than eight feet. The applicant indicates that, under normal conditions, no noise will result from the valve set station.

**Lighting:**

The applicant indicates that there is no lighting proposed for the valve set areas or along the pipeline route.

### **Noise.**

The applicant has indicated that there will be some noise generated during the installation of the pipeline, and is not expected to exceed 80 dBA. According to Commerce City Unreasonable Noise Regulations, construction equipment operating between the hours of 7 a.m. and 8 p.m., is an exemption to the noise requirements.

The proposed 24-inch natural gas pipeline would be buried underground. No noise is expected to be generated by the natural gas pipeline or valve sets during operation. The following mitigation measures would reduce the potential for temporary adverse noise impacts during construction. They include the following:

- Implementing a complaint resolution program whereby residents can contact PSCo directly with their noise concerns. Throughout construction and operation of the proposed Project, PSCo would document, investigate, and attempt to resolve legitimate project-related noise complaints.
- Landowners who may be directly impacted along the ROW would be notified prior to noisy construction activities.
- Coordinate construction vehicle travel to reduce the number of passes by sensitive receptors.
- Noisy construction activity, which causes off-site annoyance as evidenced by the filing of a legitimate noise complaint, would be restricted to daytime hours (i.e., 7 a.m. to 7 p.m.) unless construction during nighttime hours is requested by PSCo.
- All internal combustion engines would be fitted with appropriate muffler systems.

A condition has been added to reflect noise mitigation procedures.

### **Odors:**

It is not anticipated that objectionable or offensive odors will be generated by the proposed project after the construction phase. Occasionally, after construction and during long-term project maintenance, mercaptan odors may be noticeable. Mercaptan is the chemical injected into the natural gas product that produces a sulfurous ("rotten egg" odor) as a safety measure required by federal regulation. During operation of the pipeline, if a leak happened, it would be detected via the 24-hour monitoring of the pipeline.

### **Dust/Air Pollution:**

Dust suppression would be conducted during construction. Water for dust suppression would be obtained from municipal sources. Given the short term nature of the impacts to air quality, via the construction process, cumulative impacts are not anticipated. PSCo is obtaining a General Construction Permit from CDPHE, and preparing a fugitive dust plan and air pollutant emission notice (APEN). A condition has been added to address this.

### **Landscaping:**

Areas affected by construction activities would be reclaimed, but no additional landscaping is proposed as a part of the project. Trees and shrubs removed from City parks and medians, during the course of construction, would be replanted. The applicant has agreed to follow the weed management and revegetation plan contained within their application. A condition has been added to reflect this.

### **Construction:**

The use of a construction “spread” would be used to install the pipeline. A construction spread is a group of construction equipment that moves along the pipeline route, sequentially clearing, trenching, laying in pipe, filling and cleaning up. A pipeline construction spread, composed of units, would be organized to generally proceed with the work in the order listed below:

- Pre-construction activity.
- Ditching.
- Hauling and stringing the line pipe.
- Pipe bending, line-up, and welding.
- Weld inspection.
- Applying protective coating to the weld joints.
- Lowering and tying in.
- Backfilling and compaction.
- Hydrostatic testing.
- Right-of-way cleanup and street resurfacing.

Highway, railroad, and creek/drainage crossings, valve sets, and street intersections would require additional construction crews supporting the spread construction group. The pipeline would be installed with a minimum of 48 inches of cover to meet federal regulations.

Pipeline construction is estimated to proceed at a fairly quick rate, with an overall construction time line of approximately 1 year to 18 months. All construction work would be coordinated with local police, traffic engineers, and an approved Traffic Control Plan. Construction of the proposed project would take place between the hours of 7 a.m. and 7 p.m., 6 days a week (Monday through Saturday) and would be in conformance with Section 6-2011 – Unreasonable Noise (of the Commerce City Revised Municipal Code).

An approximate construction sequencing schedule for the entire natural gas pipeline is as follows:

- Boring 2012-2013
- Trenching beginning winter/spring 2014
- Construction of natural gas pipeline and valve sets and surface restoration through summer 2014
- Hydrostatic testing and commissioning September 2014
- In service October 2014
- In-service date for the first natural gas combined cycle unit at the Cherokee Station- 2015

### **Staging Areas:**

Approximately five temporary staging areas are proposed to be constructed in or near Commerce City. Staging areas would be approximately 10 to 15 acres in size and would be revegetated according to proceed outlined in the Weed Management and Revegetation Plan. These temporary staging areas may hold up to six construction trailers each. In addition to the construction trailers, the temporary staging areas would include the following:

- Up to six covered and closed portable metal containers to hold valves, fittings, and other miscellaneous natural gas pipeline materials

- Limited parking for employees
- Portable toilets
- Pipe
- Construction equipment
- Gas cylinders

These staging areas would be fenced with a temporary six-foot tall chain link fence around the perimeter. No permanent buildings, lighting, fencing, or other structures would be constructed. A condition has been added to reflect these temporary staging areas and their associated construction trailers.

In addition, the proposed project would require the use of approximately 55 temporary use areas located along the natural gas pipeline alignment in Commerce City as shown on the alignment sheets (Exhibit B). Temporary Use Areas are small areas of land (less than 1 acre in size) that would be used for staging boring and open trenching, spoils, and pipe staging. The total area for the Temporary Use Areas is approximately 14 acres. The following table shows the acreage for the permanent and temporary ROW, staging areas, and TUA's:

<b>Project Component</b>	<b>Approximate Acreage</b>
Permanent ROW	60 acres
Temporary ROW	47 acres
Staging Areas	31 acres
Temporary Use Areas	14 acres

PSCo would provide Commerce City with letters from the property owners stating that they have entered into an agreement with PSCo for temporary use of the land, for staging areas, and TUAs, prior to construction. This has been added as a condition of approval.

**Traffic Control:**

PSCo will be contracting with a professional traffic control company to ensure that vehicular (cars, trucks, and school buses) and pedestrian traffic is properly managed around the active construction site as the installation progresses. This will be coordinated with the City's Engineering Division as a part of the traffic control plan.

**Adverse Impacts:**

Other than the temporary inconvenience due to noise and exhaust generated by the equipment necessary to dig trenches, install the new pipeline, backfill, restoration and road crossing borings, as well as traffic control during the gas pipeline installation process, it is not anticipated that the proposed project will adversely impact the use or enjoyment of adjacent lands.

**Protection of Future Economic Development in Commerce City:**

The proposed project has been reviewed by the City's Economic Development Division to ensure that the pipeline alignment would not impede future economic development in Commerce City.

**Pipeline Safety Features, Operations, and Leak Detection:**

According to the United States Department of Transportation, which oversees pipeline safety and regulations throughout the United States, pipelines are considered safer than ever before as a result

of better materials and testing methods in which to verify integrity of the pipeline. The applicant has indicated that the pipeline has been designed, will be installed, tested, operated, and maintained to meet or exceed regulatory standards established by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation. Public Service Company is in the process of generating a specific Emergency Response Procedures Manual for the pipeline. It has been conditioned that the City and Fire District will receive a copy of this manual prior to the completion of construction for the pipeline. In addition, the applicant has submitted incident reports over the past several years indicating a high safety level of operations for the company.

Safety measures along this pipeline would include extra mainline valves, all of which are to be remote controlled, and continuous teleetered monitoring of the pipeline and all facility operations by PSCo's manned Gas Control Center. During pipeline installation, PSCo would install a corrosion prevention system designed to eliminate metal loss during the life of the pipeline, and a third party would x-ray all pipe welds to verify their integrity prior to the pipe being lowered into the trench. Before the pipeline is put into service, it would undergo hydrostatic pressure testing where it would be filled with water and tested at a pressure 1.5 times the design maximum allowable operating pressure (MAOP) that it would operate under to transmit the natural gas. This process verifies that there are no leaks.

PSCo would also conduct a baseline inline inspection (ILI) of the entire pipeline as reference for future ILI runs to be conducted as part of the PSCo's ongoing Integrity Management Program.

After being put into service, the pipeline would be patrolled on annual, semi-annual, and quarterly intervals to check for leaks and cathodic protection (CP) levels. The entire structural integrity of the pipeline would be inspected at least every 7 years with ILI tools such as pipeline inspection gauges or "smart pigs."

To avoid third-party damage, PSCo designed the natural gas pipeline route so that the majority of the route would be located within existing PSCo transmission line, natural gas pipeline easements, or fee-owned land to reduce the probability that individuals would damage the pipe with ground-disturbing activities. A complete description of all the various safety components of this particular pipeline can be found in the applicant's narrative (Exhibit C).

**Project Alternatives:**

An important part of this project was the comparison between the pipeline alignment along East 104<sup>th</sup> Avenue and along East 96<sup>th</sup> Avenue. This comparison looked at a data matrix comparing key data along the proposed route segments. The matrix compared data such as the length paralleling existing linear features, length crossing PSCo fee-owned land and PSCo easements, number of residences in proximity to route segments, land cover and land use, water crossings, biological resources, soil erodibility, and cultural resources across all routes. Based on these criteria, routes were evaluated East 96<sup>th</sup> Avenue alternative.

PSCo has evaluated the preferred route and many alternatives and recommends the preferred route along the electrical utility easements south of East 104<sup>th</sup> Avenue, because it is constructible, meets the project objectives, and is within PSCo's vision, mission, and values. The preferred route (1) utilizes existing PSCo fee-owned land, thereby reducing exposure to third-party damage; (2) is less likely to be relocated when compared to the East 96<sup>th</sup> Avenue alternative; (3) considers future land use planning issues; and (4) was ranked higher in the comparative matrix. Further analysis between the different alternatives can be found in Exhibit D.

**Summary:**

Staff has evaluated all of the information above, the applicant's proposal, request, and application materials, referral and agency comments, and public input associated with this request. In addition, staff has reviewed the project against the Comprehensive Plan and City's Land Development Code, specifically as it relates to findings for the granting or denial of a Conditional Use Permit. In staff's assessment, the proposed location and alignment may be supported, as subject to the proposed conditions and any additional information that may be presented at the Planning Commission meeting. In particular, as it relates to the corridor distinctions between East 96<sup>th</sup> Avenue and East 104<sup>th</sup> Avenue, staff is supportive of the East 104<sup>th</sup> Avenue alignment for the following reasons:

- 1) PSCo owned land exists within this corridor. This land is already encumbered by a gas pipeline. Strictly from a safety perspective, the proposed pipeline will be safer installed in land in which the applicant owns, rather than land where they are only a holder of a third-party easement.
- 2) The East 96<sup>th</sup> Avenue and Tower Road alignments may be more inclined to negatively impact future ED prospects. By requiring a 50-foot easement, there may be stretches of arterials that would be unbuildable and unattractive, which may negatively impact new development.
- 3) Both East 96<sup>th</sup> Avenue and Tower Road will need to be widened at some point in the future. When these streets are widened, the proposed pipeline may be relocated at a greater cost to the City and the applicant. In addition, through this construction activity, there is a greater risk of damage to the pipeline.
- 4) There are two school sites planned (a high school along East 96<sup>th</sup> Avenue and Otho Stuart Middle School along East 104<sup>th</sup> Avenue). The presence of a high school, with a greater student population and increased vehicular activity, renders the East 96<sup>th</sup> Avenue pipeline alignment less attractive from a school perspective.
- 5) Based on the information provided, staff feels confident in the safety aspects of this pipeline and believes that there is no greater concern for the East 104<sup>th</sup> Avenue alignment than there is for an East 96<sup>th</sup> Avenue alignment. In fact, there is probably less of a safety concern for East 104<sup>th</sup> Avenue, based on all factors referenced in this report.

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
X	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;	This is an underground pipeline and will not be noticeable to the general public. Once operational, there should be no negative changes to traffic, parking, public improvements, etc. Because much of the alignment already contains utilities, public ROW, or pipelines, there should not be a substantial or undue adverse effect on adjacent property.
X	The proposed use may result in an adverse effect but such adverse effect has been or will be mitigated to the maximum extent feasible;	The applicant has worked hard to minimize the potential adverse impacts of the project by utilizing existing utility corridors, ROW, and other already encumbered areas. The applicant has also worked hard to create as few disruptions as possible during construction.
X	The characteristics of the site are suitable for the proposed use;	The project alignment is large enough to accommodate all of the various aspects of the project. Special attention has been placed on utilizing sites and alignments with few or no impacts and on alignments that are already encumbered by other utilities and pipelines.
X	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 site has been reviewed by all utility and emergency operations and departments who fully expect to be able to service this project effectively. There has been no indication that this project would pose an undue burden on any of these departments or utilities.
X	The applicant has provided adequate assurances of continuing maintenance;	The applicant's site is well maintained and there have been no issues with the applicant maintaining their site. They are an established business in Colorado and Commerce City and take their ongoing maintenance and safety very seriously.
X	No evidence suggests that the use violates any federal, state, or local requirements.	Not only did staff did not receive any comments to suggest that the applicant is anything other than compliant with all federal, state, and local requirements, this particular project has numerous levels of oversight and requirements from the local, state, and federal levels.
X	The proposed use complies with the general purposes, goals, objectives, policies, and standards of all City plans, programs, and ordinances;	The proposed project would comply with the Comprehensive Plan in the areas of Economic Development, Transportation, Open Space and Recreation, and Environmental Conservation. The proposed project would result in net economic benefits through construction. future open space and trail construction, a potential lessening of rail traffic, improved air quality, and less truck traffic carrying coal and related uses. With the approval of the Conditional Use Permit the use will be compliant with the land development code.

## Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a 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 conditions:

**Note: The recommended conditions are found on a subsequent page. The final recommended conditions will be placed before Planning Commission on the evening of the hearing.**

### **\*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 project alignment identified on Exhibit A and labeled as the “proposed pipeline route”, contained in case **CU-97-12** 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 found on the following page of this staff report:

### **Alternative Motions**

#### ***To recommend approval with alternative route:***

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the project alignment identified on Exhibit A and labeled as the “proposed pipeline route”, with the following alternative pipeline route changes including \_\_\_\_\_, contained in case CU-97-12, meets the criteria of the Land Development Code for a conditional use permit and, based upon such finding, recommend that the City Council approve the Conditional Use Permit for such amended alignment subject to the following conditions found on the following page of this staff report:

#### ***To recommend denial:***

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the project alignment identified on Exhibit A and labeled as the “proposed pipeline route”, contained in case CU-97-12 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.

## **CONDITIONS:**

- A. This Conditional Use Permit is approved for the applicant, Public Service Company of Colorado. However, a right of assignment is hereby expressly permitted for another operator to maintain and operate this natural gas pipeline.
- B. The location and route of this Conditional Use Permit is contained within Exhibit A of this report. Unless otherwise authorized, the approved location and route shall be limited to only the primary route and its boundary contained within Exhibit A. Any alterations of the location or route of this pipeline outside of the approved location will require an amendment to this Conditional Use Permit.
- C. Any change in contents of this pipeline (other forms of gas, liquids, solids, etc., for example) other than natural gas will require an amendment to this Conditional Use Permit.
- D. The applicant is permitted up to six temporary construction trailers in each staging area. Prior to commencing pipeline construction within Commerce City, the applicant shall obtain all required temporary use permits and building permits for these locations and structures.
- E. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved traffic control plan from the Commerce City Engineering Division.
- F. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved issuing grading permit from the Commerce City Engineering Division. The grading permit application shall meet all requirements set forth in the Commerce City Engineering Division's *Engineering Construction Standards and Specifications*.
- G. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division, the City's emergency operations center, and the local fire district, a copy of an approved emergency response plan. This plan is to be kept up-to-date, and the applicant shall notify the agencies previously listed when a change is made to this plan.
- H. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved groundwater management plan for First Creek, with review from county and state health departments, as applicable.
- I. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved issuing agreement from the Commerce City Engineering Division regarding a license agreement for all locations of the pipeline that will be located within Commerce City rights-of-way.
- J. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division evidence of an Air Pollution Emission Notice (APEN) application from the Air Pollution Control Division, Colorado Department of Health and Environment, and also a fugitive dust plan. Alternately, the applicant can provide evidence from the APCD that they are not subject to these requirements.
- K. Prior to commencing pipeline construction within Commerce City, a City approved floodplain permit shall be issued for each section of pipeline found within a Commerce City floodplain.
- L. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved issuing permit from the E- 470 Public Highway Authority for those sections of pipeline within Commerce City.
- M. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved issuing easement from the Farmers Reservoir and Irrigation Company for those sections of pipeline within Commerce City.

- N. Prior to commencing pipeline construction within Commerce City, the applicant shall furnish to the Planning Division a copy of an approved issuing permit from CDOT for those sections of pipeline within Commerce City.
- O. Prior to commencing pipeline construction within Commerce City, a copy of the signed and recorded (construction and post-construction) lease agreements (or other acceptable authorization from property owners), including all Temporary Use Areas and Staging Areas, shall be submitted to the Planning Division.
- P. The applicant shall coordinate with Commerce City Parks and Recreation to ensure that proper notice, signage, and alternative trail routes are established, if necessary, during construction near existing trails.
- Q. Any land disturbance activity shall be restored as soon as possible to its original condition or as close as reasonably possible.
- R. The applicant shall follow the proposed noise mitigation methods found in page 31 of the applicant's application narrative, which includes items such as a complaint resolution program, prior notification of construction activities, coordination of construction vehicle travel, hour restriction of noisy construction activity, and muffler systems for internal combustion engines.
- S. The applicant shall follow the weed management and revegetation plan outlined in Exhibit G of their application.
- T. The operation shall comply with all applicable rules and regulations of the state and federal agencies and the Commerce City Municipal Code and Land Development Code.
- U. The applicant shall coordinate with Brighton School District 27J in regards to signing up for the school program through the Pipeline Association for Public Awareness (PAPA) for Stuart Middle School and any future school site within 1000 feet of the approved pipeline location.
- V. The applicant and the City will work together to effectively annex and zone two parcels of land (PIN # 172300000075 and PIN # 172300000272) within 12 months of this conditional use permit approval. This annexation and zoning are conditioned upon the successful completion of a satisfactory annexation agreement that addresses the unique aspect of this project and these parcels to the satisfaction of both parties.
- W. The applicant and the City will work together to successfully execute a Public Service standard form license agreement for the future multi-use trail within the Public Service Company properties south of East 104<sup>th</sup> Avenue, identified on the City's future parks and trails plan.
- X. The two permanent valve set locations located in the vicinity of East 103<sup>rd</sup> Avenue and Tower Road and East 96<sup>th</sup> Avenue and Highway 2 shall be contained by a 6- to 8-foot-high wrought-iron fence. A building permit is required for the fence at each location.
- Y. The applicant shall notify the Commerce City Planning Division if and when any permanent discontinuation of the use of this pipeline for natural gas transmission takes place.

**Attachments:**

- Exhibit A: Commerce City Overview Map (Proposed and Alternative Pipeline Route)
- Exhibit B: Alignment Detail Sheets
- Exhibit C: Applicant's Narrative
- Exhibit D: Commerce City Comparison of Route Segments
- Exhibit E: Plan and Profile Drawings for Boring and Open Trenching
- Exhibit F: No Objection Letter from School District 27J
- Exhibit G: Information Boards