



# STAFF REPORT

## Planning Commission

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### CASE #CU-129-21

<b>PC Date:</b>	June 1, 2021	<b>Case Planner:</b>	Domenic Martinelli
<b>CC Date:</b>	July 19, 2021		
<b>Location:</b>	The pipeline extends from Brighton Blvd through Belle Creek to E 104th Ave, then runs parallel to approximately East 104 <sup>th</sup> Avenue to Interstate 76.		
<b>Applicant:</b>	Public Service Company of Colorado	<b>Owner:</b>	Multiple- List attached in Exhibit A
<b>Address:</b>	1123 West 3 <sup>rd</sup> Avenue Denver, CO 80203	<b>Address:</b>	Multiple – List attached in Exhibit A

### Case Summary

<b>Request:</b>	Public Service Company of Colorado is requesting approval of a Conditional Use Permit for the replacement of a natural gas pipeline.
<b>Project Description:</b>	Public Service Company of Colorado is requesting approval of a Conditional Use Permit, which allows for the replacement of approximately one mile of existing 10" high-pressure natural gas pipeline within the existing alignment corridor from Brighton Blvd through Belle Creek to E 104th Ave, then runs parallel to East 104 <sup>th</sup> Avenue to approximately Interstate 76.
<b>Issues/Concerns:</b>	Interceptor pipeline, impacts to the surrounding area, and safety.
<b>Key Approval Criteria:</b>	LDC 21-3230; Site Suitability; Adverse Impacts; and Compliance with Comprehensive Plan
<b>Staff Recommendation:</b>	Approval with Conditions
<b>Current Zone District:</b>	Right of Way, R-1, PUD, I-3
<b>Comp Plan Designation:</b>	Various

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

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary and application materials | <input checked="" type="checkbox"/> Vicinity Map               |
| <input type="checkbox"/> Site Plan  | <input checked="" type="checkbox"/> Neighborhood Meeting Notes |

## Background Information

### **Pipeline Route, Site Attributes and Surrounding Area:**

Existing land use in the Commerce City project area is varied and includes a mix of residential, parks/open space, and industrial land uses. The route begins by crossing through the Claybar Creek and Belle Creek Subdivisions, before crossing under US Highway 85. The route then continues under the Union Pacific rail line, through the DiGiorgio Industrial district until it reaches East 104<sup>th</sup> Avenue, then parallels the East 104<sup>th</sup> Avenue Alignment before concluding just East of Interstate 76.



The character of the surrounding area in the northern part of the existing pipeline route is residential, open space and park space. As the route crosses under US Highway 85, it transitions to primarily medium intensity to high intensity industrial development.

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

R-1 (low density residential), Planned Unit Development (PUD), I-3 (Heavy intensity industrial), Right of Way (ROW)

The existing pipeline route crosses the R-1 (low density residential), Planned Unit Development (PUD), and I-3 (Heavy intensity industrial zone districts in Commerce City, as well as various forms of right of way. Under the Land Use Table, found within Article V of the LDC, a public utility pipeline installation is allowed with a Conditional Use Permit in all Commerce City zone districts- hence, the need for this application and review. Additional City approvals will be needed, including floodplain permits, temporary use permits, and construction and grading permits prior to the commencement of construction.

### **Conditional Use Permit Requirement**

A Conditional Use Permit (CUP), as defined by Section 21-3230 of the Land Development Code, is required for this project as a public utility installation pursuant the Land Use Table (Section 21-5200). A conditional use permit process allows for special consideration of certain specified uses that may or may not be compatible with an area, depending on the specifics of the particular project. If granted, a conditional use permit will lapse in 2 years if not commenced or if the use is abandoned or discontinued for 180 days or more.

A conditional use permit may be granted if:

(a) All of the following criteria are met:

(i) The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;

(ii) Any adverse effect has been or will be mitigated to the maximum extent feasible, including but not limited to sufficient landscaping and screening to ensure harmony for adjoining uses;

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

(iv) The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;

(v) The applicant has provided adequate assurances of continuing maintenance; (vi) There is no evidence to suggest that the use violates any federal, state, or local requirements; and

(b) One of the following criteria is met:

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

(ii) The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan and all other plans or programs adopted by the city.

Conditions may be imposed pursuant to Sections 21-3130(2) and 21-3230 of the Land Development Code to meet the approval criteria and to carry out the general purpose and intent of this land development code and the comprehensive plan.

### **Easements**

The applicant has obtained easements from approximately 6 landowners for the proposed project. The pipeline replacement will occur entirely within previously obtained easements along the existing

alignment, except for the crossing under the Union Pacific Railroad, where an alternate alignment has been proposed, and new easements have been obtained. A copy of all obtained easement agreements are included within exhibit A. The remainder of the pipeline alignment will otherwise occur within existing City Right of Way or CDOT right of way.

## Applicant's Request

Public Service Company of Colorado (PSCo), dba Xcel Energy, is proposing to replace approximately 1 mile of existing 10-inch high-pressure natural gas pipeline in Commerce City. This mile-long segment is part of the larger I-76 to Leyden Street Natural Gas Project that will replace 3 miles of a longer natural gas pipeline that was installed in the 1950s. Major activities involved in Project construction include surveying, installing best management practices (BMPs), vegetation clearing, staging materials, welding, x-ray analysis of welds, pipeline trenching, pipeline boring, pipeline installation, backfilling the pipeline trenching, pressure-testing, cleanup, regrading the surface, roadway repair, revegetation, and post-construction monitoring of revegetation. No new above-ground appurtenances are proposed as part of the Project. Existing pipeline markers will be replaced.

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a new regulation called the "Mega Rule" (Title 49 of the Code of Federal Regulations [CFR] Parts 191 and 192) in October 2019 requiring operators to ensure natural gas pipelines in their systems meet certain record-keeping requirements. The Project will allow PSCo to continue providing safe and reliable natural gas service while maintaining compliance with the PHMSA standards. This Project is required under the new rule and will serve PSCo customers in Commerce City and surrounding communities. The existing pipeline to be replaced originates just east of the intersection of Havana Street and 104<sup>th</sup> Avenue, follows 104th Avenue for approximately 0.25 mile to the west, and then continues approximately 0.75 mile to the northwest to Brighton Road. The Project will replace the existing 10-inch high-pressure natural gas pipeline with a new 10-inch high-pressure pipeline in the same easements and rights-of-way where feasible. The Project is located in Colorado Department of Transportation (CDOT) right-of-way at the eastern end of the alignment near 104th Avenue and Havana Street and where it crosses U.S. Highway 85 (US-85). The segment addressed in this Conditional Use Permit application is part of a longer existing natural gas pipeline (between Denver and Lafayette, Colorado) that PSCo must replace to comply with the PHMSA Mega Rule.

## 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	Existing
Approximate Pipeline Length in City	1 mile	1 mile
Pipeline Outside Diameter	10 inches	10 inches

Approximate Width of Construction	30 feet of permanent easement	30 feet of permanent easement
Pipeline Cover Depth	4 feet	4 feet

The existing route through Commerce City is approximately 1 mile in length. Permanent easements are already in place for the entire portion of the alignment where the existing 10 inch pipeline will be replaced, except for the crossing under US Highway 85, where an additional route alignment and easements were necessary. The existing easements are 30 feet wide (15 feet on each side of the pipeline). These numbers seem to be standard and customary for pipeline projects of this nature. After the replacement, no new permanent buildings or structures will be allowed directly over the pipeline. The majority of residential homes in Belle Creek are at least 40' from property line to the centerline of the pipeline alignment. Two homes within the Claybar Creek Subdivision are roughly 30' from the centerline of the pipeline alignment, measured from the edge of the building. The submitted plan set shows the alignment of the proposed pipeline in more detail.

**Comprehensive Plan:**

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<b><u>Section</u></b>	<b><u>Goal</u></b>	<b><u>Description</u></b>
<b>SW 1.2</b>	Emergency Preparedness	Ensure that emergency management plans, services, and equipment are sufficient for potential disaster response
<b><u>Analysis:</u></b>	This particular project will address safety concerns and mitigate future events, by ensuring natural gas pipeline infrastructure in the City is adequately updated and designed to current federal regulations.	

<b><u>Section</u></b>	<b><u>Goal</u></b>	<b><u>Description</u></b>
<b>PF 1.8</b>	Electric Providers Coordination	Coordinate with electric providers (United Power and Xcel Energy) to provide service as growth occurs.
<b><u>Analysis:</u></b>	Coordination with Xcel Energy and Public Service of Colorado (PSCo) is being conducted to provide necessary safety upgrades to the natural gas infrastructure within the City.	

<b><u>Section</u></b>	<b><u>Goal</u></b>	<b><u>Description</u></b>
<b>LU 2.3</b>	Development Paced with Utilities	Within Tier 1 and Tier 2, ensure that the timing and rate of new development occurs in locations that are efficient for providing services and are coordinated with utilities. Development will not outpace the city or other districts' ability to provide services.
<b><u>Analysis:</u></b>	As continued residential growth occurs in the residential corridors along US 85 North of 104 <sup>th</sup> Avenue, and new industrial developments occur along interstate 76, this infrastructure project will continue to provide increased, reliable natural gas service to both residents and businesses in the area, and ensure future growth and development is not impacted due to lack and availability of utility infrastructure.	

**Pipeline Crossings:**

Along the 1-mile stretch through Commerce City, the alignment crosses eight major roadways, and the Union Pacific Rail Line. In most high traffic areas, the interceptor will be bored under the roadway to

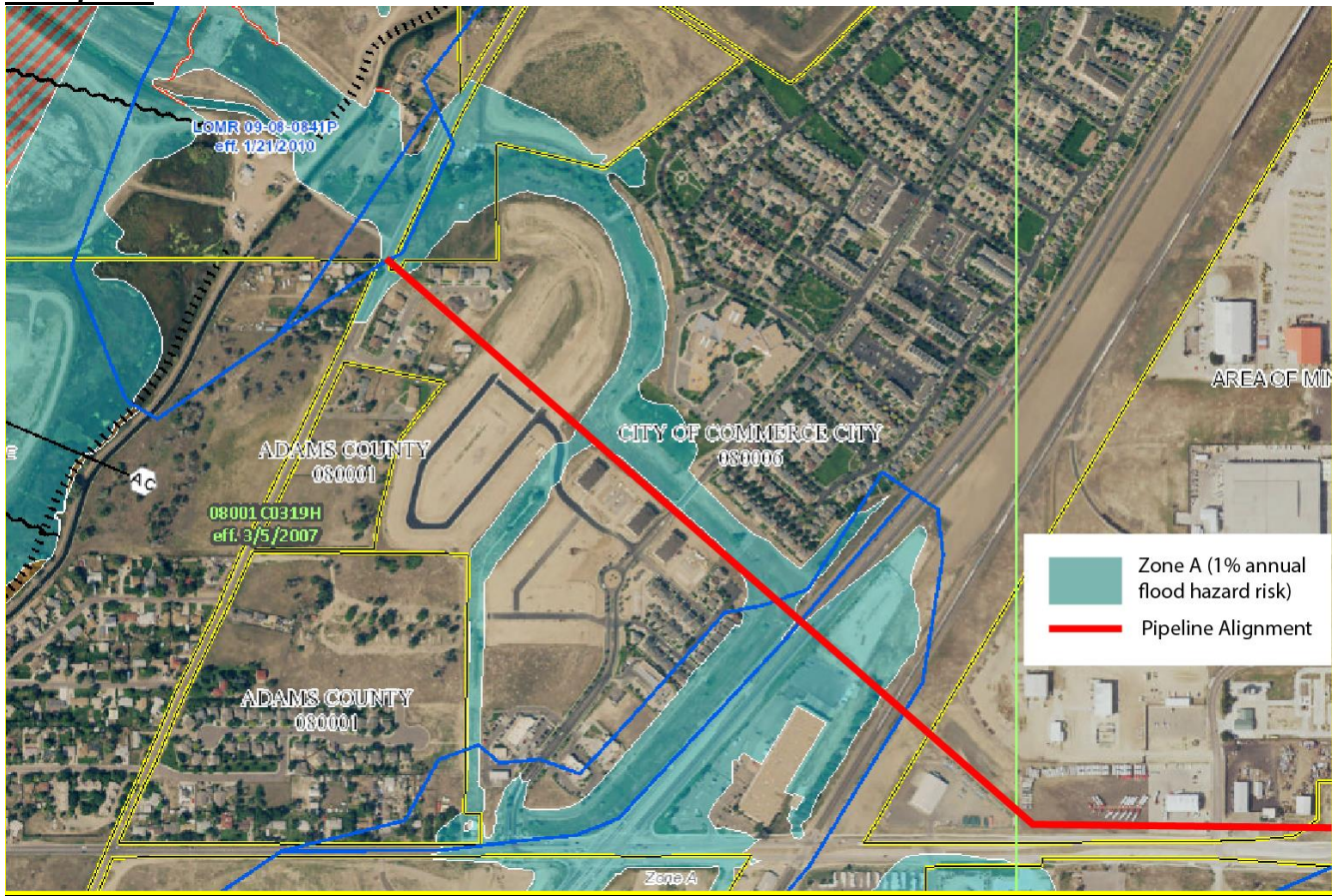


minimize traffic disruptions. In other areas, the interceptor is installed using an open cut trench method. The majority of the pipeline shall be constructed via open trenching. For areas with open cuts, the traffic impacts will be addressed and mitigated, to the extent feasible, through the review and approval of a Traffic Control Plan. 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.

**Access:**

Access to the proposed project would be from owned permanent and temporary easements, private land, and county and state thoroughfares along the length of the interceptor. PSCo's construction contractor will maintain access to the extent practicable on public roads and bridges during construction and return roads and bridges to the pre-construction conditions following construction. Dirt access roads will be installed temporarily during the construction process. Ground disturbance will be remediated following construction.

**Floodplain:**



Portions of the pipeline alignment are located with *Zone A* (highlighted in blue in the map above), which represent a 1% chance of flood hazard in any given year. Per LDC Section 21-4440(3b), public or private utility facilities not requiring buildings (including pipelines) are allowed within the floodplain with the obtainment of a floodplain permit. Approval of a floodplain permit by the City's floodplain administrator will be required before construction of this portion of the alignment will be allowed, and has been included as a recommended condition of approval.

**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 and emergency access will be coordinated as a condition of application approval.

**POLICE PROTECTION:** The Commerce City Police Department provides emergency services to this affected area. The police department is aware of this application and the applicant will be required to coordinate emergency access plans with both the Police and Fire Departments as a condition of application approval.

**WATER AND SANITATION:** The affected area is located within the South Adams County Water and Sanitation District.

**OTHER UTILITIES:** Utility service providers in this area are United Power (Electric), Century Link (telephone), and Comcast (cable). United Power provided comments stating that they maintain existing electrical infrastructure along the path that may or may not be in contact with the proposed replacement, and coordination between United Power and PSCo was necessary during the construction process. 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:**

One neighborhood meeting was held by PSCo for the proposed pipeline replacement on April 15, 2021. This neighborhood meeting was conducted remotely. A total of 12 participants attended the virtual neighborhood meeting. 389 postcards were sent to all property owners and occupants within a 500 foot radius of the alignment.

On November 20, 2020, a total of 26 landowner letters were sent to property owners that abut the Project alignment to provide information about the Project and the existing easement. A flyer with a map of the Project alignment was included with each landowner letter. As a follow up, on November 25, 2020, door hangers containing the landowner letter and flyer were hand-delivered to properties abutting the Project alignment to ensure occupants also received information about the Project. A total of 18 door hangers were delivered to occupied properties.

**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 Army Corps of Engineers
- US Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMAS)
- Colorado Department of Public Health and Environment – Air Pollution Control Division
- Colorado Department of Public Health and Environment – Water Quality Control Division
- Colorado Department of Public Health and Environment – Hazardous Materials and Waste Management Division
- Colorado Department of Transportation
- City of Commerce City

The following permits will be required from external agencies:

Agency	Permit	Status
Colorado Department of Public Health and Environment (CDPHE)	General Construction Stormwater Permit	PSCo will submit the Stormwater Management Plan to CDPHE prior to construction
Colorado Department of Public Health and Environment (CDPHE)	Construction Dewatering Permit	PSCo will submit a construction dewatering permit application to CDPHE prior to construction
Colorado Department of Public Health and Environment (CDPHE)	Hydrostatic Testing Permit	The Project will use PSCo's CDPHE-approved permit for the disposal of hydrostatic test water
Colorado Department of Transportation (CDOT)	Utility / Special Use Permit Application	PSCo will submit the Utility/Special Use Permit application prior to construction
Union Pacific Railroad	Pipeline Crossing Agreement	PSCo has obtained a Pipeline Crossing Agreement from UPRR for the installation of the Project in railroad ROW

### **City Permits**

The following permits will be required from the City:

Agency	Permit	Status
Commerce City	Conditional Use Permit	Submitted – pending approval from City Council
Commerce City	Floodplain Permit	Submitted – under review. Applies to the portions within the 100 year floodplain within Belle Creek.
Commerce City	Right of Way Permit	PSCo will submit Right-of-Way Permit applications for the portions of the Project in Commerce City Road ROW prior to construction
Commerce City	Grading Permit	PSCo will submit a Grading Permit application for the surface disturbing activities prior to construction

### **Proximity to Schools:**

The pipeline route is within approximately 370 feet from the Belle Creek Charter School Site, as measured from the property line to the centerline of the pipeline. No structures will be impacted. The school district has been notified of the application through postcard for the Conditional Use Permit Hearing, and was notified of the community meeting that took place in April.

### **Above-Ground Structures:**

The proposed project will be buried entirely underground. No additional above-ground appurtenances are proposed with this project.



### **Noise, Dust, Vibrations, Odor, and Other Nuisances**

During construction, the PSCo pipeline replacement will result in temporary nuisances, including increased noise, dust, traffic, and vibration that are typical of construction activities. These nuisances are expected to be localized to the area of activity and are not expected to have long-term impacts.

According to Commerce City Unreasonable Noise Regulations, construction equipment operating between the hours of 7:00 a.m. and 8:00 p.m., is an exemption to the noise requirements. To reduce impacts of adjacent residential homes, work hours will generally occur from 7:00 AM to 8:00 PM, Monday through Saturday on the project. Chapter 10 of the Commerce City Municipal Code will govern work hours within the ROW.

During construction, PSCo will implement dust control measures such as speed limits for construction vehicles; water application to disturbed areas, dirt access roads, and stockpiles; erosion control techniques; and revegetation of ground disturbance following construction. Crews will purchase water used for dust control during construction from a municipality. Staff has recommended Condition H to enforce these provisions, and ensure fugitive dust impacts associated with construction do not impact adjacent residents or businesses. No surface waters will be used during construction or operation of the Project.

### **Landscaping:**

Areas affected by construction activities would be reclaimed to pre-construction conditions, but no additional landscaping is proposed as a part of the project.

### **Construction:**

Construction of the pipeline replacement is estimated to take approximately 6 months. The applicant has stated the maximum number of employees working on the project at any given time will be 40. The type of equipment used in the construction process will include excavators, rubber tire back hoes, front end loaders, dozers, graders, cement trucks, dump trucks, sweepers, skid steers, generators, and welders.

The estimated number of average trips per day needed for replacement of the pipeline includes the following:

- Pickup trucks: 20 per day
- Crews will perform occasional maintenance on the existing natural gas pipeline. The same number of vehicle trips will be required during operation of the Project for occasional maintenance or emergency response.

These impacts generally will be localized around the construction area and will not occur across the entire alignment for the duration of construction.

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 8 p.m., and would be in conformance with Section 6-2011 – Unreasonable Noise (of the Commerce City Revised Municipal Code).

### **Traffic Control:**

Traffic Control measures will be coordinated with the City's Engineering Division as a part of the traffic control plan. No roads will be completely closed as a result of the construction of this project. A condition has been added to reflect this.

**Hazardous Materials:**

Hazardous materials could be encountered during construction. Therefore, properties need to be identified that may contain contamination prior to ROW acquisition and construction. Hazardous materials are defined as any waste product that is considered flammable, corrosive, reactive, or toxic. Hazardous materials can be found in various forms and can originate from a variety of sources. In its contract with the construction contractor, PSCo requires the contractor to comply with applicable laws. Construction and operations and maintenance activities will follow BMPs for the management of wastes to avoid and minimize impacts from potential spills or other releases to the environment. If trenching uncovers previously unknown areas of contamination that are apparent, work would be stopped until the party responsible for such contamination has properly managed and/or disposed of such contamination.

**Adverse Impacts:**

Other than the temporary inconvenience due to noise, dust, 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 pipeline installation process, it is not anticipated that the proposed project will adversely impact the use or enjoyment of adjacent lands. Construction activities will be limited to areas with temporary and permanent easements and will not otherwise occur on private property.

**Project Alternatives:**

As the replacement of this existing pipeline is required under federal law (Title 49 of the Code of Federal Regulations, Parts 191 and 192), to ensure existing pipelines come up to PHMSA standards, no project alternatives analysis was conducted as a part of this application.

**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.

The existing pipeline has been in operation since the 1950's with no history of accidents or spills. The replacement of the existing pipeline is a federal requirement under recently adopted legislation, and the replacement of the pipeline would help further public safety, as well as ensure reliability of residential and commercial natural gas service in the Northern Range.

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
<input checked="" type="checkbox"/>	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	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

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
	envisioned to exist in any adopted City plan, program or ordinance;	alignment follows an existing pipeline corridor, where residential and industrial development has largely been planned around it, there should not be a substantial or undue adverse effect on adjacent property.
<input checked="" type="checkbox"/>	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 applicant has demonstrated that significant adverse impacts are not associated with the project. For the minor adverse impacts associated with dust, noise, and traffic impacts, the applicant has demonstrated efforts to reduce these impacts through dust mitigation, limiting hours of operation within the durations identified within the municipal code, and the preparation of a traffic control plan. The recommended condition H further satisfies improvements to dust impacts.
<input checked="" type="checkbox"/>	The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;	The existing 30' pipeline easement, and the minor portions of additional easement obtained under the Union Pacific rail line crossing, are 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.
<input checked="" type="checkbox"/>	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.
<input checked="" type="checkbox"/>	The applicant has provided adequate assurances of continuing maintenance;	After the replacement is installed, disturbed areas will be returned to pre-construction grades and revegetated by the applicant. The property owner will be responsible for the on-going maintenance of the above ground property unless otherwise specified in the easement. The recommended conditions further satisfy this criteria.
<input checked="" type="checkbox"/>	No evidence suggests that the use violates any federal, state, or local requirements.	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. The project itself is required by federal law, and completion of the project would satisfy Xcel and PSCo's obligations under the recently adopted PHMSA rule.
<input checked="" type="checkbox"/>	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 Land Use and Growth, Public Facilities and Infrastructure, and Safety and Wellness. With the approval of the Conditional Use Permit the use will be compliant with the land

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
		development code. The recommended conditions further satisfy this criteria.
<input checked="" type="checkbox"/>	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.	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 follows a historic alignment where the present growth and development occurred around this existing piece of infrastructure, there should not be a substantial or undue adverse effect on adjacent property. The recommended conditions further satisfy this criteria.

## 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 with the recommended conditions imposed, and recommends that the Planning Commission forward the Conditional Use Permit request to the City Council with a recommendation of **approval with Conditions**.

## \*Recommended Motion\*

### ***To recommend approval subject to condition(s):***

I move that the Planning Commission enter a finding that, subject to conditions, the requested Conditional Use Permit and associated plans for the project alignment, contained in case **CU-129-21** meets the criteria of the Land Development Code and, based upon such finding, recommend that the Planning Commission forward the request to the City Council with a recommendation of approval, subject to the following conditions and advisories:

### **CONDITIONS:**

- A. Permit holder will comply with its plans dated 3/9/21 included as Exhibit B, to be consistent with the City Code and the conditions of approval.
- B. Alterations to the route of this pipeline outside of the approved easements, or any modification requiring raising the pipeline or its components above-grade (except as currently approved) will require an amendment to this Conditional Use Permit.
- C. The applicant shall be required to obtain a floodplain permit, prior to commencing construction of portions of the pipeline construction that lie within Zone A, consistent with Land Development Code Section 21-4440.
- D. The permit holder shall repair any open space, trail, road, and right-of-way areas that may be damaged during construction or maintenance.
- E. The permit holder shall notify all property owners by mail within 500-feet of the pipeline 7 days prior to beginning construction within the Commerce City boundaries.



- F. The permit holder shall restore any land disturbance as soon as possible. Revegetation will be conducted as soon as possible.
- G. The applicant will maintain the premises to be free of garbage, trash, and excessive debris at all times.
- H. Watering of dirt access roads, stockpiles, and other disturbed areas shall occur regularly during construction, for the purposes of dust suppression.
- I. 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.
- J. The permit holder shall to meet directly with the applicable school districts and coordinate the timing of construction to occur during a time when school is not in session, to the extent practicable.
- K. At the conclusion of the construction of the pipeline, the permit holder shall provide copies of 'as built' surveys, drawings, geotechnical data, and materials testing results to the city's Planning Division.
- L. The permit holder shall notify the Commerce City Planning Division if and when any permanent discontinuation of the use of this pipeline takes place. The permit holder shall be required to furnish a mitigation plan for the pipeline at that time.

**Advisory:**

- A. A license agreement with the City shall be required prior to any construction on property within Commerce City Rights-of-Way.
- B. This project is subject to Chapter 22 of the Commerce City Revised Municipal Code.

## Alternative Motions

***To recommend approval:***

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the project alignment, contained in case **CU-129-21** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Conditional Use Permit.

***To recommend denial:***

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the project alignment contained in case **CU-129-21** 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.

***To continue the case:***

I move that the Planning Commission continue the requested Conditional Use Permit for the project alignment in case CU-129-21 to a future Planning Commission agenda

**Attachments:**

- Exhibit A: Applicant's Narrative
- Exhibit B: Development Plans
- Exhibit C: Neighborhood Meeting Notes and Materials
- Exhibit D: Traffic Control Plans
- Exhibit E: Property Owners and Impacted Properties