



# Commerce City

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## Council Communication

File Number: CU-129-21

**Agenda Date:** 7/19/2021

**Version:** 1

**Status:** ATS Review

**In Control:** City Council

**File Type:** Conditional Use  
Permit

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 from the existing alignment corridor from Brighton Blvd to approximately E 104th Ave and Interstate 76, zoned ROW, I-3, PUD, and R-1.

### **Summary and Background Information:**

Public Service Company of Colorado (PSCo), 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, re-grading the surface, roadway repair, re-vegetation, and post-construction monitoring of re-vegetation. No new above-ground appurtenances are proposed as part of the Project. Existing pipeline markers will be replaced.

No public comments were received during the posting period for the Planning Commission or City Council case, nor were significant issues raised during the Planning Commission hearing. Additional record materials may be found in the Planning file for Case CU-129-21.

Please see attached Planning Commission minutes for detailed background and discussion, as well as the staff report provided to the planning commission.

**Notice Information:** Public notification for this case was conducted in accordance with requirement of LDC Section 21-3285. This included postcard notification to all property owners within 500 feet of the proposed pipeline alignment (a total of 283 property owners), notice in the Commerce City Sentinel Express, and posting 8 physical placards along the pipeline route.

**Applicable Decision Criteria:** Council will consider the application following a public hearing in a quasi-judicial proceeding. Per LDC 21-3230, Council may only approve the conditional use permit application if all of the following criteria are found to be satisfied:

1. 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;
2. 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;
3. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence
4. of improvements and natural features;
5. 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;
6. The applicant has provided adequate assurances of continuing maintenance;
7. No evidence suggests that the use violates any federal, state, or local requirements.
8. The proposed use complies with the general purposes, goals, objectives, policies, and standards of all City plans, programs, and ordinances
9. And 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.

**Staff Responsible (Department Head):** Jason Rogers, Deputy City Manager

**Staff Member Presenting:** Domenic Martinelli, AICP, LEED AP ND, Environmental Planner

**Financial Impact:** N/A

**Funding Source:** N/A

**Development Review Team Recommendation:** *Approval, subject to 12 conditions*

- A. Permit holder will comply with its plans dated March 9, 2021, attached hereto as Exhibit A.
- 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), require an amendment to this Conditional Use Permit.
- C. The applicant is required to obtain a floodplain permit, prior to commencing construction of portions of the pipeline that lie within Zone A of the FEMA Flood Insurance Rate Map, 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. Re-vegetation 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, geo-technical 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.

**Planning Commission Recommendation:** Planning Commission voted 5-0 to recommend *approval with conditions, subject to the 12 conditions listed above*

**Suggested Motion:**

- To accept the Planning Commission's recommendation and findings (does not approve application): I move to accept the Planning Commission's findings and recommendations. [Requires simple majority.]
- To approve: I move to approve Resolution CU-129-21. [Requires simple majority]