

CONDITIONAL USE PERMIT

FOR A NATURAL GAS TRANSMISSION PIPELINE AS PART OF THE CHEROKEE PIPELINE PROJECT

CASE #CU-97-12

WHEREAS, the City Council of the City of Commerce City, Colorado finds that a conditional use permit for a natural gas transmission pipeline as part of the Cherokee Pipeline Project (“Conditional Use Permit”) should be granted pursuant to the Land Development Code of the City of Commerce City in Case #CU-97-12 for that property described in exhibit “A” attached hereto and made a part hereof, located at (The proposed route generally originates in Commerce City at E. 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 E. 84th and E. 88th Avenues. The route then continues north and east on Highway 2 and E. 96th Avenue where several alternative routes exist between E. 96th Avenue and E. 104th Avenue. The proposed route exits Commerce City east of E-470 and heads north towards Barr Lake); and

WHEREAS, the City of Commerce City believes that this Conditional Use Permit is only appropriate if certain conditions are met; and

WHEREAS, the City of Commerce City desires to set to writing the conditions of the Conditional Use Permit.

NOW THEREFORE, the Conditional Use Permit applied for in Case #CU-97-12 is granted by the City of Commerce City subject to the following conditions:

CONDITIONS:

- 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.
- B. The pipeline is to be used to transport natural gas only. Any change in the element being transported through this pipeline (other forms of gas, liquids, solids, etc. for example) will require an amendment to this Conditional Use Permit.
- C. 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.
- D. 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.
- E. 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.

- F. 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.
- G. 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.
- H. 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.
- I. 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.
- J. 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.
- K. 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.
- 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 CDOT for those sections of pipeline within Commerce City.
- M. 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.
- N. 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.
- O. Any land disturbance activity shall be restored as soon as possible to its original condition or as close as reasonably possible.
- P. 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.
- Q. The applicant shall follow the weed management and revegetation plan outlined in Exhibit G of their application.
- R. 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.

- S. The applicant agrees to meet directly with the applicable school districts to share the same information about this pipeline that is provided via the Pipeline Association for Public Awareness (PAPA) school program.
- T. The applicant and the City will work together to effectively complete an annexation and zoning of two parcels of land (PIN # 17230000075 and PIN # 172300000272) within 12 months of this conditional use permit approval. This annexation and zoning applications 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.
- U. The applicant and the City will work together to successfully execute a Public Service standard form license agreements for the future multi-use trail within the Public Service Company properties south of East 104th Avenue, identified on the City's future parks and trails plan.
- V. The two permanent valve set locations located in the vicinity of East 103rd Avenue and Tower Road and East 96th 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.
- W. 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.

ADVISORY:

- 1. A license agreement with the City shall be required prior to any construction on property within Commerce City Rights-of-Way.

Failure to comply with the above conditions shall constitute basis for revocation by the City of Commerce City, after public hearing, of the Conditional Use Permit authorized for the above-described property, it being expressly determined by the City Council that the Conditional Use Permit granted by the City of Commerce City in Case #CU-97-12 is not proper in the absence of compliance with the conditions herein contained. The City may proceed with legal action in a civil court to enforce the conditions herein imposed or issue a summons and complaint in the Commerce City municipal court for violation of the aforesaid conditions, and in the event a summons and complaint is issued in the Commerce City municipal court, and upon finding a violation of the condition set forth in this Conditional Use Permit, the municipal court may impose any penalty authorized by the Municipal Code. The remedies herein provided for shall be considered cumulative and not mutually exclusive.

IN WITNESS WHEREOF, the undersigned have set their hands effective the 1st day of October, 2012.

CITY OF COMMERCE CITY, COLORADO

By: _____
Sean Ford, Mayor

ATTEST:

Laura J. Bauer, City Clerk

Exhibit "A"

Figure 3: Commerce City Overview

Case #CU-97-12