



Legislation Text

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*Department of Community Development*

Reference: Boardwalk Pipeline (Weld County Road 6 ¼) - Conditional Use Permit

To: **Mayor Richard N. McLean and Members of City Council**

Through: **Clint Blackhurst, Acting City Manager**

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Date Presented: **August 15, 2017**

**PURPOSE**

This Conditional Use Permit application for a sixteen (16) inch natural gas pipeline (the “Pipeline”) in north Brighton, along the right-of-way for Weld County Road 6 ¼, is being brought before the City Council for review. The applicant is Discovery DJ Services, LLC. Per Section 17-8-60 of the City of Brighton *Land Use and Development Code*, an application seeking a Conditional Use Permit must be presented before the City Council at a public hearing. Following the public hearing, Council shall provide by resolution an approval or denial of the request, including conditions specific to the application.

**BACKGROUND**

The Pipeline is being proposed to cross through land over which the City of Brighton has jurisdiction. The Pipeline will be constructed within the right-of-way for Weld County Road 6 ¼ and on private property between Weld County Road 27 and Weld County Road 29 (the “Pipeline Property”). The Pipeline Property is currently zoned I-1 and I-2.

The Pipeline will be buried a minimum of forty-eight (48) inches below grade, even though the Federal regulations only require thirty-six (36) inches. At all road crossings, the depth will drop to at least sixty (60) inches.

The applicant has the responsibility for acquiring all of the necessary temporary and permanent easements for construction of the Pipeline and for traffic control during construction. It is also responsible for returning any disturbed land to its natural state following construction.

**CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM**

**Comprehensive Plan:**

The property over which the Pipeline will be crossing is within the City limits and is designated as Industrial in

the *Comprehensive Plan*. All of the infrastructure associated with the Pipeline that is within the City limits will be located below ground and adjacent to existing roadways. There are currently no residences on the land within the City limits over which the Pipeline will be constructed.

**Land Use and Development Code:**

When reviewing a Conditional Use Permit, the City Council shall use the following criteria, as provided by the *Land Use and Development Code* (ref. Section 17-8-60.2):

- a. *The conditional use complies with the requirements of these regulations and with the zone district in which it is to be located;*  
The proposed Pipeline is located within the Weld County Road 6 1/4 right-of-way, and the zoning is I-1 (Light Industrial) and I-2 (Heavy Industrial).
- b. *The conditional use provides consistency with the purpose and intent of these regulations;*  
The purpose and intent of a conditional use is to allow uses that may be compatible with the surrounding uses in the zone district if restrictions or conditions are placed on the use. The proposed Pipeline, with conditions regarding hours of operations, construction timelines, and landscaping, can meet the purpose and intent of the conditional use provision.
- c. *The conditional use provides compatibility with the surrounding areas, is harmonious with the character of the neighborhood, is not detrimental to the immediate area, is not detrimental to the future development of the area, and is not detrimental to the health, safety, or welfare of the inhabitants of the City;*  
Because all of the Pipeline being constructed within the City will be buried in its entirety, and with the conditions requiring re-vegetation, there will not be any permanent interference or disturbance to the surface.
- d. *The conditional use complies with the Comprehensive Plan and other master plans of the City; and*  
As stated previously, the proposed Pipeline does comply with the Comprehensive Plan for the area.
- e. *Does the conditional use require restrictions or conditions upon approval?*  
The restrictions the City Council should consider include the requirement of a construction timeline, specific hours of work and operation, and requirements for re-vegetation of the surface. The applicant has submitted that the pipeline through the City will be constructed entirely underground.
- f. *The following considerations should be taken in account in addition to any other criteria deemed relevant to the particular use requested:*
  1. *Hours of operation;*  
The applicant has proposed the construction timeline to be four weeks through the City limits and three to four months for completion of the entire pipeline. Construction is proposed to happen during regular business hours. After construction is complete, the only traffic associated with the site will be during maintenance checks.
  2. *Street and road capacity;*  
This project will use access from Weld County Road 6 as well as other access points outside of the City of Brighton.
  3. *Off-street parking;*  
No additional off-street parking will be needed.
  4. *Fencing, screening, and landscaping;*  
The applicant has stated the portion of the pipeline through the City will be placed underground; therefore, screening is not necessary, although the applicant will be required to revegetate the disturbed ground.
  5. *Building bulk, height, setback, location, and external appearance;*

This project does not include anything to be constructed on the surface.

6. *Useable open space;*

The proposed pipeline will be placed underground, allowing the undisturbed view to remain.

7. *Signs and lighting; and*

No signs are proposed to indicate the location of the Pipeline.

8. *Noise, vibration, air pollution, or similar environmental considerations.*

The applicant will be required to meet all environmental requirements, including a 404 Permit to disturb the impacted wetlands and proof of coordination with the U.S. Fish and Wildlife Service prior to Erosion and Sediment Control Permits being issued by the City.

**Development Review Committee (DRC) Review:**

The Development Review Committee (DRC) and referral agencies have reviewed the Conditional Use and all comments have been resolved.

**Public Comment:**

As required, public hearing notice mailings were sent to all property owners within 300' of this proposed Conditional Use on July 21, 2017, and included a letter describing the proposed Conditional Use as well as the time and place for the public hearing. Also included with the letter was a map of the subject area. Along with the notice mailings, public hearing signs were posted on July 24, 2017, along Weld County Road 6 near the proposed pipeline alignment. Finally, a notice was published in the *Brighton Standard Blade* on July 26, 2017, to give notice to those who are not affected property owners or those who do not drive near this intersection on a consistent basis. As of the date of this staff report, no formal comments have been received by staff.

**Fiscal Impact:**

Since the pipeline will be owned and maintained by Discovery Pipeline, there are no direct fiscal impacts to the City regarding the proposed Conditional Use. It should be noted that oil and gas operations located within the county will be tying into the pipelines, which may reduce the number of truck trips on local roadways. The potential reduction in truck trips on City roadways may reduce the wear and tear that would have otherwise occurred as a result of trucking the products.

**STAFF RECOMMENDATION**

Due to meeting the review criteria of Section 17-8-60 of the City of Brighton *Land Use and Development Code*, staff recommends approval of the Conditional Use Permit, with the following seven (7) conditions:

- 1) All construction shall be in strict compliance with the plans approved by the City.
- 2) The sixteen (16) inch natural gas pipeline shall be constructed at a depth of at least forty-eight (48) inches below grade; at all road crossings, the depth shall be at least sixty (60) inches below grade.
- 3) Construction is restricted to the hours of 7:00 AM to 7:00 PM, Monday through Friday.
- 4) All land must be returned to its original state of vegetation upon completion of construction of the pipeline. Any trees or other landscaping that is removed during construction must be replaced elsewhere on the Pipeline Property with similar trees/landscaping.
- 5) No construction equipment, including vehicles and pipes not being installed within the City limits, may be staged or otherwise stored on any property within the City of Brighton city limits.
- 6) Proof of coordination with the U.S. Fish and Wildlife Service and proof of an issued 404 Permit for disturbance of the wetlands shall be completed before the City of Brighton will issue an Erosion and Sediment Control Permit for the project.
- 7) Nothing shall be constructed on the surface unless and until an application to amend this conditional use is submitted and approved by the City Council.

A draft resolution has been provided to the Council should it decide to proceed with the application as

presented.

### **OPTIONS FOR COUNCIL CONSIDERATION**

The City Council has four options when reviewing this Conditional Use Permit application.

- 1) The City Council can approve the Conditional Use Permit as presented.
- 2) The City Council can approve the Conditional Use Permit with select conditions.
- 3) The City Council can deny the Conditional Use Permit.
- 4) The City Council can continue the application to be heard at a later, specified date.

### **ATTACHMENTS**

- Aerial Map
- Draft Resolution with Conditions