



## Legislation Text

File #: ID-144-17, Version: 1

### *Department of Community Development*

Reference: East Cherry Creek Valley Pipeline CUP

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

Through: Clint Blackhurst - Acting City Manager

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Date Prepared: February 27, 2017

### **PURPOSE**

This Conditional Use Permit application for a brine water pipeline in northeast Brighton is being brought before the City Council for review. The applicant is East Cherry Creek Valley Water & Sanitation District (ECCV). 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**

This pipeline, to be owned by the ECCV, is proposed to cross through land over which the City of Brighton has jurisdiction. The pipeline will leave the ECCV water treatment facility located at the northeast corner of Bridge Street and I-76 and follow I-76 north to a deep well injection site within the Town of Lochbuie about one (1) mile northeast of its origination. The property this pipeline is proposing to be located on was annexed into the City in 1985, as part of an annexation for Bromley Park. The property is zoned as part of the Bromley Park PUD and is classified as an industrial part of the Bromley Park PUD. The ECCV water treatment facility was approved by Conditional Use in 2008 and constructed shortly thereafter.

The brine water pipeline will be a 12" pipe and will be buried a minimum of 4.5' below grade. The pipe will also be placed at least 10' from any existing water lines.

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

### **Surrounding Land Use(s):**

<b>Surrounding</b>	<b>Land Use(s)</b>	<b>Zoning</b>	<b>Annexation Status</b>
<b>North</b>	I-76	* Streets Are Not Zoned	City
<b>South</b>	Undeveloped	A-3 (County)	County
<b>East</b>	Undeveloped	Bromley Park PUD	City
<b>West</b>	I-76	* Streets Are Not Zoned	City

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

### **Comprehensive Plan:**

A portion of the property this pipeline will be crossing is within City limits and is designated Industrial in the *Be Brighton Comprehensive Plan*, both through its portion in the City and through the portion in the Town of Lochbuie. All of the infrastructure within the City limits will be located below ground and adjacent to existing roadways. There are currently no businesses on the land within the City limits over which the pipelines 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 complies with the regulations of the Bromley Park PUD and any subsequent PUD amendments that apply. The pipeline will be buried in its entirety through the City of Brighton and the disturbed ground will be returned to its natural state.
- 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 needed, restrictions or conditions can be placed on the use, depending on the specific application and intended use. The proposed pipeline, with conditions such as land re-vegetation, can meet the purpose and intent of the conditional use provisions.
- 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;*  
With the pipeline being buried in its entirety through the City, and the requirement for 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 complies 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 revegetation, signage, and future amendments. The applicant has submitted that the pipeline on the applicant's property and through the City will be underground.
- f. *The following should be considered in the decision in addition to any other criteria deemed relevant to the particular use requested:*
  1. *Hours of operation;*  
Construction is proposed to occur during regular business hours and to take approximately one month. After this, the only traffic associated with the site will be during maintenance checks.
  2. *Street and road capacity;*  
This project will use the eastern frontage road along I-76 during construction.
  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, which allows for the ground to remain as open space.
  7. *Signs and lighting; and*  
There will be surface features that serve as markers for the pipeline, including vent pipes, fiber optic pull boxes, and tracer wire test stations.
  8. *Noise, vibration, air pollution, or similar environmental considerations.*

The applicant will be required to meet all environmental requirements.

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

The Development Review Committee (DRC) and referral agencies have reviewed the Conditional Use and all comments have been resolved. A complete list of comments and the agencies who made them are available upon request.

**Public Comment:**

As required, notices of the public hearing were mailed to all property owners within 300' of this proposed Conditional Use. These mailings were sent on February 27, 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 certified public mailings, public hearing signs were posted on February 27, 2017 along the frontage road near the proposed location. Finally, a notice was published in the Brighton Standard Blade on March 1, 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.

**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 four (4) conditions:

- 1) All land must be returned to its original state of vegetation upon completion of construction. All trees or other landscaping that are removed or disturbed during construction must be replaced on site with the same type and size.
- 2) No portion of the pipeline may be placed above ground unless and until this conditional use is amended and approved by the City Council.
- 3) The Applicant shall provide all necessary traffic control devices and personnel, and applicable signage during construction.
- 4) The brine water pipeline shall be constructed in strict compliance with the construction plans approved by the City dated October 2016, to wit: twelve inches (12") in diameter, buried a minimum of 4.5 feet below grade and at least ten feet (10') from any existing water lines.

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 additional or modified 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
- List of Property Owners who Received Notification
- Notification that was Sent to the Neighbors