



Legislation Text

File #: ID-300-19, **Version:** 1

Department of Community Development

Reference: Homestead to Brighton East Farms Filing No. 3 - Oil and Gas Pipelines (Conditional Use Permit)

To: Mayor Kenneth J. Kreutzer and Members of City Council

Through: Marv Falconburg, AICP, Acting City Manager

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Date Prepared: September 11, 2019

PURPOSE

This Conditional Use Permit application for a pair of natural gas and crude oil pipelines in Brighton is being brought before the City Council for review and consideration. Per Section 17-8-60 of the City of Brighton's *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.

STRATEGIC FOCUS AREAS

- Supportive, Sustainable Infrastructure
- Strong Regional Relationships and Partnerships

BACKGROUND

Strategic Site Designs, LLC, the Applicant, on behalf of Petro Operating LLC, is requesting City approval for the installation of an 8-inch natural gas pipeline and a 6-inch crude oil pipeline through land over which the City of Brighton has jurisdiction. Specifically, the proposed natural gas and crude oil pipelines will commence at the Homestead Well Pad (NE ¼ of SE ¼ of Section 34, Township 1N, Range 66W) and run south approximately 2,500 linear feet into the E. 168th Avenue (Baseline Road) Right-of-Way (ROW). Once within the Baseline Road ROW, the pipelines will run east approximately 6,100 linear feet to the intersection of Baseline Road and N. 60th Avenue. The pipelines will then run south, within N. 60th Avenue's ROW, approximately 2,975 linear feet to Longs Peak Avenue, before turning west and running approximately 200 feet within the ROW. The pipelines then turn ninety (90) degrees to the right and run north approximately 87 linear feet onto the Brighton East Farms Filing No. 3 Well Pad (NE ¼ of SE ¼ of Section 2, Township 1S, Range 66W).

Overall, this proposal will require one crossing of Baseline Road, one crossing of N. 50th and N. 60th Avenues, one crossing of Silver Maple Street, and one crossing of Willow Oak Street within the City of Brighton. The total length of pipeline in the City of Brighton is approximately 12,200 linear feet. Of that, approximately 10,750 linear feet of pipeline will be within City of Brighton ROW.

Surrounding Land Use(s):

The graphic below displays the proposed pipeline path in relation to City limits and adjacent zoning districts.

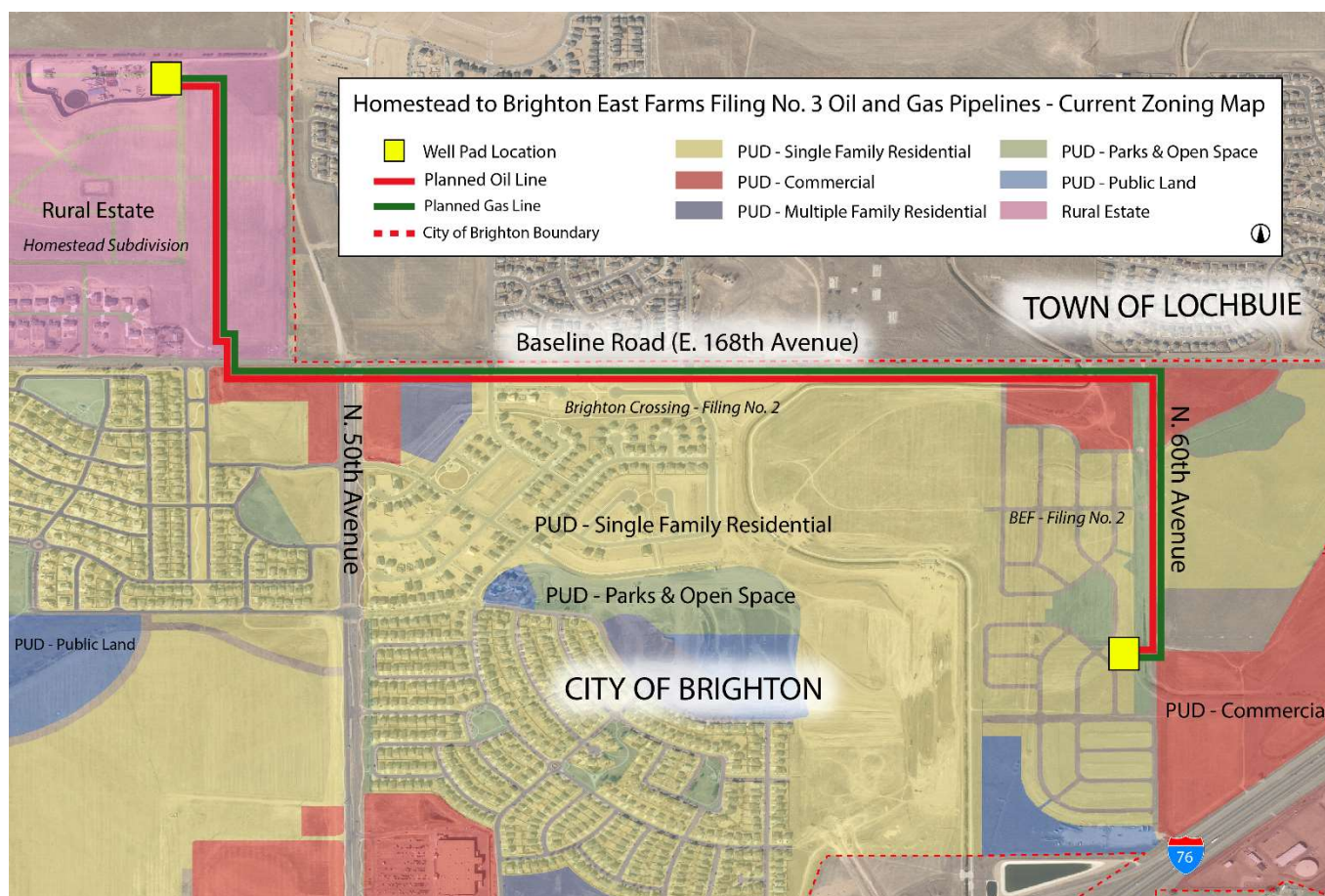


Figure 1: Homestead to Brighton East Farms Filing No. 3 Oil and Gas Pipelines - Surrounding Land Uses

CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM

Comprehensive Plan:

The properties these pipelines will be crossing are within City limits and are designated as Estate Residential, Medium Density Residential, Low Density Residential, and Parks and Open Space. This proposal most closely relates to *Policy 4.1: Encourage Development Patterns that Support All Travel Modes* of the Multimodal Development Principle as the pipelines will move product without the use of trucks on our roadways and therefore, reduce the possible number of vehicular trips related to oil and gas production on city streets. The reduction in related truck traffic will reduce the wear and tear on city streets and will inherently make them safer for cyclists and normal passenger vehicle traffic.

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):

- 1.) *The proposed use shall be consistent with the Brighton Comprehensive Plan and other master plans;*
As stated previously, the proposed oil and gas pipelines generally comply with the Comprehensive Plan.
- 2.) *The location, size, design, and operating characteristics of the proposed use or structure shall be compatible with the existing and future land uses within the general area in which the proposed use or structure is to be located and will not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on conditional uses or structures to protect the public health, safety, and welfare by mitigating impacts to achieve compatibility and complementary design, especially where a nonresidential use is located adjacent to a residential use;*
These pipelines, if approved, will be located entirely underground and will not require above grade structures. As

a result, the location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses within the general area. Additionally, City staff engineers have determined that the proposed lines do not conflict with any existing City utility lines.

- 3.) *The site shall be physically suitable for the type and intensity of the proposed conditional use or structure;*
As stated previously, this proposal includes the construction of below-grade infrastructure within City ROW or land accessed through easement agreements. The proposed alignment is physically suitable for the type and intensity of use and will not conflict with City infrastructure.
- 4.) *The proposed conditional use or structure shall not adversely affect traffic flow or parking in the neighborhood;*
Due to the scope of this proposal, no adverse effects are anticipated to occur with respect to existing traffic patterns. The proposed crossings of Baseline Road, N. 50th Avenue, Silver Maple Street, and Willow Oak Street will be completed by horizontal directional drilling (HDD), further reducing potential traffic impacts to surrounding neighborhoods during construction.
- 5.) *The conditional use is consistent with the purpose and intent of the zoning district in which it is located.*
In accordance with Section 17-32-30 of the City's *Land Use and Development Code*, oil and gas facilities are permitted as a conditional use in all zone districts. As stated previously, this proposal includes the construction of below-grade infrastructure within City ROW and is consistent with the purpose and intent of the zoning district in which it is located.

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 NOTICE AND INQUIRY

As required by the *Land Use and Development Code*, mailings were sent to all property owners within 300' of this proposed Conditional Use, with an additional 15 feet to account for adjacent easements. These mailings were sent on September 6, 2019, 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 proposed alignment. Along with the public mailings, a notice was published in the *Brighton Standard Blade* on Wednesday, September 11, 2019. Finally, a public hearing sign was posted on September 13, 2019 at the southwest corner of Baseline Road and N. 50th Avenue and at the southwest corner of Baseline Road and N. 60th Avenue. As of the date of this staff report, Staff has received no comments regarding the proposed Conditional Use.

SUMMARY OF FINDINGS

In summary, this proposal for a Conditional Use Permit addresses all relevant criteria for consideration set forth by the Comprehensive Plan and the *Land Use and Development Code's* Section 17-8-60 for conditional use requirements. Conditions placed upon approval will further ensure that the proposal, if built, will meet the standards set by the City of Brighton.

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 fourteen (14) conditions, presented in summary in the following text. The complete list of conditions can be found in the draft resolution attachment.

1. Requirement for Easements. The Applicant will be utilizing a "Pipeline Route" that is owned or controlled by third parties. This permit is conditioned on the Applicant entering into an easement or License with all parties within the pipeline route.
2. Design. The pipelines shall be constructed with the approved design specifications.
3. Construction. The approved inspections and technologies will be employed to verify the internal structure and integrity of the pipelines.
4. Operation and Maintenance. The approved inspections and technologies will be employed to find leaks and/or verify the internal structure and integrity of the pipelines.

5. Reclamation and Weed Control. The Applicant will submit a reclamation and weed control plan for the City's review and approval. The applicant shall, at its sole expense, immediately repair any damage to property along the Pipeline Route or to the City's roads or other Facilities within or outside the Pipeline Route, resulting from any Authorized Uses or other activities related to the Pipeline. Repairs shall be made in accordance with current City Rules, regulations, and ordinances, and shall be completed no later than one (1) week after damage is inflicted.
6. Abandonment. For abandonment, the Applicant must permanently remove the pipelines from service by physically separating them from all sources of hydrocarbons.
7. Emergency Response Plan. An Emergency Response Plan for the pipelines must be submitted and in compliance with the City's fire code.
8. Recording. The Applicant shall record a Pipeline "as-built" legal description and map of the location with the Clerk and Recorder of Adams County within thirty (30) days of completion of construction and shall provide the same to the City.
9. Risk, Liability, Indemnity. The Applicant agrees to indemnify, defend, and hold harmless to the City, its officials, officers, agents, employees and contractors, from and against any and all claims and liability for damages or injury to property or persons.
10. Insurance. The Applicant shall purchase and maintain insurance as specified in the conditions of approval document.
11. Required Notifications. The Applicant shall comply with the notification requirements set forth in the conditions of approval document.
12. Notices. All notices, statements or other communications required or permitted between the Parties shall be in writing and shall be considered as having been given if delivered by mail, courier, hand delivery or email to the other Party at the designated physical address or email address.
13. Reimbursement of Expenses. The Applicant agrees to reimburse the City for all actual reasonable engineering costs, legal costs, administrative costs of the City, or other costs incurred by the City in reviewing, revising and approving the plans and specifications related to installation, repair, maintenance, monitoring or other activities associated with the Pipeline, in preparing and entering into this Permit, in enforcing this Permit, or in inspecting, testing, reviewing, approving or rejecting the work performed.
14. Assignment. This Permit is not transferable or assignable without prior written permission from the City Manager.

OPTIONS FOR COUNCIL CONSIDERATION

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

- Approve the Conditional Use Permit with the conditions presented;
- Approve the Conditional Use Permit with additional or modified conditions;
- Deny the Conditional Use Permit with specific justification regarding the denial; or
- Continue the application to be heard at a later, specified date.

ATTACHMENTS

- Draft Resolution with Conditions (Running with the Land)
- Aerial Map
- Applicant's Site Plans
- Neighboring Property Owner Notification
- Addresses of Property Owners Notified
- Applicant's Buffer Map of Mailing Area
- Newspaper Notice
- Newspaper Publication Proof
- Draft License Agreement

- Draft City Staff Presentation