



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING

March 15, 2023 at 1:30 p.m.

*Boulder County Courthouse, 3rd Floor,
1325 Pearl Street, Boulder
Virtual and in-person*

PUBLIC HEARING

STAFF PLANNER: Pete L'Orange, Planner II

Docket SI-22-0002: CO 119 Mobility and Bikeway Projects

Request: Areas and Activities of State Interest (1041) review for combined projects along Colorado Highway 119 (CO 119) related to safety and mobility improvements and construction of a bikeway from approximately 47th Street/Foothills Parkway in the City of Boulder to milepost 54.2 in the City of Longmont.

Location: Colorado Highway 119 (CO 119) from approximately 47th Street/Foothills Parkway, Boulder, to milepost 54.2, Longmont, in Sections 2, 3, 9, 10, 11, 15, and 16 of T1N, R70W; Sections 25, 35, and 36 of T2N, R70W; and Sections 17, 19, 20, and 30 of T2N, R69W.

Zoning: Agricultural (A); Rural Residential (RR); Commercial (C); Light Industrial (LI); Niwot Rural Community District I (NRCD I); and Niwot Rural Community District II (NRCD II)

Applicant: Boulder County, Stacy Proctor
Colorado Department of Transportation, Adnana Murtic
Regional Transportation District, Ali Imansepahi

Property Owners: CDOT (SH-119 ROW)
City of Boulder

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SUMMARY AND RECOMMENDATION:

The applicants, Boulder County, the Colorado Department of Transportation (CDOT), and the Regional Transportation District (RTD), have proposed safety and mobility improvement modifications and the construction of a bikeway along Colorado Highway 119 (“CO 119”) between the City of Boulder and the City of Longmont. Staff recommends approval with conditions.

DISCUSSION:

The Colorado Highway 119 (CO 119) Multi-Modal Planning and Environmental Linkages (PEL) Study established a multimodal corridor vision and identified numerous project elements that CO 119 local agency stakeholders are advancing as separate but coordinated projects. CDOT and RTD are leading the CO 119 Safety and Mobility Improvements Project (Mobility Project). Boulder County is leading the CO 119 Bikeway Project (Bikeway Project). The applicants have submitted the Areas and Activities of State Interest (1041) application as a combined effort for both projects.

For the purposes of this 1041 application, both projects (i.e., Mobility Project and Bikeway Project), will collectively be referred to as the “Project”. The Project is located along the CO 119 corridor between Longmont and Boulder, often referred to as the Diagonal corridor. The Applicants propose to begin construction of the Project in 2024.

The Mobility Project will create a more reliable and equitable regional transportation system by incorporating safe, efficient vehicular travel choices, with enhanced transit infrastructure. By 2040, the CO 119 corridor is projected to see a 25 percent increase in vehicular traffic. Increased traffic can result in more congestion, delay, accidents, and greenhouse gas emissions. The Mobility Project intersection improvements address many key infrastructure deficiencies that will foster a safer driving environment. By adding a Bus Rapid Transit (BRT) system, it provides an opportunity to use CDOT’s new Adaptive Signal Control System to reduce queues and alleviate recurring congestion. This will address the pattern of congestion-related crashes due to speed differential times for emergency services. Upgrades to the signal equipment, including proven safety countermeasures (e.g., highly reflective backplates and adjustments to the clearance intervals) and additional features (e.g., dynamic signal warning systems) will improve signal visibility, reducing crashes. The Mobility Project intersection and transit improvements are located entirely within CDOT right-of-way (ROW).

The Bikeway Project adds a safe active transportation option within the CO 119 corridor, which is critical to increase connectivity. The bikeway is a proposed 12-foot-wide multi-use path between Boulder and Longmont primarily within the median of CO 119. The bikeway will be paved and plowed in the winter to facilitate year-round use. The goal of the bikeway is to create a safe, direct, and accessible bicycle facility. The 9-mile facility will connect into the existing multi-use path

networks within the City of Boulder and the City of Longmont. The Bikeway Project will require easements within the Cities of Boulder and Longmont as well as a small section within unincorporated Boulder County.

Per the application materials submitted by the applicants, the proposed project includes the following corridor-wide elements:

- Bus Rapid Transit (BRT) service;
- Synchronized traffic signals that optimize the length of green lights and promote traffic flow;
- Adaptive signal technology that detects when vehicles, pedestrians, and bicyclists are present and adjusts the signal accordingly;
- Intelligent Transportation Systems that enhance safety and provide real-time information to travelers;
- Signage and pavement markings to make intersections safer and improve multimodal access; and
- Separated bikeway.

The project also includes some intersection-specific elements. These include:

- Physical reconfiguration of the Colorado Highway 52 (CO 52) intersection to reduce congestion and improve operations;
- Park-n-Rides consist of bicycle and pedestrian facilities (i.e., shelters, seating, emergency phones, security cameras), local transit service (BRT stations), parking lot, and connections to the bikeway at 63rd Street and Niwot Road;
- The BRT stations include bus platforms and bus queue bypass lanes (CO 52, 63rd Street, and Niwot Road);
- Elimination of left turns at CO 119 and Airport Road;
- Traffic signal poles will be upgraded at six signalized intersections (i.e., Jay Road, 63rd Street, CO 52, Niwot Road, Airport Road, and Hover Street);
- Pedestrian safety and access will be improved at all six signalized intersections, including signing, striping, and lighting;
- Four planned bikeway under/overpasses to be constructed below/above cross streets and two Park-n-Rides which will directly interface with the proposed bikeway under/overpasses; and
- Additional intersection safety improvements under consideration:
 - Reviewing options related to restricting 55th Street movements across CO 119 and making both 55th Street approaches right-in right-out (RIRO);
 - Reviewing options to convert Monarch Road and CO 119 to RIRO intersections in both directions;
 - Reviewing feasibility of a RIRO out at 83rd and CO 119 intersection; and
 - Reviewing options related to northbound CO 119 left-turn to northbound Fordham Street.

The application materials submitted are the preliminary 30 percent plans; the application states that the applicants will obtain and comply with any required approvals from Boulder County, the State of Colorado, and any necessary federal agencies.¹ As the project plans are currently at the 30 percent point, the coordination of most of these approvals are still underway and under discussion. The applicants will acquire all necessary permits, certifications, and/or approval prior to any physical work being undertaken. Staff have identified the following permits, reviews, and approvals as potentially necessary:

¹ 30 percent plans are intended to define the major design elements of the project and refine the project's scope, identify any project flaws, develop project schedule, and budget.

- Floodplain Development Permit (Boulder County);
- Historic Preservation Advisory Board (Boulder County);
- City of Boulder Wetland’s Administrator (City of Boulder);
- Stormwater Construction Permit (Colorado State);
- CDOT MS4 Permit (Colorado State);
- National Environmental Policy Act (Federal);
- Section 404, Clean Water Act (Federal);
- Section 106, National Historic Preservation Act (Federal); and
- Section 7, Endangered Species Act (Federal).

In addition to revised/completed plans, staff have identified additional documentation and information, which will require review and approval by County staff prior to construction beginning. The additional documentation and information includes:

- Revegetation Plan;
- Weed Management Plan; and
- Lighting Plan.

REFERRAL RESPONSES:

The application was referred to the standard agencies, departments and adjacent property owners within 1500 feet of the three proposed alignments. Copies of all responses received by Community Planning and Permitting are attached. A summary of each response follows:

Boulder County Building Safety and Inspection Services Team – This team reviewed the application materials and noted that building and grading permits, and associated plan review and approval, will be required. They also provided standard comments related to accessibility, wind and snow loads, and ignition resistant materials.

Boulder County Community Planning and Permitting – Access and Engineering Team – This team reviewed the application materials and determined that the proposal is consistent with multiple transportation related items in the Boulder County Comprehensive Plan, and that the project is supported by multiple other state and regional transportation plans. The team noted that, since the project falls under the purview of the Colorado Department of Transportation and the Federal Highways Administration, they limited their comments to those items and areas where Boulder County has authority. The Access and Engineering team noted that a portion of the proposed grading near Station 1031+00 (northbound line, south of Jay) is located outside of the CO 119 right of way (ROW) and that an easement will be required for this grading. The team also summarized comments received from a consulting engineer, Wright Water Engineers. These comments included information on additional designs details that should be included in future plan sets. The Access and Engineering Team had specific comments related to potential traffic impacts. Specifically, they noted that the proposed modifications to CO 119 are intended to increase levels of service along the corridor by improving traffic flow, but do not include any capacity improvements along the corridor. They note that, while this may negatively impact level of service for County roads where they intersect with CO 119, the modifications are supported by the Boulder County Comprehensive Plan. The Access and Engineering Team noted that the quantitative traffic study information submitted with the application materials meets the objectives of the transportation system impact analyses as identified in Section 4.2 of the Boulder County Multimodal Transportation Standards (Standards). This included an analysis of five (5) potential alternatives, including: transit slip lanes, three (3) general purpose lanes, added toll express lanes (TEL), converting existing lanes/shoulder to toll express lanes, and grade separated tolled express lanes. The team determined that the three (3) general purpose lanes and TEL lane conversion alternatives would have negative impacts on travel

times. The team noted that the applicants will be required to install Level 2 or Level 3 electric vehicle charging stations at the Park-n-Ride facilities. Finally, the team encourages the applicants to evaluate and identify any barriers in the pedestrian environment for elderly and sight- and mobility-impaired users.

Boulder County Floodplain Management Program – Staff from the Floodplain Management Program reviewed the application materials. They noted that portions of the project are located within the designated Floodplain Overlay District at Fourmile Canyon Creek, Dry Creek No. 2, and Lefthand Creek. As such, the project will require three (3) Floodplain Development Permits, one for each of these floodplains. Floodplain staff also noted that proposed development around Lefthand Creek is within a known fluvial hazard zone and strongly encourages the applicant to consider flood protection measures above and beyond the minimum requirements of the Boulder County Land Use Code (the Code). Such measures may include additional scour protection or capacity for hydraulic structures.

Boulder County Historic Preservation Program – Staff for the Historic Preservation Program reviewed the application materials and noted that coordination and consultation with Historic Preservation staff will occur prior to any construction, and that review by the Historic Preservation Advisory Board may be required.

Boulder County Parks and Open Space – Natural Resource Planner – The Natural Resource Planner reviewed the application materials and identified the following designations in the Boulder County Comprehensive Plan or other applicable plans:

- Significant Agricultural Lands of National or State Importance – almost all of route, except for Gunbarrel area;
- Proximate to Bald Eagle Nest;
- Prairie Dog Habitat;
- Possible *Spiranthes diluvialis* habitat -- Ute Ladies' Tresses;
- Wetlands – scattered along the corridor;
- Riparian Areas – scattered along the corridor;
- Riparian Habitat Connector – on Lefthand Creek;
- Significant Natural Community – localized, near Jay Road; on OSMP lands;
- View Protection Corridor – associated with the state highway;
- Adjacent to Critical Wildlife Habitat – on Lefthand Creek; and
- Adjacent to Public Lands – numerous county and city open space properties.

The Natural Resource Planner noted that they do not expect any significant resource impacts as a result of the proposed project; however, they did provide extensive comments on specific impacts and potential mitigation measures on a number of issues, including: threatened or endangered species; impacts to environmental resources; weed management and revegetation; impacts to open space; and other required reviews related to natural resources. They also provided a series of suggested conditions of approval and recommendations for the applicants.

Boulder Rural Fire Rescue – This agency reviewed the application materials and provided several recommendations related to the proposed projects. They recommended reducing the speed limit to 55 MPH for the entire length of the corridor and to increase enforcement. The agency also noted that the installation of additional underpasses to allow bikes to enter/leave the CO 119 Bikeway, similar to the existing one on the east side of CO 119 at Airport Road, would be expensive but are far safer for bicycles.

City of Boulder – Multiple departments within the City of Boulder reviewed the application materials. The City's Planning Department noted that the proposal is well aligned with multiple

policies in the Boulder Valley Comprehensive Plan (BVCP). These policies include those related to reduction in greenhouse gasses and improvement to transportation systems. The City's Open Space and Mountain Parks (OSMP) department noted that the applicants will need to consult with the City's Wetlands Administrator to determine the requirements for a City of Boulder wetlands permit. OSMP also noted that their department owns or holds interest on multiple crossings of, and improvements to, irrigation ditches and laterals within the project area. OSPM noted that the applicants are already working with their department to determine the potential impacts and that one or more formal crossing agreements will be necessary. They have requested that execution of those agreements be a condition of approval.

City of Longmont – Multiple departments within the City of Longmont reviewed the application materials. The City's Public Works department did not note any major conflicts or issues with the proposal, but suggested that the applicants consider tying the proposed Bikeway into an existing sidewalk located south of Dry Creek Drive and east of Fordham Street. They noted if the Bikeway alignment remains as proposed, they would like additional information on how the Bikeway will be connected to the identified existing sidewalk. The City's Stormwater Quality Program provided some general comments on the drainage report submitted with the application materials, but did not request any major modifications or additional information.

Colorado Field Office, Ecological Services, for the U.S. Fish and Wildlife Service – This office reviewed the application materials and noted that, while application materials note that there is moderate potential for impact to the Western prairie-fringed orchid, there are no populations or individuals of this plant species within Colorado; it was included in the environmental impact analysis in the application materials as it *is* present downstream along the South Platte River and any depletions to this river could result in adverse effects to the species downstream in Nebraska.

Left Hand Water District – This agency reviewed the application and noted that they have multiple waterlines within the project area. They have requested that the 90% plans to be submitted show the depth of their lines, and that applicants provide information on how they will ensure that service to the agency's customers will not be disrupted. They also noted that any reconfiguration of their waterlines will need to be coordinated with, and approved by, Left Hand Water.

Lumen/Century Link – This agency responded the application, noting that there a number of their facilities and line which may be in conflict with parts of the proposed project. They recommend that the applicants conduct the appropriate locates to ensure that none of the agency's facilities are negatively impacted by the project.

Niwot Business Association – The Niwot Business Association reviewed the application materials and submitted a response in conjunction with other Niwot-area associations, including: the Niwot Community Association; the Niwot Cultural Arts Association; and the Niwot Future League. The collective associations stated that they are concerned about the design. Specifically, they are they concerned that redesign of the intersection of CO 119 and Niwot Road will make the intersection more complex, without adding much in the way of safety. They are also concerned that it will be difficult for bikes and pedestrians attempting to access the Bikeway by crossing northbound CO 119 on Niwot Road. They want the plans to be revised to include the installation of an underpass to allow bikes to enter/leave the CO 119 Bikeway, similar to the existing one on the east side of CO 119 at Airport Road.

United States Army Corps of Engineers – This agency responded that the project requires Army Corps review and approval as outlined in Section 404 of the Clean Water Act. As part of this review, the applicants must demonstrate that the project is also in accordance with Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act. Per the application materials submitted by the applicants, these consultations are already underway.

Xcel Energy – This agency reviewed the application materials and noted that there are a number of Public Service Company of Colorado owned and operated natural gas and electric distribution and transmission facilities in these areas of the project. Xcel staff noted that, per the National Electric Safety Code, a minimum 10-foot radial clearance must be maintained at all times from all overhead electric facilities including, but not limited to, construction activities and permanent structures. They also stated that for any new natural gas or electric service or modification to existing facilities, the property owner/developer/contractor must complete the application process through Xcel’s online process.

Adjacent Property Owners – Approximately 1,970 notices were sent; to date, staff has received 8 responses. The comments were generally in support; however, several of the responses included a desire to see an underpass to access the Bikeway from Niwot Road. One response expressed concern about potential impacts to the water table and ground water. One response opposes the project, stating that it is a waste of money, and that no one will use the bus service.

The following agencies reviewed the proposal and had no conflicts/no comment: Boulder County Conservation Easement Team; Boulder Valley School District; City of Boulder Fire Rescue; City of Longmont Fire; Mile High Flood District; and St. Vrain Valley School District.

The following agencies did not respond: Boulder County Long Range Planning; Audubon Society; Niwot Cultural Arts Association; Niwot Design Review Committee; Northern Colorado Water Conservancy; Longmont Power; Poudre Valley REA; Holland Ditch; Williamson Ditch; Boulder Feeder Canal; Hinman Ditch; Star Ditch; Boulder & White Rock Ditch; Boulder Valley and Longmont Conservation District; Colorado State Parks; Colorado Public Utilities Commission; History Colorado; BNSF Railroad; United States Fish and Wildlife Service; Boulder Airport; Mountain View Fire Protection District; Boulder Technology Center Owners Association; and Waterstone Home Owners Association.

CRITERIA ANALYSIS: The project is being reviewed under Article 8-511 of the Boulder County Land Use Code, which sets general criteria for Activities of State Interest. The project is subject to 1041 review per Article 8-308.B.1 for areas around key facilities in which development may have material effect upon the key facility or the surrounding community. Per Article 8-210.AC the Code, “Key facilities” means “interchanges involving arterial highways, whether existing or proposed.” This project involves modifications to, and work around, CO 119, an arterial highway. Staff reviewed the project in accordance with the applicable criteria noted above and finds the following:

8-511 Standards for Approval of a Permit Application

A: General Approval Requirements

- 1. A permit application for development of a matter of state interest may not be approved unless the applicant satisfactorily demonstrates that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in this Article. If the proposal does not comply with all of the applicable criteria, the permit shall be denied, unless the Board determines that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.**

- 2. If the Board determines at the public hearing that sufficient information has not been provided to it to allow it to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received. The Board shall adopt a written decision on a permit application as soon as practicable after the completion of the permit hearing.**

B: Standards for Approval of All Permit Applications

- 1. The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposal, including surface, mineral, and water rights. The Board may, in its discretion, defer making a final decision on the application until necessary property rights, permits and approvals for the proposal are obtained.**

The proposed project is primarily located within the CO 119 right of way (ROW); smaller portions of the project work is located within the City of Boulder and the City of Longmont. Per the referral response from the Access and Engineering Team, a portion of the grading at or near Station 1031+00 appears to be located outside of the ROW, on land owned by BNSF Railroad. Staff recommends that as a condition of approval, the applicants must obtain the appropriate easement for grading outside of the public ROW, and that documentation of that easement be provided to the County with materials submitted for permitting.

Building permits and grading permits, plan review and inspection approvals are required for all structures and grading per the adopted building code, including but not limited to; bridges, underpasses, retaining walls and grading. Except if reviewed and permitted through another Authority having Jurisdiction (AHJ), such as the State of Colorado.

The project requires Army Corps review and approval as outlined in Section 404 of the Clean Water Act. As part of this review, the applicants must also demonstrate that the project is also in accordance with Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act. Per the application materials submitted by the applicants, these consultations are already underway. Staff recommends that as a condition of approval, the applicants must provide documentation of clearance from the Army Corps of Engineers to the County with materials submitted for permitting.

As the project corridor is in proximity to resources identified as eligible, or potentially eligible, for historic designation, consultation with History Colorado will be required under Section 106 of the National Historic Preservation Act. Boulder County is designated as a Certified Local Government (CLG); as such, Boulder County will be an involved agency in that consultation process. The application materials submitted state that all required coordination with the Boulder County Historic Preservation program will be completed prior to construction. Staff recommend that as a condition of approval, the applicant complete the consultation with the Boulder County Historic Preservation program prior to issuance of any building or grading permit.

As discussed in the referral response from the Boulder County Floodplain Management team, portions of the project are located within the designated Floodplain Overlay District at Fourmile Canyon Creek, Dry Creek No. 2, and Lefthand Creek. As such, the project will require three (3) Floodplain Development Permits, one for each of these floodplains. Staff recommends that as a condition of approval, the applicants must apply for and receive the three (3) required Floodplain Development Permits prior to issuance of any building or grading permits.

Staff also recommend a condition of approval requiring a staging plan, which indicates all areas of staging, in plans submitted as part of the final project design proposal.

Finally, as the plans submitted and reviewed under this application are 30 percent plans,

to ensure that the project ultimately meets all of the criteria for review of Activities of State Interest, staff would recommend as a condition of approval that the applicants submit 90 percent plans for review and approval by the Community Planning and Permitting staff.

Therefore, as conditioned, staff finds this criterion can be met.

2. The applicant has the necessary expertise and financial capability to develop and operate the proposal consistent with all requirements and conditions.

The application states that, in addition to qualified staff from Boulder County, the Colorado Department of Transportation, and the Regional Transportation District, the materials submitted with the application were prepared by consultants who meet the Boulder County professional qualification standards. Specifically, the applicants contracted with Muller Engineering to develop the transportation plans, the modeling, and bikeway design.

Per the application materials submitted, the project as proposed is estimated to cost approximately \$160 million. According to the application materials, the project currently has secured approximately \$129 million in funding from the Colorado Department of Transportation (CDOT), the Denver Regional Council of Governments (DRCOG), the Regional Transportation District (RTD), and Boulder County. Currently funded Project elements include: BRT stations and Park-n-Rides; queue bypass lanes; intersection improvements (including reconfiguration of the CO 52 intersection); and portions of the Bikeway Project. The Project is continuing to apply for grant funding for the remaining Project needs, including construction funds for the remaining Bikeway Project elements and the Hover Street intersection improvements. Staff would recommend as a condition of approval that, prior to construction, the applicant must demonstrate financial capability to develop and operate the project consistent with all requirements and conditions.

Therefore, staff finds as conditioned, this criterion can be met.

3. Adequate water supplies, as determined from the Colorado Department of Health, are available for the proposal if applicable.

While the project as proposed does not require any dedicated water supplies, limited amounts of irrigation will be necessary for the establishment of revegetation post-construction. The applicants will be required to submit a revegetation plan for County review and approval prior the issuance of any building or grading permits (see Criterion 8-511.B.5 below), and the necessary irrigation measures will be included in that Revegetation Plan.

Therefore, as conditioned in Criterion 8-511.B.5 below, staff finds this criterion can be met.

4. The proposal will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan, or identifiable on or near the site.

A significant portion of the project is located in areas which have been identified in the Boulder County Comprehensive Plans as Agricultural Land of National and/or Statewide importance. The proposed modifications to CO 119, the modifications to the existing Park-n-Ride, the development a new Park-n-Ride, the development of the Bikeway would all have impacts on these designated agricultural lands. However, most of these

impacts would be located in areas which likely would be difficult to put into effective production. As discussed in the referral response from the Boulder County Natural Resource Planner, it might be theoretically possible to develop small-scale “micro-farms” in some areas of the median, and these are the areas which would be most impacted by the development of the proposed Bikeway.

This criterion, however, speaks to proposals causing “unreasonable” loss of agricultural land. In weighing the scope and physical area of the proposed project, the degree of the potential impacts to agricultural lands, and the likelihood of any agricultural activities occurring within the public ROW, it is staff’s determination that the loss of agricultural land is relative minor and is not unreasonable.

Therefore, staff finds this criterion is met.

5. The proposal shall not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this section, the following aspects of the environment shall be considered:

- a. Air quality: The proposal shall not significantly deteriorate air quality. In determining impacts to air quality, these considerations shall apply.**
 - i. Changes to seasonal ambient air quality.**
 - ii. Changes in visibility and microclimates.**
 - iii. Applicable air quality standards.**

As outlined the application materials, the proposed project is not anticipated to result in any significant deterioration of air quality. The proposed project is actually anticipated to result in an overall *decrease* in the vehicle miles traveled (VMT). The United States Department of Transportation defines VMT as “the total annual miles of vehicle travel divided by the total population in a state or in an urbanized area.”² This is *cumulative* number of miles from *all* vehicles; more vehicles on the road results in a higher VMT, while fewer vehicles on the road results in a lower VMT.

Based on the application materials submitted, CO 119 carried approximately 1,500 transit (e.g. “bus”) riders per day; the proposed public transit improvements are anticipated to increase bus ridership by 33%. Additionally, it is estimated that there are currently approximately 250 bicyclists per day on CO 119; a major purpose of the proposed Bikeway project is to make it safer and easier for bicyclists to travel the corridor. If more people can safely bike the corridor, the bikeway project will likely result in an additional decrease in the VMT.

There will be some temporary and localized impacts to air quality during construction, due to the construction equipment. However, these impacts will be temporary and limited in scope, and staff finds that they are anticipated to be minor and incidental to the construction. As such, staff finds that these impacts are not considered to be significant.

It is staff’s determination that the proposed project is anticipated to result in a net decrease in air-borne pollutants and will improve overall air quality.

² <https://www.transportation.gov/mission/health/vmt-capita>

Therefore, staff finds this criterion is met.

- b. Visual quality. The proposal shall not significantly degrade visual quality. In determining impacts to visual quality, these considerations shall apply.**
 - i. Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.**
 - ii. Interference with viewsheds and scenic vistas.**
 - iii. Changes in appearances of forest canopies.**
 - iv. Changes in landscape character types or unique land formations.**
 - v. Compatibility of building and structure design and materials with surrounding land uses.**

During construction, ground cover and vegetation will be impacted. As the project is proposed within the existing public ROW, construction will be visible to those using CO 119, from connecting roadways and pedestrian paths, and from immediately adjacent properties. Of particular note, the project will be visible from the following Boulder County Open Space properties: Waterstone NUPUD (Conservation Easement/Agriculture); Dodd Farm (Agriculture); Chandler (Agriculture); Jay Road Church of Christ (Agriculture); Fitzgerald (Conservation Easement); Nelson (Bert)-LoBo Trail; Bielins-Hock open space; Russell-Anderson-Schmidt open space; Peck (Agriculture); and the Boulder Tech Center (Conservation Easement). The project will also be visible from the following City of Boulder Open Space and Mountain Parks properties: Belgrove (Fee Property); Mckenzie (Fee Property); Nu-West (Fee Property); Seigle (Fee Property); Celestial Seasonings CE (Conservation Easement); Boulder Reservoir Natural Area (Natural Lands); Hart-Jones (Fee Property); Greens Industrial Park (Fee Property); I.B.M. OS Easement (Conservation Easement); I.B.M. CE (Conservation Easement); and I.B.M. (Fee Property). Finally, the Pleasant View Fields Sports Complex, a City of Boulder Parks and Recreation property, is adjacent to the Project.

As the bikeway and most of the roadway work is limited to the public ROW, and is generally at-grade, staff does not anticipate any long-term visual impacts from those portions of the project. Per the application materials, any temporary visual impacts to the ground cover and vegetation will be mitigated by revegetation after construction. While the application materials state that revegetation will occur, no detailed Revegetation Plan has been submitted. Staff would recommend that as a condition of approval, the applications submit a full revegetation plan for review and approval by Community Planning and Permitting staff prior issuance of any building or grading permit.

Part of the proposed project includes redesign of the existing Park-n-Ride at CO 119 and Niwot and a Park-n-Ride facility at CO 119 and 63rd Street. The Park-n-Rides will include awnings for pedestrian shelter adjacent to the parking areas. The new structures will be visible by users of CO 119. CDOT has developed Visual Impact Assessment Guidelines (2020), that build on Federal Highway Administration's (FHWA) guidance on visual resources. CDOT will follow these guidelines in the NEPA study process, which involves completing a Visual Resources Scoping Questionnaire to determine if a Visual Impact Assessment technical study will be warranted for the Project. No design plans or concepts have been submitted for these facilities. Generally speaking, it is anticipated that the overall visual impacts of the Park-n-Ride facilities will be relatively minor and will not "significantly degrade" the visual quality of the area. Per the submitted application materials, the proposed

pedestrian shelters will use laminated art glass for the sides and backs of the shelters. Staff finds the use of glass walls for the shelters is appropriate as it will help to minimize the visual impacts of the shelters.

The submitted application materials show the anticipated location of light fixtures for the Park-n-Ride facilities and the bikeway underpasses. No information has been provided on specific fixtures to be used or the potential impacts of the lighting. It is the recommendation that lighting for the project be planned and designed to meet the Boulder County outdoor lighting requires to greatest degree possible while still conforming to all required safety concerns. Staff would recommend as a condition of approval that the applicants submit for review and comment by Community Planning and Permitting staff a full lighting plan, including photometric details, prior to the issuance of any building or grading permit.

Staff would recommend that as a condition of approval, final plans for the Park-n-Ride structures, signage, and lighting be submitted to review and approval by Community Planning and Permitting staff prior to the issuance of any building or grading permits.

Therefore, as conditioned, staff finds that this criterion can be met.

- c. Surface water quality. The proposal shall not significantly degrade surface water quality. In determining impacts to surface water quality, these considerations shall apply.**
 - i. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.**
 - ii. Applicable narrative and numeric water quality standards.**
 - iii. Increases in point and non-point source pollution loads.**
 - iv. Increase in erosion.**
 - v. Increases in sediment loading to waterbodies.**
 - vi. Changes in stream channel or shoreline stability.**
 - vii. Changes in stormwater runoff flows.**
 - viii. Changes in trophic status or in eutrophication rates in lakes and reservoirs.**
 - ix. Changes in the capacity or functioning of streams, lakes or reservoirs.**
 - x. Changes in flushing flows.**
 - xi. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.**

Per the application materials submitted, the proposed project will have identifiable impacts to surface water, primarily in the form of increased impervious surfaces. The mobility portions of the project are anticipated to increase impervious surfaces by approximately 10 to 15 percent over existing, and the bikeway is anticipated to result in an increase of approximately 15 to 20 percent. These increases are spread over the entire length of the project area, and are distributed over multiple, separate discharge points (rather than a single point, which would have a far greater impact).

Prior to the submission of the application materials, the applicants consulted with Community Planning and Permitting staff and it was determined that existing runoff receiving areas, which are present, may serve to mitigate runoff impacts on a case-by-case basis in the final plans submitted for permitting. For example, if a

disconnected impervious area drains to a receiving area twice the size of the impervious area, it will not require further mitigation. Small, minimal runoff areas could be acceptable with no additional stormwater facilities for areas that increase the flow less than 1 cubic foot per second and do not present a hazard to the receiving facilities. Any other increases in runoff will be evaluated on a case-by-case basis, and any necessary mitigation measures will be identified to address location specific impacts; these mitigation measures may include providing drainage facilities such as detention ponds, soil amendments for infiltration, or bioretention/rain gardens. As necessary, permanent water quality treatment facilities may be required in accordance with CDOT's MS4 permit. All such mitigation measures will be included in final plans submitted for permitting.

The proposed Park-n-Ride facilities are anticipated to be the most significant areas of increased run off; the parking area the existing Park-n-Ride at Niwot is proposed for enlargement, resulting in an increase in impervious surface, and the new Park-n-Ride will be an entirely new impervious surface at 63rd Street. Per the application materials, the applicants propose to mitigate the impact from these Park-n-Ride areas by constructing two full spectrum detention ponds to address concentrated runoff Impacts at these locations. These would include overflow design for certain "worst case" events such as an event greater than a 100-year storm, or a scenario with a blocked pond outlet. To help reduce run off within the Park-n-Ride facilities, the Multimodal Transportation Standards, the Park-n-Ride lots will be required to have interior landscape areas of at least 5% of the lot area. Staff would recommend as a condition of approval that plans submitted for permitting demonstration that the Park-n-Ride facilities include landscaped areas interior to each lot of at least 5%.

Due to the scope of the project, it will be required to obtain a Stormwater Quality Permit, which will include a Stormwater Management Plan (SWMP) and SWMP Site Maps; per the application materials, these will be include in the final plans submitted for permitting.

Erosion control BMPs are required to prevent sediment migration during runoff into surface waters that are adjacent to construction. To further reduce potential impacts to surface waters during construction, a "spill kit" for emergency pollutant isolation must be onsite at all times during construction activity. Additionally, as called for in the Boulder County Storm Drainage Criteria Manual (SDCM), biodegradable hydraulic fluids must be used in all equipment and machinery operating in surface waters; all other applicable requirements in the SDCM and conditions of the SWQP must be observed.

Staff would recommend as a condition of approval that the applicants obtain the required Stormwater Quality Permit prior to any construction.

Therefore, as conditioned, staff finds this criterion can be met.

- d. Groundwater quality. The proposal shall not significantly degrade groundwater quality. In determining impacts to groundwater quality, these considerations shall apply.**
 - i. Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.**
 - ii. Changes in capacity and function of wells within the impact area.**
 - iii. Changes in quality of well water within the impact area.**

Prior to submission of the application materials, the applicant collected groundwater measurements at seven (7) locations along the project corridor; these locations coincide with the proposed bikeway underpasses. These measurements determined that groundwater levels in the area range from approximately 12 to 16 feet below the existing roadway surface (10 to 14 feet below existing ground surface). The bottom of the proposed bikeway underpasses will be approximately 15 feet below; as a result, the underpasses are anticipated to penetrate into the groundwater level approximately two (2) to three (3) feet.

Construction of the underpasses will likely require dewatering during the construction process. Per the application materials submitted, this dewatering will be done in accordance with the CDOT Standard Specifications and Colorado Department of Public Health and Environment (CDPHE) regulations.

The applicants propose to waterproof the bottoms of the underpasses, as well as install drains and pumps at each underpass to remove any groundwater seepage. These drains and pumps will also help manage stormwater runoff in the underpasses. Water would be pumped to surface locations away from the underpasses. The specific locations of the outfalls have not been determined at this time, but the intent is that they be far enough from the underpasses that the water will filter back into the ground without immediately reentering the underdrain/pump system. The outfall locations should be sited so as to not direct water toward any existing structures or facilities or environmental resources which might be negatively impacted. To ensure that the outfall location do not result in any negative impacts to the surface- and/or groundwater systems, staff would recommend that as a condition of approval, the applicants submit plans for review and approval by Community Planning and Permitting staff, identifying the locations of the outfalls and indicating the groundwater flow direction(s) in each location.

In addition to general groundwater impacts related to the underpasses, the project also has potential impacts related to the South Platte Alluvial Aquifer. The aquifer generally follows Left Hand Creek, at the northern end of the project area. The bikeway will require the construction of a bridge over Left Hand Creek. Construction of the abutments for the bikeway bridge will require dewatering. As with the underpasses, this dewatering will be done in accordance with CDOT Standard Specifications and CDPHE regulations. Staff would recommend as a condition of approval that all required dewatering must be done in accordance with the CDOT Standard Specifications and CDPHE regulations.

Therefore, as conditioned, staff finds this criterion can be met.

- e. **Wetlands and riparian areas. The proposal shall not significantly degrade the quality of wetlands and riparian areas. In determining impacts to wetlands and riparian areas, these considerations shall apply.**
 - i. **Changes in the structure and function of wetlands.**
 - ii. **Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.**
 - iii. **Changes to aerial extent of wetlands.**
 - iv. **Changes in species' characteristics and diversity.**
 - v. **Transition from wetland to upland species.**
 - vi. **Changes in function and aerial extent of floodplains.**

Per the application materials, the project will result in temporary impacts to 0.69-

acres and permanent impacts to 0.42-acres of non-jurisdictional wetlands and 0.01-acres of temporary and 0.01-acres of permanent impacts to jurisdictional wetlands. The project will also result in temporary impacts to 0.18-acres and permanent impacts to 0.2-acres of identified riparian areas. Staff finds the extent of these impacts to moderate and reasonable for the scope of the proposed project.

Per the application materials submitted, wetland surveys and delineations were conducted in 2020 within CDOT ROW across the entire Project Area. Through those surveys, several named and unnamed discharges were identified. The named drainages include Left Hand Creek, Dry Creek, Boulder and White Rock Ditch, and Fourmile Canyon Creek. The applicants are already consulting with the Army Corps of Engineers, and the Corps issued an Approved Jurisdictional Determination (AJD) in July 2022. Per that AJD, Left Hand Creek, Dry Creek, Little Dry Creek, Fourmile Canyon Creek, and all abutting wetlands to those Creeks were determined to be jurisdictional waters of the United States.³ The remaining wetlands and ditches identified in the Project Area were not determined to be water of the United States.

Impacts to riparian areas fall under Colorado Senate Bill 40 (SB40), which requires any state agency obtain wildlife certification from Colorado Parks and Wildlife when the agency plans construction in "...any stream or its bank or tributaries..." As such, the bikeway will be subject to SB40 certification. An SB40 certification will be issued for construction and will include general conditions that are designed to minimize or avoid potential negative impacts from the project to aquatic systems and riparian areas. The applicant will be subject to the Best Management Practices (BMPs) and general conditions of the Colorado Parks and Wildlife and CDOT Memorandum of Understanding guidelines for the SB40.

The applicants have stated that all temporary wetland impacts from both portions of the project will be returned to pre-existing grades and seeded with a native wetland seed mix following construction. For all non-jurisdictional permanent wetland impacts, construction activities involving at least 500 square feet of permanent impacts, or 1,000 square feet of combined temporary and permanent impacts will be mitigated at a 1:1 ratio per Federal Highway Administration requirements.

Staff have not identified any impacts which would significantly degrade the quality of the wetlands or riparian areas. However, staff would recommend standard conditions of approval for any projects located in or near wetlands or riparian areas to ensure that Boulder County goals and policies are met and to help prevent any accidental or unanticipated impacts. These recommended conditions of approval include the following: all staging areas must be shown on plans submitted for permitting; prior to transporting equipment to the site, all machinery that would come in contact with water features must be cleaned to remove aquatic nuisance species (ANS) in accordance with State of Colorado ANS regulations; as called for in Boulder County's 2016 Storm Drainage Criteria Manual, biodegradable hydraulic fluids must be used in equipment and machinery used in the water; and any reseeding which will occur within the wetlands must use a native wetland seed mix.

Therefore, as conditioned, staff finds that this criterion can be met.

f. Terrestrial and aquatic animal life. The proposal shall not significantly degrade

³ Per the application materials, the AJD included Wonderland Creek, which was originally part of the Project, but subsequently removed from scope of work.

the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.

- i. Changes that result in loss of oxygen for aquatic life.**
- ii. Changes in flushing flows.**
- iii. Changes in species composition or density.**
- iv. Changes in number of threatened or endangered species.**
- v. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.**
- vi. Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.**
- vii. Changes to the aquatic and terrestrial food webs.**

Prior to the submission of the application materials, the applicants consulted multiple reports and data sources to determine which terrestrial and aquatic animal life were presumed to be located within the project area.

Per the Endangered Species Act, any project involving federal funds, permits, or authorizations is required to consult with the United States Fish and Wildlife Service (USFWS) to ensure the project will not have any significant negative impacts on federally listed Threatened or Endangered Species or result in the destruction or adverse modification of designated or proposed critical habitat. Since the Federal Highway Administration is the lead federal agency for this proposed project, they are the agency responsible for conducting this consultation; CDOT has been designated as FHWA's non-federal representative for purposes of informal consultation with USFWS. Staff would recommend as a condition of approval that the applicant provide the USFWS letter shall be submitted to Community Planning and Permitting

At the time of this application, the applicants are developing a Biological Assessment and agency recommended surveys will be determined in consultation with USFWS; the applicants have stated that a copy of this will be provided to the County prior to construction. Staff would recommend that as a condition of approval, the Biological Assessment and Biological Opinion be submitted to Community Planning and Permitting for review and comment prior to the issuance of any building or grading permit.

In addition to federal statutes, this project is subject to the Colorado Non-game, Endangered, and Threatened Species Conservation Act, which is intended to help protect endangered, threatened, or rare species, which are listed by Colorado Parks and Wildlife (CPW). The Applicants will be coordinating with CPW as design progresses and anticipate mitigation measures designed to improve fish and wildlife habitat and that a copy of the SB40 certification will be provided to Boulder County prior to construction. Staff would recommend that as a condition of approval, the SB40 certification be submitted to Community Planning and Permitting for review and comment prior to the issuance of any building or grading permit.

The application materials submitted by the applicants provide an analysis of the existing conditions in the project area related to terrestrial and aquatic animal life. In addition to review and evaluation of existing data and mapping, field surveys were

completed for the entire Project corridor in 2019, 2021, and 2022 to identify and map terrestrial and aquatic habitat features. See Table 5 in the Application Narrative for a full list of threatened or endangered species and potential for those species to occur in the project area; the potential for the species to occur are classified as None, Low, Moderate, or High. For the purposes of this application, staff have focused analysis on any species with a moderate or high potential to occur within the project area.

Aquatic species: There are no threatened or endangered aquatic species with a high level of potential occurrence within the project area. There are only two threatened or endangered aquatic species, both fish, which have a moderate potential to be found in the project area: the Common Shine (*Notropis cornutus*) and the Plains Topminnow (*Fundulus sciasicus*). Suitable habitat for both species occurs within the project area. Based on the mitigation measures discussed in 8-511.B.5.e above, staff does not anticipate any negative impacts to the suitable habitat and staff does not anticipate any significant negative impact to these species.

Reptile species: There are no threatened or endangered reptile species with a high level of potential occurrence within the project area. Only one threatened or endangered reptile species has a moderate potential to occur within the project area: the Lined Snake (*Tropidoclonion lineatum*). Suitable habitat, typically prairie grasslands, does occur within the project area; however, the available literature indicates that the Lined Snake primarily inhabits remnant, undisturbed prairie areas along woodland corridors. The project area has already been heavily disturbed. If there are any Lined Snake populations within the project area, the required revegetation will mitigate any short-term impacts that might occur during construction. Staff finds that no additional mitigation is required for this species.

Insect species: There are no threatened or endangered insect species with a high level of potential occurrence within the project area. There are two (2) threatened or endangered species with a moderate level of potential occurrence within the project area: the Monarch Butterfly (*Danaus plexippus*) and the Regal Fritillary (*Speyeria idalia*). Areas of suitable habitat for both species occur within the project area. In relation to the Monarch Butterfly, low densities of milkweed occur within the project area, and it is possible that Monarch Butterflies could migrate through the project area. The Regal Fritillary, another species of butterfly, occupies open, grassy habitats. The required revegetation will mitigate any short-term impacts that might occur during construction. Staff finds that no additional mitigation is required for these species.

Mammal species: There is one (1) threatened or endangered mammal species with a high potential for occurrence within the project area: the Black-tailed Prairie Dog (*Cynomys ludovicianus*). Colonies and individuals have been observed in the project area with ideal habitat areas. Per the application materials, the applicants intend to follow the Boulder County Parks and Open Space and CDOT guidelines for mitigating impacts to the Black-tailed Prairie Dog colonies. The preferred mitigation measure will be to relocate the prairie dogs to another suitable habitat area. As of the submission of the application, however, no relocation habitat has been secured, and per the application materials, it is not likely that such a location will be found. The first alternative mitigation measure will be to capture the prairie dogs and donate them to either raptor rehabilitation facilities or a black-footed ferret reintroduction program. Finally, if relocation and/or donation efforts fail, the prairie dogs will be euthanized using humane techniques following Colorado Parks and Wildlife guidance. The Boulder County Parks and Open Space Natural Resources Planner,

however, has stated that a passive relocation method known as “Reverse Dispersal Translocation” has proved effective in the past, and has been used successfully by the City of Boulder Open Space and Mountain Parks program. This method involves manipulating a colony’s burrow system, closing off burrows and tunnels in the potential impact areas, effectively “pushing” the prairie dogs away from the project area and potential harmful impacts without having to fully remove them from the area. If utilized, the Reverse Dispersal Translocation method would replace the techniques and methods outlined in the application materials. County staff would have no concerns with impacts to the Black-tailed Prairie dogs if this method is used, as it would be less impactful to this threatened species and would reduce potential impacts to the overall ecosystem in the vicinity of the project area. Staff would recommend as a condition of approval that the applicants use the Reverse Dispersal Translocation method as the preferred mitigation measure, with the details/method to be used reviewed by Community Planning and Permitting staff, and use relocation/donation as a first alternative, and only use euthanization as a last resort if all other methods fail.

There is only one (1) threatened or endangered mammal species with a moderate level of potential occurrence within the project area: the Preble’s Meadow Jumping Mouse (*Zapus hudsonius preblei*). While suitable Preble’s habitat has been identified in the project area, no department or agencies have responded with any specific concerns regarding this species, and it has not been sighted or documented in the project area. Per the application materials, the applicants will continue to consult with Boulder County and the USFWS to determine to confirm any potential impacts and identify any necessary mitigation measures. It is staff’s determination that, unless any populations are discovered during pre-construction survey or as otherwise required by USFWS, the conditions of approval recommended above for impacts to riparian areas are sufficient mitigation for the impacts to suitable Preble’s habitat areas and no further mitigation is required.

Bird species: There are four (4) threatened or endangered bird species with a high level of potential occurrence within the project area: the Bald Eagle (*Haliaeetus leucocephalus*), the Loggerhead Shrike (*Lanius ludovicianus*), the Northern Harrier (*Circus hudsonius*), and the Willow Flycatcher (*Empidonax traillii*). The Loggerhead Shrike was last observed in the vicinity of the project area in 2021; the Northern Harrier and the Willow Flycatcher were both observed in the vicinity as of 2022. There is a known pair of nesting Bald Eagles relatively near to the project area and have been repeatedly successful in fledging young since 2019. The tree used by this Bald Eagle pair is located approximately 3,400 feet from the nearest Park-n-Ride expansion, approximately 1,700 feet from the nearest bus lane construction, and approximately 1,600 feet from the nearest bikeway construction. As such, staff has limited concerns related to impacts to the nesting Bald Eagles in the vicinity. The only potential issue of concern would be the potential impacts to the nesting pair, which might result of construction occurring under lights (i.e. night-work). To ensure that there are no negative impacts associated with construction under lights, staff would recommend that as a condition of approval, that no night work under lights shall occur within ½ mile of the identified nesting location of the Bald Eagles. No species-specific concerns or mitigation measures have been identified for the other three species with a high potential for occurrence in the project area.

There are two (2) threatened or endangered bird species with a moderate level of potential occurrence within the project area: the American Peregrine Falcon (*Falco*

peregrinus anatum) and the Burrowing Owl (*Athene cunicularia*).⁴ Suitable habitat for both species occurs within the project area. The last sighting of a Peregrine falcon in the vicinity was in 2017, so staff does not have any specific concerns related to this species. The Burrowing Owl was last sighted in the vicinity in 2020; however, since there is a known prairie dog colony in the project area, and as Burrowing Owls and prairie dogs are known to have a symbiotic relationship (Burrowing Owls frequently use prairie dog tunnels and burrows as nesting sites), there is the potential for unidentified or undocumented Burrowing Owls to exist within the project area. The application materials submitted state that a survey for Burrowing Owls will be conducted prior to construction, and any necessary mitigation actions or restrictions will be identified at that time should Burrowing Owls be found. The recommended condition of approval above related to Reverse Dispersal Translocation of the Black-tailed Prairie dog colony would also serve as a significant mitigation measure, and help to minimize impacts to the overall ecosystem, if any Burrow Owl populations are found during that survey process.

In addition to the potential impacts and mitigation measures specific to the Bald Eagles and the Burrowing Owls outlined above, there is the potential for the removal of existing trees to impact a wide range of migratory bird species. Many bird species have nesting season between early April and late August. As such, to prevent any negative impacts to these bird species, staff would recommend that as a condition of approval, removal of trees should only occur between September 1 and March 31, the non-nesting season for migratory birds, based on the federal Migratory Bird Treaty Act. As noted in the application, trees removed shall be replaced in a 1:1 ratio. Additionally, staff would recommend as a condition of approval that the project corridor must be surveyed for raptor and other bird nests (including burrowing owls) by a qualified biologist just prior to commencement of construction, and subsequent actions/restrictions adopted as necessary.

There are no threatened amphibian or mollusk species with a moderate or high level of potential occurrence within the project area, and no departments or agencies have identified any concerns related to these species.

Therefore, as conditioned, staff finds that this criterion can be met.

- g. Terrestrial and aquatic plant life. The proposal shall not significantly degrade the quality of terrestrial and aquatic plant life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.**
 - i. Changes to habitat of threatened or endangered plant species.**
 - ii. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.**
 - iii. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.**
 - iv. Changes in threatened or endangered species.**

Prior to the submission of the application materials, the applicants consulted multiple reports and data sources to determine which terrestrial and aquatic plant life which is presumed to be within the project area.

⁴ The application materials submitted also include the Whooping Crane (*Grus americana*) as having a moderate level of potential occurrence in the project area. However, per the Boulder County Parks and Open Space Natural Resources Planner, it does not apply to this project, so has not be included in staff's analysis.

The application materials provide an analysis of the existing conditions in the project area related to terrestrial and aquatic plant life. In addition to review and evaluation of existing data and mapping, field surveys were completed for the entire Project corridor in 2019, 2021, and 2022 to identify and map terrestrial and aquatic habitat features. See Table 5 in the Application Narrative for a full list of threatened or endangered species and potential for those species to occur in the project area; the potential for the species to occur are classified as None, Low, Moderate, or High. For the purposes of this application, staff have focused analysis on any species with a moderate or high potential to occur within the project area.

There are three (3) threatened or endangered plant species with a moderate level of potential occurrence within the project area: the Ute Ladies'-tresses Orchid (*Spiranthes diluvialis*), the Wavy-leaf Stickleaf (*Nuttallia multiflora*), and the Western Prairie Fringed Orchid (*Platanthera praeclara*).⁵ There are areas of suitable habitat (or marginally suitable, for the Western Prairie Fringed Orchid) within the project area. Staff have not identified any species-specific concerns, and no departments or agencies have expressed any species-specific concerns.

Regarding plant life in general, the proposed project will impact plant life in and adjacent to the project due to ground disturbance related to construction activities. However, given the length of the project area and the relatively small amount of land to be disturbed, staff finds the overall impacts to plant life in the project to be minor and appropriate. To ensure that the proposed project does not result in any significant degradation to the overall quality of plant life, staff would recommend as a condition of approval that the applicants submit for review and comment by Community Planning and Permitting staff a full Revegetation Plan prior to issuance of any building or grading permits.

In addition, this criterion speaks to "Changes in advancement or succession of desirable and less desirable species, including noxious weeds." Specifically, projects should take steps to encourage appropriate, desirable species while removing or eliminating undesirable species and noxious weeds. Per the Natural Resources Planner, the state noxious weeds Canada Thistle, Fuller's teasel, and Russian-olive trees are all present within the project area, and that it is very likely that there are other identified noxious weeds in the project area. It is strongly recommended that all Russian-olive trees be cut down and the stumps immediately treated with a systemic herbicide to prevent re-sprouting.

The application materials submitted state that a full Integrated Noxious Weed Management Plan will be prepared for this project. Staff would recommend that as a condition of approval, this Noxious Weed Plan be submitted for review and comment by Community Planning and Permitting staff prior to the issuance of any building or grading permits. Additionally, to ensure that no new noxious weeds are introduced to the project area, staff would recommend that as a condition of approval that all straw mulch or straw bales must be certified weed-free.

Therefore, as conditioned, staff finds that this criterion can be met.

h. Soils and geologic conditions. The proposal shall not significantly degrade soils

⁵ Per the CDOT/USFWS liaison, there are no populations of the Western Prairie Fringed Orchid in Colorado. It is included in the list of threatened or endangered species because it does occur downstream along the South Platte River, and any depletions to the South Platte River may impact populations of the orchid in Nebraska.

and geologic conditions. In determining impacts on soils and geologic conditions, these considerations shall apply.

- i. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and flood hazard areas.**
- ii. Changes to stream sedimentation, geomorphology, and channel stability.**
- iii. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.**
- iv. Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.**
- v. Exacerbation of seismic concerns and subsidence.**

Portions of the proposed project are located in areas identified in the Boulder County Comprehensive Plan as having natural hazard area. Specifically, the following identified natural hazard areas occur within the project area: Landslide High Susceptibility Area; High Swelling Soil Potential; and Floodway and Floodplain.

Per the application materials submitted, approximately 7.3 acres of the project area is within the Landslide High Susceptibility area; these areas are generally located between the southern end of the project and Monarch Road and where the project crosses Left Hand Creek at the northern end of the project. Per the application materials, the applicants will work with Boulder County staff to identify and address any potential impacts. Staff would recommend as a condition of approval, that the applicants complete coordination with County staff to identify and address any potential landslide impacts and that any necessary and appropriate mitigation measures be included in final plans submitted for permitting.

Additionally, approximately 47 acres of the project area is located in identified High Swelling Soil Potential areas. Per the application materials submitted, geotechnical investigations have been completed for the project corridor and recommendations will be made for any cut and fill activities in those areas. Staff would recommend as a condition of approval that all recommendations for cut and fill activities be provided to Community Planning and Permitting staff for review and comment, and that those recommendations be incorporated into final plans for permitting.

The proposed project is located within the designated Floodplain Overlay District at Fourmile Canyon Creek, Dry Creek No. 2, and Lefthand Creek. As such, the project will require three (3) Floodplain Development Permits, one for each of these floodplains. To help ensure that construction activities do not result in a hazard in the designated floodplain areas, all staging and stockpiling areas must avoid the regulatory floodplain unless it is demonstrated that doing so is unavoidable. Construction staging and/or stockpiling in the regulatory floodway will not be permitted without an alternatives evaluation and an emergency evacuation plan approved by the Community Planning & Permitting Department – Floodplain Management Program. Boulder County Floodplain staff also noted that proposed development around Lefthand Creek is within a known fluvial hazard zone and strongly encourages the applicant to consider flood protection measures above and beyond the minimum requirements of the Land Use Code. Staff would recommend the following conditions of approval: at the time of building and grading permit application submittal, the applicant must submit a Floodplain Development Permit (FDP) application for each of the three floodplains; and all construction staging and/or stockpiling areas must be reviewed and approved by Community Planning and Permitting staff.

Therefore, as conditioned, staff finds that this criterion can be met.

i. The proposal shall not degrade the quality of any other Environmental Resources as defined in Article 18 of this Code.

In addition to the Environmental Resources discussed above, staff have identified the following additional Environmental Resources within or near the proposed project: Riparian Habitat Connectors; Significant Natural Communities; Archaeologically Sensitive Travel Route; and Critical Wildlife Habitat.

There is one designated Riparian Habitat Connection within the project area, located at the northern end of the corridor (approximately at mile post 53.1) and is associated with Left Hand Creek. The area of Riparian Habitat Connector impacted by the proposed project is very small – only 85 square feet. Based on the analysis in criterion 8-511.B.5.e above, and the recommended conditions of approval in that criterion, staff have no additional concerns related to adverse impacts to any Riparian Habitat Connectors within or adjacent to the project area. Per the application materials, if any potential impacts are identified during continued plan development or construction, the applicants will coordinate with Boulder County staff at that time.

There is one designated Significant Natural Communities area within the project area, located at approximately mile post 45.8, just south of Jay Road. Staff have not identified any specific concerns related to impacts to this Significant Natural Communities area, and no referral agencies have expressed any concerns. Per the application materials, if any potential impacts are identified during continued plan development or construction, the applicants will coordinate with Boulder County staff at that time.

One Archaeologically Sensitive Travel Route was identified in the project area, near Left Hand Creek. The preliminary design of the pedestrian bridge across Left Hand Creek (at approximately mile post 53.2) avoids impacts to the Archaeologically Sensitive Travel Route. Staff have not identified any specific concerns related to impacts to this Travel Route, and no referral agencies have expressed any concerns. Per the application materials, if any potential impacts are identified during continued plan development or construction, the applicants will coordinate with Boulder County staff at that time.

Finally, while not actually located within the proposed project footprint, there is a Critical Wildlife Habitat adjacent to the CO 119 ROW – the Lefthand Creek Cottonwood Groves area. Left Hand Creek is the effective “centerline” for this Critical Wildlife Habitat. It located approximately 400 feet from the bikeway and there are no CO 119 modifications proposed in this area. No work is proposed within the Critical Wildlife Habitat area itself. As such, staff has no concerns related to impacts to this Critical Wildlife Habitat, and no referral agencies has responded with any concerns.

Therefore, as conditioned in criterion 8-511.B.5.e above, staff finds this criterion can be met.

6. The proposal will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.

The proposed project is not anticipated to have any adverse effects on the quality or

quantity of recreational opportunities in Boulder County. The proposed bikeway in particular is likely to increase recreational options as it provides a safer alternative for bicyclists to navigate the CO 119 corridor than existing conditions and will connect to other bike routes.

Members of the public have expressed concern that there may be safety concerns related to bikes and pedestrians accessing the bikeway at or near Niwot Road and have requested that the project be revised to include an additional underpass that would allow bikes and pedestrians to cross under northbound CO 119 to access the bikeway. Staff has discussed this with the applicant, and it has been determined that such an underpass would be beneficial, but that it is outside of the scope and funding of the project as it exists. However, it is something that staff would encourage the applicants to consider as a future potential improvement to the bikeway. Any such future underpasses will require modifications to the bikeway at that time. In order to help facilitate this potential improvement, staff would recommend that final plans submitted for permitting be revised to reflect any necessary grading or alignment changes that would allow for the future development of the underpass with minimal changes to the bikeway as reviewed through this docket.

Therefore, as conditioned, staff finds this criterion can be met.

7. **The proposal will not cause unreasonable loss of significant cultural resources, including but not necessarily limited to historical structures or sites and archaeological artifacts or sites, as identified in the Comprehensive Plan or identifiable on or near the site.**

With the exception of the Archaeologically Sensitive Travel Route discussed above, there are no designated historic, archaeological, or cultural resources within the project area. As part of the project planning and development, the applicants are in on-going coordination with CDOT Region 4 Historians to determine if there any currently undesignated but eligible resources within the defined Area of Potential Effect (APE) which might be impacted by the proposed project. The APE was determined through consultation with the applicants' consultant, the CDOT Historians, and Boulder County staff.

As part of the National Environmental Policy Act (NEPA) review and in accordance with Section 106 of the National Historic Preservation Act (NHPA), the applicants will submit site forms, photographs, and maps to History Colorado (the Colorado State Historic Preservation Office) for concurrence on the eligibility of any structures or sites and any potential effects to historic resources. As a Certified Local Government, Boulder County will be invited as an involved agency in the Section 106 process. The applicants have stated that all required coordination with Boulder County Historic Preservation staff will be completed before construction. To ensure that all historic resources and impacts, as identified through the Section 106 process, are adequately addressed in the final plans submitted for permitting, staff would recommend that as a condition of approval, the applicants shall provide documentation that the Section 106 consultation process has been completed prior to submitting final plans for permitting.

Therefore, as conditioned, staff finds this criterion can be met.

8. **The proposal or its associated transmission collector or distribution system will not create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.**

Under Part 772 or Title 23 of the Code of Federal Regulations (23 CFR 772), any projects which are classified as Type I under the Federal regulations require traffic noise analysis. Per the application materials, the Park-n-Ride facilities and the bus lanes both qualify as Type I project under the following criteria:

- The addition of a through-traffic lane(s). This includes the addition of a through-traffic lane that functions as a high-occupancy vehicle lane, high-occupancy toll lane, bus lane, or truck climbing lane that is greater than 2,500 feet.
- The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot (including Park-n-Ride lots), or toll plaza.

As such, a noise impact analysis will be required for these parts of the proposed project during the NEPA review process. This analysis will determine the degree of any noise impacts which might occur, and what mitigation, if any, is necessary. Staff would recommend as a condition of approval, that the applicants provide to Community Planning and Permitting staff a copy of the noise impact analysis, including any necessary mitigation measures, prior to the issuance of any building or grading permits.

Staff does not anticipate any obnoxious odors to result from the proposed project, and no referral agencies have expressed any concerns related to odors.

Therefore, as conditioned, staff finds this criterion can be met.

9. The proposal will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.

As discussed in criterion 8-511.B.5.h above, portions of the project are located within designated floodplains. As such, the project will require Floodplain Development Permits (FDP). Any significant risks from flooding will be identified and addressed through the FDP process.

Therefore, as conditioned criterion in 8-511.B.5.h above, staff finds that this criterion can be met.

10. The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the County.

The project as proposed will not create an undue financial burden on existing or future residents of Boulder County. As discussed in criterion 8-511.B.2 above, and with the recommended condition of approval outlined in that discussion, the project as proposed is estimated to cost approximately \$160 million; the project currently has secured approximately \$129 million in funding from the CDOT, the Denver Regional Council of Governments (DRCOG), RTD, and Boulder County. The applicants are continuing to apply for grant funding for the remaining Project needs.

Staff have not identified any undue financial burdens on existing or future residents of Boulder County, and no referral agencies have responded with any concerns related to this criterion.

Therefore, as conditioned in Criterion 2 above, staff finds this criterion can be met.

11. The proposal will not have a significant adverse effect on the capability of local

government to provide services or exceed the capacity of service delivery systems.

The project is not expected to affect the ability of local governments and quasi-governmental agencies to provide water, sanitation, natural gas, electricity, access, fire, school, hospital, police, flood protection, solid waste disposal, or other services while maintaining adequate levels of service to other areas outside of the Project area. No local government indicated concerns with the proposal. The proposal will not require any additional fire or police protection; however, staff would recommend as a condition of approval that fire districts and departments be made aware of any road closures, lane restrictions, or changes in lane alignments which could impact emergency response routes.

Therefore, as conditioned, staff finds this criterion can be met.

12. The planning, design and operation of the proposal will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.

The project as proposed is intended to help reduce the number of vehicles on CO 119 through enhanced public transit function and efficiency and by providing a safer route for non-motorized travel between Boulder and Longmont. The project is also intended to result in more efficient traffic flow, reducing travel times. As a result, it is anticipated that the proposed project will help to reduce the use of fossil fuels, which is in keeping with this criterion.

Per Article 4-513.D.4 of the Code, any new or expanded parking lot that totals more than 15 automotive parking spots is required to provide electric vehicle supply equipment (“EVSE”), also referred to as a charging station. The site plans as submitted do not indicate any EVSE stations at the Park-n-Ride facilities. Staff would recommend as a condition of approval, that the revised plans submitted for permitting show the number and location of EVSE stations to demonstrate compliance with Article 4-513.D.4 of the Code.

Therefore, as conditioned, staff finds this criterion can be met.

13. For those applications for which the Director has required information on the environmental impacts and costs of alternatives under Section 8-507(D)(7)(b), above, the proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed.

The Director has not required any additional information for this application under 8-507.D.7.b.

Therefore, staff finds this criterion does not apply.

14. The proposal is in accordance with the Boulder County Comprehensive Plan and any applicable intergovernmental agreement affecting land use and development, including but not limited to any applicable land use designations. In cases where a person who is not a service provider with a County-approved service plan or service area, proposes a development within an approved service area, the Board shall not be compelled to consider the development be in compliance with the applicable adopted comprehensive plan or intergovernmental planning agreement simply by virtue of the fact that the development is located within, or is proposed to serve, an approved service area.

The Boulder County Comprehensive Plan is, at its core, a document aimed at promoting the health and safety of the residents of Boulder County. In considering the project as proposed, staff have determined that both the Safety and Mobility improvements and the Bikeway are in accordance with a number of policies and goals of the Comprehensive Plan. Staff have identified the following policies in particular as applicable to the proposed project:

- Public Health Policy 1.01: Air Quality – this policy encourages the County to support efforts which will improve air quality in the County and work to mitigate the impacts of poor air quality. The project will help to reduce the number of vehicles on the road, reducing the level of airborne pollutants.
- Public Health Policy 2.01: Open Space and Nature – this policy recognizes the benefits of access to open space areas, and trails which allow the public to enjoy the outdoors and connect with nature. The proposed Bikeway will serve as a trail directly connecting Boulder and Longmont, and will tie into existing bike and pedestrian trails, expanding the network to a wide area and more people.
- Public Health Policy 3.01: Injury Prevention – this policy directs the County to work to reduce and eliminate injuries related to the transportation network. The project intends to provide increased safety along the CO 119 corridor, both by improving traffic signals and controls at major intersections and by creating a safer route for bikes and pedestrians via the bikeway.
- Public Health Policy 3.04: Active and Multimodal Transportation – this policy states the County’s support for multimodal forms of transportation, including biking, walking, and public transit. The proposed project incorporates improvements to multimodal transportation systems.
- Public Health Goal 7: Address Climate Change – this goal directs the County to work to minimize and mitigate the impacts of climate change. As discussed above, the project is anticipated to reduce the number of vehicles on the road, a significant source of greenhouse gasses which contribute to climate change.
- Sustainability Goal 4: Identify and Implement Actions to Diminish Greenhouse Gas Emissions – this goal directs the County to find and support ways to reduce the level of greenhouse gasses being put into the atmosphere. The proposed reduction in the number of vehicles on the road supports and advances this goal.
- Transportation Policy 1.02: Design Complete Corridors – this policy calls on the County to support projects which include design treatments that support transit, pedestrian, bicycle, and motor vehicle facilities for each transportation corridor.
- Transportation Policy 1.03: Enhance the Bicycle and Pedestrian Network – the proposed bikeway is directly related to advancing this policy by creating a safe, appealing, and convenient bike and pedestrian path along CO 119 and which connects to other bike and pedestrian network elements.

The proposed project also directly supports most of the larger Transportation goals of the Comprehensive Plan, including:

- Goal 1. Provide a Multimodal Transportation System;
- Goal 2. Facilitate Regional Collaboration & Coordination;
- Goal 3. Optimize County Facility Management & Maintenance;
- Goal 4. Move People;
- Goal 5. Minimize Reliance on Fossil Fuels;
- Goal 6. Provide Safe & Environmentally Compatible Transportation Improvements;

- Goal 8. Foster a Community Connection; and
- Goal 9. Ensure Transportation System Access for Low-Income, Elderly, & Mobility-Impaired Populations.

Therefore, staff finds this criterion is met.

- 15. The proposal represents the complete, reasonably foreseeable development for the subject property as required under Section 8-501.D., above, except that the Board may approve development constituting less than the complete development provided that the Applicant clearly demonstrates that a lesser proposal constitutes a discrete phase of the complete development as supported by the applicable master planning document required under Subsection 8-501.D., which can be logically and adequately reviewed as a separate project under the applicable criteria of these Regulations. Amendments to approvals of applications submitted after the effective date of Subsection 8-501.D. (February 27, 2003), shall be subject to the further requirements of Subsection 8-501.E., above.**

The project includes all reasonably foreseen actions the applicant will need to complete for development and implementation of the project. While the submitted application represents 30 percent plans and while there are additional revisions and reviews which will be required as project is finalized, it is staff's determination that the application as submitted demonstrates that is a phase of the complete development.

Therefore, with the recommended conditions of approval, staff finds that this criterion can be met.

8-511.J: Additional standards for development in areas around key facilities (interchanges involving arterial highways).

- 1. The proposed development shall not pose a danger to public health or safety or to property (including the subject property, other impacted properties, and the environment).**

As discussed in the criteria above and as reflected in the referral responses received from other departments and agencies, the project as proposed is not anticipated to pose a danger to public health or safety or to property.

Therefore, staff finds that this criterion can be met.

- 2. The volume of traffic to be generated by the proposed development shall be compatible with the traffic handling characteristics of the interchange and the access road and existing, affected traffic roads.**

The project as proposed is intended to reduce to volume of traffic and is generally compatible with the traffic handling characteristics of CO 119. Per the referral response from the Community Planning and Permitting – Access & Engineering Team, while the proposed mobility and safety improvements will likely negatively impact Level of Service for county roads at the point they intersect the State Highway, the improvements are supported by Boulder County Comprehensive Plan goals and policies listed above. Additionally, per the Access & Engineering comments, the applicants reviewed and analyzed multiple alternative designs and configurations, and it was determined that the proposed modifications are the preferred option as all the other explored options would likely result in the same, or worse, impacts to local levels of service.

Therefore, staff finds that this criterion can be met.

- 3. The proposed development shall be compatible with existing developments and with the character of the neighborhood, and shall not significantly impair an area or resource of special scenic, historical, or cultural significance.**

The project as proposed will not change the general character of the area and is compatible with a travel corridor between two major municipalities. As discussed above, the proposed project is not anticipated to significantly impair any currently identified scenic, historic, or cultural resources of significance. The on-going Section 106 consultation discussed in criterion 8-511.B.7 above, and with the recommended condition of approval, will help to identify any currently unidentified or undesignated historic resources and will address any required mitigation.

Therefore, as conditioned in criterion 8-511.B.7 above, staff finds that this criterion can be met.

- 4. The proposed development shall preserve desirable existing community patterns.**

As discussed above, while the proposed mobility and safety improvements will likely negatively impact Level of Service for county roads at the point they intersect the State Highway, the improvements are supported by Boulder County Comprehensive Plan goals and policies listed above.

As proposed, staff finds that this criterion can be met.

- 5. A development that proposes burdens or deprivations on the communities of a region shall not be justified on the basis of local benefit alone.**

No burdens or deprivations on the region's communities have been identified related to this proposal.

Therefore, staff finds that this criterion does not apply.

8-511.K: Additional standards for development in flood hazard areas.

- 1. Development shall preserve the integrity of the flood hazard area by not altering or impacting it in any way which is likely to pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment)**

As discussed above, the project is located within three (3) floodplains and will require a Floodplain Development Permit (FDP) for each to those. The project is not anticipated to impact the integrity of the flood hazard area and it not anticipated to pose a significant threat to public health or safety or property, and the Floodplain team has not expressed any specific concerns related to this criterion. The FDP review will include additional review and analysis which will ensure that the project does not pose any threats.

Therefore, as conditioned under criterion 8-511.B.5.h above, staff find this criterion can be met.

2. **Development which, in time of flooding, will likely pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment) shall be prohibited. In determining whether there will likely be a significant threat, the following factors shall be considered:**
 - a. **creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding;**
 - b. **use of flood protection devices or floodproofing methods;**
 - c. **nature or intensity of the proposed development;**
 - d. **increases in impervious surface area caused by the proposed development;**
 - e. **increases in surface runoff flow rate and amount caused by the proposed development;**
 - f. **increases in flood water flow rate and amount caused by the proposed development;**
 - g. **proximity and nature of adjacent or nearby land uses;**
 - h. **impacts to downstream properties or communities; and**
 - i. **impacts on shallow wells, waste disposal sites, water supply systems, and sewage disposal or on-site wastewater systems.**

The project is not anticipated to pose a significant threat to public health or safety or property, and the Floodplain team has not expressed any specific concerns related to this criterion. The Floodplain Development Permit review will include additional review and analysis which will ensure that the project does not pose any threats.

Therefore, as conditioned under criterion 8-511.B.5.h above, staff find this criterion can be met.

3. **Development shall comply with the Floodplain Overlay District Regulations of Article 4-400 of the Land Use Code, as amended.**

As discussed above, the project is located within three (3) floodplains and will require a Floodplain Development Permit (FDP) for each to those. The FDP review process will ensure the project is in compliance with Article 4-400 of the Code.

Therefore, as conditioned under criterion 8-511.B.5.h above, staff find this criterion can be met.

4. **Open space activities such as agriculture, passive recreation (recreation not requiring the development of playing fields, spectator stands or other significant structures), and mineral extraction, shall be presumed to be the favored form of development in the flood hazard area and shall be encouraged. Applications proposing other forms of development, which make a more intensive use of the land such as by increasing the structural coverage or impervious surface on the land, shall be presumed to generate adverse impacts on the flood hazard area and shall not be approved unless the applicant clearly demonstrates that the criteria of this Section 8-511K. and of Section 8-511B. have been met.**

The proposed project does not fall under agriculture, passive recreation, or mining. As the project includes increasing the amount impervious surface, it is presumed to generate adverse impacts on the flood hazard area. The project may still be approved, however, if the project demonstrates that the criteria of this section and 8-511.B. As discussed, and as conditioned above, it is staff's determination that the criteria of this section and of 8-511.B can be met.

Therefore, as conditioned in this section and in 8-511.B above, staff finds that this criterion can be met.

8-511.L: Additional standards for development in geologic hazard areas.

- 1. Development shall not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.**

As discussed in 8-511.B.5.h above, portions of the proposed project are located in areas identified in the Boulder County Comprehensive Plan as having natural hazard area. Specifically, the following identified natural hazard areas occur within the project area: Landslide High Susceptibility Area; and High Swelling Soil Potential. The project is not anticipated to aggravate the hazardous conditions and is not anticipated to pose any significant risk the public. As discussed, and as conditioned above, the applicants will work with Boulder County staff to identify and mitigate any impacts.

Therefore, as conditioned in 8-511.B.5.h, staff find this criterion can be met.

- 2. Open space activities such as agriculture, passive recreation not requiring the development of playing fields, spectator stands or other significant structures, and mineral extraction, shall be encouraged provided they can be conducted in a manner which does not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.**

The project is not anticipated to aggravate the hazardous conditions and is not anticipated to pose any significant risk the public. As discussed, and as conditioned above, the applicants will work with Boulder County staff to identify and mitigate any impacts.

Therefore, as conditioned in 8-511.B.5.h, staff find this criterion can be met.

- 3. Any approved development shall be designed in a manner that mitigates any significant risk posed by geologic hazard, as confirmed by a registered professional engineer or other qualified expert in the field.**

A geotechnical investigation has already been completed for the proposed project area. The project is not anticipated to aggravate the hazardous conditions and is not anticipated to pose any significant risk the public. As discussed, and as conditioned above, the applicants will work with Boulder County staff to identify and mitigate any impacts.

Therefore, as conditioned in 8-511.B.5.h, staff find this criterion can be met.

- 4. Shallow wells, solid waste disposal sites, water supply systems, and on-site wastewater systems and sewage disposal systems shall be protected.**

No infrastructure related to shallow wells, solid waste disposal sites, water supply systems, and on-site wastewater systems and sewage disposal systems were identified in the project area. Since the proposed project is primarily in the corridor of CO 119 staff does not anticipate any impacts.

Therefore, staff finds that this criterion is met.

- 5. Development shall comply with all applicable County Building Code and Public Health department regulations.**

The proposed project will require both building and grading permits. Plan review, inspections approval, and engineer-certified observation reports are required prior to final approval of the work covered by the building and grading permits.

Therefore, as conditioned, staff finds criterion can be met.

RECOMMENDATION:

For the reasons described above, Community Planning & Permitting staff recommends that the Planning Commission recommend that the Board of County Commissioners **CONDITIONALLY APPROVE Docket SI-22-0002: CO 119 Safety Mobility and Bikeway Project** with the following conditions:

1. The applicants shall submit to Community Planning and Permitting staff 90% plans for review and approval.
2. The applicants shall provide documentation of clearance from the Army Corps of Engineers to the County with materials submitted for permitting.
3. The applicants must apply for and receive the three (3) required Floodplain Development Permits (Fourmile Canyon Creek, Dry Creek No. 2, and Lefthand Creek) prior to issuance of any building or grading permits.
4. Submit to Community Planning and Permitting staff for review and approval a staging plan, indicating all areas for staging and stockpiling of materials.
5. Submit to Community Planning and Permitting staff for review and approval the Noxious Weed Plan, prior to the issuance of any building or grading permits.
6. Prior to construction, the applicant must demonstrate financial capability to develop and operate the project consistent with all requirements and conditions.
7. Plan review, inspections approval, and engineer-certified observation reports are required prior to final approval of the work covered by the building and grading permits
8. Submit to Community Planning and Permitting staff for review and approval a Revegetation Plan that includes a list of all native grass and forb species (with scientific names) to be used, as well as any container plantings, an explanation of how topsoils will be stockpiled and reused, mapped delineation of all disturbance areas (this includes construction staging areas), locations of silt fence or erosion control logs down slope of disturbed areas, and matting requirements where necessary. This must be reviewed and approved before any grading occurs. Irrigation for establishment, particularly for plantings, must be included in the Plan, as well as replacement protocols if plantings die. Plantings must be tended for three years after planting.
9. All reseeded areas which will occur within the wetlands must use a native wetland seed mix.
10. Plans submitted for permitting demonstration that the Park-n-Ride facilities include landscaped areas interior to each lot of at least 5%
11. Submit to Community Planning and Permitting staff for review and comment final plans for the Park-n-Ride structures, signage, and lighting prior to the issuance of any building or grading permits.

12. Submit to Community Planning and Permitting staff for review and approval revised plans for the Park-n-Ride facilities which show the number and location of electric vehicle supply equipment (EVSE) stations to demonstrate compliance with Article 4-513.D.4 of the Boulder County Land Use Code prior to the issuance of any building or grading permits.
13. Submit to Community Planning and Permitting staff for review and approval a full lighting plan, including photometric details, prior to the issuance of any building or grading permit.
14. Obtain a Stormwater Construction Permit, which will include a Stormwater Management Plan (SWMP) and SWMP Site Maps, and provide documentation of the approved permit to Community Planning and Permitting staff prior to the issuance of any building or grading permit.
15. Submit to Community Planning and Permitting staff for review and approval bikeway underpass plans, identifying the locations of the outfalls and indicating the groundwater flow direction(s) in each location, prior to the issuance of any building or grading permits.
16. Submit to Community Planning and Permitting staff for review and approval the Biological Assessment and Biological Opinion prior to the issuance of any building or grading permit.
17. Submit to Community Planning and Permitting staff documentation of the SB40 certification prior to the issuance of any building or grading permit.
18. The applicants must obtain the required Stormwater Quality Permit prior to any construction.
19. All required dewatering must be done in accordance with the CDOT Standard Specifications and CDPHE regulations.
20. Erosion control BMPs are required to prevent sediment migration during runoff into surface waters that are adjacent to construction.
21. A “spill kit” for emergency pollutant isolation must be onsite at all times during construction activity.
22. Prior to transporting equipment to the site, all machinery must be cleaned to remove soil/mud and attendant weed seeds. All machinery that would come in contact with water features must be cleaned to remove aquatic nuisance species (ANS) in accordance with State of Colorado ANS regulations. This involves either steam (heat) or chemical cleaning, not just power washing. Regardless of the history of use of the equipment, any equipment that is to contact water must be cleaned in this manner
23. Biodegradable hydraulic fluids must be used in equipment and machinery used in the water.
24. The project corridor must be surveyed for raptor and other bird nests (including burrowing owls) by a qualified biologist just prior to commencement of construction, and subsequent actions/restrictions adopted as necessary.
25. Construction within ½ mile of the identified and documented Bald Eagle’s nest shall be limited to daytime-only – no construction under lights.
26. The applicants shall use the Reverse Dispersal Translocation method as the preferred mitigation measure for impacts to the Black-tailed Prairie Dog colony, with the details/method to be used reviewed by Community Planning and Permitting staff, and use relocation/donation as a first

alternative, and only use euthanization as a last resort if all other methods fail.

27. Any trees to be cut should be removed between September 1 and March 31, the non-nesting season for migratory birds, based on the federal Migratory Bird Treaty Act. As noted in the application, trees removed shall be replaced in a 1:1 ratio.
28. As stated in the application materials, all straw mulch or straw bales must be certified weed-free.
29. Final US Fish & Wildlife Service clearance needs to be obtained prior to initiation of construction; the USFWS letter shall be submitted to Community Planning and Permitting.
30. The applicants shall complete coordination with County staff to identify and address any potential landslide impacts. Any necessary and appropriate mitigation measures be included in final plans submitted for permitting.
31. All recommendations for cut and fill activities shall be provided to Community Planning and Permitting staff for review and comment, and that those recommendations be incorporated into final plans for permitting.
32. Final plans submitted for permitting be revised to reflect any necessary grading or alignment changes that would allow for the future development of an underpass connecting the bikeway with south side of northbound CO 119 at or near Niwot Road with minimal changes to the bikeway as reviewed through this docket.
33. A recorded copy of an easement for grading outside the public ROW near Station 1031+00 shall be provided to the County prior to the issuance of any grading permit.
34. The applicants shall provide documentation that the Section 106 consultation process has been completed, including consultation with the Boulder County Historic Preservation program, prior to submitting final plans for permitting.
35. The applicants provide to Community Planning and Permitting staff a copy of the noise impact analysis, including any necessary mitigation measures, prior to the issuance of any building or grading permits.
36. The applicants shall provide notice to any applicable fire districts and/or local fire departments of any road closures, lane restrictions, or changes in lane alignments which could impact emergency response routes.
37. The applicants shall be subject to the terms, conditions, and commitments of record in the file for **Docket SI-22-0002: CO 119 Safety and Mobility and Bikeway Projects.**