

Department of Community Development

Reference: Responsible Growth

To: Mayor Gregory Mills and Members of City Council

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PURPOSE

City staff will present a method of maintaining responsible residential growth for City Council's consideration.

STRATEGIC FOCUS AREA

Recognizable and Well-Planned Community

BACKGROUND

In multiple recent study sessions, City Council has mentioned a desire to revisit growth management techniques. City staff has also been concerned about the high amount of residential growth currently occurring, particularly with respect to the City's currently limited potable water resources.

To provide context for this discussion, it is important to review the City's current policies and past history with respect to growth management:

Be Brighton, the Comprehensive Plan, uses the Urban Growth Boundary and Urban Service Area to guide the location of future urban development. This ensures we make the most efficient use of infrastructure and prevent sprawl. The Urban Growth Boundary and Urban Service Area are smaller than Brighton's growth management area, which extends west of the South Platte River and east of Barr Lake. These also focus development in the areas with existing services. In addition, *Be Brighton* also encourages the preservation of important lands such as floodplain, farmland, and open space, which also serve as a physical separation for Brighton from adjacent municipalities. The physical separation from other municipalities furthers Brighton's status as a freestanding city.

The District Plan identifies the farmland south of Brighton and north of E-470, now known as Historic Splendid Valley, as an invaluable resource that should be preserved. These lands currently grow vegetables that are sold at local farm stands and distributed to local and regional grocers. If not preserved, the farmland in Historic Splendid Valley would likely be developed into residential subdivisions.

Last, the City's master plans for water, sewer, and stormwater are designed to guide the City toward the infrastructure necessary for full build-out of Brighton.

One policy recommendation of both *Be Brighton* and *the District Plan* that was considered was implementation of a transfer of development rights (TDR) program. Such a program

would encourage developers to preserve targeted lands in exchange for additional density in their residential development. In 2020, the City hired a consultant to determine if a TDR program would be financially feasible in Brighton. Unfortunately, we found that the high cost of land and water coupled with generous density allowances in the *Land Use and Development Code* would not financially support a TDR program. If it had been viable, the TDR program could have been a great growth management tool that helped the City preserve additional important land.

In addition to the implemented policies described above, the City Council adopted Ordinance 1620, the Residential Growth Pacing Ordinance, in 2000. The ordinance was adopted to promote orderly growth, ensure adequate infrastructure existed to serve new development, promote a balanced community, and ensure community character was not eroded. The program allocated a certain number of building permits for residential units each year among eligible developments. Ordinance 1620 honored existing contractual agreements, so it applied primarily to new annexations and developments occurring after 2000. However, the City was successful in renegotiating agreements to include phasing plans for a few developments. The pacing program ultimately applied to about 10% of the development happening in the early 2000's. With limited participation, changes in development patterns, and adequate City infrastructure and services, the City Council began suspending the pacing program in 2004 and repealed the ordinance in 2017.

The current growth rate is similar to rates that Brighton experienced in the early 2000's when pacing was adopted. Last year, the City issued over 400 single-family residential permits and 300 multi-family permits. This year, single-family permits are tracking higher than last year, so the City will likely issue more than 400 permits. So far, no multi-family permits have been issued in 2021.

The increasing rate of building permits is concerning when coupled with potable water resources that are nearing capacity in the warm summer months. The City currently has several new subdivisions in review that will soon be heard by the Planning Commission and City Council. These new subdivisions would bring an additional 1,600 residential units to the City in coming years. Each new residential unit represents additional strain on the water treatment system until the water treatment plant expansion is operational or other solutions are developed. With growth occurring at a fast rate, the City may find it difficult to continue making other infrastructure improvements that are necessary and serve a city-wide purpose.

With conversations about growth management, it is important that everyone understands how residential growth, or the lack thereof, affects all facets of City development. While residential development does create more need for large infrastructure such as water treatment plants, schools, and highway interchanges, this infrastructure requires investment even without additional units being developed. When we restrict development, we also restrict incoming impact fees, which help to pay for infrastructure improvements. In Brighton, we project the income from impact fees and use those figures to plan funding for major projects and secure bonds.

Another aspect of growth is Brighton's ability to attract new retail establishments, restaurants, and employers. While these types of businesses have many factors to consider, they are often targeting a minimum population in their market area. Recently, new brands have come to Brighton and the City could welcome more in the future if growth continues. Typically, when cities begin to restrict residential growth, there is some impact to commercial growth. However, Brighton has positioned itself with retail establishments that serve a larger regional area. If adjacent municipalities continue to grow, our retail should be expected to continue to perform well. While all factors of growth are not in the City's control, Brighton should be striving for residential growth at a rate that is predictable so the City's infrastructure investments can provide adequate service and residential growth can continue.

Care should be taken when discussing growth management. Developers are highly sensitive to this topic as financing for subdivisions is dependent upon the developer’s ability to build and sell an adequate number of homes for repayment of debt. Any uncertainty on this topic can disturb future residential, commercial, and industrial development, potentially requiring years to recover.

Understanding the current circumstances, City staff proposes to implement a Building Permit Phasing Plan for each new subdivision. This is an approach we used when renegotiating agreements with an active pacing system in the early 2000’s. During the development review process, staff would require that the developer specify the number of units needing to be constructed for each year through buildout of the subdivision. In this system, the Developer is a partner in helping the City manage growth to the benefit of both parties. This system gives the City an understanding and expectation for the maximum number of units built in a particular year and also allows the Developer to set this schedule themselves, subject to justification and approval by City Council. The phasing plan could look like the following:

Brighton’s Newest Subdivision		
Building Permit Phasing Plan		
Year	Single-Family Detached/Attached (units)	Multi-Family (units)
2021	50	0
2022	125	0
2023	130	0
2024	130	210
2025	110	0
2026	80	0

Each year, the subdivision would be limited to construction of the number of units in the phasing plan. We would ask the developer to specify single-family versus multi-family units due to the differences in how these types of residential development are constructed. Any unused units in a particular year could roll over for use in future years. The developer would be asked to justify the Building Permit Phasing Plan using the following criteria:

- The cost of public improvements installed and timeline required for debt repayment.
- The number of lots in the subdivision and the number of builders under contract or anticipated to build in the subdivision.
- Estimated absorption rates.
- Product type (single-family detached, single-family attached, multi-family).
- The inclusion of a non-potable irrigation system, xeriscape landscaping, limited irrigated turf areas, or other water saving measures.
- Public infrastructure or other benefit provided by the development that exceeds City requirements and is not reimbursable by impact fees or other developments.
- The inclusion of affordable housing in the development.

The Building Permit Phasing Plan table would be included in the subdivision plan document or development agreement. This approach could be quickly implemented and capture the 1,600 units that will soon be heard in public hearings. We want to capture these units while in the approval process as our options for pacing are limited once these are approved. Because we know this number of units will take many years to develop, establishing a predictable schedule for future development will have better outcomes if implemented sooner rather than later. Knowing the maximum number of units that could be constructed each year will help the City anticipate infrastructure and respond to infrastructure needs. Allowing development to continue to occur

ensures impact fees will be collected to pay for infrastructure needs and encourages continued commercial and industrial investments in Brighton.

The success of the Building Permit Phasing Plan is dependent upon the Utilities Department making progress with voluntary conservation efforts by individual homeowners, securing interim potable water resources, and expansion of non-potable water usage in City parks.

Another important consideration is the changes that have already been made to the water dedication requirements for new development. Effective January 1, 2022, developments will be required to dedicate more water at the firm yield (rather than average yield) or pay the increased fee-in-lieu rate. Many developers have indicated the water dedication change will inherently slow growth in Brighton. The first validation of the developers' premonition came earlier this month with the withdrawal of the Orchard Grove zone change application. The withdrawal letter specifically cited the increased water dedication requirement and decrease in the per water share yield as the reason for their withdrawal. It is important to note that the Orchard Grove developer was presented with options that could reduce their overall water dedication requirement, but they chose not to explore those options.

In addition to the changes in the water dedication requirements, City Council could also be approving increases to the Park Impact Fee, as suggested in the Parks and Recreation Master Plan, and the Plant Investment Fee as well. The collective impact of these changes may slow development without need for a residential growth management program, but because we cannot guarantee the outcome, staff is recommending implementation of the Building Permit Phasing Plan. This plan gives Brighton good data, control over growth, and the ability to decide if stronger action needs to be taken at a later date. Implementation of the Building Permit Phasing Plan would not restrict the City from issuing a moratorium in the future if an emergency were present. City staff will report back regularly with progress on the potable water supply and how that relates to additional residential units. Alternatively, City Council could determine that a growth management program is not necessary at this time.

FINANCIAL IMPACT

Implementation of the Building Permit Phasing Plan would have no associated cost other than staff time for development and implementation.

STAFF RECOMMENDATION

Staff recommends that the City implements the creation of a Building Permit Phasing Plan for each new residential development, to be included in the subdivision plan or development agreement.

OPTIONS FOR COUNCIL CONSIDERATION

1. Direct staff to implement the Building Permit Phasing Plan program; or
2. Take no action on growth management (status quo).

ATTACHMENT

- Draft City Staff Presentation