

COMMUNITY DEVELOPMENT
Planning Division

Brighton

Swink Property Annexation

City Council – September 20, 2022

Applicant:
Property Owners:
City Staff Representative:

Anna Sparks of Innovative Land Consultants, Inc.
Swink Family Farms LLLP and Alvin W. Swink
Emma Lane, Senior Planner – Historic Preservation

1

1

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Strategic Focus Areas

- Recognizable and Well-Planned Community
- Supportive, Sustainable Infrastructure

2

2

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Subject Property Location

- The approximately 150.586 acre Property is generally located to the north of East Bromley Lane, to the south of Southern Street, west of South 50th Avenue, and east of the South 45th Avenue alignment.

Project Area

Aerial Map

3

3

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Background

The Property:

- Is currently in the process of Annexation into the City.
- Is currently unplatted.
- Is currently zoned Adams County A-3 (Agriculture-3).

Zoning

Zoning Map

4

4

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Purpose

- Annexation is regulated by the Colorado Revised Statutes (C.R.S.) and is a four step process with the steps as follows:
 - Petition Accepted by City Council via a Substantial Compliance Resolution 2022-89 (Completed on August 2, 2022).
 - Findings of Fact via an Annexation Eligibility Resolution.
 - 1st Reading of an Annexation Ordinance with a Public Hearing.
 - 2nd Reading of an Annexation Ordinance
 - An Annexation Agreement may be approved via a Resolution at this time.

5

5

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Review Criteria

City staff used the following for review purposes:

- Colorado Revised Statutes
- Comprehensive Plan
- Land Use and Development Code

6

6

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Colorado Revised Statutes

The City Council must determine whether the Annexation complies with the following statutory requirements set forth in the C.R.S.:

C.R.S. Section 31-12-104

- Not less than 1/6th of the perimeter of the area to be annexed is contiguous with the City of Brighton;
- A "community of interest" exists between the municipality;
- The area to be annexed is urban and is to be urbanized;
- The area is integrated or capable of integration within the municipality.
- If the contiguity requirement is met, the "community of interest" requirement is presumed unless two of the following exist:
 - Less than 50% of the adult residents use facilities of the municipality (recreation, social, church, commercial, etc.), and less than 25% of the adults are employed in the municipality; or
 - One-half of more of the land is agricultural and the owners say it will stay agricultural for at least five years; or
 - It is not physically practicable to extend urban services on the same terms and conditions as other citizens of the municipality.

7

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Colorado Revised Statutes

Criteria Met

- Property is 77.97% contiguous with City of Brighton City Limits (1/6th = 16.67%)
- Minimum contiguity shall mean a "community of interest";
- The area is to be urbanized in the near future;
- The area is capable of being integrated within the City of Brighton via sufficient access to utilities and future zoning.

8

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Colorado Revised Statutes

C.R.S. Section 31-12-105

The following statutory limitations apply to the proposed annexation:

- Cannot separate property held in identical ownership;
- Cannot annex property more than 20 acres and more than \$200,000 in assessed value without the written consent of the owners, unless entirely within the municipality;
- No resolution or petition is valid if annexation proceedings have commenced for another municipality;
- Cannot extend municipal boundaries more than three miles in one year;
- There must be a plan in place regarding services and land uses;
- If annexation includes a portion of a street or an alley, all of the street or alley must be annexed; and
- Cannot deny reasonable access to adjoining landowners as a result of proposed annexation.

9

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Colorado Revised Statutes

C.R.S. Section 31-12-108

The following statutory requirements regarding notice are applicable to annexations:

- Publication of the date, time, and place of the public hearing must be published once a week for four successive weeks;
- The first publication must be at least thirty days before the hearing;
- Copy of the notice, resolution, and petition must be sent by registered mail to the County Commissioners, County Attorney, special districts, and the school district at least twenty-five days before the hearing.

10

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Colorado Revised Statutes

C.R.S. Section 31-12-108.5

The statutes relating to annexations require an Annexation Impact Report for areas in excess of 10 acres to include the following:

- The municipality must prepare the Impact Report;
- A map showing present and proposed boundaries, utility infrastructure, streets, and land uses;
- Addresses, the provision of municipal services, the method of financing, effect on school districts, etc.;
- It must be filed twenty-five days before the hearing;
- One copy of the Annexation Impact Report must be filed with the County Commissioners within five days;
- Not required for annexation of ten acres or less, or if the County Commissioners agree to waive the report.

11

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Colorado Revised Statutes

C.R.S. Section 31-12-109

The statutes relating to annexations require an Annexation Impact Report for areas in excess of 10 acres to include the following:

- Any person may appear and present evidence;
- All proceedings must be recorded.

C.R.S. Section 31-12-110

After the hearing, the governing body must set forth findings of fact and conclusion in a resolution regarding:

- Whether Sections 31-12-104 and 105 C.R.S. have been met;
- Whether an election is required;
- Whether additional terms and conditions are to be imposed;
- A finding that the proposed annexation does not comply with Sections 31-12-104 and 105 shall terminate the proceedings.

12

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Comprehensive Plan

- The majority of the Subject Property is designated as Mixed Use – Residential.
- The overall development is proposed to be 16.56% commercial uses and 84.41% residential uses.

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Future Land Use Map

13

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Comprehensive Plan

Chapter Three: Future Land Use Plan & Opportunity Areas

- Number 10.** Throughout the City, Concentrate Commercial Development at Key Intersections to Serve Surrounding Areas
- Number 14.** Bromley Lane Opportunities

Aerial Map (Google Maps)

14

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Comprehensive Plan

Chapter Four: Citywide Principles, Policies & Strategies

- Policy 1.1** - New Growth Should Favor Existing Areas of Infrastructure Investment and Planning
- Policy 1.3** - Private Development Should "Pay Its Own Way," by Bearing an Equitable Portion of the Costs of Expanding Municipal Infrastructure
- Policy 2.1** - Brighton Will Continue to Develop in a Self-Sufficient and Sustainable Manner (Live, Learn, Work, Shop and Play) with an Appropriate Balance between Residential and Non-Residential Uses
- Policy 5.2** - Support Brighton's Non-Downtown Commercial Centers, Focusing Growth within Existing Investment Areas Where Possible
- Policy 6.5** - Encourage Projects that Enhance the Diversity of Housing Types and Costs

15

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Land Use & Development Code

In addition to any criteria authorized by state laws or city annexation policies, annexations shall be reviewed according to the following criteria (Section 2.11 B.):

- The annexation complies with the Municipal Annexation Act of 1965, Section 31-12-101 et. seq., CRS.
- The annexation is in accordance with the Comprehensive Plan and any other plans or policies created under the guidance of that plan.
- The property is capable of being integrated into the City and developed according with all applicable provisions of the Brighton Municipal Code and these regulations.

16

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Land Use & Development Code

In addition to any criteria authorized by state laws or city annexation policies, annexations shall be reviewed according to the following criteria (Section 2.11 B.):

- Municipal and governmental services and facilities will be extended to these areas in a timely and fiscally responsible manner, considering initial costs, ongoing maintenance costs, and potential replacement costs with respect to the expected values of proposed development.
- At the time any development is completed in the area to be annexed, there will be adequate capacity to serve the residents or occupants of the area with the necessary utilities and facilities.
- The annexation will encourage well-ordered development of the City, particularly with regard to the long-range transportation patterns, development patterns, open space systems, and coordination with any specific plans accompanying the proposal.

17

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Summary of Findings

- ✓ The Annexation complies with the C.R.S. §31-12-104 through 110.
 - The Property is 77.97% contiguous with the City of Brighton city limits; the "Community of Interest" provision is presumed.
 - The Property is set to be urbanized and is capable of integration within the City of Brighton.
 - Utility lines are adjacent to the Property.
- ✓ Publication of the public hearing and notification of the public hearing, have been provided to all applicable entities as required by C.R.S. §31-12-108.5.

City Staff Recommendation

- ✓ City staff finds that the request for annexation complies with the requirements of the Municipal Annexation Act, C.R.S. §31-12-101 et seq. and that the request for annexation complies with the Comprehensive Plan.

18

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Options for City Council

❖ The following two items are before the City Council, each with four options:

Resolution of Annexation Eligibility

City Council may:

- ❑ Approve the Resolution as drafted;
- ❑ Approve a modified Resolution;
- ❑ Deny the Resolution with specific findings to justify the denial; or
- ❑ Continue the item to be heard at a later, specified date if the Council feels it needs additional information to ensure compliance with state statutes.

Annexation Ordinance

If the Resolution of Annexation Eligibility is approved, City Council may:

- ❑ Approve the Annexation via Ordinance as drafted;
- ❑ Approve the Annexation via a modified Ordinance;
- ❑ Deny the Annexation via Ordinance with specific findings to justify the denial; or
- ❑ Continue the item to be heard at a later, specified date if the Council feels it needs additional information to ensure compliance with the approval criteria.