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Planning Division

 **Brighton**

Maggie Property Annexation


City Council – August 16, 2022

Applicant: Madison Jones, Lovett Industrial

Property Owner(s): Maggie Run Properties LLC, Connie Surabian, Lazarus Surabian, David Wenzel, Stacey Wenzel Steel, Betty Mathis


City Staff Representative: Nick Di Mario, Associate Planner

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Strategic Focus Area

- Recognizable and Well-Planned Community



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Subject Property Location

- The property is generally located to the north of E. 152nd Ave. (E. Bromley Ln.) and east of the Burlington Northern Santa Fe Railroad.



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Subject Property Location


- The property is approximately 95.105 acres in size.



Aerial Map (Google Maps)


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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 #2022-78 (Completed on July 5, 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.



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Background

The Property is:


- 95.105 acres in size,
- Unplatted, and
- Zoned A-3 by Adams County.



Zoning Map

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Review Criteria

City staff used the following for review purposes:

- Comprehensive Plan
- Land Use & Development Code
- Colorado Revised Statutes.

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Comprehensive Plan


- The Property is designated for Agriculture and Natural Resource Conservation and is within the City's growth boundary.





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Comprehensive Plan (cont'd.)

Areas of Alignment:

- **Chapter 2: Current Context and Values**
 - Workforce & Job Opportunities – *Opportunities*
 - Development Pattern – *Sustainability*
- **Chapter 3: Future Land Use Plan and Opportunity Areas**
 - Policy 9. *Retain and Expand the Bromley Interstate Business Park*
- **Chapter 4: City Wide Principles, Policies & Strategies**
 - Managing Growth Principle 1: *Policy 1.1 and 1.3*
 - Freestanding City Principle 2: *Policy 2.1, 2.2, and 2.4*

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Land Use & Development Code

- Article 2, Section 2.11 *Annexation, B. Review Criteria* (LUDC) *Review Criteria*. In addition to any criteria authorized by state laws or city annexation policies, annexations shall be reviewed according to the following criteria:
 1. The annexation complies with the Municipal Annexation Act of 1965, Section 31-12-101 et. Seq., CRS.
 2. The annexation is in accordance with the Comprehensive Plan and any other plans or policies created under the guidance of that plan.
 3. 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.

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Land Use & Development Code (cont'd)

4. 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.
5. 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
6. 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.

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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

- a. Not less than 1/6th of the perimeter of the area to be annexed is contiguous with the City of Brighton;
- b. A "community of interest" exists between the municipality;
- c. The area to be annexed is urban and is to be urbanized;
- d. The area is integrated or capable of integration within the municipality.

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Colorado Revised Statutes:


C.R.S. Section 31-12-104 (cont'd)

e. 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.

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Colorado Revised Statutes:

Criteria Met

- a. Property is 22.80% contiguous with City of Brighton City Limits (1/6th = 16.67%)
- b. Minimum contiguity shall mean a "community of interest";
- c. The area is to urbanized in the near future;
- d. The area is capable of being integrated within the City of Brighton via sufficient access to utilities and future zoning.

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Colorado Revised Statutes:


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

The following statutory limitations apply to the proposed annexation:

- a. Cannot separate property held in identical ownership;
- b. 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;
- c. No resolution or petition is valid if annexation proceedings have commenced for another municipality
- d. Cannot extend municipal boundaries more than three miles in one year;

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Colorado Revised Statutes:


C.R.S. Section 31-12-105 (cont'd)

The following statutory limitations apply to the proposed annexation:

- e. There must be a plan in place regarding services and land uses;
- f. If annexation includes a portion of a street or an alley, all of the street or alley must be annexed; and
- g. Cannot deny reasonable access to adjoining landowners as a result of proposed annexation.

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Colorado Revised Statutes:

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


The following statutory requirements regarding notice are applicable to annexations:

- a. Publication of the date, time, and place of the public hearing must be published once a week for four successive weeks;
- b. The first publication must be at least thirty days before the hearing;
- c. 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.

(Notice to special districts and school district does not confer right of review)

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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:

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

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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.

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Summary of Findings and Recommendation

- ✓ The Annexation complies with the C.R.S. §31-12-104 through 110.
 - *The Property is 22.80% contiguous with the City of Brighton city limits, so 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 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.

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Options for City Council

♦ The City Council has the following two items before it, 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.

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