

Department of Community Development

Reference: Bromley Park PUD 24th Amendment - Zone Change

To:	Mayor Gregory Mills and Members of City Council
Through:	Marv Falconburg, AICP, Acting City Manager Holly Prather, AICP, Community Development Director
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PURPOSE

The Planned Unit Development (“PUD”) Amendment application before the City Council is for approximately 63.62 acres, located to the immediate northeast of the intersection of S. 40th Avenue and Southern Street (“BC 6 Property”) and for 23 residential lots generally located to the southeast of the intersection of S. 45th Avenue and Bridge Street (“BC 3 Properties”). A PUD Amendment is a zone change to an existing PUD zone district. The BC 6 Property is currently zoned under the Bromley Park PUD 2nd Amendment as Residential Multi-Family. The BC 3 Properties are zoned as part of the Bromley Park PUD 16th Amendment as a mix of Single Family Detached / Attached and Single Family Detached. The applicant and property owner, Brookfield Residential (“Developer”), is proposing to amend the existing PUDs in order to: designate the BC 6 property as Single Family Detached for residential use; to set subdivision internal street and curb sections for the BC 6 Property; and to allow the BC 3 Properties the ability to exceed the current PUD’s 600 square foot maximum detached garage standard with the size being allowed up to 900 square feet.. This PUD amendment is proposed to be known as the Bromley Park PUD 24th Amendment.

Zoning is necessary as it guides a property’s uses allowed by right or conditionally, and this, in turn, allows owners, neighbors, and the community at large to have a reasonable expectation of what can occur on the subject property. It establishes standards for construction including building height, lot coverage, and building setbacks. There are a variety of zone districts within the City including residential, commercial, industrial, mixed-use, and planned unit development (PUD).

City Council is tasked with the final decision on requests to zone and rezone properties within City limits. The *Land Use and Development Code* outlines review criteria upon which the decision should be made. An ordinance to rezone must be approved by City Council via two readings to be considered approved. City staff collects and analyzes application materials, and after a thorough review, presents their findings to the Planning Commission and thereafter, City Council. Requests to rezone are brought before the Planning Commission for their recommendation prior to review and final determination by the City Council.

NEW CODE TRANSITION STATEMENT

In the City’s transition to the newly adopted code, applications submitted prior to the effective date of January 1, 2020, were reviewed by staff using the previous *Land Use and Development Code* and such sections and criteria are referenced in this report.

STRATEGIC FOCUS AREA

- Recognizable and Well-Planned Community

BACKGROUND

All subject properties were annexed in 1986 as part of the Bromley Park 2 Annexation. Currently, the BC 6 Property is in the process of being platted, to be known as the Brighton Crossing Filing No. 6 Subdivision and a development agreement is being drafted as well. Rezoning is the second step in the land development process with the City (*Annexation > Rezoning > Platting > Site Plan Review > Permits*). A plat and development agreement will be required before site development can occur for the BC 6 Property and both will come before City Council for their consideration at a later date. The BC 3 Properties are platted as part of the Brighton Crossing Filing No. 3 Subdivision and are subject to a development agreement that was previously approved.

The Developer believes that the BC 6 property is most marketable for single family residential use; therefore, they are asking to amend the PUD to allow for this land use type instead of multi-family residential. Additionally, the Developer would like to use internal curb and street sections that have been shown to work in other neighborhoods, which would be a deviation from the PUD as well. For the BC 3 Properties, the Developer has found a market for those wanting three car garages and believes that the subject lots have the space to accommodate larger detached garages.

Surrounding Land Use(s):

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
<i>North</i>	Residential / Public Utilities Facility / Fire Station / Undeveloped Commercial	Bromley Park PUD Amendments 3, 8, 13, and 16	City
<i>South</i>	Open Space / Warehousing / Residential	Open Space and Parks / KMART Distribution Center PUD / Bromley Park PUD Amendment 4	City
<i>East</i>	Residential	Bromley Park PUD Amendments 8 and 16	City
<i>West</i>	Residential	Pheasant Ridge PUD	City

CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM / STAFF ANALYSIS

When considering this PUD amendment zone change, City Council should use the criteria outlined in the *Land Use and Development Code*, Section 17-16-110(d)(4), Approval Criteria. A zone change via a PUD or an amendment to an existing PUD, has separate criteria from a zone change as outlined in the Code. As the item is reviewed, it is important to refer back to the outlined criteria to ensure consistency in review.

Comprehensive Plan:

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the subject areas as appropriate for Low Density Residential Use. A single-family detached residential subdivision is an appropriate use in said district and the PUD Amendment will bring the BC 6 Property into closer conformance with the Comprehensive Plan as it will eliminate the Residential Multi-Family designation and replace it with one of lower allowable density.

Land Use and Development Code:

Section 17-16-110(d)(4) of the *Land Use and Development Code*, describes the requirements for a PUD. A PUD plan and classification to a PUD District may be recommended for approval only if the City Council finds that all of the following criteria have been met:

- a. *The PUD addresses a unique situation, confers a substantial benefit to the City or incorporates creative site design such that it achieves the purposes set out in Paragraph (a)(1) above, and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. This may include, but is not limited to, improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads and other utilities and services; or increased choice of living and housing environments.*

The PUD Amendment is seeking to change a land use designation and standards put into place in earlier PUDs. The amendments will allow for a lower density product, street and curb sections more oriented to neighborhoods, and detached garages more in line with the standards set in other residential zone districts where the lot size allows such structures to be placed. The R-1 zone district allows for a total of 900 square feet for accessory buildings/structures on a lot as long as they are meeting other standards such as setbacks. A 900 square foot allowance is typical across other residential zoning districts as a standard for lots with single family detached dwellings. As the PUDs have other unique elements and standards in place, it is a better option to amend the existing PUDs then to rezone to a straight zone as those other standards would be lost.

- b. *The PUD complies with the Comprehensive Plan and all applicable use, development and design standards set forth in this Article, including applicable zoning district standards, in the Subdivision Regulations and in the Residential Design Standards that are not otherwise modified or waived according to the approved terms of the PUD plan.*

As mentioned earlier in this report, the proposed PUD Amendment does comply with the Comprehensive Plan.

- c. *The PUD District and PUD Final Development Plan shall comply with all applicable PUD use and development standards set forth in this Section.*

Civil drawings and future development will be reviewed to the standards in the PUD Amendment if approved by Council. However, if not approved, the BC 6 Property is zoned for higher density development and could develop as such. Staff finds that a lower density is more consistent with the surrounding area.

- d. *The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails and similar features. It will provide for improvements to the adjacent roadway and sidewalk.*

The PUD provides street and curb sections that will integrate into the greater city roadway network. The proposed new designation for single-family residential use will be more compatible with immediate neighboring areas than the multi-family use as it will generate less vehicle trips per day than the currently allowed denser use were it to be developed as such.

- e. *To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community.*

The proposed PUD Amendment reduces the density of the BC 6 Property and creates manageable street and curb sections for neighborhood use. For the BC 3 Properties, the amendment addresses a market desire without compromising the intent of square footage standards in single-family residential zoning districts.

- f. Sufficient public safety, transportation, educational and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development.*

The proposed PUD Amendment reduces the current density of the BC 6 Property and therefore will have less demand on the above mentioned items and further aligns the property's zoning with the Comprehensive Plan.

- g. As applicable, the proposed phasing plan for development of the PUD is rational in terms of available infrastructure capacity, marketing and financing.*

The proposed PUD Amendment does not lay out a phasing plan. A development phasing proposal will be included in a future development agreement in terms of infrastructure and lot take down.

- h. The same development could not be accomplished through the use of other techniques, such as height exceptions, variances or minor modifications.*

The proposed PUD Amendment allows the owner to develop the Properties in a consistent manner as other areas subject to the various Bromley Park PUD Amendments.

- i. The applicant has submitted a schedule of development and agrees to the schedule subject to the revocation and withdrawal clauses of this Section.*

The Applicant has submitted the necessary materials and the zone change request is compatible with the nine (9) approval criteria for a PUD. Additionally, the applicant has submitted for a final plat and development agreement that will be jointly scheduled before City Council in the future for the BC 6 Property. A preliminary plat for this area was already reviewed and approved by the Planning Commission.

Development Review Committee (DRC) Review:

The Development Review Committee (DRC) and referral agencies have reviewed the application and all comments have been resolved. This includes review and approval of the street and curb sections by the Streets Division of the Public Works Department. A complete list of comments and the agencies who made them are available upon request.

PUBLIC NOTICE AND INQUIRY

As required by Section 17-8-30 of the *Municipal Code*, mailings were sent to all property owners within 300' of this proposed PUD Amendment. These mailings were sent on January 2, 2020 and included a letter describing the proposed zoning as well as the time and place for the public hearing. Also included with the letter was a map of the subject area. Along with the public mailings, four public hearing signs were posted on January 6, 2020 on the subject properties. Additionally, a notice was published in the *Brighton Standard Blade* on January 1, 2020, to give notice to those who are not affected property owners or those who do not drive near the Properties on a consistent basis. As of the date of this staff report, no formal comments have been received by staff. Please see all public notice attachments for further detail.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission heard the request on December 12, 2019 and recommended approval unanimously (see the attached Resolution #19-13). With its recommendation, the Planning Commission requested that the applicant add language to the PUD Amendment in order to clarify lot specific standards given the City's recent adoption of the new *Land Use and Development Code*. This requested addition is included in the PUD Amendment before the City Council.

SUMMARY OF FINDINGS AND STAFF RECOMMENDATION

Staff finds the PUD Amendment is in general compliance with the requirements as outlined as approval criteria in Section 17-16-110(d)(4), *Approval Criteria*, of the *Land Use and Development Code* and is in alignment with the Comprehensive Plan. Therefore staff recommends approval of the PUD Amendment. Staff has drafted an ordinance for approval if the City Council agrees with this recommendation.

OPTIONS FOR COUNCIL CONSIDERATION

The City Council has four options when reviewing this PUD Amendment application. City Council may:

- 1.) Approve the PUD Amendment via ordinance as drafted;
- 2.) Approve a modified PUD Amendment via ordinance;
- 3.) Deny the PUD Amendment via ordinance with specific findings to justify the denial; or
- 4.) 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 as set forth in the *Land Use and Development Code*.

Note: A second reading of the ordinance, if approved, will be required at a future meeting.

ATTACHMENTS

- Draft City Council Ordinance
- Copy of the Planning Commission Recommendation, Resolution #19-13
- Aerial Map by City Staff
- PUD Amendment by Applicant
- Neighboring Property Owner Notification
- Addresses of Property Owners Notified
- Buffer Map of Mailing Area
- Newspaper Notice
- Newspaper Publication Proof
- City Staff's Draft Presentation