



Legislation Details (With Text)

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**On agenda:** 8/2/2022      **Final action:**

**Title:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE BRIGHTON RIDGE ZONING MAP AMENDMENT FOR AN APPROXIMATELY 103.57 ACRE PROPERTY, GENERALLY LOCATED IN A PORTION OF THE EAST HALF OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 67 WEST, AND IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 66 WEST, ALL OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Draft Ordinance, 2. Aerial Map, 3. Zoning Map Amendment, 4. Signed Planning Commission Resoulution (22-2), 5. Neighborhood Notice, 6. Buffer Map, 7. Website Notice, 8. Proof of Website Notice 1, 9. Proof of Website Notice 2, 10. Affidavit of Sign Posting, 11. Brighton Ridge PPT Presentation 6.28.pdf, 12. Draft Staff Presentation

Date	Ver.	Action By	Action	Result
8/2/2022	1	City Council		
7/19/2022	1	City Council		
6/28/2022	1	City Council		

**Department of Community Development**

Reference: Brighton Ridge Zoning Map Amendment

**To:** Mayor Gregory Mills and Members of the City Council

**Through:** Michael Martinez, City Manager  
Marv Falconburg, AICP, Deputy City Manager  
Holly Prather, AICP, Director of Community Development

**Prepared By:** Emma Lane, Senior Planner

**Date Prepared:** June 1, 2022

**PURPOSE**

The Zoning Map Amendment application before the City Council is for an approximately 103.57 acre property (the "Property"), generally located south of E. 120<sup>th</sup> Avenue, west of Sable Boulevard and east of Southgate Boulevard. Currently, the Property has a zoning designation of the Fuller Estates East PUD. Travis Frazier of Redland is the applicant (the "Applicant") working on behalf of the Property owner, Walk Off, LLC (the "Owner"). The Owner desires to alter certain uses from the existing PUD to the straight zone districts of MU-CC (Mixed Use Community Center), C-2 (Restricted Retail and Services), R-2 (Mixed-Density Residential), and R-3 (Multiple Family Residential). As such, the Applicant is requesting a zone change, formally known as a Zoning Map Amendment ("Application"). The Applicant and Owner are using the name "Brighton Ridge" on the application and for the entire subject Property at this time ("Development").

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 development (PD).

The *Land Use & Development Code* (the “LUDC”) 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.

**PROCESSES**

A Zoning Map Amendment is the second step in the land development process with the City (Annexation > *Zoning Map Amendment* > Platting > Site Plan Review > Permits). Before any permits can be issued, a Subdivision Plan shall be approved via a public process, a Final Plat shall be approved administratively, and Site Plans shall be approved administratively. All will be reviewed using the City’s LUDC to ensure a proposal’s compliance with City codes and policies. The sequential steps to occur if the Zoning Map Amendment is to be approved would be a Subdivision Plan, and Final Plats and Site Plans for each applicable filing.

The LUDC, approved on December 3, 2019, outlines that the Zoning Map Amendment process provides review of changes to the boundary of zoning districts (rezoning) that may be necessary to implement the Comprehensive Plan, to account for changed conditions in the general area, or to reflect a change in policies with respect to future development.

As such, Staff, the Planning Commission, and the City Council should use the Review Criteria outlined in the *Land Use & Development Code’s* Section 2.03 B. These criteria generally include but are not limited to upholding the goals and objectives of the Comprehensive Plan, supporting development in character with existing or anticipated development in the area, ensuring that the change will serve a community need, amenity or development that is not possible under the current zoning.

**STRATEGIC FOCUS AREA**

- Recognizable and Well-Planned Community

**BACKGROUND**

The subject Property was annexed as part of the Fuller Estates East Annexation. The Property was annexed in 1988 via City Council Ordinance 1314, and was zoned the Fuller Estates East PUD via City Council Ordinance 1315 which allowed this property uses such as Mixed Use - Office and Mixed Use - Commercial.

**Surrounding Land Use(s):**

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
North	Single Family Residential Vacant Land (Undeveloped Commercial)	Adams County A-1 C-3 (General Retail & Services)	Unincorporated Adams County City of Brighton
South	Public/Institutional (School Bus Storage)	Fuller Estates East PUD	City of Brighton
East	ROW Open Space Single Family Residential	N/A Public Buffalo Run PUD	City of Brighton City of Commerce City
West	Single Family Residential	Village at Southgate PUD	City of Brighton

**CRITERIA BY WHICH CITY COUNCIL MUST CONSIDER THE ITEM AND STAFF ANALYSIS**

**PROPOSED USES:**

The proposed zoning categories present a mix of uses within the Development (see attached Zoning Map Amendment document). Parcel 1, consisting of 17.781 acres, is proposed to be zoned as R-3 (Multiple Family Residential). Parcels 2 and 5 consisting of 5.601 acres and 4.168 acres respectively, are proposed to be zoned as C-2 (Restricted Retail &

Services). Parcels 3 and 7, consisting of 12.774 acres and 31.540 acres respectively, are proposed to be zoned as MU-CC (Mixed Use - Community Center). Parcel 4, consisting of 20.423 acres is proposed to be zoned as R-2 (Mixed-Density Residential). Parcel 6, consisting of 11.285 acres of mostly floodplain, is proposed to be zoned as OS (Open Space). The associated uses with these districts can be found in Article 4 of the LUDC.

#### **COMPREHENSIVE PLAN:**

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the Property as a majority Mixed-Use Commercial, with small portions of Low-Density Residential and Natural Resource Conservation. Specifically, the Comprehensive Plan lists retail, services, offices, hotels, entertainment, and mixed-use buildings as the primary uses. As secondary uses, the Comprehensive Plan lists multi-family buildings, live/work units, senior housing facilities, public gathering places, parks, trails, recreational amenities, places of worship, and public facilities.

The Property is intended to have a mix of uses, focusing more on commercial uses with residential uses being secondary. While the Property's proposed zoning focuses more on the residential uses within the Development, there are a number of site constraints that explain this. The grading of the site as well as access and visibility severely limit the commercial viability of much of the land. Commercial access to the lower portions of the property, away from East 120th Avenue, would be difficult given the depth of the Property. The commercial uses are proposed along the highest trafficked roadways, along East 120<sup>th</sup> Avenue, and along Sable Boulevard and the I-76 on-ramp.

The remaining land is zoned to allow residential uses. These areas are less desirable for commercial uses. Given the proposed mixed-use zoning in Parcel 3, residential uses to the west of Potomac Street could range from 50% to 90% of the subject acreage. In order to ensure an overall balance of uses with the possible amount of residential use being allowed on the western portion of the Property, residential uses have been proposed to be prohibited on the east side of Potomac Street. This will be reflected in the draft zoning ordinance for City Council consideration and is reflected in the Planning Commission resolution recommending approval. The eastern portion, with the restriction of residential use, is proposed to be 76% commercial acreage, with the balance proposed as Open Space. In terms of acreage, the entirety of the Property, with Parcel 3 being developed as residential, would be developed with 49% residential, 40% commercial, and 11% open space uses. The entirety of the Property, with Parcel 3 being developed as commercial, would be developed with 37% residential, 52% commercial, and 11% open space uses. Depending on how Parcel 3 is developed, the commercial and residential percentages will fall within the range shown above.

The proposed zoning meets other policies and strategies of the Comprehensive Plan. The Opportunity Area Policies Section of Chapter Three, *Number 15. 120<sup>th</sup> Avenue Opportunities* states that the corridor will provide substantial revenue for the City over time. The section also states that staff should encourage quality development that is distinctive and economically viable for the long term. This is supported by the Commercial (C-2) and Mixed-Use (MU-CC) zoning districts being proposed within the Development and along 120<sup>th</sup> Avenue.

Within the Comprehensive Plan Chapter on 'Citywide Principles, Policies & Strategies', the proposed Zoning Map Amendment advances a number of these goals:

#### *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*

- With a mixed use development as is proposed, the mix of commercial and residential zoning will allow for a walkable and sustainable neighborhood which promotes the live, learn, work, shop, and play concept.

#### *Policy 5.2 - Support Brighton's Non-Downtown Commercial Centers, Focusing Growth within Existing Investment Areas Where Possible*

- The proposed commercial zone districts are mostly along 120<sup>th</sup> Avenue, and along Sable Boulevard and the Highway I-76 on-ramp. The commercial uses being along the 120<sup>th</sup> Avenue corridor, as listed above, supports the commercial corridor of 120<sup>th</sup> Avenue. In addition, the proximity to the Adams Crossing Urban Center is beneficial for both projects given how they can support one another and this Policy.

#### *Policy 6.5 - Encourage Projects that Enhance the Diversity of Housing Types and Costs*

- With a proposed mix of residential zone districts (MU-CC, R-2 and R-3), the Development supports and encourages diversity of housing types and costs.

#### **LAND USE & DEVELOPMENT CODE:**

The City Council, in making its decision, shall use the following criteria (Section 2.03 B.):

1. *The proposal is in accordance with the goals and objectives of the Comprehensive Plan and any other plan, policy or guidance adopted pursuant to that plan.*

As stated above, the Property's rezoning will help support policies of the Comprehensive Plan.

2. *The proposal will support development in character with existing or anticipated development in the area, including the design of streets, civic spaces and other open space; the pattern, scale and format of buildings and sites; and the integration, transitions and compatibility of other uses.*

The development of the land as a mixed use development is in-line with the character of the Adams Crossing development that is proposed to the north of over half of the subject Property. This area to the north is designated as a DRCOG Urban Center, which promotes mixed use and higher densities. The Property's proposed zoning supports similar uses.

3. *The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.*

The Property can be adequately served, and any future site developer will pay applicable costs to connect to City infrastructure.

4. *The change will serve a community need, amenity or development that is not possible under the current zoning or that was not anticipated at the time of the initial zoning of the property.*

The property is currently zoned for mixed use office and commercial uses within the Fuller Estates East PUD, but the allowed uses are not in line with the current Comprehensive Plan, which calls for a mix of commercial and residential uses. Additionally, as the property was zoned under a prior LUDC, an update to use the current standards of today's LUDC would allow uses and design that better align with the Comprehensive Plan. The residential growth occurring in this part of the city was not anticipated when this property was initially zoned. The original PUD designated most of this Property and most of the property directly to the west (now the Village at Southgate mixed use residential subdivision) as Commercial. This Application balances community needs and desires for residential and commercial uses.

5. *The recommendations of any professional staff or advisory review bodies.*

City staff finds this site as appropriate for mixed commercial and residential uses given its specific location and based on the desires of the community as expressed in the Comprehensive Plan. Site development, including buffering and building design, will occur in accordance with the applicable zone district standards as outlined in the LUDC. Any site on the Property will only be permitted with a design that ensures it fits in with the context and development patterns of the area.

#### **DEVELOPMENT REVIEW COMMITTEE:**

The Development Review Committee (DRC) reviewed this project and recommended approval.

*Note: A complete list of comments and the agencies who made them are available upon request.*

#### **PUBLIC NOTICE AND INQUIRY**

Mailings were sent to all property owners within 1,000 feet of the proposed zoning map amendment, as required by the *Land Use & Development Code*. These mailings were sent on June 6, 2022 and included a letter describing the proposed rezoning as well as the time and place for the public hearing. Also, included with the letter, was a map of the subject area. Three signs were posted for the City Council Public Hearing on June 28, 2022 with one at the south side of 120th Avenue, east of Potomac Street, another at the south side of 120th Avenue, west of Potomac Street, and one at the east side of Southgate Boulevard north of Foley Road. A notice was published on the City's website on the same day. As of the posting of this memorandum, Planning staff has not received any formal inquiries regarding the project in anticipation of the public hearing. City staff will be publishing public hearing information on various forms of social media in the days leading up to the meeting.

On May 6, 2021, as required by Code prior to the submission of the application to the City, the applicant held a

neighborhood meeting. The notification mailings, sent by the Applicant to property owners within the applicable mailing radius of the subject Property, included information on the meeting. The Applicant and Property Owner had several members of their team available to present their proposal, field any questions, and take feedback from meeting participants.

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission heard the request on May 26, 2022 and recommended approval unanimously (see the attached Resolution #22-2).

### **SUMMARY OF FINDINGS AND STAFF RECOMMENDATION**

Staff finds the Zoning Map Amendment is in general compliance with the requirements as outlined as approval criteria in Section 2.03 B. Review Criteria, of the *Land Use & Development Code* and therefore recommends approval of the Zoning Map Amendment.

A draft ordinance has been provided to the Council should it decide to proceed with the application as presented.

### **OPTIONS FOR COUNCIL CONSIDERATION**

The City Council has four options when reviewing this Zone Change application. City Council may:

- 1.) Approve the Zoning Map Amendment via ordinance as drafted;
- 2.) Approve the Zoning Map Amendment via an amended ordinance;
- 3.) Deny the Zoning Map 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 & Development Code.

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

### **ATTACHMENTS**

- Draft City Council Ordinance
- Aerial Map by City Staff
- Zoning Map Amendment by Applicant
- Copy of the Planning Commission Recommendation, Resolution #22-2
- Neighboring Property Owner Notification (addresses upon request)
- Buffer Map of Mailing Area
- Website Notice
- Website Publication Proof
- Affidavit of Sign Posting
- City Staff's Draft Presentation