



Legislation Text

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File #: ID-249-18, Version: 1

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**Body**

Department of Community Development

Reference: Neff II Annexation

**To: Mayor Kenneth J. Kreutzer and Members of City Council**

**Through: Philip Rodriguez, City Manager**

**Marv Falconburg, AICP Assistant City Manager**

**Holly Prather, AICP Community Development Director**

**Prepared By: Lauren Simmons, AICP, Senior Planner**

**Date Prepared: June 7, 2018**

**PURPOSE**

In order to proceed with the annexation of this property, the Council must find that the petition is in compliance with the Colorado Statutes and consider a resolution to approve the Annexation Petition. If the resolution is adopted, a date, time and place for a public hearing must be set, at least thirty (30) days and no more than sixty (60) days after the effective date of the Resolution, to determine if the request for annexation meets the requirements of the Colorado Revised Statutes 31-12-104 and 105.

**STRATEGIC FOCUS AREAS**

Recognizable and Well-Planned Community  
Supportive, Sustainable Infrastructure

**BACKGROUND**

An Annexation Petition, requesting annexation of an approximate 9.040 acre parcel, to be known as the Neff II Annexation (the "Property"), was submitted to the City of Brighton. The Annexation Petition is signed by Gary Antonoff, Manager of Galaxy Land Company, LLC, as the owner of 100% of the Property, (the "Owner"). The Property is generally located west of I-76, north of Bridge Street, and south of Baseline Road and is currently zoned "A-3" (Agricultural-3) through Adams County. The Property is 100% contiguous with the existing Brighton city limits.

**CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM**

- **Comprehensive Plan** (*Be Brighton*): The annexation of this parcel is within the growth boundary and there is adequate infrastructure to serve the Property.
  
- **Colorado Revised Statutes:** The City Council must determine whether the Annexation complies with the following statutory requirements set forth in the *Colorado Revised Statutes*:

Section 31-12-104

1. The following statutory limitations apply for eligibility for annexation:
  - a. Not less than 1/6<sup>th</sup> 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 and said area is urban or is to be urbanized;
- d. The area is integrated or capable of integration within the municipality.
- 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.*

#### Section 31-12-105

2. 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;
  - 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.

#### Section 31-12-108

3. 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)*

#### Section 31-12-108.5

4. 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.

#### Section 31-12-109

5. The annexation statutes provide the following provisions regarding the public hearing on the annexation:
  - a. Any person may appear and present evidence;

- b. All proceedings must be recorded.

Section 31-12-110

6. After the hearing, the governing body must set forth findings of fact and conclusion in a resolution regarding:
  - a. Whether Sections 31-12-104 and 105 C.R.S have been met;
  - b. Whether an election is required;
  - c. Whether additional terms and conditions are to be imposed;
  - d. A finding that the proposed annexation does not comply with Sections 31-12-104 and 105 shall terminate the proceedings.

**PUBLIC INQUIRY**

Publication of the public hearing and notification of the public hearing will be provided to all applicable entities as required by C.R.S. §31-12-108.

**STAFF RECOMMENDATION**

- This request for annexation complies with the requirements of the Municipal Annexation Act, C.R.S. § 31-12-101 et seq.
- This request for annexation complies with the Comprehensive Plan.

**OPTIONS FOR COUNCIL CONSIDERATION**

- Approve the Resolution of Annexation Eligibility and Annexation Ordinance, on first reading.
- Not approve the Resolution of Annexation Eligibility and Annexation Ordinance, on first reading, with specific findings to justify the denial.

**ATTACHMENTS**

- Aerial Map
- Resolution of Annexation Eligibility (Draft)
- Annexation Map