



Legislation Text

File #: ID-246-23, Version: 1

Department of Community Development

Reference: South 19th Avenue Annexation

To: Mayor Gregory Mills and Members of City Council

Through: Michael P. Martinez, City Manager

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Date Prepared: July 11, 2023

PURPOSE

Annexation is regulated by Colorado law. Pursuant to C.R.S. §31-12-106 (3), as the property being annexed is owned by the City of Brighton and is not solely a public street or right-of-way, the City may annex the area into the municipality without notice and hearing. Pursuant to §30(1)(c) of article II of the Colorado Constitution, no petition is needed to complete the annexation. The next step in the annexation process is for the City Council to make a determination on the first reading of an annexation ordinance.

Annexation is the first step in the land development process with the City (*Annexation > Zoning Map Amendment > Platting > Site Plan Review > Permits*). The purpose of annexing the Property is to dedicate it as Right-of-Way (ROW) in the future, in order to construct South 19th Avenue to the south of East 144th Avenue. Because of this, a Zoning Map Amendment, Plat, and Site Plan are not required. Permits will be required to construct the road. The future South 19th Avenue in this location will be constructed by the Farmlore developer in accordance with the Farmlore North Subdivision Plan Agreement.

BACKGROUND

The Annexation application before the City Council is for an approximately 0.17 acre property (the "Property"). Encompassing a portion of an unannexed parcel, the Property is located at the intersection of East 144th Avenue and the South 19th Avenue alignment. Currently, the Property has a zoning designation of Adams County A-3 (Agriculture-3). The City of Brighton is the applicant (the "Applicant") and the property owner (the "Owner").

The Property is 41% contiguous with the existing Brighton city limits. The City of Brighton's Comprehensive Plan, *Be Brighton*, designates the Property as Parks & Open Space. The City received an Open Space Grant from Adams County to purchase the parcel, and the County has provided a letter granting acceptance to annex the portion of the parcel to be used as future ROW. This future collector, to be constructed by the Farmlore developer, will be used in the future for access to the Farmlore Subdivision, but also to the City-owned open space to the east of the Farmlore neighborhood. The remainder of the City-owned open space parcel will be annexed as part of the Prairie Lakes Open Space.

Surrounding Land Uses:

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
North	<i>Single Family Residential</i>	<i>Agriculture-1</i>	<i>Adams County</i>
South	<i>Open Space</i>	<i>Agriculture-3</i>	<i>Adams County</i>
East	<i>Open Space</i>	<i>Agriculture-3</i>	<i>Adams County</i>
West	<i>Drainage Pond</i>	<i>Brighton Lakes PUD</i>	<i>City of Brighton</i>

CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM

COMPREHENSIVE PLAN:

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the Property as Parks & Open Space. The proposed annexation is within the Urban Growth Boundary.

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

Policy 1.1 - New Growth Should Favor Existing Areas of Infrastructure Investment and Planning

- The Property is within the growth boundary in which the infrastructure surrounding the Property, from streets to utility lines, has been planned already. Developing the Property as ROW in the future would allow for construction of some of this needed infrastructure.

Policy 1.3 - Private Development Should "Pay Its Own Way," by Bearing an Equitable Portion of the Costs of Expanding Municipal Infrastructure

- The annexation of this Property advances this as it is directly correlated to the expansion of roads to be constructed in association with the Farmlore development.

LAND USE & DEVELOPMENT CODE:

The below criteria shall be used to review the proposed Annexation. After each listed sub-section, staff provides analysis.

1. The annexation complies with the Municipal Annexation Act of 1965, §31-12-101 et. seq., C.R.S.

The proposed annexation is in compliance with the Municipal Annexation Act of 1965, §31-12-101 of the C.R.S. No petition is needed for the annexation per §30 (1)(c) of article II of the Colorado Constitution. No notice or hearing is required per C.R.S. §31-12-106 (3).

2. The annexation is in accordance with the Comprehensive Plan and any other plans or policies created under the guidance of that plan.

As stated above, the Property's annexation will help support a number of policies and principles of the Comprehensive 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.

The Property can be integrated into the City and adequately served by City utilities. This parcel will help complete the approved roadway system to be built by Farmlore developer in accordance with the development. This will ultimately aid in building out the South 19th Avenue corridor per the City's Transportation Master Plan, which shows this as a through connection from Bromley Lane to East 136th Avenue when completed. At the completion of the future road, it will be an important connection that will help alleviate congestion on both Sable Boulevard and South 27th Avenue.

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.*

At the time of development, municipal and governmental services and facilities will be extended to the Property by the developer. This area is planned as part of the Farmlore development and will be paid for and constructed by the developer.

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.*

It has been determined that there shall be adequate capacity to serve this Property with the necessary City utilities and facilities. As part of the Farmlore development documents, the engineers associated with the project submitted technical engineering studies that ensure the appropriate amount of infrastructure is or will be present.

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.*

Annexation of the Property will ensure that the Transportation Master Plan is advanced, contributing to the roadway development of the City. The extension of South 19th Avenue will create additional access to the Farmlore development as well as the City's open space parcel to the east. The future road will also increase the varied distribution of traffic in that area of the City by allowing travelers to use South 19th Avenue instead of, or in addition to, the existing Sable Boulevard and South 27th Avenue.

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

The following statutory limitations apply for eligibility for a municipally-owned annexation:

- a. Not less than 1/6th of the perimeter of the area to be annexed is contiguous with the City of Brighton;

Section 31-12-105

The following statutory limitations apply to the proposed municipally-owned 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
 - i. Cannot deny reasonable access to adjoining landowners as a result of proposed annexation.

Section 31-12-106 (3)

The following exemption applies to this Property:

3. **Annexation of unincorporated municipally owned land.** When the municipality is the sole owner of the area that it desires to annex, which area is eligible for annexation in accordance with section 30(1)(c) of article II of the state constitution <[https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000518&refType=LQ&and sections 31-12-104\(1\)\(a\) <https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000517&refType=SP&and 31-12-105 <https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000517&refType=LQ&](https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000518&refType=LQ&and sections 31-12-104(1)(a) <https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000517&refType=SP&and 31-12-105 <https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000517&refType=LQ&)

, the governing body may by ordinance annex said area to the municipality without notice and hearing as provided in sections 31-12-108 <<https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000517&refType=LQ&>> and 31-12-109 <<https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000517&refType=LQ&>>. The annexing ordinance shall state that the area proposed to be annexed is owned by the annexing municipality and is not solely a public street or right-of-way.

STAFF ANALYSIS

The annexation complies with the C.R.S. §31-12-104 (a), 105, and 106 (3). Specifically, the annexation complies with §31-12-106 (3) as the Property is owned by the City and is currently zoned as Agriculture-3 in Adams County, not currently designated as a public road. The property is 41% contiguous with the City of Brighton city limits. The Property may be urbanized and is capable of integration within the City of Brighton. The annexation was requested by the Public Works Department so that the future road will be constructed, by the Farmlore developer, fully within the city limits. The Parks Department, which uses the land as open space, has reviewed and recommends approval, as the future road will provide needed access to the City's open space. The annexation has been reviewed by other members of the Design Review Committee (DRC) and they find that the proposed annexation meets the provisions of the *Land Use & Development Code* as well as the City's Comprehensive Plan, *Be Brighton* and therefore recommends approval of the South 19th Avenue Annexation.

PUBLIC NOTICE AND INQUIRY

Exempt per C.R.S. §31-12-106 (3), no notice is required. However, a website notice was posted onto the City's website on Monday, July 17, 2023. As of the date of this report, City staff has not received any formal comments regarding the proposed annexation.

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 generally complies with the goals and policies as outlined in the Comprehensive Plan.

OPTIONS FOR COUNCIL CONSIDERATION

The City Council may:

- 1.) Approve the Annexation via ordinance as drafted;
- 2.) Approve the Annexation via a modified ordinance;
- 3.) Deny the Annexation 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.

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

ATTACHMENTS

- Draft Annexation Ordinance
- Aerial Map
- Annexation Map
- Website Notice
- Adams County Letter of Permission
- Draft City Staff Presentation