



## Legislation Text

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### *Department of Community Development*

Reference: Otten Zoning Map Amendment

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

**Through: Michael P. Martinez, City Manager**

**Prepared By: Summer McCann, Senior Planner**

**Date Prepared: April 29, 2024**

### **PURPOSE**

The zoning map amendment application (the "Application") before the City Council is for an approximately 4.918-acre property (the "Property"), generally located to the north of East 136<sup>th</sup> Avenue, south of Prairie Center Parkway, east of South 27<sup>th</sup> Avenue and west of I-76. Currently, the Property has a zoning designation of Adams County A-2 (Agriculture-2). Thomas Otten is the project contact working on behalf of the Property owner and applicant, Donald M. Otten Revocable Trust (the "Applicant"). The Applicant desires to annex the Property into the City of Brighton (the "City"). Land annexed to the City must have a City zoning designation, and as such, the Applicant is requesting a rezoning from Adams County A-2 (Agriculture-2) to City of Brighton C-2 (Restricted Retail and Services).

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 a property. The zoning district 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 zoning decision should be made. 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. An ordinance to rezone must be approved by 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 must be approved through a public process, a final plat must be approved administratively, and site plans must be approved administratively. All applications will be reviewed using the LUDC to ensure a proposal's compliance with City codes and policies. It is important to note that no user has been identified nor have any applications been received to plat or build on the Property. An application and request for annexation is being reviewed concurrently with this application. The City Council held a hearing for substantial compliance of the annexation application on April 2, 2024. City Council determined the application complies with statutory requirements and scheduled a public hearing for May 21, 2024.

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 must use the Review Criteria outlined in LUDC Section

2.03 B in their review of the Application. 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.

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

Section 2.03(B.) of the *Land Use & Development Code* (the “LUDC”) outlines the review criteria upon which the City Council must consider a zoning map amendment. Specifically, the City Council must consider the following:

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

**BACKGROUND**

The Property is currently going through the Annexation process with the City. The Property is 100% contiguous with Brighton City Limits.

**Surrounding Land Use(s):**

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
North	Vacant Land	Prairie Center PUD	City of Brighton
South	RV Park	Prairie Center Mixed Use PUD	City of Brighton
East	Raptor Education Foundation	Prairie Center Mixed Use PUD	City of Brighton
West	Vacant Land	Prairie Center Mixed Use PUD	City of Brighton

**STAFF ANALYSIS OF THE APPLICATION**

***Land Use & Development Code Review Criteria:***

The City Council, in making its decision shall use the criteria outlined in 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.***

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the Property as Commercial. As mentioned, the Applicant is requesting to rezone the Property to C-2, Restricted Retail and Services. Pursuant to Chapter 3: *Future Land Use Plan and Opportunity Areas, Number 16. 27<sup>th</sup> Avenue / Buckley Road Opportunities* states that development should occur in nodes along 27<sup>th</sup> Avenue as it is a major north-south arterial and should be a mixture of commercial, office, public, and residential uses. The existing development along South 27<sup>th</sup> Avenue includes a mix of commercial and residential development north of the Property. The adjacent undeveloped parcels are zoned commercial to integrate a mix of uses along the corridor. The proposed rezoning will complete the commercial node along this major north-south arterial and extend services for Brighton residents.

The proposed zoning also meets other policies and strategies of the Comprehensive Plan. From the

Opportunity Area Policies Section of Chapter Three, *Number 10. Throughout the City, Concentrate Commercial Development at Key Intersections to Serve Surrounding Areas* states that large-scale retail should be concentrated along major arterial nodes, such as Bromley Lane, Bridge Street and 27th Avenue. The rezoning will ensure cohesive commercial development along 136<sup>th</sup> Avenue and South 27<sup>th</sup> Avenue. In addition to the Property being located on a key intersection, it is located within close proximity to I-76, making it a prime location for commercial development. The Property is also located within a Denver Regional Council of Governments (DRCOG) designated urban center which promotes centralized urban development and connectivity. The rezoning would also further the Opportunity Area Policies Section of Chapter Three, *Number 5. Annex the Bracksieck Property and Encourage an Intense Mix of Uses Focused on Regional Commerce and Corporate Offices in the Prairie Center Urban Center*. The rezoning will fully integrate the Property into existing commercial framework of the area. Any future development will benefit from the established regional commerce and continued development of Prairie Center.

Within the Comprehensive Plan Chapter on 'Citywide Principles, Policies & Strategies', the proposed Zoning Map Amendment advances a number of these goals as well. The proposal meets Policy 1.1, as the Property is within an area of existing infrastructure and is bound by two major arterial roadways. Future development of the Property will bring further investment into the area by improving adjacent public infrastructure. The proposal also meets Policy 1.3, as development of the Property will be responsible for the improvement of adjacent public infrastructure. The subsequent land use applications will further specify the need for roadway and utility improvements associated with this development. Lastly, Policy 2.1, the development of this Property will support the balance between residential and non-residential zoning in the area. The proposed rezoning would integrate into the existing mixed-use vision for this area that promotes the live, learn, work, shop, and play concept.

***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 commercial aligns with the character of the area and the desire for more commercial uses along key intersections and highway interchanges. The proposed rezoning will support the vision of South 27<sup>th</sup> Avenue as a mixed-use corridor by adding to the overall balance between residential and commercial zoning in the area.

***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 *Comprehensive Plan* has envisioned this Property as part of the overall Prairie Center Mixed Use area. The current agricultural zoning is not in alignment with the *Comprehensive Plan* or the vision for this corridor. The approval of annexation and zoning for this Property will remove the current gap in City Limits to allow for cohesive development in the area.

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

City staff finds this site as appropriate for commercial 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

development 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 recommends approval.

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

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission heard the request on April 11, 2024, and unanimously recommended approval. (See the attached Resolution #24-05.)

### **PUBLIC NOTICE AND INQUIRY**

Mailings were sent to all property owners within 300 feet of the proposed zone change, as required by the *Land Use & Development Code*. These mailings were sent on May 6, 2024, 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. A notice was published on the City's website on the same day. City staff also posted public hearing information on Facebook and NextDoor in the days leading up to the meeting. On May 1, 2024, two signs were posted on the Property. One sign was posted on the north side of East 136<sup>th</sup> Avenue and one sign was posted on the east side of South 27<sup>th</sup> Avenue for the City Council public hearing on May 21, 2024. As of the publication of this report, staff has not received any formal inquiries regarding the Application in anticipation of the City Council public hearing.

On February 1, 2023, 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 Property, included information on the meeting. The Applicant had a member of their team available to present their proposal, field any questions, and take feedback from meeting participants. The neighborhood meeting minutes are attached to this Report.

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

Staff finds that the Application is in general compliance with the requirements as outlined in the approval criteria set forth in Section 2.03 B. and, therefore, recommends approval of the Application. Staff has prepared a draft ordinance for approval if the City Council agrees with this recommendation.

### **OPTIONS FOR CITY COUNCIL CONSIDERATION**

The City Council has four options when reviewing this Application. City Council may:

- 1.) Approve the Zoning Map Amendment via Ordinance as drafted;
- 2.) Approve a modified Zoning Map Amendment via 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 City Council feels it needs more 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
- Planning Commission Resolution 24-05
- Aerial Map by City Staff
- Zoning Map Amendment by Applicant
- Neighboring Property Owner Notification
- Buffer Map of Mailing Area

- Website Notice
- Website Publication Proof
- Affidavit of Sign Posting
- Draft Staff Presentation