



Legislation Text

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*Department of Community Development*

Reference: Otten Property Annexation

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

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

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

**Date Prepared: April 29, 2024**

**PURPOSE**

In order to proceed with annexation of the Otten Property (the "Property"), the Council must conduct a public hearing, approve a resolution for annexation eligibility, and complete the first reading of the annexation ordinance. A Petition for Annexation (the "Petition") was previously accepted by the City Council at a regular meeting. See the attached City Council Resolution 2024-43 for further information. In Resolution 2024-43, City Council set the public hearing for this annexation for May 21, 2024.

City Council must now hold a public hearing and consider a resolution that constitutional and statutory (C.R.S. §31-12-104 and §31-12-105) requirements have been met. If resolved, City Council will also consider the annexation ordinance at first reading.

**PROCESS**

Annexation is the first step in the land development process with the City (*Annexation > Zoning Map Amendment > Platting > Site Plan Review > Permits*). A separate application to rezone the Property to a City zone district is also before the City Council. At the next scheduled meeting after approval on first reading, if granted, an annexation agreement will be brought before the City Council, along with the second reading of the annexation ordinance. A subdivision plan, and final plat and site plan will be required before any development can occur on the site.

**BACKGROUND**

The Annexation application before the City Council is for an approximately 4.918-acre property (the "Property"). Comprised of two unplatted and yet to be annexed parcels, the Property is 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 has also submitted a Zoning Map Amendment application to the City of Brighton (the "City"). The Property is 100% contiguous with existing Brighton city limits.

**Surrounding Land Uses:**

<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

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

Section 2.11(B) of the *Land Use & Development Code* (the “LUDC”) outlines the review criteria by which the City Council must consider the Application. Specifically, the City Council must consider the following:

- 1. The annexation complies with the Municipal Annexation Act of 1965, Section 31-12-101 et. seq., C.R.S.*
- 2. The annexation is in accordance with the Comprehensive Plan and any other plans or policies created under the guidance of that 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.*
- 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.*
- 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.*
- 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.*

**STAFF ANALYSIS OF THE APPLICATION:**

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

To be eligible for annexation to the City, the Application must comply with the requirements set forth in C.R.S. 31-12-104. Specifically, the Property must: (1) be not less than 1/6 contiguous with existing City limits; (2) share a "community of interest" with the City; (3) be urban or become urbanized; and (4) be capable of integration within the City. If the contiguity requirement is met, there is a rebuttable presumption that the "community of interest" requirement is also met. Further, C.R.S. 31-12-105 provides certain limitations on annexation. Such limitations are not applicable to the application before the City Council. Here, the Property is 100% contiguous with existing City limits and, therefore, also meets the “community of interest” requirements. As described in greater detail below, the Property also meets the third and fourth requirements of this criterion.

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

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the Property as Commercial. The related Zoning Map Amendment proposes to establish C-2 (Restricted Retail and Services) on the Property.

In regard to the subsequent sections of the Comprehensive Plan, the proposed Annexation and Zoning Map Amendment work together to meet the following goals. 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 annexation and zoning will complete the commercial node along this major north-south arterial and extend services for Brighton residents.

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 27<sup>th</sup> Avenue. The annexation will eliminate the current gap in City limits and 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 annexation 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 annexation and zoning 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 Annexation 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.

- 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. If annexed, the Property is required to be zoned within 90 days of the approval. Future development on the site will follow all standards and procedures of the City of Brighton Municipal Code and *Land Use & Development Code*.

- 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 the development, utility service will be extended to the Property by the developer. Development of the land will pay its own way and will be reflected in a future subdivision plan and agreement.

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 will be adequate capacity to serve this Property with the necessary City utilities and facilities. At the time of development, the developer shall be required to submit technical engineering studies to 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.*

As the Property is 100% contiguous with City limits and abutting two major arterial roadways, it is important that future development occurs in a manner that is consistent with the surrounding area. If annexed, development will be subject to City standards that ensure compatibility with surrounding land uses, building design and transportation patterns.

In summary, the Otten Property is an unannexed enclave within the City. Annexing the Property will allow for cohesive urban development and uniform public safety and utility services in the area. The Otten Property annexation complies with the C.R.S. §31-12-104 through 110. The Property is 100% contiguous with the City of Brighton City Limits, which meets the “Community of Interest” provision. The Property may be urbanized and is capable of integration within the City of Brighton as utility lines are adjacent to the Property. Additionally, the annexation request complies with all the applicable criteria as outlined in the *Land Use & Development Code*.

### **PUBLIC NOTICE AND INQUIRY**

Publication of the public hearing and notice of the public hearing have been provided to all applicable entities as required by C.R.S. § 31-12-108.5. The notice of public hearing was published in the *Brighton Standard Blade* on April 18 and 25 and May 2 and 9, 2024. A copy of the published notice, resolution of substantial compliance, and Petition as filed with the City, was sent by registered mail to the Board of County Commissioners of Adams County, the County Attorney, School District 27J, the Central Colorado Water Conservancy District, Brighton Fire Rescue District, Rangeview Library District, Regional Transportation District, Urban Drainage and Flood Control District, and Urban Drainage South Platte. Notice was mailed to all property owners within 300’ of the Property on May 6, 2024. Two (2) signs were posted on the Property on May 1, 2024. As of the date of this report, the City staff has not received any formal comments regarding the proposed annexation.

### **SUMMARY OF FINDINGS AND 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 has the following two items before it, each with four options:

#### **Resolution of Annexation Eligibility**

City Council may:

- 1.) Approve the Resolution as drafted;
- 2.) Approve a modified Resolution;
- 3.) Deny the Resolution 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.

### **Annexation Ordinance**

If the Resolution of Annexation Eligibility is approved, City Council may:

- 1.) Approve the Annexation Ordinance as drafted;
- 2.) Approve a modified Annexation Ordinance;
- 3.) Deny the Annexation 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 by City Staff
- Annexation Map by Applicant
- Newspaper Proof of Publication
- Resolution 2024-43 (Substantial Compliance)
- Draft City Staff Presentation