



## Legislation Details (With Text)

**File #:** ID-246-22      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Agenda Ready  
**File created:** 6/28/2022      **In control:** City Council  
**On agenda:** 8/2/2022      **Final action:**  
**Title:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE REZONING OF A PORTION OF THE BROMLEY PARK PLANNED UNIT DEVELOPMENT 2ND AND 6TH AMENDMENTS TO THE BROMLEY PARK PLANNED UNIT DEVELOPMENT 26TH AMENDMENT FOR THE APPROXIMATELY 18.9-ACRE PROPERTY, GENERALLY LOCATED TO THE SOUTH OF BRIDGE STREET, WEST OF INTERSTATE 76, EAST OF GOLDEN EAGLE PARKWAY, AND NORTH OF THE SPEER CANAL SOUTH OF LONGSPUR DRIVE, AND BEING A PART OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Draft City Council Ordinance, 2. Copy of the Planning Commission Recommendation, Resolution 22-3, 3. Aerial Map by City Staff, 4. PUD Amendment by Applicant, 5. Neighboring Property Owner Notification, 6. Affidavit of Posting, 7. Buffer Map of Mailing Area, 8. Website Notice, 9. Website Publication Proof, 10. City Staff's Draft Presentation, 11. 246 PPT

Date	Ver.	Action By	Action	Result
8/2/2022	1	City Council		
7/19/2022	1	City Council		
7/5/2022	1	City Council		

### Department of Community Development

Reference: Bromley Park PUD 26<sup>th</sup> Amendment - Zone Change

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

**Through:** Michael Martinez, City Manager

Marv Falconburg, AICP Deputy City Manager

Holly Prather, AICP, Community Development Director

**Prepared By:** Nicholas Di Mario, Associate Planner

**Date Prepared:** June 1, 2022

### PURPOSE

The Zone Change via a Major PUD Amendment application before the City Council is for an approximately 18.9 acre property (the "Property"), generally located to the south of Bridge Street, west of Interstate 76, east of Golden Eagle Parkway, and north of the Speer Canal south of Longspur Drive. Currently, the Property is split between two zoning designations: (1) "Commercial," as set forth in the Bromley Park Planned Unit Development (PUD) 6<sup>th</sup> Amendment; and (2) "Office-Research/Development," as set forth in the Bromley Park Planned Unit Development 2<sup>nd</sup> Amendment. Lauren Brockman of Convergence Multifamily Real Estate Group is the applicant (the "Applicant") working on behalf of the

Property owner, Sunflower Meadows Real Estates LLC (the “Owner”). Applicant desires to change the allowed land uses and densities of the Property to restrict those uses to Single Family Detached and Single Family Attached with a maximum density of 12 dwelling units per acre. As such, the Applicant is requesting a zone change, also commonly known as a rezoning.

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 unit development (PUD).

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 City Council. This request to rezone was brought before the Planning Commission on May 26, 2022 for their recommendation prior to review and final determination by the City Council.

## **PROCESSES**

Rezoning is the second step in the land development process with the City (Annexation > *Rezoning* > Platting > Site Plan Review > Permits). Before any permits can be issued, an Administrative Plat shall be approved administratively, and a Site Plan shall be approved administratively. All will be reviewed using the LUDC to ensure a proposal’s compliance with City codes and policies.

The Bromley Park Annexation Agreement approved in 1985 outlined that the accompanying PUD is vested for a period of forty (40) years. Additionally, the Bromley Park Land Use Regulations were adopted in 1986 that outlined PUD amendment processes for the accompanying PUD. Per these Regulations, the zone change proposal does not meet the criteria for a Minor PUD Amendment, and as such, must be processed as a Major PUD Amendment “subject to the review of the Planning Commission and approval by the City Council after public hearings”. Unfortunately, the Bromley Park Land Use Regulations do not call out specific review criteria for a Major PUD Amendment. The Planned Development process outlined in the LUDC is most closely aligned with the former Code’s PUD Amendment process. As such, Staff, the Planning Commission, and the City Council should use the Review Criteria outlined in Section 2.04 C. 1 of the LUDC. This criteria generally includes, but is not limited to, supporting the implementation of the Comprehensive Plan, the flexibility provided promotes the general health, safety, and welfare of the community, standards that support base zoning and design intentions, City and supporting services can be provided for the proposed uses, and the change supports a community need, amenity, or development that is not possible under the current zoning. This PUD Amendment is not converting to a Planned Development (PD) under the updated *Land Use & Development Code*, given the amendment process described as part of the vested Bromley Park PUD. As the rezoning is reviewed, it is important to refer back to the criteria to ensure consistency in review.

## **STRATEGIC FOCUS AREA**

- Recognizable and Well-Planned Community

## **BACKGROUND**

In 1985, the Property was annexed as part of the Bromley Park Annexation. In 1986, the Property was zoned a mix of Commercial and Office - Research / Development under the Bromley Park PUD 1<sup>st</sup> Amendment, with the Commercial designation making up the majority. In 1997, the Property was then rezoned by the Bromley Park PUD 2<sup>nd</sup> Amendment, with the majority designation being Office - Research / Development. The entirety of the Property is platted under the Bromley Park Filing No. 5 Subdivision as Lots 1 and 2 of Block 24 and Lot 1 of Block 25. In 2002, the Bromley Park PUD 6<sup>th</sup> Amendment memorialized that Lot 1 of Block 24 of the Bromley Park Filing No. 5 Subdivision falls under the Commercial designation and allows for the development of multi-family residential product, as explicitly allowed by the Bromley Park Land Use Regulations.

Under the Bromley Park PUD 2<sup>nd</sup> Amendment, the surrounding residential neighborhoods are zoned for and developed with Single Family Detached and Single Family Attached dwellings. Given the adjacent neighborhoods and uses, the Owner and Applicant now seek to rezone to allow for the uses mentioned in the Single Family Detached and Single Family Attached designations (single family dwellings, duplexes, zero lot line, patio homes, triplex, fourplex and townhouse complexes) with a maximum density of twelve (12) dwelling units per acre. If approved, this rezoning would restrict the allowed uses to those listed above. The general standards as outlined in the Bromley Park Land Use Regulations and the LUDC will apply to the Property if developed. This is the first rezoning application for the Property

submitted by the current Owner.

### Surrounding Land Use(s):

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
North	Single Family Detached, <i>Drainage</i>	Bromley Park PUD 5 <sup>th</sup> Amendment, <i>Adams County A-3</i>	City, County
South	Charter School	Bromley Park PUD 2 <sup>nd</sup> Amendment	City
East	Industrial	Bromley Park PUD 1 <sup>st</sup> Amendment	City
West	Single Family Detached	Bromley Park PUD 2 <sup>nd</sup> Amendment	City

### **STAFF ANALYSIS**

Under the current zoning, the 'Commercial' designation allows for "a mixed use district including general retail, service, office and multi-family residential uses intended to provide local and community retail uses and services, as well as, any office use designed to provide administrative, professional, and personal services category." In relation to the allowed multi-family use, multi-family residential development is currently allowed up to a maximum of 40 dwelling units per acre. Additionally, the "Office-Research/Development" designation allows for a "campus-type technology park" to allow for "general, medical, dental and professional and governmental activities", including several conditional uses such as light manufacturing, fabrication, and processing. This PUD Amendment, as submitted by the Applicant, would change the current land use designations to "Single Family Detached" and "Single Family Attached", restricting the allowed uses to those as outlined in the Bromley Park Land Use Regulations, i.e. single family dwellings, duplexes, zero lot line, patio homes, triplex, fourplex and townhouse complexes with a maximum density of twelve (12) dwelling units per acre. This PUD Amendment does not propose to alter dimensional or design standards, and as such, the dimensional and design standards put in place by the Bromley Park Land Use Regulations and the LUDC shall apply.

### **RESIDENTIAL UNIT ANALYSIS**

#### *Current Zoning*

As mentioned previously in this report, current zoning allows for the development of multi-family residential development under the 'Commercial' designation as stated in the Bromley Park PUD 6<sup>th</sup> Amendment. This designation, governing about 12.63 acres of the Property, would allow the development of multi-family residential units at a maximum density of 40 dwelling units per acre. The below equation shows the amount of multi-family units that could be built on a portion of the subject property under current zoning.

$$12.63 \text{ acres} \times 40 \text{ dwelling units per acre} = \mathbf{505.2 \text{ units}}$$

#### *Proposed Zoning*

On the other hand, the proposed zoning would restrict all allowed uses to those listed under the 'Single Family

Detached' and 'Single Family Attached' at a maximum density of twelve (12) dwelling units an acre. This proposal does include a larger subject area in terms of acreage as it incorporates the Office-Research/Development designated acreage to the above noted Commercial acreage; however, the below equation shows the amount of single family detached and attached dwellings that would be permitted under the proposal.

18.9 acres x 12 dwelling units per acre = **226.8 units**

The proposal, as submitted by the Applicant, will result in a reduction in density of total residential dwelling types and overall residential density, as well as, eliminate the currently permitted Commercial and Office-Research/Development uses.

**CRITERIA BY WHICH THE CITY COUNCIL MUST CONSIDER THE ITEM**  
**COMPREHENSIVE PLAN:**

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated portions of the Property area as appropriate for 'High Density Residential,' 'Commercial,' and 'Low Density Residential' land uses (see attached map for area designations). Within the adjacent residential neighborhoods, in areas that are zoned as part of the Bromley Park PUD, the same Comprehensive Plan designation of 'Low Density Residential' is in place where properties are allowed the same degree of residential development as proposed with this PUD Amendment. This is because they are governed by the uses allowed by the 'Single Family Detached' and 'Single Family Attached' designation of the Bromley Park Land Use Regulations.

While the rezoning of the Property to allow for only single family detached and attached residential uses is not completely compatible with the Comprehensive Plan's land use designation of 'High Density Residential', the Bromley Park 'Single Family Detached' and 'Single Family Attached' zoning designations do allow for uses determined to be "permitted" under the R-3 zone district-a zone district that is considered "compliant" under the Comprehensive Plan's *Future Land Use Plan*. In relation to the 'Low Density Residential' designation, the Bromley Park 'Single Family Detached' and 'Single Family Attached' zoning designations do allow for uses determined to be "permitted" under the R-1, R-1-A, and R-1-B zone districts. These districts are considered "compliant" under the Comprehensive Plan's *Future Land Use Plan*. Lastly, staff finds that the 'Commercial' designated area is not a viable location for future commercial development, due to its location along a one-way local residential street, the existing townhomes within the immediate area, and a general lack of immediate access to the site from Bromley Lane and/or the frontage road.

Looking to the Comprehensive Plan's chapter on 'Citywide Principles, Policies & Strategies' for further guidance, the proposed PUD Amendment can be found to advance a number of these goals. The Managing Growth Principle, Policy 1.1 is supported as new development as the Property will favor an existing area of infrastructure and planning. The proposed PUD will allow for the development of residential uses and densities similar to what is located within the adjacent neighborhoods. Due to the close proximity of similar uses and densities in the area, the Property is within an area of existing infrastructure development. Development at the site will be able to connect into the existing roadway and utilities networks, and once developed, will be responsible for its share of infrastructure, such as trails construction. The site is bounded by a Collector and Minor Arterial per the adopted Master Transportation Plan.

As for The Freestanding City Principle, the proposed PUD Amendment also supports Policies 2.1 and 2.2, as its adoption could allow the site to develop in a manner that will support the City's desire to have an appropriate balance between residential and non-residential uses, and it will help to focus urban development within the Urban Service Boundary where the City has invested in infrastructure.

Moving to the Economically Vibrant Community Principle, Policy 5.2, it could be supported by the PUD Amendment as the Property's development can be seen to support nearby commercial centers if developed as new residential communities that will invite new and existing residents to use the surrounding commercial areas, including creating demand for commercial and mixed use designated areas to develop in the future, as

it would focus growth within an existing investment area. In pursuance of The Distinctive Neighborhoods Principle, Policy 6.2, the development will adhere to the City of Brighton's *Residential Design Standards*, creating residential lots and architecture that enhance the streetscapes of the neighborhood. Additionally, Policy 6.5, that looks to support enhancing the diversity in housing type and cost, could be furthered by allowing single family attached residential development at the Property.

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

As described at length in the Processes Section of this document, a Major PUD Amendment is permitted to advance given the allowance by the vested PUD. The below criteria shall be used to review the proposed PUD Amendment. After each listed sub-section, staff provides analysis.

The City Council in making its recommendation shall use the following criteria (Section 2.04 C.):

- a. The plan better implements the Comprehensive Plan, beyond what could be accomplished under application of general zoning districts and development standards.*

The proposed PUD Amendment will encourage development at the site that meets a number of policies of the Comprehensive Plan and will allow the Property some flexibility to further encourage development that a general zoning district would not.

- b. The benefits from any flexibility in the proposed plan promote the general public health, safety and welfare of the community, and in particular, that of the areas immediately near or within the proposed project, and the proposed flexibility is not strictly to benefit the applicant or a single project.*

With the proposed decrease in density and change of use, the proposed PUD Amendment will allow the Property to develop with similar uses and densities to the surrounding residential neighborhoods.

- c. The flexibility in the proposed plan allows the project to better meet or exceed the intent statements of the base zoning district(s).*

The proposed PUD Amendment will allow the project to develop as outlined in the Bromley Park Land Use Regulations Single Family Detached and Attached designations. These same base districts, allowing a mix of single family detached and attached residential uses, have historically been used for multiple residential areas in the adjacent neighborhoods.

- d. The proposed adjustments to the standards do not undermine the intent or design objectives of those standards when applied to the specific project or site.*

The proposed standards do not undermine their original intent or design objectives.

- e. The plan reflects generally accepted and sound planning and urban design principles with respect to applying the goals and objectives of the Comprehensive Plan to the area.*

The proposed PUD Amendment will allow the Property to develop in a manner that will support and advance a number of policies of the Comprehensive plan and widely held sound planning and design principles.

- f. The plan meets all of the review criteria for a zoning map amendment.*

Section 2.03 B. outlines the below criteria to be used for such a review:

- 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 street, 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 allowed under the proposed PUD Amendment, will ensure that the site develops similarly to other properties under the Bromley Park PUD. The surrounding allowed uses are compatible with the use of the Property as single family detached and attached residential.

The Property is part of a master planned community where varying housing products were envisioned when annexed and created in the mid-1980s. Single-family detached and attached residential areas of development were outlined from inception.

*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. As previously noted, the Property is part of a larger master planned community where the applicant submitted overall drainage, traffic, and utilities reports that were accepted and approved by the City. In this plan (overall PUD area), the developer was granted a total number of residential units that today is unmet with developed and platted lots as multiple nearby areas developed at a lower density than initially permitted.

If approved and prior to any development, technical and engineering documents and studies will be required as submittal items for the platting process. During these reviews, City staff will ensure that the property can be adequately served and that there are no major impacts to the affected infrastructure. Staff has already delivered a 'will-serve' letter to the applicant outlining that the Property can be adequately served by City utilities and a traffic impact study was included as a part of the project submittal, ensuring any impacts to existing infrastructure are handled appropriately. In relation to said traffic impact study, it was determined that the Property would not warrant any signalization; however, the study did yield that the Applicant will need to make a financial contribution of \$84,000 to a future signal at Bridge Street and Prairie Falcon Parkway. Additionally, per the agreements, development on the Property can pay a fee-in-lieu in place of dedicating raw water shares.

Per School District 27J, if a residential development is built and occupied on the Property in the short term, potential residents would attend Pennock Elementary, Overland Trail Middle School, and Brighton High School. Under 27J's current fee rate, the negotiated fee for this development is \$865 per single family residential unit. This fee and all others associated with the Capital Facility Fee Foundation are subject to change January 1, 2023.

*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 limited to commercial, office/research, and multi-family uses, and the proposed PUD Amendment would restrict and allow the uses stated above to be on the Property that will serve a community need for housing diversity.

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

City staff finds this site as appropriate single family detached and attached 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 standards as outlined in the PUD

Amendment. Any project 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 that made them can be provided upon request.*

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

Mailings were sent to all property owners within 1,000 feet of the proposed zone change, as required by the LUDC. These mailings were sent on June 14, 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. Four public hearing signs were posted on June 15, 2022 with one located on the Southwest corner of the intersection of Longspur Drive and I-76 Frontage Road, the Northwest corner of the intersection of Longspur Drive and I-76 Frontage Road, within Lot 1 of Block 24 of the Bromley Park Filing No. 5 Subdivision adjacent to Golden Eagle Parkway, and within Lot 1 of Block 24 of the Bromley Park Filing No. 5 Subdivision adjacent to Bridge Street. 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 comments regarding the project in anticipation of the public hearing and its continuation. City staff published public hearing information on various forms of social media in the days leading up to the July 5, 2022 public hearing.

On November 17, 2021, as required by the *Land Use & Development Code* prior to the submission of the application to the City, the applicant held a neighborhood meeting in Brighton. The notification mailings, sent by the Applicant, were sent to surrounding property owners within a specified distance of the Property. The Applicant and 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 #22-3).

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

Staff finds the Zone Change via PUD Amendment is in general compliance with the requirements as outlined as approval criteria in Section 2.04 C. 1. Review Criteria, of the LUDC and therefore recommends approval of the PUD Amendment. Staff has drafted an ordinance for the adoption of the PUD Amendment if the City Council agrees with this recommendation based on City staff's review of the applicable codified criteria.

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

The City Council has four options when reviewing this PUD Amendment application. City Council may:

- 1.) Approve the Zone Change via PUD Amendment via Ordinance as drafted;
- 2.) Approve a modified Zone Change via PUD Amendment via Ordinance;
- 3.) Deny the Zone Change via PUD 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.*

Per the City Attorney's Office, it is necessary to note that a denial by the City Council of the item before it must be because the Council does not find the item to meet one or more of the review criteria outlined in the staff report. If a denial is put forth, the motion must outline the particular review criteria that the Council finds the request does not meet.

### **ATTACHMENTS**

- Draft City Council Ordinance
- Copy of the Planning Commission Recommendation, Resolution #22-3
- Aerial Map by City Staff
- PUD Amendment by Applicant
- Neighboring Property Owner Notification
- Affidavit of Posting
- Buffer Map of Mailing Area
- Website Notice
- Website Publication Proof
- City Staff's Draft Presentation