



## Legislation Text

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### *Department of Community Development*

Reference: 25 N 8<sup>th</sup> Avenue - Zone Change

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

**Through:** Marv Falconburg, AICP, Acting City Manager  
Holly Prather, AICP, Community Development Director

**Prepared By:** Sean Pesek, Assistant Planner

**Date Prepared:** January 6, 2020

### **PURPOSE**

The zone change application before the City Council is for approximately 0.275 acres, comprised of three lots, located at 25. N 8<sup>th</sup> Avenue (the "Property"). Currently, the Property has a zoning designation of Restricted Retail and Services (C-2). Ms. Dianne Leary is the applicant representing Lawrence Gobble, the property owner. The Applicant, on behalf of the owner is requesting a zone change to Single-to-Eight-Family Residential (R-2) in order to allow the current tenants to receive a residential loan to purchase the property from the property owner of record.

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).

City Council is tasked with the final decision on requests to zone and rezone properties within City limits. The *Land Use and Development Code* 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 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.

### **NEW CODE TRANSITION STATEMENT**

In the City's transition to the newly adopted code, applications submitted prior to the effective date of January 1, 2020, were reviewed by staff using the previous *Land Use and Development Code* and such sections and criteria are referenced in this report.

### **STRATEGIC FOCUS AREA**

- Recognizable and Well-Planned Community

### **BACKGROUND**

The Property was first platted as part of the Home Addition to Brighton Subdivision in 1919 and was later included within the original city boundaries as part of the City Core Annexation passed in 1950. In 1976, the Property was zoned to C-2 as part of Ordinance 905, which divided the City into zoning districts. To staff's knowledge, the property was given a commercial zoning designation because a commercial use had existed within the residential dwelling. To date, no commercial uses exist on the property. The current owners seek to rezone to R-2 to allow the current tenants to receive a residential loan to purchase the property from the property owner of record.

**Surrounding Land Use(s):**

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
<i>North</i>	Residential	Single-to-Eight-Family Residential	City
<i>South</i>	Commercial	Restricted Retail and Services (C-2)	City
<i>East</i>	Commercial	Whiteside's PUD	City
<i>West</i>	Residential	Single-to-Eight-Family Residential	City

**CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM / STAFF ANALYSIS**

When considering this zone change, City Council should use the criteria outlined in the *Land Use and Development Code*, Section 17-8-80 (5). These criteria include, but are not limited to, whether the rezoning is consistent with the Comprehensive Plan and other master plans of the City; whether the rezoning complies with the requirements of the Land Use and Development Code and with the zone district; whether the rezoning provides consistency with the purpose and intent of the Land Use and Development Code; and whether the rezoning provides compatibility with surrounding areas, is harmonious with the character of the neighborhood and is not detrimental to the immediate area, the future development of the area, or the health, safety, or welfare of the inhabitants of the City. As the rezoning is reviewed, it is important to refer back to the criteria in Section 17-8-80 (5) to ensure consistency in review.

**Comprehensive Plan:**

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated this area as appropriate for commercial which is not consistent with the current use of the property. An amendment to the Future Land Use Map will be required in the future. This proposal does, however, adhere to Policy 6.1 of Distinctive Neighborhoods Principle 6 which is intended to create and maintain inviting, safe, walkable and bikable streetscapes. The zoning designation of R-2 eliminates the possibility of any auto-oriented business from operating on the site thereby strengthening safe and inviting streetscapes in the neighborhood.

**Land Use and Development Code:**

Section 17-16-60 (a) states: The R-2 District is intended to accommodate single-family dwellings as well as two-to-eight-family buildings, together with such public facilities as may be appropriately located in the same district.

The City Council in making its decision is required to use the following criteria (*Section 17-8-80 (5)*):

- a.) *Complies with the Comprehensive Plan and other master plans of the City;*  
As stated above, the property's rezoning will generally comply with the Comprehensive Plan, more specifically Policy 6.1 of the Distinctive Neighborhoods Principle 6, which is intended to create and maintain inviting, safe, walkable and bikable streetscapes. The zoning designation of R-2 eliminates the possibility of any auto-oriented businesses from operating on the site thereby strengthening safe and inviting streetscapes in the neighborhood.
- b.) *Complies with the requirements of the Land Use and Development Code and with the zone district;*  
The subject property is in compliance with the Land Use and Development Code, and it meets the requirements for the R-2 zone district.

c.) *Provides consistency with the purpose and intent of the Land Use and Development Code*; The rezoning of this property will facilitate orderly growth and expansion of the City. It will allow for the property owners to expand, enlarge, or otherwise modify their existing single- family dwelling in a more appropriate zone district.

d.) *Provides compatibility with surrounding areas, is harmonious with the character of the neighborhood and is not detrimental to the immediate area, the future development of the area, or the health, safety, or welfare of the inhabitants of the City*;

This rezoning will bring the zoning classification of the Property into conformance with the character of the surrounding area, and create a uniform separation between residential lots and commercial uses abutting Bridge Street.

#### **Development Review Committee (DRC) Review:**

The Development Review Committee (DRC) and referral agencies have reviewed the zone change request and all comments have been resolved. A complete list of comments and the agencies who made them are available upon request.

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

As required by Section 17-8-30 of the *Land Use and Development Code*, mailings were sent to all property owners within 300' of this proposed zone change. These mailings were sent on December 31, 2019 and included a letter describing the proposed zoning as well as the time and place for the public hearing. Also included with the letter was a map of the subject area. Along with the public mailings, a public hearing sign was posted on January 1, 2020 at the subject property. Finally, a notice was published in the *Brighton Standard Blade* on January 1, 2020, to give notice to those who are not affected property owners or those who do not drive near this Property on a consistent basis. As of the date of this staff report, no formal comments have been received by staff. Please see all public notice attachments for further detail.

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission heard the request on December 12, 2019 and recommended approval (see the attached Resolution #19-11).

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

Staff finds that the proposal meets the review criteria found in Section 17-8-80 of the *Land Use and Development Code*,

A draft ordinance has been provided to the Council should it decide to proceed with the application as presented.

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

The City Council has four options when reviewing this zone change application. City Council may:

- 1.) Approve the ordinance as drafted;
- 2.) Approve an ordinance with specific changes;
- 3.) Deny the ordinance with specific findings to justify the denial; or 4.) Continue the item to be heard at a later, specified date.

#### **ATTACHMENTS**

- Draft City Council Ordinance
- Copy of the Planning Commission Recommendation, Resolution #19-11
- Aerial Map by City Staff
- Applicant's Zone Change Map
- Neighboring Property Owner Notification
- Addresses of Property Owners Notified
- Buffer Map of Mailing Area
- Newspaper Notice
- City Staff Draft Presentation