



## Legislation Text

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### *Department of Community Development*

Reference: Marrone Trucking Annexation Agreement

To: Mayor Gregory Mills and Members of City Council

Through: Marv Falconburg, AICP, Acting City Manager

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Date Prepared: January 28, 2020

### **PURPOSE**

In order to continue with the annexation process, the Council should proceed with the approval of an Annexation Agreement. An Annexation Agreement identifies general terms, applicable and adopted city codes, ordinances, and master plans that will apply to the future development of the property.

In review, annexation is regulated by the *Colorado Revised Statutes* and is a four step process with the steps as follows:

- 1.) Petition Accepted by City Council via a Substantial Compliance Resolution
- 2.) Findings of Fact via an Annexation Eligibility Resolution
- 3.) 1<sup>st</sup> Reading of an Annexation Ordinance with a Public Hearing
- 4.) 2<sup>nd</sup> Reading of an Annexation Ordinance
  - o An Annexation Agreement may be approved via a Resolution at this time

A Petition for Annexation ("Petition") was accepted by the City Council at a regular meeting held on December 3, 2019 and City Council found that the Petition was in substantial compliance with the applicable laws of the State of Colorado. See the attached City Council Resolution #2019-120 for further information. Via this Resolution, City Council set the public hearing for this annexation for January 21, 2020.

On January 21, 2020, City Council held the required public hearing, approved the Findings of Fact via an Annexation Eligibility Resolution (see the attached City Council Resolution #2020-10 for further information), and approved an Annexation Ordinance on first reading.

City Council must now make a determination on a Resolution to approve the Annexation Agreement. If the Annexation Agreement is approved via Resolution, the City Council may proceed to the second and final reading of the Annexation Ordinance.

### **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 AREAS**

- Recognizable and Well-Planned Community
- Supportive, Sustainable Infrastructure

## **BACKGROUND**

The Property is approximately 20.00 acres and is generally located east of Fulton Avenue approximately one-quarter mile south from its intersection with Bromley Lane. It is owned by Mr. Kenneth M. Marrone and Marrone EAT, LLC ("Owners"). EnviroFinance Group, LLC ("Applicant") is acting as the applicant on behalf of the Marrone Family.

The Property is and is currently zoned "I-1" (Industrial-1 District) through Adams County and the Applicant has submitted for a City zoning designation. The Property is 81.27% contiguous with the existing Brighton city limits. The City of Brighton's Comprehensive Plan, designates the Property as appropriate for Industrial.

Annexation is the first step in the land development process with the City (*Annexation > Rezoning > Platting > Site Plan Review > Permits*). If the annexation is completed, City Council can move forward with finalizing the zoning of the Property. As a separate agenda item on January 21, 2020, the City Council approved the rezoning on first reading, and on February 4, 2020, the City Council will have the final reading of the rezoning ordinance before it. In the future, a plat and development agreement will be brought before City Council as this project was submitted before the effective date of January 1, 2020 of the new *Land Use and Development Code*.

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

The purpose of an Annexation Agreement is to generally identify the terms and adopted City Codes, Ordinances, and Master Plans that will apply to the development of the Property. It is necessary to review the agreement through the lens of any possible future user as this Annexation Agreement will be tied to the land in perpetuity. Annexation Agreements contain development obligations that are generally broad and Development Agreements that accompany a Final Plat are more detailed as more information is known about the lot size, possible users, etc. Terms specific to the Marrone Trucking Annexation Agreement will be as follows:

**Transportation.** In conformance with the *Land Use and Development Code* as well as the City's adopted *Transportation Master Plan*, the Annexor will dedicate right-of-way for 148<sup>th</sup> Avenue and an easement for a trail running north-south through the Property at the time of a Final Plat. The agreement outlines possible improvements to 148<sup>th</sup> Avenue and Fulton Avenue that will be flushed out more at the time of a Final Plat and with the accompanying Development Agreement.

**Utility Service and Stormwater.** In conformance with the *Municipal Code* and the *Land Use and Development Code* with regards to Water, Stormwater and Sewer Connections: the City agrees to provide water and sewer service to the property as long as the Annexor constructs all infrastructure needed to bring those services to the property. Future reimbursement may be determined if the Owners build an over-sized waterline at the request of the City with the development of the Property and this will be outlined further at the time of a Final Plat and Development Agreement.

**Zoning.** In conformance with the *Municipal Code*, the *Land Use and Development Code*, and the *Comprehensive Plan*, the City agrees to consider Owners' proposal for Light Industrial (I-1) zoning of the property.

## **STAFF ANALYSIS**

In breaking down the Annexation Agreement, Sections I through IX are boiler plate and have been used for all recent annexation agreements. These sections outline general obligations for future development of any use on any property within City Limits. Exhibit A calls out the boundaries of the subject property of annexation, and Exhibit B and C are templates used in all recent annexation agreements dealing with water. The section of the agreement that is used to focus on the subject property is Exhibit D titled, Special Provisions, and this is the section that is most discussed and edited between the parties in preparation of a draft to present to City Council.

Exhibit D outlines the following terms (summary):

- The Annexor/Developer:
  - Must dedicate right of way for 148<sup>th</sup> Avenue,
  - Shall Construct necessary access points to the Property,
  - May need to extend Fulton Avenue,
  - May need to construct 148<sup>th</sup> Avenue along the Property's southern boundary,
  - Shall dedicate an easement for a trail running north-south on the Property,
  - May need to work with an adjacent property owner for future access,
  - Shall meet the City's water dedication requirements,

- Must construct connections to water, sewer, and stormwater facilities,
- Will be allowed to use their existing well for agricultural purposes,
- Shall underground adjacent overhead utility lines at the time of development,
- Shall install adjacent street lighting at the time of development,
- Shall install a north-south multi-modal connection,
- Shall be allowed to continue the current agricultural use of the Property on any undeveloped portion, and
- Shall no longer use the existing site access off Fulton Avenue once a new access point is installed with the development.

As with any annexation, a number of the above items are left broad as these will be narrowed down at the time of Final Plat and outlined in depth in the accompanying Development Agreement. At the time of Final Plat and site development, more information is known about future site users and accompanying reports will be used to tailor improvements to the intensity of site users. Annexation Agreements are purposely left broad as the current Owners could sell the property and the Annexation Agreement will still be tied to the Property.

#### **STAFF RECOMMENDATION**

City staff finds that the Annexation Agreement is in line with City codes, plans, and policies and therefore recommends approval via Resolution. The Development Review Committee, Owners, and Applicant agree with this recommendation.

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

The City Council has four options when reviewing this Annexation Agreement application. City Council may:

- 1.) Approve the Annexation Agreement via Resolution as drafted;
- 2.) Approve a modified Annexation Agreement via 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.

#### **ATTACHMENTS**

- Draft Resolution for Approval of the Annexation Agreement
- Draft Annexation Agreement
- Aerial Map by City Staff
- Annexation Map by Applicant
- Resolution 2019-120 (Substantial Compliance)
- Resolution 2020-10 (Findings of Fact / Annexation Eligibility)
- Draft City Staff Presentation