



## Legislation Text

---

**File #:** ID-340-22, **Version:** 1

---

### *Department of Community Development*

**Reference:** Swink Property Zoning Map Amendment

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

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

**Prepared By:** Emma Lane, Senior Planner - Historic Preservation

**Date Prepared:** August 30, 2022

### **PURPOSE**

The Zoning Map Amendment application before the City Council is for an approximately 150.586 acre property (the "Property"). Comprising two unplatted and yet to be annexed parcels, the Property is located north of East Bromley Lane, south of Southern Street, west of South 50th Avenue, and east of the South 45th Avenue alignment. Currently, the Property has a zoning designation of Adams County A-3 (Agriculture-3). Anna Sparks of Innovative Land Consultants, Inc. is the applicant (the "Applicant") working on behalf of the Property owners, Swink Farms, LLLP and Alvin W. Swink (the "Owners"). The Applicant has submitted an annexation petition to the City that went before City Council for substantial compliance on August 2, 2022, and the City Council passed a resolution stating that the annexation petition is in substantial compliance with Colo. Rev. Stat. § 31-12-104. The Applicant desires to develop the Property for the purpose of commercial and residential development with access to City utilities and therefore must annex. Land annexed to the City must have a City zoning designation, and as such, the Applicant is requesting a rezoning from Adams County A-3 (Agriculture-3) to City of Brighton C-3 (General Retail and Services), R-1-A (Single- and Two-Family Residential), R-2 (Mixed-Density Residential), and R-3 (Multiple Family Residential).

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. 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 development (PD).

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 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.

### **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 shall be approved via a public process, a final plat shall be approved administratively, and site plans shall be approved administratively. All will be reviewed using the City's LUDC to ensure a proposal's compliance with City codes and policies. The sequential steps to occur if the Zoning Map Amendment is to be approved would be a subdivision plan, and final plats and site plans for each applicable filing.

The LUDC outlines that the Zoning Map Amendment process provides for the 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 should use the Review Criteria outlined in the *Land Use & Development Code's* Section 2.03 B. 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.

#### **STRATEGIC FOCUS AREA**

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

#### **BACKGROUND**

The subject Property is currently going through the Annexation process with the City. The property is surrounded on all four sides by Brighton City Limits, except a small portion to the west, which is currently zoned A-3, and a small portion of Right-of-Way to the southeast which is also zoned A-3. The property is 77.97% 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	Single Family Residential	Bromley Park PUD Amd. 4	City of Brighton
South	Commercial	Bromley Park PUD Amd. 2	City of Brighton
East	Single Family Residential	Bromley Park PUD Amd. 4	City of Brighton
West	Light Industrial <i>Single Family Residential</i>	K-Mart Distribution PUD <i>Adams County A-3</i>	City of Brighton <i>Adams County</i>

#### **CRITERIA BY WHICH PLANNING COMMISSION MUST CONSIDER THE ITEM AND STAFF ANALYSIS**

##### **PROPOSED USES:**

The proposed zoning categories present a mix of uses within the Development (see attached Zoning Map Amendment document). Parcel C-3 (General Retail and Services) is proposed to be 24.94 acres. Parcel R-1-A (Single- and Two-Family Residential) is proposed to be 49.91 acres. R-2 (Mixed-Density Residential) is proposed to be 56.94 acres. Lastly, R-3 (Multiple Family Residential) is proposed to be 19.84 acres. The associated uses with these districts can be found in Article 4 of the LUDC. The proposed commercial parcels total approximately 16% of the overall 150.586 acres, while the residential parcels total approximately 84% of the overall acreage.

##### **COMPREHENSIVE PLAN:**

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the Property as Mixed-Use Residential. Specifically, the Comprehensive Plan lists multi-family buildings, single family attached homes, live/work units, senior housing facilities, and mixed-use buildings as the primary uses. As secondary uses, the Comprehensive Plan lists public gathering places, parks, trails, recreational amenities, retail services, offices, places of worship, and public facilities. Based on the proposed uses and percentages of those uses, the Property meets this portion of the Comprehensive Plan.

The proposed zoning also meets other policies and strategies of the Comprehensive Plan. 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 Ave. With existing commercial development to the south, the proposed commercial on the north side of East Bromley Lane would create a commercial corridor. In addition, with the South 45th Avenue alignment to be built with this development, traffic from both the north and the south will be able to easily access the proposed commercial

areas.

Also from the Opportunity Area Policies section of Chapter Three, *Number 14. Bromley Lane Opportunities* states that development should occur in nodes along Bromley Lane with the spaces between the commercial nodes used for mixed density residential development and open space. The proposed commercial development along East Bromley Lane would complete the commercial node that is already developed to the south of the road. Additionally, just to the north of the proposed commercial is proposed to be a mixed density residential development. While this does not fall directly along East Bromley Lane, the residential portion of the Property is in close proximity to the commercial portion, and allows for accessible and walkable access to the commercial node along East Bromley Lane.

Within the Comprehensive Plan Chapter on 'Citywide Principles, Policies & Strategies', the proposed Zoning Map Amendment advances a number of these goals:

*Policy 1.1 - New Growth Should Favor Existing Areas of Infrastructure Investment and Planning*

- The Property is within the growth boundary in which the infrastructure surrounding the Property, from streets to utility lines, has been planned and built already. Developing the Property would extend those services internally, but also expand and improve the services surrounding the Property.

*Policy 1.3 - Private Development Should "Pay Its Own Way," by Bearing an Equitable Portion of the Costs of Expanding Municipal Infrastructure*

- Any development on the Property will pay its own way via extension of utilities, expansion of roads, and will be required to dedicate water to the City.

*Policy 2.1 - Brighton Will Continue to Develop in a Self-Sufficient and Sustainable Manner (Live, Learn, Work, Shop and Play) with an Appropriate Balance between Residential and Non-Residential Uses*

- With a mixed use development as is proposed, the mix of commercial and residential zoning will allow for a walkable and sustainable neighborhood which promotes the live, learn, work, shop, and play concept.

*Policy 5.2 - Support Brighton's Non-Downtown Commercial Centers, Focusing Growth within Existing Investment Areas Where Possible*

- With the proposed commercial zone districts along East Bromley Lane, with commercial directly to the south, a commercial corridor will be created. The commercial uses being along the East Bromley Lane corridor, as shown in the Opportunity Area Policy number 14 above, supports the commercial corridor in this area.

*Policy 6.5 - Encourage Projects that Enhance the Diversity of Housing Types and Costs*

- With a proposed mix of residential zone districts (R-1-A, R-2 and R-3), the Development supports and encourages diversity of housing types and costs.

**LAND USE & DEVELOPMENT CODE:**

The City Council in making its recommendation shall use the following criteria (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.*

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 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 a mixed use development is in-line with the character of the surrounding uses, with the residential proposed on the northern part of the Property, which reflects the development around it, and commercial proposed on the south side of the Property, which mirrors the commercial uses across East Bromley Lane.

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 annexation and zoning of the Property as a mixed use development will serve the need of walkable and accessible neighborhoods in this area of Brighton. This cannot be done under the current state of the Property as an Adams County parcel zoned A-3.

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

City staff finds this site as appropriate for mixed commercial and residential 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 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 who made them are available upon request.*

#### **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*. Additionally, mailings were sent to all those property owners within 1,000 feet according to Section 2.01 F. 3. C. (1), as there are several large parcels on the perimeter of the subject Property. These mailings were sent on September 2, 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. A notice was published on the City's website on the same day. Also on September 2, 2022, four signs were posted for the City Council Public Hearing on September 20, 2022 with one at the south side of Southern Street, on the west side of South 50th Avenue, at the northwest side of the Frontage Road, and on the north side of East Bromley Lane. As of the posting of this memorandum, Planning staff has not received any formal inquiries regarding the project in anticipation of the public hearing. City staff will be publishing public hearing information on various forms of social media in the days leading up to the meeting.

On March 14, 2022, as required by Code prior to the submission of the application to the City, the applicant held a virtual neighborhood meeting. The notification mailings, sent by the Applicant to property owners within the applicable mailing radius of the subject Property, included information on the meeting. The Applicant and Property 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 August 25, 2022, and recommended approval by a unanimous vote. (See the attached Resolution #22-5.)

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

Staff finds the Zoning Map Amendment is in general compliance with the requirements as outlined as approval criteria in Section 2.03 B. Review Criteria, of the *Land Use & Development Code* and therefore recommends approval of the Zoning Map Amendment. Staff has drafted an 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 Zoning Map Amendment application. The 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.*

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
- Planning Commission Resolution 22-5
- 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