



Legislation Text

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Department of Community Development

Reference: Swink Property Annexation

To: Mayor Gregory Mills and Members of City Council

Through: Michael P. Martinez, City Manager

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Date Prepared: August 30, 2022

PURPOSE

In order to proceed with annexation of the Swink Property (the "Property"), the City Council must conduct a public hearing, approve a resolution for annexation eligibility, and complete the first reading of the annexation ordinance. Annexation is regulated by state statute and is a four step process with the steps as follows:

- 1.) Petition for annexation accepted by City Council in a substantial compliance resolution;
- 2.) City Council issues findings of fact in an annexation eligibility resolution;
- 3.) First reading of an annexation ordinance with a public hearing; and
- 4.) Second reading of an annexation ordinance (an annexation agreement may be approved by resolution at this time).

A Petition for annexation (the "Petition") was accepted by the City Council at a regular meeting held on August 2, 2022, and the City Council found that the Petition was in substantial compliance with applicable laws. See City Council Resolution 2022-89, attached hereto, for further information. In Resolution 2022-89, City Council set the public hearing for this annexation for September 20, 2022.

City Council must now hold a public hearing and make a determination on a resolution for annexation eligibility and on the first reading of an annexation ordinance.

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 plats and site plans for each applicable filing will be required before any development can occur on the site.

STRATEGIC FOCUS AREAS

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

BACKGROUND

The annexation 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 owner, Swink Family Farms, LLLP and Alvin W. Swink (the "Owners"). The Applicant has also submitted a zoning map amendment application with the City.

The Property is 77.97% contiguous with the existing Brighton city limits. The City of Brighton's Comprehensive Plan, *Be Brighton*, designates the Property as Mixed Use Residential and Parks & Open Space.

Surrounding Land Uses:

<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 COUNCIL MUST CONSIDER THE ITEM COMPREHENSIVE PLAN:

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated the Property as Mixed-Use Residential. The related zoning map amendment proposes a mixed-use development on this site that focuses more on residential uses than commercial, but provides for both.

In regard to the subsequent sections of the Comprehensive Plan, the proposed annexation and zoning map amendment work together to meet the goals outlined below. 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 Comprehensive Plan designation of Mixed-Use Residential and 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, the area just to the north of the proposed commercial development 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 surrounding infrastructure 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 Comprehensive Plan designation of Mixed Use - Residential, the mix of commercial and residential uses

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

- The commercial uses along the East Bromley Lane corridor, as shown in the Opportunity Area Policy number 14 above, support the commercial corridor in this area. Just north of the Prairie Center development, with the existing commercial on the south side of the road, the East Bromley Lane corridor is within an existing investment area.

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

- With a Comprehensive Plan designation of Mixed Use - Residential, the Development supports and encourages diversity of housing types and costs.

LAND USE & DEVELOPMENT CODE:

The below criteria shall be used to review the proposed annexation. After each listed sub-section, staff provides analysis.

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

The proposed annexation is in compliance with the Municipal Annexation Act of 1965, Section 31-12-101 of the 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.*

As stated above, the Property's annexation will help support a number of policies and principles of the Comprehensive 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.*

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 and 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, municipal and governmental services and facilities will be extended to the Property by the developer. As mentioned above, development of the land will pay its own way as this will be reflected in future subdivision plats and agreements.

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

The Property is almost completely surrounded by existing development and utility services, including roads. As a mixed use development, development and traffic patterns will be well thought out, including the improvement of utilities, roads, and the addition of amenities such as open space. Development upon the land will only be allowed

ensuring it fits in with the surrounding land uses, building designs and transportation corridors.

COLORADO REVISED STATUTES:

The City Council must determine whether the Annexation complies with the following statutory requirements set forth in Title 31 of the Colorado Revised Statutes.

Section 31-12-104

Eligibility:

- a. Not less than 1/6th of the perimeter of the area to be annexed is contiguous with the City of Brighton;
- b. A “community of interest” exists between the municipality;
- c. The area to be annexed is urban or is to be urbanized;
- d. The area is integrated or capable of integration within the municipality.
- e. If the contiguity requirement is met, the “community of interest” requirement is presumed unless two of the following exist:
 - i. Less than 50% of the adult residents use facilities of the municipality (recreation, social, church, commercial, etc.), and less than 25% of the adults are employed in the municipality; or
 - ii. One-half or more of land is agricultural and the owners say it will stay agricultural for at least five years; or
 - iii. It is not physically practicable to extend to the area proposed to be annexed those urban services which the annexing municipality provides in common to all of its citizens on the same terms and conditions as such services are made available to such citizens.

Section 31-12-105

Requirements:

- a. Cannot separate property held in identical ownership;
- b. Cannot annex property more than 20 acres and more than \$200,000 in assessed value without the written consent of the owners, unless entirely within the municipality;
- c. No resolution or petition is valid if annexation proceedings have commenced for another municipality;
- d. Cannot extend municipal boundaries more than three miles in one year;
- e. There must be a plan in place regarding services and land uses;
- f. If annexation includes a portion of a street or an alley, all of the street or alley must be annexed; and
- g. Cannot deny reasonable access to adjoining landowners as a result of proposed annexation.

Section 31-12-108

Notice:

- a. Publication of the date, time, and place of the public hearing must be published once a week for four successive weeks;
- b. The first publication must be at least thirty days before the hearing;
- c. Copy of the notice, resolution, and petition must be sent by registered mail to the County Commissioners, County Attorney, special districts, and the school district at least twenty-five days before the hearing.

Section 31-12-108.5

Annexation impact report for areas in excess of 10 acres:

- a. The municipality must prepare the Impact Report;
- b. A map showing present and proposed boundaries, utility infrastructure, streets, and land uses;
- c. Addresses, the provision of municipal services, the method of financing, effect on school districts, etc.;
- d. It must be filed twenty-five days before the hearing;
- e. One copy of the Annexation Impact Report must be filed with the County Commissioners within five days;
- f. Not required for annexation of ten acres or less, or if the County Commissioners agree to waive the report.

Section 31-12-109

Public hearing:

- a. Any person may appear and present evidence;
- b. All proceedings must be recorded.

Section 31-12-110

Findings of fact; conclusion:

- a. Whether Sections 31-12-104 and 105 C.R.S have been met;
- b. Whether an election is required;
- c. Whether additional terms and conditions are to be imposed;
- d. A finding that the proposed annexation does not comply with Sections 31-12-104 and 105 shall terminate the proceedings.

STAFF ANALYSIS

The Swink Property annexation complies with the C.R.S. § 31-12-104 through 110. The Property is 77.97%% contiguous with the City of Brighton city limits, which meets the "Community of Interest" requirement. The Property may be urbanized and is capable of integration within the City of Brighton as utility lines surround the Property. Additionally, the annexation request complies with all the applicable criteria as outlined in the *Land Use and Development Code*.

PUBLIC NOTICE AND INQUIRY

Publication of the public hearing and notification of the public hearing has 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 August 17, 24, 31 and September 7, 2022. A copy of the published notice, resolution of substantial compliance and petition as filed were sent via 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 South Beebe Draw Metropolitan District. Notice was mailed to all property owners within 1,000' of the Property on September 2, 2022. Four (4) signs were posted on the property the same day. As of the date of this report, the City staff has not received any formal comments regarding the proposed annexation.

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 via ordinance as drafted;
- 2.) Approve the Annexation via a modified ordinance;
- 3.) Deny the Annexation via 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 Notice
- Resolution 2022-89 (Substantial Compliance)
- Draft Staff Presentation