



Legislation Text

File #: ID-05-23, **Version:** 1

Department of Community Development

Reference: Swink Property Annexation Agreement

To: Mayor Gregory Mills and Members of City Council

Through: Michael P. Martinez, City Manager

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Date Prepared: December 22, 2022

PURPOSE

In order to continue with the annexation process, the City 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.) First Reading of an Annexation Ordinance with a Public Hearing
- 4.) Second 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 August 2, 2022, 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 #2022-89 for further information. Via this Resolution, City Council set the public hearing for this annexation for September 20, 2022.

On September 20, 2022, City Council held the required public hearing, approved the Findings of Fact via an Annexation Eligibility Resolution (see the attached City Council Resolution #2022-108 for further information), and approved both the Annexation Ordinance and Zoning Map Amendment Ordinance on first reading.

City Council must now make a determination on a Resolution to approve the Annexation Agreement.

STRATEGIC FOCUS AREAS

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

BACKGROUND

The Property is approximately 150.586 acres and is generally located to the north of East Bromley Lane, to the south of Southern Street, west of South 50th Avenue, and east of the South 45th Avenue alignment. 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 Property is 77.81% 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. An Annexation Application as well as a Zoning Map Amendment are currently in process concurrently.

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 September 20, 2022, the City Council approved the rezoning on first reading, and on January 3, 2023, the City Council will have the final reading of the rezoning ordinance before it. In the future, a subdivision plan will be brought before the City Council.

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 infrastructure items of the Swink Property Annexation Agreement will be as follows:

Transportation. In conformance with the *Land Use & Development Code* as well as the City's adopted *Transportation Master Plan*, the Annexor will dedicate right-of-way for the South 45th Avenue alignment, South 50th Avenue, Southern Street, Frontage Road, and East Bromley Lane. The agreement outlines improvements to the aforementioned streets, ranging from the widening of Southern Street, South 50th Avenue and East Bromley Lane, to the improvement of the roundabout at East Bromley Lane and Frontage Road, to the complete construction of the South 45th Avenue alignment. Additionally, the agreement outlines traffic signal design and construction of the intersection of Southern Street and South 50th Avenue, and construction or contribution to the intersections of South 45th Avenue and East Bromley Lane, Private Road (Bromley Park Filing NO. 201 3rd Amendment, Tract A) and East Bromley Lane, South 50th Avenue and Frontage Road, and Southern Street and South 40th Avenue.

Utility Service and Stormwater. In conformance with the *Municipal Code* and the *Land Use & 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. Additionally, the developer may be responsible for upsizing any lift stations and utility infrastructure if there is not sufficient capacity for the development. The developer may seek reimbursement for the cost of materials relating to upsizing and upgrades. Additionally, a non-potable water system will be required internally to the site at the time of development. Raw water is required to be dedicated for the entirety of the development.

Zoning. In conformance with the *Municipal Code*, the *Land Use & Development Code*, and the Comprehensive Plan, the City agrees to consider the Applicant's proposal for zoning districts of C-3 (General Retail & Services), R-1-A (Single- and Two-Family Residential), R-2 (Mixed Density Residential), and R-3 (Multiple Family Residential).

STAFF ANALYSIS

In breaking down the Annexation Agreement, Sections I through IX are boilerplate 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 relating to 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 the City Council.

Exhibit D outlines the following terms (summary):

- The Developer:
 - Will dedicate to the City of Brighton and fully construct the following:
 - South 45th Avenue as a Collector street section
 - South 50th Avenue as a Minor Arterial street section
 - Southern Street as a Collector street section
 - Frontage Road as a Collector street section
 - East Bromley Lane as a Major Arterial street section
 - Will contribute a pro-rata share of the construction cost of a traffic signal at the following locations:
 - Intersection of South 50th Avenue and Frontage Road

- Intersection of Southern Street and South 40th Avenue
- Intersection of Southern Street and South 50th Avenue
- Will contribute to the improvements to the roundabout along East Bromley Lane and Frontage Road.
- Shall be responsible for the undergrounding of overhead utility lines adjacent to the property. This does *not* include the transmission lines that run along Southern Street into the interior of the Property.
- Shall be responsible for the installation of street lighting along all roads adjacent to the Property as well as internal to the site, along roads constructed at the time of development.
- Assumes the sole responsibility for the design and coordination of construction of, and the connection to all additional water, stormwater and sanitary sewer facilities necessary to serve the Property, and all costs associated therewith.
- Shall satisfy the water dedication requirement for the Property by dedicating to the City at the time of Final Plat approval, and as a condition precedent thereof, a sufficient number of acre-feet of water that is acceptable to the City, in its sole discretion.
- Will install a pedestrian connection running from the north side to the south side of the Property within the existing transmission line and access easement.
- Acknowledges that the approval for the Property is a separate and distinct process governed by the City's *Land Use & Development Code* and that the Agreement does not approve or guarantee how the Property will be zoned.
- Agrees that the zoning of the Property shall be consistent with the Comprehensive Plan for the Annexed Area. There is an active application for a Zoning Map Amendment for zone districts of C-3 (General Retail & Services), R-1-A (Single- and Two-Family Residential), R-2 (Mixed Density Residential), and R-3 (Multiple Family Residential).
- Agrees that before any platting can take place, a Major Subdivision Plan must be approved and accepted by all applicable review entities.
- Agrees that one or more Development Agreement(s) will be completed at the time of Subdivision Plan or Final Plat(s).
- Agrees that the roads adjacent to the Property are titled East Bromley Lane, Frontage Road, Southern Street, South 50th Avenue and the future South 45th Avenue, and should appear as such on any future subdivision documents.
- Shall make any successors and/or assigns aware of the Community Benefit Incentives as expressed in the *Land Use & Development Code* Section 5.08.
- Is aware of the School District 27J Capital Facility Fee Foundation and will enter into a Participant Agreement with the School District.

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 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 2022-89 (Substantial Compliance)
- Resolution 2022-108 (Findings of Fact / Annexation Eligibility)
- Draft City Staff Presentation