



## Legislation Text

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### *Department of Community Development*

**Reference:** South Main Redevelopment Planned Development

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

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

**Prepared By:** Nicholas Di Mario, Senior Planner, AICP Candidate

**Date Prepared:** July 18, 2023

### **INTRODUCTION / PURPOSE**

The Planned Development ("PD") application before the City Council is for an approximately 4.15 acre property (the "Property"), generally located at the northwest corner of S. Main St. and W. Bromley Ln., with a portion to the northeast of S. Main St. and W. Bromley Ln. adjacent to Jensen Foods (see attachments). Currently, the Property has a zoning designation of Downtown ("DT"). Alex Gonzalez of Evergreen-Hwy 85 and Bromley, L.L.C. and Jennifer Gray of Acme Workshop are the applicants (the "Applicants") working on behalf of the Property owner, the Brighton Urban Renewal Authority (the "Owner"). The Owner desires to alter certain site development and use standards, and as such, the Applicants are requesting a PD to address said site development and use standards.

The PD process is intended for development concepts that require a higher degree of specific planning based on the scale and complexity of the project.

The *Land Use & Development Code* (the "LUDC") outlines review criteria upon which the decision should be made. An ordinance to rezone via PD must be approved by City Council. City staff collects and analyzes application materials, and after a thorough review, presents their findings to the Planning Commission and, thereafter, City Council.

### **PROCESSES / BACKGROUND**

A PD is processed according to the PD and Zoning Map Amendment (a "rezoning") review criteria of the LUDC. Rezoning is the second step in the land development process with the City (Annexation > *Rezoning* > Platting > Site Plan Review > Permits). Before any permits related to new development can be issued, a major subdivision plan shall be approved via a public process, a final plat shall be approved administratively, and a site plan 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 LUDC outlines that the PD process is intended for development concepts that require a higher degree of specific planning based on the scale and complexity of the project, the relationship of the project to the context, and the ability to meet the purpose, intent and objectives of this code with more flexible application of the standards. It goes on to mention that a development plan shall include sufficient area to implement planning concepts that generate broader public benefits that can only be gained from flexible application of the standards, and not simply be used to justify deviations from single projects or on a site-specific basis.

As such, Staff and the City Council should use the Review Criteria outlined in the LUDC's Section 2.04 C. 1. These generally include, but are not limited to, supporting the implementation of the Comprehensive Plan, the flexibility provided promotes the general health, safety, and welfare of the community, standards that support base zoning and design intentions, City and supporting services can be provided for the proposed uses, and the change supports a community need, amenity, or development that is not possible under the current zoning.

**BACKGROUND**

The Property was annexed in the City Core Annexation in 1953 and was most recently zoned as DT via City Council Ordinance 2159 in 2013. The subject Property has never been subdivided. A land swap with the Colorado Department of Transportation ("CDOT") occurred which transferred a portion of the Property to CDOT. An outcome of the land swap was new property lines that created a 'unique' property shape and geometry.

Given the unique geometry of the site, as well as other constraints that would prevent the uniform development of the site, the Owner and Applicants now seek to rezone the subject Property to a PD.

**Surrounding Land Use(s):**

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
North	Outdoor Storage	I-1 (Light Industrial)	City
South	Car Dealership	I-1 (Light Industrial)	City
West	Shopping Center	K-Mart PUD (Commercial)	City
East	Distribution	I-1 (Light Industrial)	City

**STAFF ANALYSIS**

The purpose of the proposed PD is to establish development standards specific to the Property and provide flexibility from the LUDC. The shape and general location of the Property creates development constraints, such as providing the appropriate amount of buffer distances, landscaping, quantities, etc. Specifically, the Property's location, adjacent to a highly traveled roadway (Bromley Lane) and a highway (US 85), requires a minimum 30' wide landscape buffer. Buffers are measured from the property line into the structure, as to ensure the required buffer depth is provided. Due to the relatively small size of the future lots subject to subdivision, much of the lot area would not be buildable. That being said, the Applicants have proposed the PD to allow that adjacent CDOT right-of-way be utilized as a buffer area. It is important to note that the CDOT right-of-way to be utilized is not actual roadway, but is a general landscape setback that is adjacent to US 85. The PD is also written in such a way that if the CDOT right-of-way were to ever be eliminated, the Property would still maintain a sufficient amount of landscaping, as well as screening techniques for uses that involve vehicles (i.e., drive through uses). In relation to use, this PD does allow a wider range of uses than allowed under the existing DT zone district. While the largest of the assembly, retail, daycare, and grocery stores uses are conditional in the DT zone district, this PD would allow them as a use by-right. The same can be said for lodging and hotel uses, medical care uses, office uses, and more. Additionally, the PD is written to allow uses accompanied by a drive through as uses by-right. Under the LUDC, a use that contains an accessory drive through, such as a gas station car wash or drive through coffee shop, would need to obtain a conditional use permit in the DT zone district. This PD would allow said uses as by-right. Lastly, the PD also requires design criteria for the signs placed on the Property. Of note, the sign visible to vehicle traffic on US Highway 85 and W. Bromley Lane is required to contain the wording "Brighton" brandished by the City's official logo. The logo shall be a minimum size and area, as well as utilize official colors and lighting. The naming and logo are protected by several requirements stating that there shall be no obstruction of the naming and logo, as well as no change or elimination thereof shall occur without the written consent of the City. The sign will also be sufficiently landscaped using xeric and low water use design and species, while providing a pleasing aesthetic utilizing the use of decorative and complementing walls, boulders, trees and shrubs (see attached PD).

If approved by the City, any desired amendments to the PD will be processed through a PD amendment, either minor or major. Minor amendments shall mean alterations to the design and development standards of the PD by not more than 10%. Any desired alteration of more than 10%, or any desired change in use not allowed by the approved PD, shall require a major amendment subject to Planning Commission recommendation and City Council approval.

Any standards not mentioned within the PD will default to LUDC.

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

#### **COMPREHENSIVE PLAN:**

The future land use portion of *Be Brighton*, the Comprehensive Plan, has designated this area as Mixed-Use Commercial, with primary and secondary uses being retail, services, hotels, assembly uses, and mixed-use buildings.

The proposed PD meets other policies and strategies of the Comprehensive Plan as well. Within the Opportunity Area Policies Section of Chapter Three, the following Opportunity Area Policies are met through this PD:

#### *Number 3. Continue to Encourage Reinvestment in the Downtown Urban Center*

- Designated as DT in 2013, the Property has been identified as an area of redevelopment by the City. The Property rests between a major transportation route and other DT designated properties to the north. The Property is within the South Main Corridor, a corridor that contains many non-residential, and development of the Property will require upgrades and repairs to existing pedestrian connections and bicycle routes.

#### *Number 7. South Main Redevelopment*

- Pursuant to this Opportunity Area, the proposed PD would allow for the development of shops, restaurants, offices, hotels, and other commercial uses. If the PD is approved, and subsequently developed, any developer will be required to design new infrastructure improvements, as well as upgrade the existing infrastructure and roadways, in coordination with CDOT to ensure safe pedestrian and bicycle traffic, as well as improve vehicular flow. If approved, a subdivision plan will be brought to both Planning Commission and City Council for approval and acceptance of any proposed public improvements. Additionally, the PD requires an abundance of landscaping fronting along S. Main Street., W. Bromley Lane, and US Highway 85.

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

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

- The Property once contained several structures and a functioning business. Infrastructure investment is already present within the Property. There is existing development on all sides of Property, as well as infrastructure within and around.

#### *Policy 1.2 - New Municipal Investments in Infrastructure and Public Facilities Should Strategically Further the Plan's Broader Vision and Principles*

- Zoning and development of the land will allow a developer to design new infrastructure, and upgrade existing, to further the vision and goals of both the City of Brighton's *Be Brighton* Comprehensive Plan and the Transportation Master Plan.

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

- If approved, the PD will facilitate the development of the Property. The subsequent land use application for a subdivision plan will require the outlining of any and all public improvements associated with the development. Any development on the Property will be responsible for the extension of utilities and expansion of roads necessary to serve their project.

#### *Policy 1.4 - All Principles and Policies Pertaining to New Development Should also be Applied in Cases of Infill*

*and Redevelopment*

- Redevelopment of the Property encourages infill and reuse of property. Rather than 'greenfield' development, the development of the Property would utilize infrastructure that is already present.

*Policy 1.5 - Carry Out Ongoing, Transparent and Cooperative Interagency and Interdepartmental Planning Efforts*

- Throughout the zoning process, the City and Applicant have been coordinating with CDOT on the effects of the project and how they can be mitigated. Additionally, the City, Applicant, and CDOT been collaborating on ways to ensure the safety of the adjacent intersections is improved with the development of the Property.

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

- Commercial development of the Property will further the balance between residential and non-residential uses and also provide employment and shopping opportunities.
- Development of the Property would also provide the possibility of a reduction in the percentage of residents commuting outside of the City to pursue employment, shopping, and other commercial activities.

*Policy 2.2 - Use Infrastructure Investments and the Urban Service Area Map to Focus Urban Development*

- As mentioned, the site contains existing infrastructure and is directly adjacent to existing infrastructure.

*Policy 2.4 - Concentrate Urban Development in Urban Areas, and Agricultural Operations in Agricultural Areas*

- As mentioned, the Property is within an already urbanized area.

*Policy 4.1 - Policy 4.1: Encourage Development Patterns that Support All Travel Modes*

- Future development of the Property will require the coordination and cooperation with external transportation agencies, such as CDOT and RTD. Additionally, development of the Property will require repair to existing sidewalks, the addition of bike lanes to S. Main Street, and a future RTD bus stop.

*Policy 5.1 - Protect and Enhance the Economic Health of Downtown and Brighton's Unique Identity*

- The PD will facilitate redevelopment of the Property that will support Downtown reinvestment that will help create a vibrant core with shops, services, and restaurants. As mentioned, the development of the Property will also ensure that Downtown is more pedestrian and bicycle friendly.

*Policy 8.1 - Encourage Redevelopment of Strategic Areas and Promote Infill Development*

- The proposed PD will facilitate infill commercial development that is highly visible from the adjacent roadways and highways and will catalyze positive change in the surrounding area.

**LAND USE & DEVELOPMENT CODE:**

The City Council in making its decision shall use the following criteria (Section 2.04 C.):

- a. The plan better implements the Comprehensive Plan, beyond what could be accomplished under application of general zoning districts and development standards.*

The proposed PD will encourage development at the site that meets a number of policies of the Comprehensive Plan and will allow the Property some flexibility to further encourage development that a general zoning district would not.

- b. The benefits from any flexibility in the proposed plan promote the general public health, safety and welfare of the community, and in particular, that of the areas immediately near or within the proposed project, and the proposed flexibility is not strictly to benefit the applicant or a single project.*

While pursuing many goals and policies of the Comprehensive Plan, the flexibility in the proposed PD will allow the Property to develop in such a way to promote the general public, health, safety and welfare of the community. Additionally, the proposed PD would not strictly benefit the application and owner of this project.

- c. The flexibility in the proposed plan allows the project to better meet or exceed the intent statements of the base zoning district(s).*

The proposed PD will allow the property to develop while utilizing CDOT right-of-way to better meet buffer and landscape requirements. Allowing flexibility while maintaining the intent of these requirements will promote the public health, safety, and welfare.

- d. The proposed adjustments to the standards do not undermine the intent or design objectives of those standards when applied to the specific project or site*

The proposed standards of the PD, while different from those of the LUDC, allow for development of the Property that meets the intent of the LUDC. The intent of the standards are still met as the presence of underutilized CDOT right-of-way can be put into beneficial use. Under strict application of the LUDC, that would not be possible.

- e. The plan reflects generally accepted and sound planning and urban design principles with respect to applying the goals and objectives of the Comprehensive Plan to the area.*

The proposed PD will allow the Property to develop in a manner that will support and advance a number of policies of the Comprehensive plan and widely held sound planning and design principles.

- f. The plan meets all of the review criteria for a zoning map amendment.*

Section 2.03 B. outlines the below criteria to be used for such a review:

- 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 street, 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 Property, as allowed under the proposed PD, will allow the Property to develop in character with anticipated future development. Streets and civic spaces will be improved with any development facilitated by the approved PD.

- 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 property is currently zoned for limited commercial and downtown uses. Additionally, strict application of the LUDC would not be possible due to the Property's shape and location. The proposed PD would allow the Property to develop in a manner similar to that of other properties in close proximity.

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

City staff finds this site as appropriate for expanded commercial uses and the requested development standard variations from the LUDC given its specific location, shape, and based on the desires of the community as expressed in the Comprehensive Plan.

#### **DEVELOPMENT REVIEW COMMITTEE:**

The Development Review Committee (DRC) reviewed this project and recommended approval. A complete list of comments and the agencies who made them are available upon request.

#### **PUBLIC WORKS DEPARTMENT AND CDOT COORDINATION:**

The City of Brighton Public Works Department has reviewed the proposed PD document and recommends approval. Additionally, CDOT and the Department of Public Works have worked closely throughout the review process. Traffic impacts to surrounding City and State right-of-way are being reviewed under a subdivision plan application. Said application will be brought back to both the Planning Commission and the City Council for approval and acceptance at a later date.

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission heard the request on June 8, 2023, and voted unanimously to recommend approval of the PD. Planning Commission Resolution 23-5 is attached to this staff report for reference.

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

Mailings were sent to all property owners within 1,000 feet of the proposed PD, as required by the LUDC. These mailings were sent on July 17, 2023, and included a letter describing the proposed PD as well as the time and place for the public hearing. Also, included with the letter, was a map of the subject area. Three (3) public hearing signs were posted within the property on July 17, 2023. A notice was published on the City's website on the same day. As of the posting of this memorandum, Planning staff has not received any inquiries regarding the project in anticipation of the public hearing on August 1, 2023. No formal comments regarding the project have been received by staff. City staff will be publishing public hearing information on various forms of social media in the days leading up to the meeting.

On April 13, 2021, as required by Code prior to the submission of the application to the City, the applicant held a neighborhood meeting virtually. The notification mailings, sent by the Applicant to property owners within the applicable mailing radius of the subject Property, included information on both meeting options. 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. The neighborhood meeting did not have any residents and/or business owners join. That being said, no neighborhood meeting minutes were developed.

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

Staff finds that the PD is in general compliance with the requirements as outlined as approval criteria in Section 2.04 C. 1., Review Criteria, of the LUDC and therefore recommends approval of the PD. Staff has drafted an ordinance for the approval of the PD if the City Council agrees with this recommendation.

### **OPTIONS FOR COUNCIL CONSIDERATION**

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

- 1.) Approve the PD;
- 2.) Deny the PD;
- 3.) Approve the PD with modifications to the drafted ordinance, 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 as set forth in the *Land Use & Development Code*.

### **ATTACHMENTS**

- Draft City Council Ordinance
- Planning Commission Resolution 23-5
- Aerial Map by City Staff
- South Main Redevelopment Planned Development by Applicant
- Affidavit of Posting
- Neighboring Property Owner Notification
- Buffer Map of Mailing Area
- Website Notice
- Website Publication Proof
- City Staff's Draft Presentation