



## Legislation Text

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### *Department of Community Development*

Reference: Brighton Crossing Filing No. 6 Final Plat and Development Agreement

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

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

**Prepared By:** Mike Tylka, AICP, Assistant Director of Community Development

**Date Prepared:** August 3, 2023

### **CODE TRANSITION STATEMENT**

In the City's transition to the code adopted with an effective date of January 1, 2020, applications submitted prior to said effective date, such as the subject applications, were reviewed by City staff using the previous *Land Use and Development Code* and such sections and criteria are referenced in this report.

### **PURPOSE**

The final plat application before the City Council is for an approximately 63.821-acre property, generally located at the northeast corner of the intersection of South 40th Avenue and Southern Street, south of Fire Station 52, and west of Mt. Elbert Street. The property, to be known as Brighton Crossing Filing No. 6 ("Property/Subdivision"), is owned by Brookfield Residential (Colorado) LLC ("Owner/Developer") and the Applicant for the project is Ware Malcomb ("Applicant"). The proposal is for the creation of a 263-lot subdivision for low density residential development, to provide easements and tracts for a park, landscaping, utilities, and drainage, and to dedicate rights-of-way ("Final Plat").

Platting is necessary as it creates several items including but not limited to lots for future use, easements for items such as utilities, and rights-of-way for streets associated with the subdivision.

City Council is tasked with the final decision on requests to final plat properties within City limits. The former *Land Use and Development Code* outlined review criteria upon which the decision must be made. A resolution to final plat, a.k.a. subdivide, the Property must be approved by City Council via one reading to be considered approved.

A development agreement is included for review and approval with the final plat. The purpose of this agreement is to outline the expectations the City has for the Developer regarding the Property as it develops.

### **BACKGROUND**

The Property was annexed in 1986 as part of the Bromley Park II Annexation. The Property was subject to several annexation agreement amendments and follows the regulations and commitments in the Bromley Park Annexation Agreement 2<sup>nd</sup> Amendment. The Property was zoned as the Bromley Park P.U.D. 24<sup>th</sup> Amendment (PUD) in 2020 and is designated via the PUD for 'Single Family Detached' residential uses according to the Bromley Park Land Use Regulations. The Property is presently unplatted. Platting is the third step in the land development process with the City for this type of development (Annexation > Rezoning > *Platting* > Permits). In the City's platting process outlined in the previous *Land Use and Development Code*, a preliminary plat is brought before the Planning Commission for their consideration and a preliminary plat was approved by the Planning Commission on October 24, 2019, in Resolution 19-10. A final plat and development agreement are to be approved by the City Council and are required before site development can occur on the Property.

### **Surrounding Land Use(s):**

Surrounding Direction	Land Use(s)	Zoning	Annexation Status
North	Vacant Land (Zoned Commercial) / Fire Station / Public (Water Tower Sites)	Bromley Park PUD Amendments 8 and 13	City
South	Open Space / Warehousing – Distribution (Vacant)	Open Space / KMART Distribution Center PUD	City
East	Residential	Bromley Park PUD Amendments 4 and 16	City
West	Residential	Pheasant Ridge PUD	City

## STAFF ANALYSIS

### Final Plat:

The Final Plat is for a 63.821-acre subdivision comprising 263 lots of varying size for the development of low-density residential uses over 39.491 acres. The proposed Final Plat is substantially similar to the approved associated preliminary plat, and it lays out appropriate rights-of-way over 11.680 acres, easements for trails, utilities, and drainage, and eight (8) tracts for drainage, landscaping, and a park dispersed over 12.650 acres. The 6.407-acre Tract A is a drainage tract that is to be built to handle on-site drainage. Tract C is a 3.713-acre neighborhood park that will be maintained by the Brighton Crossing Operations Board. The remainder of the tract acreage is for landscaped areas distributed around the Subdivision. The Developer has met the park land dedication requirements elsewhere through previously approved plats under the terms of the applicable annexation agreement.

*Please refer to the attached Final Plat for further detail.*

### Development Agreement:

Sections 1 through 10 are boilerplate for all developments. The Exhibits are where specifics for the proposed subdivision are outlined with Special Provisions included in Exhibit D.

The Development Agreement provides, generally, that the Owner/Developer or assigns will:

- Dedicate right-of-way, design, and construct the remaining eastern one-half (1/2) of South 40<sup>th</sup> Avenue to full width from Southern Street to Developer's north property boundary line;
- Design and construct interim right lane the intersection of South 40<sup>th</sup> and Bridge Street prior to the issuance of the first building permit for any residential development in the Subdivision;
- Dedicate right of way, design, and construct the remaining northern one-half (1/2) of Southern Street to full width from South 40<sup>th</sup> Avenue to the adjacent southeast corner of the Subdivision;
- Construct raised non-irrigated medians on South 40<sup>th</sup> Avenue with reimbursement by the City for one-half (1/2) of said work;
- Construct striped non-irrigated medians on Southern Street with reimbursement by the City for one-half (1/2) of said work;
- Deposit funds with the City for the Subdivision's pro-rata share (50%) for the future construction of Lake Dillon Avenue's northward connection to South 42<sup>nd</sup> Avenue;
- Deposit funds with the City for the Subdivision's pro-rata share (5.7%) for the future construction of a traffic signal at South 40<sup>th</sup> Avenue and Southern Street;
- Deposit funds with the City for the Subdivision's pro-rata share (3.5%) for the future construction of a traffic signal at South 40<sup>th</sup> Avenue and Bridge Street;
- Expand an existing detention pond and construct a new detention pond on City owned property at the Southeast corner of the intersection of South 40<sup>th</sup> Avenue and Southern Street for the purposes of capturing runoff from the existing and expanded roadways adjacent to the Subdivision;
- Construct the necessary connections for off-site drainage improvements;
- Construct a ten-foot (10') trail running north-south through the Subdivision's Tracts C and F; and
- Install water and sewer lines for on-site service.

In addition, the Development Agreement:

- Outlines a three (3) phased development approach;
- Obligates the Developer to satisfy School District 27J's cash-in-lieu of land dedication requirement;
- Memorializes that the Developer has voluntarily agreed to be a participating development entity in School District 27J's Capital Facility Fee Foundation and will pay the associated fees; and
- That the City and Developer agree that the neighborhood parks and community parks impact fees for the Subdivision shall be used for construction costs for Venture Park.

*Please refer to the attached draft agreement for further detail.*

#### **CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM COMPREHENSIVE PLAN:**

The future land use portion of the Comprehensive Plan, *Be Brighton*, has designated the Property as appropriate for 'Low Density Residential' use with 0.05 to 5 dwelling units per acre. A single-family detached residential subdivision is an appropriate use in said district. The layout of the subdivision complies with Comprehensive Plan design elements such as connectivity and design. The current zoning of the Property allows low density residential development according to the 'Single Family Detached' residential use standards as outlined in the Bromley Park Land Use Regulations. The Comprehensive Plan includes a number of guiding aspects for development. The proposed Final Plat and drafted Development Agreement align with the Property's designation per the Plan as it will create a single-family neighborhood with a highly connected street pattern, buffered lots, and walkable amenities.

The development of the land as outlined in the subject Final Plat aligns with portions of the Comprehensive Plan's *Principle 1: Managing Growth Policy 1.1* as the development will build upon the established framework of roads, utilities, and other infrastructure investments in the area. Moving to the same *Principle's Policy 1.3: Private Development Should "Pay its Own Way," by Bearing an Equitable Portion of the Costs of Expanding Municipal Infrastructure* is met as the Developer is to construct the improvements being caused by the development of the Property. Additionally, the development of the Property meets *Principle 2: The Freestanding City Policy 2.4* as it seeks to expand residential uses in an area that is bounded by or planned for urban growth. *Principle 6: Promote Neighborhoods that Have Distinctiveness and Character* can be found to be supported by this Subdivision as it will create greater pedestrian connectivity in the area between two existing neighborhoods and within the development (Policy 6.1), and it will have a park area that is oriented to the front of homes (Policy 6.3).

#### **LAND USE AND DEVELOPMENT CODE:**

Section 17-40-210, Final Subdivision Plat, of the previous *Land Use and Development Code*, describes the requirements for a final plat and states that it shall conform to the existing Zoning Ordinance and Subdivision Regulations. The Property is in compliance with the *Land Use and Development Code*, and it meets the requirements for applicable zoning district and applicable Subdivision Regulations, including the applicable Bromley Park PUD Land Use Regulations. The development of this Property will facilitate orderly growth and expansion of the City. It will allow the Developer to take advantage of the location of the Property adjacent to a Master Transportation Plan designated minor arterial roadway (South 40<sup>th</sup> Avenue) and a designated collector roadway (Southern Street). The proposed subdivision, where its neighbors are mainly residential, planned commercial, and planned open space users, is generally compatible with the surrounding area. The Final Plat continues the development pattern of the subdivision to the east (The Village aka Northgate) along Southern Street with residential lots backing it with a landscaped buffer. Further buffering across Southern Street (to the south) on the property designated as Employment - Commercial in the Comprehensive Plan will be important for future development on said property.

Section 17-40-220 of the *Land Use and Development Code* outlines that before the City Council accepts and approves a final plat, the subdivider (Developer) shall have entered into an agreement with the City that outlines the timing and construction of all necessary public improvements. A detailed Schedule of Improvements and Phasing Plan has been included with the draft Development Agreement.

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

The Development Review Committee (DRC) reviewed this project and recommended approval. This includes review and approval of the draft Development Agreement. The Public Works and Utilities Departments find that the improvements associated with the Subdivision are sufficient to mitigate the infrastructure impacts of the development of the Property.

School District 27J did not signal opposition to the proposal and estimated that 143 students would be generated by the development of the Property. Those students are slated to attend Pennock Elementary, Overland Trail Middle School, and Brighton High School. *A complete list of comments and the agencies who made them are available upon request.*

### **PUBLIC NOTICE AND INQUIRY**

As outlined in the *Land Use and Development Code*, mailings were sent to all property owners within 1,000' of the proposed Final Plat due to the size of the Property. These mailings were sent on July 31, 2023 and included a letter describing the proposed subdivision as well as the time and place for the public hearing. Also included with the letter was a map of the subject area. Along with the public mailings, three (3) public hearing signs were posted on July 31, 2023 on the subject Property. Additionally, a notice was published on the City's website on July 31, 2023 to give notice to those who are not affected property owners or those who do not drive near the Property on a consistent basis. The publication requirements were fulfilled. As of the date of this staff report, no formal comments have been received by staff. City staff has made social media posts on Facebook and Nextdoor publicizing the public hearing. *Please see all public notice attachments for further detail.*

### **PLANNING COMMISSION RECOMMENDATION AND CONDITIONS**

The Planning Commission heard the associated Preliminary Plat request on October 24, 2019 and recommended approval unanimously (*see the attached Resolution #19-10*) with two (2) conditions.

The two (2) conditions are listed below.

- 1.) The On-site and Off-site Drainage will be approved by the DRC prior to approval of the Final Plat by the City Council.
- 2.) This Preliminary Plat approval will remain in effect for the Final Plat as long as:
  - a. The number of lots does not change by more than 10%,
  - b. The current proposed housing types do not change, and
  - c. The connecting roads outside of the development remain the same.

Staff finds that all conditions of the Preliminary Plat were satisfied as the DRC has signed off with approval of all associated drainage improvements and as the lot count has not changed, housing types have not changed, and all six roadway connections shown in the Preliminary Plat have been maintained in the Final Plat.

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

Staff finds the Final Plat complies with the Subdivision Regulations found in Section 17-40-210 and that the draft Development Agreement complies with Section 17-40-220 of the previous *Land Use and Development Code*. Staff also finds that the Final Plat complies with policies of the Comprehensive Plan. As such, City staff is therefore recommending approval of the proposed Final Plat and Development Agreement. Staff has drafted a resolution for approval if the City Council agrees with this recommendation.

### **OPTIONS FOR COUNCIL CONSIDERATION**

The City Council has four (4) options when reviewing this application. City Council may:

- 1.) Approve the Final Plat and Development Agreement via resolution as drafted;
- 2.) Approve a modified Final Plat and Development Agreement via resolution;
- 3.) Deny the Final Plat and Development Agreement via 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 as set forth in the previous *Land Use and Development Code*.

### **ATTACHMENTS**

- Draft City Council Resolution
- Exhibit C of Resolution - Draft Development Agreement
- Aerial Map by City Staff
- Proposed Final Plat by Applicant
- Copy of the Planning Commission Recommendation, Resolution #19-10
- Previous Land Use and Development Code Sections 17-40-210 and 17-40-220
- Neighboring Property Owner Notification
- Neighboring Property Owner Mailing Buffer Map

- Sign Posting Photographs
- Website Notice
- Website Site Notice Posting Documentation
- Social Media Posting Proof
- City Staff's Draft Presentation