



Meeting Date: June 15, 2021

AGENDA MEMORANDUM

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Tara Vargish, PE, Director, Development Services
Sandy Vossler, Senior Planner, Development Services Department

Title: **A Resolution Finding that the Petition for Annexation Submitted by Canyons South LLC is in Substantial Compliance with Article II, Section 30(1)(B) of the Colorado Constitution and Section 31-12-107(1), C.R.S.; and Setting a Date, Time and Place for a Hearing to Determine if the Subject Property is Eligible for Annexation Under Article II, Section 30 of the Colorado Constitution and Sections 31-12-104 and 31-12-105, C.R.S. (Canyons South Annexation)**

Executive Summary

The purpose and intent of this staff report is to demonstrate to Town Council that the Canyons South Annexation Petition is in Substantial Compliance with the State requirements under the Municipal Annexation Act of 1965 (Act), and to set the date for the Eligibility hearing as Tuesday, July 20, 2021 (Attachment B).

Discussion

The Property

The Canyons South Annexation property is located east of Founders Parkway, north of Crimson Sky Drive, west of Castle Oaks Drive, and south of the Macanta development currently under construction on Crowfoot Valley Road (Attachment A). The 409-acre property is zoned Planned Development (PD) in unincorporated Douglas County and is undeveloped.

Annexation Process

Annexation is a three-step process. During the first two steps, Substantial Compliance and Eligibility, Town Council determines whether an annexation request meets the statutory requirements for annexation established in the Colorado Revised Statutes, specifically the Municipal Annexation Act of 1965 (Act). The third step is when Town

Council determines whether an annexation request complies with the Town's guiding documents and the Municipal Code, and if the property should be annexed to the Town. The following is a summary of the three steps required for annexation.

1. **Substantial Compliance.** Town Council determines if the annexation petition is in the prescribed form and contains the necessary statutory criteria. For example, in order to be compliant with the statutes, a finding must be made that the petitioners constitute more than 50% of all landowners and that the petitioners own more than 50% of the total area of the property, excluding certain public ownership. Town Council must also set a date, time and place for an Eligibility Hearing.
2. **Eligibility.** After four consecutive weeks of public notice in a newspaper of general circulation, Town Council will determine if the statements (referred to as "allegations" in the statute) in the annexation petition are supportable and that the property is eligible for annexation under the Act. The Eligibility Hearing must occur between 30 and 60 days after the Substantial Compliance Hearing. If the Substantial Compliance resolution is approved, the Eligibility Hearing for the Canyons South Annexation will be scheduled for Tuesday, July 20, 2021.
3. **Annexation and Zoning.** Once an annexation petition has been found to be both substantially compliant and eligible for annexation, Town Council may proceed with the Annexation and Zoning Hearings at Planning Commission and Town Council. Substantial Compliance and Eligibility determine whether the parcel **can** be annexed; this final step determines whether a parcel **should** be annexed.

Substantial Compliance Criteria and Analysis

Staff finds that the Canyons South Annexation Petition complies with the requirements of the first step in the annexation process, as established in Section 30 of Article II of the Colorado Constitution and with the Colorado Revised Statutes § 31-12-107(1) given that (Attachment C):

1. The Annexation Petition has been signed by more than 50% of the landowners, owning more than 50% of the land, excluding right-of-way and property owned by the Town of Castle Rock (Attachment D);
2. The petition was filed with the Town Clerk on May 26, 2021;
3. The petition contains:
 - a. An allegation that it is desirable and necessary that such territory be annexed to the Town;
 - b. An allegation that the requirements of §§ 31-12-104 and 31-12-105 C.R.S. exist or have been met;

- c. An allegation that the signers of the petition comprise the landowners of more than fifty (50%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys;
 - d. A request that the municipality approve the annexation;
 - e. The signatures of the land owners;
 - f. The mailing address of each signer;
 - g. The legal description of the land owned by such signer;
 - h. The date of signing of each signature; and
 - i. The affidavit of each circulator of such petition, whether consisting of one or more sheets, that each signature therein is the signature of the person whose name it purports to be.
4. The annexation plat/map was filed with the Town Clerk on May 26, 2021 and contains (Attachment E):
 - a. A written legal description;
 - b. A map showing the boundary of the area proposed for annexation;
 - c. An indication of ownership tracts; and
 - d. A depiction of the contiguous boundary of the property with any municipality.
5. No signatures on the petition are dated more than 180 days prior to the date of filing with the Town Clerk.

In addition to the required contents of the Annexation Petition that are listed above, a petitioner may itemize requests regarding the proposed annexation by also listing them in the Annexation Petition. For example, the Canyons South Annexation Petition contains a request for Planned Development zoning, vesting approval with the future Development Agreement (DA) and the right to withdraw the request for annexation.

Action by Town Council finding that the Annexation Petition substantially complies with the requirements of the Colorado Constitution and the Colorado Revised Statutes, is not an approval, actual or implied, of the miscellaneous requests contained in the Annexation Petition. If the Annexation Petition is found to be in substantial compliance, and the property found to be eligible for annexation at the Eligibility hearing, then the proposed annexation, with the proposed zoning and DA will ultimately be heard by Town Council in a public hearing. It is at the time of that future public hearing that Council will take formal action to approve, approve with conditions, or deny the annexation, the zoning and the DA.

Staff recommends that the Canyons South Annexation Petition meets the statutory requirements and it should be deemed sufficient.

Budget Impact

The process of determining Substantial Compliance has no impact to the Town budget.

Recommendation

The Canyons South Annexation Petition substantially complies with the State requirements and staff recommends setting an Eligibility Hearing date of Tuesday, July 20, 2021.

Proposed Motion

"I move to approve the Resolution, as introduced by title."

Attachments

- Attachment A: Vicinity Map
- Attachment B: Resolution (contains Legal Description)
- Attachment C: C.R.S. Section 31-12-107
- Attachment D: Annexation Petition
- Attachment E: Annexation Plat/Map