



Meeting Date: August 17, 2021

AGENDA MEMORANDUM

To: Honorable Mayor and Members of Town Council

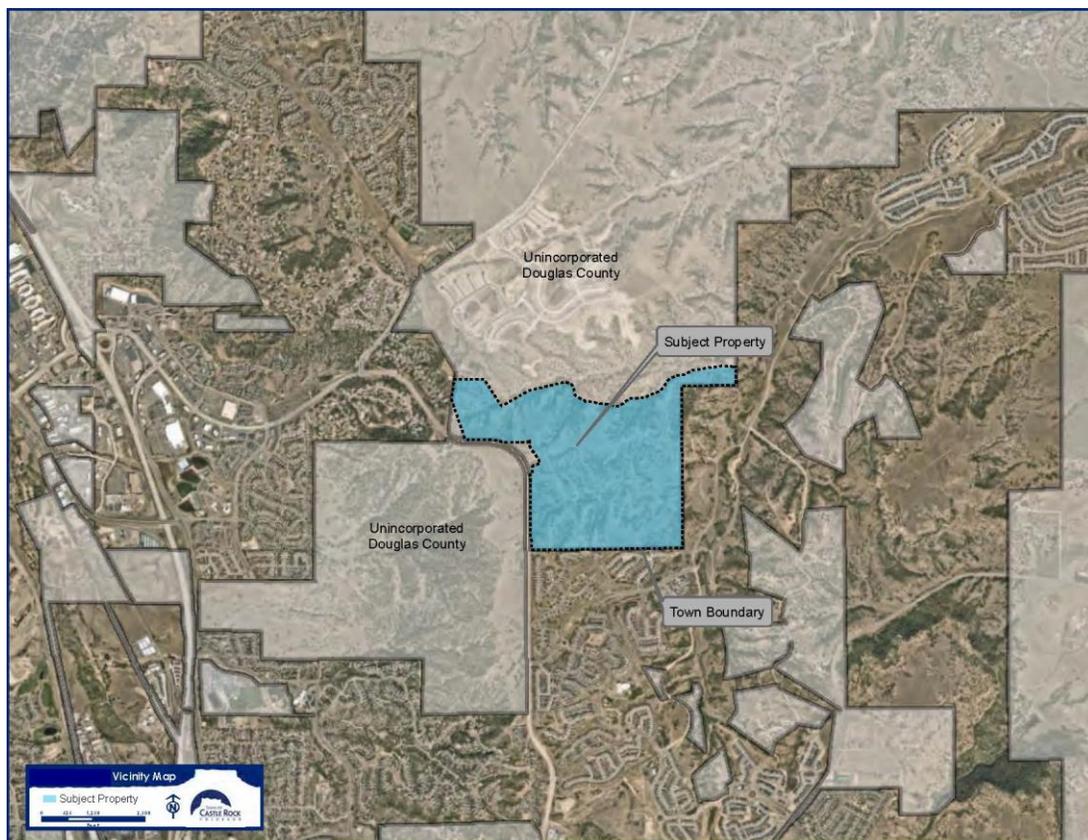
Through: David L. Corliss, Town Manager

From: Tara Vargish, PE, Director, Development Services
Donna Ferguson, AICP, Senior Planner, Development Services

Title: **Resolution Finding that Certain Property, which is the Subject of a Petition for Annexation Submitted by Canyons South, LLC, 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 applicant, Canyons South, LLC, has submitted to the Town of Castle Rock a Petition for Annexation for unincorporated property in Douglas County, known as Canyons South Annexation. The property is approximately 409 acres in size and located south of Crowfoot



Valley Vicinity Map

Road, east of Founders Parkway, north of Crimson Sky Drive and west of Castle Oaks Drive. The property is bordered by the Town on the south and east and generally bordered by unincorporated Douglas County on the north and west (Attachment A).

On June 15, 2021, Town Council found the Petition to be in Substantial Compliance with the applicable requirements of the Colorado Municipal Annexation Act of 1965 and voted 7-0 to schedule the Eligibility Hearing for August 17, 2021. The purpose of the Eligibility Hearing (this hearing) is for Town Council to review the statutory allegations made in the Annexation Petition (Attachment B) and make a determination as to whether the property is eligible to be considered for annexation into the Town of Castle Rock.

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

Step 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 the 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.

Step 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 approval.

Step 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.

This project is currently at Step 2 – Eligibility. The Eligibility Hearing is procedural; this hearing only determines whether the property proposed for annexation meets State requirements and makes findings on whether or not an election is required. The Eligibility criteria are:

- The proposed annexation complies with Section 30, Article II of the Colorado Constitution, and as applicable §31-12-104 and §31-12-105, Colorado Revised Statutes (C.R.S.),
- More than 50% of the landowners in the area to be annexed, owning more than 50% of the area to be annexed have petitioned for annexation,

- A community of interest exists between the area proposed to be annexed and the Town, the area to be annexed is urban or will be urbanized in the near future, and the area to be annexed is integrated with or is capable of being integrated with the Town,
- At least 1/6 of the perimeter of the property to be annexed is contiguous with the Town boundary,
- No additional terms and conditions are to be imposed; and
- No election is required because 100% of the private property owners signed the annexation petition.

Only after the annexation request is found to be Eligible can the Town proceed to Step 3 – Annexation and Zoning and hold a hearing to determine whether the property should be annexed. The legal description of the property in question is attached (Exhibit A of Attachment B). Staff finds that the proposed annexation meets State of Colorado requirements and recommends approval of the Eligibility resolution.

Notification and Outreach

The Town published notice of the Eligibility Hearing in the Douglas County News-Press for four consecutive weeks prior to the Eligibility Hearing date. The first publication occurred on July 15, 2021, at least 30 days prior to the Eligibility Hearing date. The Town provided notice to all tax entities within the proposed annexation area, to the Douglas County Board of County Commissioners and to the Douglas County Attorney's Office. An Annexation Impact Report was also prepared and provided to the Douglas County Board of County Commissioners per the requirements of §31-12-108.5 C.R.S. In addition, at least 15 days prior to the Eligibility Hearing written notice of the Eligibility Hearing was sent to all property owners within 500 feet of the property, public notice signs were posted on the property and a public notice was published on the Town's website.

History of Past Town Council, Boards & Commissions, or Other Discussions

On June 15, 2021, Town Council found that the Petition to be in Substantial Compliance with the State of Colorado requirements for annexation requests and scheduled the Eligibility Hearing for August 17, 2021.

Discussion

The Property

The property is currently under the jurisdiction of Douglas County. It is approximately 409 acres in size and located south of Crowfoot Valley Road, east of Founders Parkway, north of Crimson Sky Drive and west of Castle Oaks Drive. Under the jurisdiction of Douglas County, the property is zoned for 80 single-family units. The property is currently undeveloped.

The property is bordered by the Town on the south and east and generally bordered by unincorporated Douglas County on the north and west. To the north, the property is bordered by unincorporated Douglas County, which is zoned Planned Development and currently developing as single-family residential. To the east and south, the property is bordered by Town property, known as Castle Oaks/Terrain, which is zoned Planned Development and

contains developing single-family residential to the east and developed single-family residential to the south. To the west, the property is mostly bordered by unincorporated Douglas County, which is commonly known as Pioneer Ranch. This property is zoned for agriculture (A-1) and is currently undeveloped but has a pending annexation application into the Town. To the west, the property is also partially bordered by Town property, known as Metzler Ranch, which is zoned Planned Development and contains developed single-family residential.

The Petition

The Petition for Annexation was reviewed by Town staff. The Petition for Annexation was found to provide the necessary statements to meet the State of Colorado requirements for annexation. The Petition for Annexation also contains additional statements beyond what is required. While the petitioner may make additional statements beyond what is required, the Town is not bounded, nor is consenting, to any additional statements.

Analysis

The Resolution presented does not commit the Town to annexing the property, but only declares that the land is eligible to be annexed. Town Council is required to set forth its findings of fact and its conclusion thereon, based on the requirements found in §31-12-110 C.R.S.:

1. Whether or not the requirements of the applicable parts of §31-12-104 and 31-12-105 C.R.S. have been met,
2. Whether or not an election is required under §31-12-107(2) C.R.S., and
3. Whether or not additional terms and conditions have been imposed.

Staff recommends that Town Council accept and make the findings that the following conditions are true.

1. The requirements of §31-12-104 and 31-12-105 C.R.S. are met:
 - a. Not less than one sixth (1/6) of the perimeter of the area to be annexed is contiguous with the existing boundaries of the Town of Castle Rock, Colorado (Attachment C).

The perimeter of the property is 23,578 linear feet (LF). The 1/6th minimum requirement for contiguity is 3,930 LF. The actual contiguous perimeter is 9,495 LF, which exceeds the 1/6th minimum.

- b. A community of interest exists between the areas proposed to be annexed and the Town of Castle Rock, Colorado.

The property is completely bordered by the Town on the south and east and also partially bordered by the Town on the west. The annexation of this property would create a west-east corridor in the northern area of Castle Rock where one

does not exist. The area proposed to be annexed is a logical infill site and consistent with the orderly development of the Town.

- c. The proposed area to be annexed is urban or will be urbanized in the near future, and the area to be annexed is integrated with, or is capable of being integrated with the Town of Castle Rock, Colorado.

Infrastructure exists, or can be extended to the property to provide urban services, such as water, sanitary sewer and storm sewer. The property is able to be accessed by Founders Parkway, an arterial road owned by the Colorado Department of Transportation. The Castle Rock Water Strategic Plan – Renewable Water Inclusion Area Map categorizes the property as infill.

- d. In establishing the boundaries of the territory to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner(s) thereof, unless such tracts or parcels are separated by a dedicated street, road or other public way.

The petitioner(s) own 100 percent of the privately held land proposed to be annexed. The petitioner(s) did not provide any evidence that their land has been divided into separate tracts or parcels without their consent.

- e. In establishing the boundaries of the area to be annexed, not land held in identical ownership, whether consisting of one tract or parcel of real estate, or two or more contiguous tracts or parcels of real estate, comprising 20 acres or more (together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000.00 for ad valorem tax purposes for the year next preceding the annexation) is included in the proposed area and is included without the written consent of the landowners.

All private landowners have consented to the annexation.

- f. No annexation proceedings have been commenced for the annexation of part of all of the property to another municipality.

This is a true statement.

- g. The territory proposed to be annexed by the Town of Castle Rock has not been the subject of an election for annexation to the Town within the preceding twelve (12) months.

No annexation election has been held in the preceding twelve (12) months.

- h. The territory proposed to be annexed is not presently a part of any incorporated city, city and county or town.

The territory proposed for annexation is currently in unincorporated Douglas County.

- i. The area proposed for annexation will not result in the detachment of area from any school district or the attachment of the same to another school district.

This is a true statement. The proposed annexation area will remain in the Douglas County School District boundaries.

- j. The area proposed for annexation will not have the effect of extending the municipal boundary of the Town of Castle Rock, Colorado more than three miles in any direction from any point of such municipal boundary within one year.

This property is essentially infill and its annexation will not extend the boundary of the Town of Castle Rock more than three miles.

- k. In establishing the boundaries of the area for annexation, if a portion of a platted street or alley is to be annexed, the entire width of said street or alley have been included in the area to be annexed.

The annexation area does not include any partial street or alleys.

- 2. No election is required.

The Town of Castle Rock did not receive a petition from qualified electors requesting an annexation election, therefore, no election is required.

- 3. Additional terms or conditions will not be imposed.

No additional terms or conditions will be unilaterally imposed on the area proposed for annexation.

Budget Impact

The finding of eligibility does not have any financial impact. Financial impacts will be addressed through the annexation hearing process, the third and final step in the annexation process.

Staff Recommendation

Based on the findings above, the proposed annexation area meets the eligibility requirements of the State Statute, and staff recommends that Town Council approve the Resolution finding the property eligible for annexation.

Proposed Motion

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

Attachments

Attachment A: Vicinity Map

Attachment B: Annexation Petition

Attachment C: Annexation Plat

Attachment D: Resolution

Attachment E: Applicable Sections of the Colorado Revised Statutes