

City of Brighton

500 S. 4th Avenue
Brighton, CO 80601



Meeting Minutes

Tuesday, February 1, 2022

6:00 PM

Council Chambers

City Council

MAYOR - GREGORY MILLS
MAYOR PRO TEM - ADAM CUSHING
COUNCIL MEMBERS:
CLINT BLACKHURST, MATT JOHNSTON,
PETER PADILLA, JAN PAWLOWSKI,
MARY ELLEN POLLACK, ANN TADDEO,
TIM WATTS

1. CALL TO ORDER

Mayor Mills called the meeting to order at 6:00 p.m.

A. Pledge of Allegiance to the American Flag

Councilmember Johnston led the recitation of the Pledge of Allegiance to the American Flag.

B. Roll Call

Present: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

2. APPROVAL OF REGULAR AGENDA

Motion by Councilmember Johnston, seconded by Councilmember Padilla, to approve the Regular Agenda as presented. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

3. CONSENT AGENDA

A. Approval of the January 4, 2022 Outgoing City Council Minutes

B. Approval of the January 4, 2022 Incoming City Council Minutes

Motion by Councilmember Watts, seconded by Councilmember Blackhurst, to approve the Consent Agenda as presented. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

4. CEREMONIES

A. Black History Month Proclamation

Mayor Mills read the Proclamation into the record.

Motion by Councilmember Blackhurst, seconded by Councilmember Padilla, to approve the Proclamation. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

B. Career and Technical Education Month Proclamation

Mayor Mills read the Proclamation into the record.

Motion by Councilmember Watts, seconded by Councilmember Taddeo, to approve the Proclamation. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

5. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA
(Speakers limited to five minutes)

6. PUBLIC HEARINGS

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE REZONING VIA PLANNED DEVELOPMENT OF THE MOUNTAIN VIEW ESTATES SUBDIVISION, FILINGS 1 AND 2, FROM R-1 AND R-1-B TO THE MOUNTAIN VIEW ESTATES PLANNED DEVELOPMENT, GENERALLY LOCATED TO THE NORTH OF BRIDGE ST., SOUTH OF BASELINE RD., WEST OF TELLURIDE ST., AND EAST OF THE BRIGHTON LATERAL DITCH, AND LOCATED IN A PORTION OF THE WEST HALF OF SECTION 4, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO (FIRST READING)

Mayor Mills read the title of the Ordinance into the record.

Mayor Mills opened the public hearing at 6:17 p.m. and City Clerk Natalie Hoel verified the required postings and publications (January 14, 2022 on the City of Brighton Website) for this public hearing were completed.

City Manager Michael Martinez introduced Community Development Director Holly Prather.

Community Development Director Holly Prather introduced Associate Planner Nicholas Di Mario and gave a brief history of his background.

Associate Planner Nicholas Di Mario presented the Mountain View Estates Planned Development zone change. The property is located north of Bridge Street, south of Baseline Road, west of Telluride Street and east of the Brighton Lateral Ditch and is approximately 165.7 acres. The request is to rezone the property via a Planned Development (PD). The owner desires to maintain the allowed uses on the site, but alter certain site development standards. The proposed PD does not alter the entitled lots within the subdivision and the current allowed uses of single-family attached products for the R-1-B designated lots and the single-family detached products for the R-1 lots are being maintained by the proposed PD. The Land Use and Development Code (LUDC) allows for the adoption of a Planned Development.

The property is currently in two separate filings. Mountain View Estates Filing No. 1 is located between Bridge Street and Longs Peak Street and Mountain View Estates Filing No. 2 is located between Longs Peak Street and Baseline Road. Filing No. 1 was annexed in 1986, is zoned R-1-B and was zoned in 2012 and Filing No. 2 was annexed in 2000 and was zoned R-1 in 2001. Both filings were platted and entitled in 2013 under the prior Land Use and Development Code. Both filings include 410 lots made up of 102 single-family attached lots and 308 single-family detached lots.

The current Land Use and Development Code was effective January 1, 2020. The current Code modified setbacks via amended zone districts and restricts building types in the R-1-B zone district. The result of these changes is that the applicant is unable to sell to prospective builders as current Code makes it difficult to construct the desired product that the property was originally intended to accommodate. The current Land Use and Development Code increased setback distances for lots within the subdivision. The current Land Use and Development Code includes suburban duplexes or paired homes as a prohibited building type in the R-1-B zone district. The applicant could apply for a variance for all lots requiring relief from development regulations or they could apply for a PD. Staff found that the best option moving forward was the creation of a Planned Development. The benefit allows the development to occur with the same number of lots and land use as originally intended, but requires a Planned Development in order to legally construct. The PD would fulfill the approved 2013 final plats. As outlined in the PD, the design standards and criteria for single-family attached, or paired homes, and single-family detached homes would adhere to the 2013 Land Use and Development

Code, the design standards that were in place when the subdivision was platted and entitled. This proposal would create a neighborhood with a variety of housing options to meet the current housing demand in the area. There is no change to use or density. The PD would update the landscape plans to incorporate low water/xeric plant palette to reduce overall water demand for the neighborhood. The PD reduces the setbacks to a lower minimum to what is required by Code. This would allow for larger building footprints and reduced landscape area. The allowed uses in the PD are restricted to single-family residential attached and detached units. The platted development includes two parks, a neighborhood park of just under four acres and a community park of just under five acres and a future elementary school site. The platted development is made up of 410 single-family lots that are a mix of front-loaded lots and alley-loaded lots and range from 40' to 80' wide.

The subdivision has already been entitled and lots, tracts and roadway alignments already exist. As a requirement of the submitted application, the applicant submitted a traffic conformance memo. As no land uses or densities are changing, this conformance memo yielded that no further traffic improvements are required beyond what was agreed upon in the existing Development Agreement. The traffic conformance memo was written in relation to the traffic impact study that was conducted during the original platting of the subject property which yielded the need for improvements to surrounding and internal roadways. With Filing No. 1, the developer will build out the western of half North 35th Avenue (Telluride Street) from Bridge Street to Longs Peak Street, the eastern half of which is already constructed. The developer will construct the full width of North 35th Avenue from Longs Peak Street to Baseline Road. Acceleration and deceleration lanes will be constructed on the south side of Baseline Road including escrow for improvements to the southernmost lane of Baseline Road to include curb, gutter, median and landscaping. An intersection will be constructed at North 35th Avenue and Baseline Road including the provision of escrow funds for a traffic signal.

The Comprehensive Plan designates this property as low density residential. Surrounding designations include agriculture occupied by large rural residential lots to the north and east, parks and open space to the west, a variety of commercial designations to the south and medium density residential further south.

Staff finds that this proposed PD does not conflict with the Comprehensive Plan. Review recommendations and decisions for newly Planned Developments shall be based on the following criteria:

- 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.

The flexibility in the proposed PD will allow the property to develop under the conditions that were in place at the time of its platting while also providing benefits to the community as a whole, such as low water use and xeric landscaping. The surrounding areas are of similar or the same comprehensive plan designations. The surrounding established and future uses conform to one another and promote access to public and commercial uses. Additionally the PD is seen as the next step in the development of the subdivision, and as such, addresses a general demand for housing.

- 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 project to develop as originally intended. Similar zone districts and densities can be found in close proximity to the proposed development.

- 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 do not undermine their original intent or design objectives.

- 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.*

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 land as allowed under the proposed PD, will ensure that the site develops similarly to other properties in regards to use and densities. The surrounding allowed uses are compatible with the use of the Property as single and two-family residential.

- 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.*

As the Property is still a few years from actual vertical construction, Staff anticipates that the necessary capital projects to serve the development will be in place. Additionally, as part of the release of permits, the developer and/or builder will pay applicable development and impact fees to connect to existing infrastructure and to off-set future improvements 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 residential uses, and the proposed PD would not expand those uses. As the property was zoned and platted under a prior LUDC, the current standards of today's LUDC would not allow a portion of the property to develop as it was intended.

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

City staff finds this site as appropriate for residential uses given its specific location, initial zoning, and based on the desires of the community as expressed in the Comprehensive Plan. Site development, including buffering and building design, will occur in accordance with the applicable standards as outlined in the PD. Any site on the property will only be permitted with a design that ensures it fits in with the context and development patterns of the area.

In accordance with the Land Use and Development Code, four signs were posted on the property on January 13, 2022, and written notice was mailed to all property owners within 1,000 feet of the property on January 14, 2022. Notice was published on the City of Brighton website on January 14, 2022. Planning staff has received one formal comment in advance of the hearing. A neighborhood meeting was held on April 12, 2021 prior to a formal application being submitted. Information was posted on various social media sites.

The Development Review Committee reviewed this project and recommended approval. The Planning Commission heard the request on January 13, 2022 and unanimously recommended approval. Staff finds that the PD is in general compliance with the requirements as outlined in the Land Use and Development Code and is in compliance with the goals and objectives as set forth by the Comprehensive Plan. Staff recommends approval of the Mountain View Estates Planned Development.

Mayor Mills asked if the applicant would like to add anything to the presentation.

Josie Kohnert, Redland, Littleton, Colorado. Ms. Kohnert introduced the applicant Jarrod Likar with AMREPCO Southwest Inc. Ms. Kohnert presented the location of the project and the background regarding the approvals by the City. There is no change to the proposed land use or density as part of this application. The site is currently zoned as low density residential which ranges from .5 to 5 density units per acre. The current proposed density is 2.5 for the project. Ms. Kohnert presented the background of the project. The final PD submission was completed in December, 2021. It preserves the intent of the current City Code as additional commitments to xeric planting practices and enables the project to develop as platted. If the PD plan receives approval, revisions to the construction documents to align site specific features and improvements will be provided. Based on the 2013 plats, Mountain View Estates brings a wide range of benefits to Brighton and the community as a whole by supporting the Comprehensive Plan by providing a variety of housing options. The project includes a neighborhood and community park, open space with trails, which exceed the City's requirements and a ten acre school site. Infrastructure improvements will be provided for regional circulation and drainage. The PD commits to reducing water demand through the application of xeric and native plant materials throughout the site. The development provides 410 single-family lots with the option to explore paired homes. A mix of alley and front loaded product creates diversity in the community and larger lots would have the option for three car garages. This project is going through the PD process to amend the current LUDC setback requirements to reflect the standards at the time of platting and allow for paired uses in the R-1-B zone district. This will allow for architecture currently in production to be built on the approved, platted lots. The architectural style will be similar to what has been built in Prairie Center or the Villages at Southgate, traditional Prairie and Craftsman products. All homes will feature a mix of materials, façade articulation and diversity that meets the current Residential Design Standards for the City. Regarding transportation, Mountain View provides two missing links for the City by developing Longs Peak Street and North 35th Avenue without removing access for the Horizon Farms residents. A new mini roundabout is proposed for the Longs Peak Street and North 35th Avenue intersection. This remains separate from the traffic on Telluride Street, which will be preserved. Residents of Horizon Farms will still be able to use Telluride Street to access Baseline Road as well as 164th Avenue to the east of the proposed roundabout. The Mountain View Estates provides a key piece of infrastructure to improve drainage in this area. There will be drainage improvements from the Preserve Pond to the regional outfall west of the site as well as the onsite encumbrances generated by this solution. The proposed neighborhood and community parks include several amenities and are a key benefit provided by the development. The commitment to xeric planting is an additional benefit not included in the previous plats. The plant list and landscape plans have been revised to utilize low to xeric water requirement plants, limit moderate water usage to high visibility, high traffic areas such as the parks and neighborhood entries and reduce overall water requirements for the development. The goal is to create an attractive, healthy landscape that requires less water and maintenance. Low water turf alternatives are preferred throughout and turf is limited to high impact, pedestrian oriented spaces. Front and side yard landscapes are now required to follow xeric landscape guidelines limiting the use of turf and implementing a low water plant list developed specifically for its suitability to Brighton. Future residents will be encouraged to apply the same principles to their rear yard landscape as well.

Mayor Mills asked if anyone in the audience had questions for the applicant, there was none.

Mayor Mills asked if anyone in the audience wished to speak on behalf of or against the request.

Karen Grine, Brighton. Ms. Grine is concerned with how far the widening of the road will go because the bridge over the ditch is very narrow and there have been several accidents at that location. 168th Avenue (Baseline Road) is a very busy road and adding this many homes will add a lot more traffic to the road. Ms. Grine asked if the roadway will be a three lane with a turn lane. The speed is posted at 35 miles per hour, but the traffic is generally much faster than that. Ms. Grine asked if the widening of the road will go past the ditch to the west and asked where the prairie dogs and coyotes would go. Ms. Grine is concerned that the residents in the development would complain about the farming activities across the road.

Bonnie Sue Garman, Brighton. Ms. Garman asked if there is a timeline to take care of the tumbleweeds and expressed concern about the prairie dogs going to her property when construction begins and asked what the solution is for that. Since Telluride will be 35th Avenue, there is no access to Bridge Street from her property, this will add time to everyday trips. Ms. Garman asked about

access for emergency vehicles and expressed concern that the traffic is bad now and the traffic survey was done in 2013.

Shirley Bailey, Brighton. Ms. Bailey expressed concern regarding the trash from the parks being blown onto her property. Ms. Bailey plans on using the back half of her property for crop purposes and she does not want to deal with added stuff. Ms. Bailey asked if the City has coordinated with Adams County and Weld County regarding the widening of Baseline Road since there are a number of properties along Baseline Road that are positioned close to the roadway. Ms. Bailey asked if the neighbors will be notified about the activities surrounding the widening of the road.

Engineering Manager Christopher Montoya explained that Baseline Road is intended to be a major arterial and would be a minimum of two lanes in each direction with associated turn pockets. There will be acceleration and deceleration lanes for this development. There will be no additional trips for this development and they maintain the configuration of the development. The improvements were negotiated and signed for the Development Agreement in 2013 and no additional improvements were necessary. A traffic impact study is prepared to identify the impacts directly from the development, once those impacts are determined, the necessary improvements are determined such as signals and widening of roadways. It was determined that acceleration and deceleration lanes were needed for access into this development and the cost for a signal due to their access point for that signal. Any type of background traffic is typically covered by the impact fees and are paid by the impact to the transportation network. When the development to the southeast was done, Adams County desired to maintain their own land and roadway networks without having too much integration to the planned development to the south and they wanted to maintain separation since this was a rural area. The residents of the County at the time had stated to the County that they did not want traffic from the subdivisions. All of the access would remain in place except for the access that was never authorized and should not have been there. Emergency vehicles should have access from Baseline Road. The Adams County parcels do have several access points. There would be an impact to access the bridge because 168th Avenue and the other roadway are in the area, but this is how it was platted through Adams County and it remained separate from the development to the south. It is not typical to have two different roadways parallel to each other, but the intent was to maintain separation between the City and County. There was probably a concern with traffic for the Adams County parcels.

Planner Di Mario explained that the tumbleweed issues are being analyzed by staff and they are speaking with the owner of the property. Mr. Likar reported that they are currently under contract to have the property mowed to get into compliance with the Code violation regarding the tumbleweeds.

Mayor Mills asked if there were questions from City Council.

Councilmember Johnston asked if the last traffic impact study was from 2013, Planner Di Mario stated that is correct. Director Prather explained that a traffic impact study was not required because the land uses and density has not changed, this property is fully entitled. Staff does not legally have the ability to require a new traffic impact study since the land use densities have not changed, the property has been subdivided and there is a Development Agreement in place. Councilmember Johnston stated that the applicant is coming to Council asking them to do things, so Council has the ability to do something about these things now. A traffic impact study has to be done, Councilmember Johnston does not agree that the densities have not changed since duplexes are being added to the plan instead of single family homes. Director Prather explained that duplexes were originally contemplated in the original zoning and subdivision plat. The issue is that the LUDC has changed and they have to follow the current Code. The Code does not allow duplex units to be done as paired homes. This means that there is a home on each lot with a shared common wall. Duplexes can also be done on a common lot (one lot) with a shared wall and two units. An unforeseen consequence of the amended Code is that the developer cannot build as originally intended on the R-1-B lots. The number of units and unit type is the exact same as approved by the City Council in 2013. Councilmember Johnston asked if the density of vehicles has changed. Director Prather explained that the impacts from this development have not changed. The background traffic from surrounding areas has changed, but staff cannot legally require the developer to do a traffic impact study because the land use and density has not been revised. Councilmember Johnston asked what the purpose of zoning is if one can come back and rezone something. Director Prather explained that it is commonplace, Prairie Center and Adams Crossing have both been rezoned. Councilmember Johnston stated that there is a ton of traffic and it is completely ignorant to east Brighton to not demand that more is done with these roadways.

Councilmember Johnston asked if there are any improvements on Telluride Street. Director Prather reported that there will be improvements to the western half of North 35th from Bridge Street to Longs Peak Street, and full width of North 35th Avenue from Longs Peak Street to Baseline Road. Acceleration and deceleration lanes on the south side of Baseline Road in and out of the subdivision including escrow for the southernmost lane. Construction of the intersection at North 35th Avenue and Baseline Road including escrow for the light signalization. Councilmember Johnston asked if Telluride Street would remain a two lane road and Director Prather stated that it would. Councilmember Johnston stated that Telluride Street is dangerous and it needs to be a four lane road. Although staff is unable to legally require a new traffic study, City Council can ask for these things before moving forward. Mr. Likar reported that there will be two additional lanes on Telluride Street and it will be a four lane roadway from Bridge Street to Baseline Road. Councilmember Johnston asked when that roadway will be fully built. Mr. Likar reported that the west side from Bridge Street to Longs Peak Street would be built with Filing No. 1 and the remainder of the improvements with Filing No. 2. Councilmember Johnston stated that there needs to be a traffic study done to see what is needed. Councilmember Johnston asked if it is true that the DRC did not even ask for the 2013 study. Planner Di Mario explained that the PD requires a traffic conformance memo, which engages the background traffic data from today compared to the original traffic study done during the original entitlement and platting. This indicated that no further traffic impact study was required. This was done by a licensed engineer for the State of Colorado. Councilmember Johnston asked if the developer is bringing their own water. Planner Di Mario reported that AMREPCO has an existing water dedication agreement with the entitled platted subdivision. It states that the developer will pay at time of building permit the withheld water rights fee for water taps in the amount set forth in the Annual Fee Resolution as amended. They will pay fee-in-lieu and this agreement is non-transferrable. Councilmember Johnston asked if there were water rights and Planner Di Mario stated there were not. Councilmember Johnston explained that there are people in the audience that lease farmland and have stated that they will no longer be able to use their land for farming and asked why the City says it cares about farming but not actual farmers. Councilmember Johnston asked Council to demand a traffic impact study before this project moves forward and to see the overall development and density and what is changing from the original plan. It does not make sense if the duplexes were planned, why is this coming to Council at this time. Planner Di Mario explained that when the property was originally zoned R-1-B these types of duplexes or paired homes were an allowed use. With the adoption of the new Land Use and Development Code, a paired home is no longer allowed in the R-1-B zone district. If the PD does not exist, the developer would not be able to build the paired homes on those lots as was intended when the property was originally platted. Councilmember Johnston asked what on the map has changed from the original map. Planner Di Mario explained that the rezoning would not be changing the intended use of the R-1-B lots or the R-1 lots. Councilmember Johnston asked why each lot cannot be reviewed individually, why does the entire plan have to change without having to go through the review process every time. This also helps the City to make sure the development in an already overly dense area of human beings that we are able to make sure we see it again, how many lots are there. Planner Di Mario reported that there are 410 lots and 102 can be made to accommodate the paired homes. The smaller lots and larger footprints are becoming a more popular product and this along with the not allowed building types presented an opportunity to increase building footprint, decrease setbacks and the remainder of the area would be used for landscape which would be xeric and low water use to address the water issues the City is having. Councilmember Johnston would like to see a new traffic impact study.

Mayor Mills asked if any correspondence had been received.

City Clerk Natalie Hoel provided correspondence to Mayor Mills. Mayor Mills read the correspondence into the record.

My name is Randy Sylvester. My wife and I reside in Brighton. We will probably be unable to attend the City Council meeting next Tues, 2-1-22. It appears that the proposed PD development represents a considerable change from the 2004 approved development. We have lived here for 15 years and our property backs up to the southern retention pond about one block east of Telluride and South of Chavez Street (now closed). It would be helpful if appropriate landscaping (a few of evergreen trees perhaps) could be planted just west and south of the intersection of Telluride and Chavez Streets which would help screen our view from the 20 foot or higher condos planned for this area. I would like this request to be submitted into the record. Will there be other opportunities to review and possibly comment upon the landscaping plans? Thanks for your help. I can be reached by phone or email.

Mayor Pro Tem Cushing asked if the developer could apply for a variance on all lots or apply for a PD. Director Prather explained that staff looked at all options and one option is that they could apply for a variance on all the lots. Staff was directed by the City Attorney's office that the variance is not the proper avenue for amending a subdivision. A variance is typically for an individual homeowner with a site specific condition that cannot be met. This is more global in nature so to give variances away from the Code indicates that either the Code needs to be amended or the other avenue is a PD. If there were any other issues, which there were, that can be corrected through the PD process. The PD process reduces the standards and setback requirements and allows the developer to build the paired homes. The City has asked for things that benefit the City as a whole. Staff feels that the benefit to the City is the use of xeric and a special planting palette to reduce the water consumption for the development. Mayor Pro Tem Cushing asked if this is not approved, can the developer be given a variance and does that require Council approval. Director Prather reported that the Planning Commission approves variances. City Attorney Alicia Calderón explained that a variance would have to be approved for each house as it was built and this would be difficult for a developer to go through this process for each house that is built. A developer could request a variance for each home, but that is not the way it should be done. The developer already has a PUD that was approved and they chose to participate with City staff to update it to a PD, but they did not have to. It can revert to the subdivision plan that they have and it could move forward that way. Mayor Pro Tem Cushing asked if this is not approved, would it revert back to the old Code and they would be grandfathered in. City Attorney Calderón stated that it would. Mayor Pro Tem Cushing stated that the development will get built no matter what the action of Council is and this action would streamline the process and make sure it is done correctly. Planner Di Mario stated that is correct, this is a platted and fully entitled subdivision and could develop as currently zoned and platted. Mayor Pro Tem Cushing asked if there would be sidewalks on Telluride Street, Bridge Street and Baseline Road. Planner Di Mario explained that if the PD moves forward, the developer would need to submit civil construction documents and during that administrative process the DRC team would review to make sure all engineering standards are up to Code, this includes sidewalks, trails, ADA compliance and landscaping. Mayor Pro Tem Cushing asked if the developer would be putting in infrastructure for non-potable water for the parks. Utilities Director Brett Sherman stated he does not know, but it is not required at this time. Mayor Pro Tem Cushing feels it would be a lot harder to add this after the development is completed.

Councilmember Padilla asked if it is a good strategy to have a mix of water rights and fee-in-lieu for projects in the City. Director Sherman stated that they would prefer water dedication as a long-term solution, but this was authorized some time ago with the fee-in-lieu. Councilmember Padilla appreciates the alley load building type and feels that the paired homes are an essential part of the structure that we are trying to build in the City and the affordable housing goals. Councilmember Padilla asked if the setback from the street is more restrictive in the current Code than what was originally planned and the concession is allowing the paired homes to be closer to the street. Planner Di Mario explained that the setbacks for the paired homes and single-family detached are being reduced. Councilmember Padilla asked if the previous duplex plan allowed for two homes on two lots with a common wall, but the current one requires two homes with a shared wall to be on a single lot. Planner Di Mario explained that the current Code provides a description of allowed building types in a zone district. There are two types of duplexes in the current Code, a duplex multi-unit house, these are described as a house that looks like a house but you cannot tell what is happening on the inside. A suburban duplex or paired home is a structure that you can see is two separate units. That is the intent of these current lots. The suburban duplex is not an allowed building type in the current R-1-B zone district. Councilmember Padilla asked if the intent is to create the PD to allow the original intent of the development to take place with the same number of single-family homes and paired homes from the original plan. The rules have just changed since then, this would retain the original design. Planner Di Mario stated that is correct and noted that the R-1-B lots that can accommodate the paired homes can also accommodate the single-family detached homes. Councilmember Padilla asked for clarification on what is being studied in the traffic impact study, what is the volume of traffic generated by the neighborhood and if the number of houses has not changed, that is why a new traffic study would not be applicable. Engineering Manager Montoya explained that when a development is planned it is determined how many trips would come from the development. This determines what impact the development would have on intersections, turn lanes, the length of turn lanes, and it analyzes all of those components. The study is then reviewed to determine if improvements are needed like the addition of traffic signals and improvements to roadways. This development requires access to the subdivision on Baseline Road and a traffic signal. Any background traffic does not apply and is not the responsibility of the developer because it is not their traffic. If the proposed development does not

change, their obligation does not change. The background traffic becomes the responsibility of the jurisdiction or other entity. Councilmember Padilla stated that the volume of traffic has changed since 2013, but the contribution of this development to the traffic in the area remains the same. The obligation of the developer is not to keep up with the volume of Brighton traffic surrounding the development, but to track the contribution to the total amount of traffic from the development. Engineering Manager Montoya stated that is correct. If the developer were asked to contribute 10% of the traffic signal originally and the background traffic has increased, the developer would now be asked to contribute 2% of the signal since their impact has been reduced. Councilmember Padilla heard comments that if the PD were to be approved it would prohibit the use of the A-1 farm zone. People indicated that there was a concern for weed abatement and treatment of the farmland and concern for trash in the area, Councilmember Padilla did not hear anyone say that they could not use their land as farmland. Planner Di Mario stated that the area surrounding the property to the east, west and south is Adams County property A-1 zoning agriculture and is or could be used as some form of agriculture. This is a fully entitled subdivision and its development would not prevent the surrounding property from utilizing agriculture.

Councilmember Blackhurst appreciates the detailed and informative presentation by staff. When this property was being considered for annexation there was an issue with drainage and those issues have been resolved. Councilmember Blackhurst appreciates the roadways that are being completed to four lane roads from Bridge Street to WCR 2 but would like to see a diagram of the proposed improvements to the roadway. Councilmember Blackhurst recommends that the City complete its own car count on WCR 2 and feels that the traffic light needs to be installed at the same time as the development, not after the subdivision is finished. This will help to slow traffic in the area. Staff needs to complete some roadways, this gives the City the opportunity to complete Longs Peak Street behind the Sheriff's Office. The City needs more east/west access and Councilmember Blackhurst would like funds dedicated to connecting Longs Peak Street. Councilmember Blackhurst asked that staff discuss with the developer to place non-potable lines into the park for future use.

Councilmember Watts expressed concern for the traffic in the area from all of the developments, not just this development and asked what Council can do to mitigate some of this by requiring studies that are more recent. Traffic has changed a lot in the past eight years and it is imperative to see more of what is taking place. This item should be continued to a later date and Council should not make any decision tonight.

Councilmember Pawlowski stated that Brighton is growing and we have to do it in the best way possible. Councilmember Pawlowski asked staff to provide Council with a housing inventory in Brighton. There is a concern about huge apartment buildings and the lack of water in the City.

Councilmember Johnston asked if it is worse to have a fee-in-lieu than to have the developer bring their own water. Director Sherman said at this time, it is best to have water. Councilmember Johnston stated that Council must demand that the fee-in-lieu does not exist as often as possible. Councilmember Johnston asked if Telluride Street will be a four lane road. Councilmember Johnston expressed concern about comments made earlier regarding background roads and the traffic in the area. Telluride Street has not had a traffic study since 2013 and this item should be continued until a traffic study is done on Telluride Street. Engineering Manager Montoya explained that the traffic impact study determines the impact to traffic that the development is responsible for. Background traffic has increased from 2013 to 2022. It has increased substantially because of the growth in the area. The Master Transportation Plan was developed to identify the network of roadways in the City. There is a lag in improvements and there will be growing pains, but staff feels the network is adequate. There will be an increase in background traffic for a development like this, but that does not change the obligation of the developer for their development. The City has new radar counters and is collecting data regarding numbers and speed of traffic. This information is shared with DRCOG. Installing a signal does have to be warranted and staff is continually monitoring the counts at the intersection. Councilmember Johnston stated that the citizens do not care if the improvements are done by the developer or the City and asked if Telluride Street needs to be four lanes. Councilmember Johnston feels the underestimation of the traffic on Telluride Street is appalling and a development cannot come in if the road cannot be made safe.

Councilmember Taddeo is clearer on the traffic study discussion and is happy that the counters are being utilized to watch the traffic and plan for the future. Councilmember Taddeo asked that if this is

approved, can the request for non-potable lines still be asked. Planner Di Mario explained that the civil construction documents would need to be refreshed and the total layout of sewer lines, water lines, roads, and infrastructure would all be addressed in those documents. Director Sherman explained that adding the non-potable lines would add to the cost of the project and the City could ask for consideration of this. The City cannot require it. Councilmember Taddeo asked if this will be a requirement for developments in the future. Director Sherman explained that staff is looking to add those provisions. Director Prather explained that the Development Agreement section regarding the parks states "the developer shall construct all improvements for the community park consistent with the approved Final Plats, Construction Plans, Community Park Plans and the Community Park Standards and Specifications in the City's Parks Master Plan in effect at the time of construction". The Construction Plans, also known as civil documents do have to be updated as civil drawings are only good for one year in Brighton. Those need to be updated on a regular basis because the standards change. If the City were to adopt a requirement that a developer has to put in non-potable lines to any community or neighborhood parks and they submitted after that time, the developer would have to comply with that. These discussions are taking place now to update the Public Works Specifications.

Engineering Manager Montoya explained that the Master Transportation Plan shows Telluride Street as a one lane in each direction with adequate room for bike lanes. It is designed to be a collector roadway. Councilmember Johnston is concerned that the developer said this would be a four lane road. Councilmember Johnston stated that staff cannot ask for certain things, but Council can ask for a four lane road and non-potable lines. Councilmember Johnston asked the City Attorney if Council can ask for those things. City Attorney Calderón explained that Council can ask for anything, but it is not part of this process or part of the review criteria. Council can make their decision tonight based on the criteria. Councilmember Johnston asked if this is rezoning and City Attorney Calderón stated it is rezoning and it is up to the applicant to agree to these requests. Councilmember Blackhurst stated that Council was told by the applicant that this is a four lane road. Councilmember Johnston would like to come back to this at a future meeting and request answers for these questions and responses from the developers for the requests that have been made.

Councilmember Padilla thanked Engineering Manager Montoya for answering his questions about background traffic and not background roads. There is a determination of when lights, four way stops and extra lanes are justified and that is critical and needs to be understood about the development of Baseline Road, Telluride Street and continued development of Bridge Street. A traffic study regarding this development will only state what the developments contribution to the overall traffic would be. That is not the proper justification for a delay of action on this item. It is a good question for staff to look at what the City can do overall in managing this traffic. Councilmember Padilla asked for clarification if this is an Ordinance to approve the development at first reading and asked if this would come back to Council and what would be the difference from first reading to second reading. City Attorney Calderón explained that if there are questions that Council would like answered at the second reading, Council could refer and request that the information be brought back before a decision is made at second reading. If the information is not sufficient at that time, a request could be made to continue the item then. Councilmember Padilla feels that would be a more appropriate action because there are some things in the hands of the developer that need to have decisions made. Councilmember Padilla does not want to discourage the developer from approaching the things that would allow for paired homes and instead submit for single homes. Councilmember Padilla would like answers regarding the overall traffic in the surrounding area, how to approach the expectation on water and clarification regarding the confusion about Telluride Street.

Councilmember Blackhurst stated that because of the confusion between the developer and staff regarding Telluride Street he does not know what to do about this and is not willing to pass this onto second reading. Councilmember Blackhurst would like an answer to this question. Planner Di Mario explained that Telluride Street, when fully constructed will be one lane in each direction with center turn pockets and room for bike lanes. In the presentation it was stated that the Development Agreement requires the developer to construct the western half of Telluride Street from Bridge Street to Longs Peak Street and the remainder and full width, one lane in each direction, from Longs Peak Street to Baseline Road. Councilmember Blackhurst asked the developer to clarify his statement that Telluride Street would be a four lane road. Mr. Likar apologized and stated that when he looked at the PD collector road it has 26' on each side and he assumed it was two lanes, but the construction plans show that it is one lane with turn pockets.

Mayor Mills closed the public hearing at 8:14 p.m.

Motion by Councilmember Johnston, seconded by Councilmember Watts, to continue the Ordinance to Tuesday, February 15, 2022 and at that time judge whether or not Council is able to have the traffic study and an included idea about non-potable water being included. Motion passed by the following vote:

Aye: 6 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Pollack and Councilmember Watts

No: 3 - Councilmember Padilla, Councilmember Pawlowski, and Councilmember Taddeo

B. First Amendment to the 2022 Budget

City Manager Martinez explained that due to some budget savings in the Utilities Fund, this action no longer needs to be taken. The request is to withdraw this item.

Motion by Councilmember Blackhurst, seconded by Councilmember Watts, to withdraw the Resolution. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

7. ORDINANCES FOR INITIAL CONSIDERATION

8. ORDINANCES FOR FINAL CONSIDERATION

9. RESOLUTIONS

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACCEPTING THE PROPOSAL OF FCI CONSTRUCTORS, INC. AND APPROVING THE PROCUREMENT OF MUNICIPAL SERVICE CENTER CMAR, PROJECT #21-007046, TO FCI CONSTRUCTORS, INC FOR THE CONTRACT AMOUNT OF THIRTY-FOUR THOUSAND FIVE HUNDRED DOLLARS (\$34,500), AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE AND SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO**

Mayor Mills read the title of the Resolution into the record.

City Manager Martinez introduced Public Works Director Michael Woodruff.

Public Works Director Michael Woodruff presented the CMAR contract for the Municipal Service Center. Staff will look to move the project forward sooner than anticipated. Staff recommends awarding the contract to FCI Constructors, Inc. for \$34,500 for Phase I of the CMAR.

Motion by Councilmember Watts, seconded by Councilmember Padilla, to approve Resolution 2022-09. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

10. UTILITIES BUSINESS ITEMS

11. GENERAL BUSINESS

A. Consider Appointment of Board and Commission Applicants

12. REPORTS

A. By the Mayor

Mayor Mills attended the NATA meeting.

B. By Department Heads

C. By the City Attorney

D. By the City Manager

City Manager Michael Martinez reported that the Tri-County mask mandate will be rescinded as of Friday so there will not be a mask mandate at City Hall. There are still CDC regulations in place regarding masks for illness. City facilities will be closed tomorrow due to bad weather. The Brighton Housing Authority was recognized by the Adams County Commissioners for their Emergency Rental Assistance Program during the pandemic.

13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Councilmember Padilla spent time with the Brighton Housing Authority and attended a Tri-County Health Department event.

Councilmember Pawlowski attended the E-470 meeting.

Councilmember Taddeo attended the Downtown Partnership meeting and Harry Potter Day will take place Downtown in March.

14. EXECUTIVE SESSION

- A. Motion by Councilmember Cushing, seconded by Councilmember Watts, to go into Executive Session at 8:45 p.m. for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding Ward Redistricting Consultant. Motion passed by the following vote:**

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

Mayor Mills reconvened the meeting at 9:35 p.m.

- B. Motion by Councilmember Cushing, seconded by Councilmember Watts, to go into Executive Session at 9:36 p.m. for a conference with the City Attorney for the purpose of receiving legal advice and respond to legal questions regarding police internal investigations pursuant to C.R.S. Section 24-6-402(4)(b) and Litigation. Motion passed by the following vote:**

Aye: 9 - Mayor Mills, Mayor Pro Tem Cushing, Councilmember Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

Mayor Mills reconvened the meeting at 10:25 p.m.

15. ADJOURNMENT

Mayor Mills adjourned the meeting at 10:26 p.m.

CITY OF BRIGHTON, COLORADO



Gregory Mills, Mayor

ATTEST:



Natalie Hoel, City Clerk



Approval Date