



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: **Resolution of the Castle Rock Town Council Making Required Statutory Findings Concerning the Eligibility of Certain Property for Annexation (StorQuest-Liggett Road Annexation)**

Executive Summary

Kim Barrett, KGCB Industries, has submitted a Petition for Annexation for four parcels of land that are located approximately one tenth of a mile south of the intersection of State Highway 85 and Liggett Road (Attachment A). The properties are bounded by unincorporated Douglas County properties to the north and south, Union Pacific Railroad right of way to the west and Metzler Ranch PD (1996) to the east.



Vicinity Map

On May 18, 2021, Town Council found the Petition to be in Substantial Compliance with the applicable requirements of the Colorado Municipal Annexation Act of 1965 and scheduled the Eligibility Hearing for July 6, 2021 by a vote of 7-0. The purpose of this hearing is for Town Council to review the statutory allegations made in the Annexation Petition and make a determination as to whether the property is eligible to be considered for annexation into the Town of Castle Rock (Attachment B).

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 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.
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.
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 the Eligibility Hearing step in the process. 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 request is found to be Eligible can the Town hold a hearing to determine whether the property should be annexed. The legal description of the property in question is attached (Attachment B, Exhibit A). Staff finds that the proposed annexation meets State of Colorado requirements and recommends approval of the Eligibility resolution.

Notification and Outreach

The Town has published notice of the Eligibility Hearing in the Douglas County News-Press for four consecutive weeks prior to the hearing date. The first publication on May 27th was at least 30 days prior to the date of the Eligibility Hearing. The Town provided notice to all tax entities within the proposed annexation, as well as to the Douglas County Commissioners and the Douglas County Attorney's Office. As the property is less than 10 acres, an Annexation Impact Report per the requirements of §31-12-108.5 C.R.S. is not required. In addition, at least 15 days prior to the Eligibility Hearing written notice of the 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 posted on the Town's website.

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

On May 18, 2021, Town Council found that the Petition was in Substantial Compliance with the State of Colorado requirements for annexation requests and scheduled the Eligibility Hearing for July 6, 2021.

Discussion

The Property

The property consists of four parcels, approximately 5.3 acres, is located south of the Liggett Road / State Highway 85 intersection. Under the jurisdiction of Douglas County, three of the parcels are zoned as General Industrial (GI) and the fourth parcel is zoned as Agriculture One (A-1). The current use on the property is outdoor storage.

The property is surrounded on three sides by unincorporated Douglas County; the two parcels to the north are zoned GI and A-1, the property to the west is zoned A-1 and the two parcels to the south are zoned GI. To the east the property is contiguous with the Town of Castle Rock town boundary, and property that is zoned Industrial within the Metzler Ranch Planned Development (PD).

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.

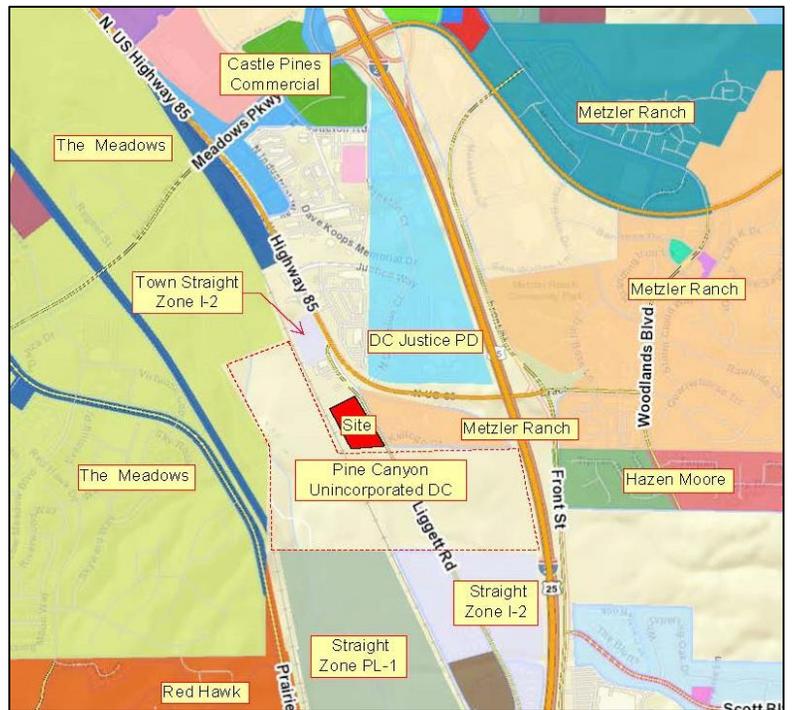
1. The requirements of §31-12-104 and 31-12-105 C.R.S. exist or have been met in that:

- 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 2044.87 linear feet (LF). The 1/6th minimum requirement for contiguity is 340.81 LF. The actual contiguous perimeter is 666.50 LF.

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

Although adjacent to unincorporated Douglas County on three sides, a broader view shows that the property is surrounded by the Town boundaries. With the exception of the properties directly to the north and south of the property, the remainder of the properties on Liggett Road are in the Town boundaries. This area proposed to be annexed is a logical infill site and consistent with the orderly development of the Town.



Surrounding Town Boundaries and Zoning

- 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 accessed by Liggett Road, a Town of Castle Rock street. The Castle Rock Water Strategic Plan – Renewable Water Inclusion Area Map categorizes the four parcels 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 move 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 B, Exhibit A: Legal Description
- Attachment C: Annexation Plat
- Attachment D: Resolution
- Attachment E: Applicable Sections of the Colorado Revised Statutes