



Commerce City

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Council Communication File Number: AN-259-21

Agenda Date: 10/4/2021

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Ordinance

Agenda Number:

AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED TERRITORY KNOWN AS THE CANAM ANNEXATION, GENERALLY LOCATED AT 9940 EAST 112TH AVENUE TO THE CITY OF COMMERCE CITY, COLORADO

Note: Because the annexation ordinance cannot be considered on first reading at this time, a continuance of this ordinance and a re-opening of this hearing is recommended. Part of the he public hearing may be conducted.

The applicant has requested that Council continue the hearing related to the CanAm annexation and zoning to November 15 (see attached October 1 Letter). A continuance is recommended to ensure compliance with the Municipal Annexation Act and requirements of the Land Development Code. The Council may open the hearings and hear some testimony or may continue the hearings without hearing any testimony.

Summary and Background Information:

The proposed CanAm community is an approximately 36.7 acre multi-family and commercial development envisioned to bring new uses to northwestern Commerce City. The site is currently used for agriculture and is located in unincorporated Adams County. The property is located at 9940 E. 112th Avenue, by the intersection of E. 112th Avenue and U.S. Highway 85. This portion of U.S. Highway 85 route is part of the Canadian American Highway from which the community derives its name. This highway establishes the eastern edge of the site. To the north of the site, across East 112th Avenue, is Dunes Park, a residential community of single family detached and condominium homes. To the west of the site, across Belle Creek Boulevard, is a water retention area belonging to the City and County of Denver. The Belle Creek residential community of single-family homes is located to the south of the site.

Additional record materials may be found in the Planning file for Case #AN-259-21.

Please see draft Planning Commission minutes, Planning Commission staff report, and additional materials contained in the agenda for Resolution 2021-61 and Zoning Ordinance Z-964-21 for detailed background and discussion of the annexation, the proposed annexation zoning, and related pending development approvals.

Purpose of Ordinance: The annexation ordinance is considered following the approval

of a resolution determining the eligibility of the subject property for annexation. Once approved on second reading, subject to any terms of the Annexation Agreement, the ordinance and other documents are filed with the Adams County Clerk and Recorder to make the annexation effective. Approval of the annexation ordinance does not approve the annexation zoning.

Notice Information: Public notice was given in the manner and duration required by the Land Development Code.

Applicable Decision Criteria: Council will consider the annexation ordinance following the decision on the resolution determining eligibility for annexation. The annexation ordinance does not need to be considered on the same date as the resolution's approval. The annexation ordinance is a legislative act reflecting a policy decision of the City Council.

Per LDC 21-3340, Council may approve the annexation application and approve the annexation ordinance if all of the following criteria are found to be satisfied:

- (a) The annexation is in compliance with applicable state laws and this land development code;
- (b) The annexation is consistent with the comprehensive plan, and the best interests of the city would be served by annexation of such property;
- (c) The property is within the Municipal Service Area (MSA) of the Commerce City Growth Boundary as stated in the comprehensive plan. No property outside of the MSA or Growth Boundary shall be considered for annexation unless the city council finds that, consistent with the comprehensive plan, the best interests of the city would be served by annexation of such property and provided a land use plan for the area proposed to be annexed is submitted together with the annexation application;
- (d) The property is capable of being integrated into the city in compliance with all applicable provisions of this land development code;
- (e) At the time any development of the area proposed to be annexed is completed, there is a reasonable likelihood that capacity will exist to adequately serve residents or users of such area with all necessary utilities, municipal services and facilities; and
- (f) The annexation boundaries are configured such that the annexation will not limit the city's ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed.

In addition, an annexation agreement is required by LDC 21-3320 before any annexation may be approved. The annexation agreement must be signed by the property owners and approved by the city before first reading of any annexation ordinance. **The terms of an annexation agreement have not been reached as of the date of agenda publication.**

Finally, the City Council may consider any development approval applications commenced for the area to be annexed during its consideration of the annexation

ordinance, per LDC 21-3320.

Staff Responsible (Department Head): Jason Rogers, Deputy City Manager of External Services

Staff Member Presenting: Andrew Baker, City Planner

Financial Impact: n/a

Funding Source: n/a

Staff Recommendation: Continuance until eligibility for annexation can be determined and terms of an annexation agreement are reached.

Suggested Motions: I move to continue Ordinance AN-259-21 to November 15, 2021 (or identify no date) and to re-open the public hearing at that time.

- To move to continue Ordinance AN-259-21 (first reading): I move to introduce and approve Ordinance AN-259-21 on first reading by Council as seated. [Requires simple majority]
- To finally approve (second reading): I move to approve Ordinance AN-259-21 on second and final reading by Council as seated. [Requires a majority of the members of council in office to pass an ordinance on final reading (i.e., 5 votes).]

Alternate Motion:

- To continue this ordinance: I move to continue Ordinance AN-259-21 to _____ (or identify no date).