



### AGENDA MEMORANDUM

**To:** Honorable Mayor and Members of Town Council

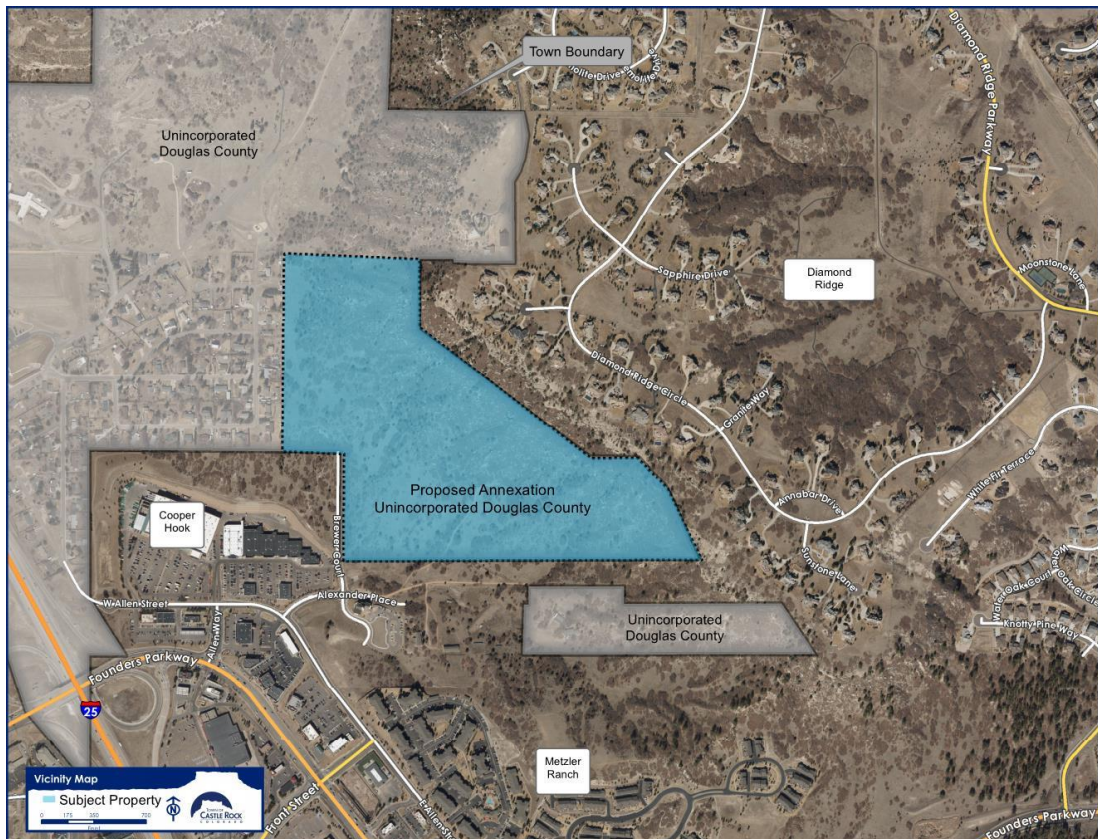
**Through:** David L. Corliss, Town Manager

**From:** Tara Vargish, PE, Director, Development Services  
Brad Boland, AICP, Senior Planner, Development Services

**Title:** **Resolution TBD by Legal** (Alexander Way Annexation)

#### Executive Summary

The applicants, **455 ALEXANDER, LLC, AND TIERRA INVESTORS, LLC**, have submitted to the Town of Castle Rock a Petition for Annexation for unincorporated property in Douglas County, known as Alexander Way Annexation. The property is approximately 73.76 acres in size and is located east of the Silver Heights subdivision in unincorporated Douglas County, north of Alexander Place, and west of the Diamond Ridge Estates neighborhood. It is generally located northeast of Home Depot (Attachment A).



Vicinity Map

On October 19, 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 December 7, 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 November 4, 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 October 19, 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 December 7, 2021.

### **Discussion**

#### **The Property**

The property is currently under the jurisdiction of Douglas County. The property is located east of the Silver Heights subdivision in unincorporated Douglas County, north of Alexander Place, and west of the Diamond Ridge Estates neighborhood. It is generally located northeast of Home Depot. The 73.76-acre property is zoned A1 – Agricultural One in unincorporated Douglas County and is undeveloped.

The property is bordered by the Town on the south and east and bordered by unincorporated Douglas County to the north and bordered by both the Town and unincorporated Douglas County to the west. To the north, the property is bordered by two properties in unincorporated Douglas County, one of which is zoned A1 – Agricultural One and the other Rural Residential. On the west, the property is bordered by the Silver Heights a single family residential subdivision in unincorporated Douglas County at the northern section of the property and the Town property on the southern portion of the property, known as the Cooper Hook PD. The Cooper Hook PD, a Planned Development allows a variety of commercial uses. To the south, the property is bordered by Town property, the Cooper Hook PD once again. To the east, the

property is bordered by Town property known as Diamond Ridge Estates PD. The Diamond Ridge Estates PD is Planned Development that allows for 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.

### 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 8,783.27 linear feet (LF). The 1/6<sup>th</sup> minimum requirement for contiguity is 1,463.88 LF. The actual contiguous perimeter is 6,566.49 LF, which exceeds the 1/6<sup>th</sup> 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. The annexation would further fill in a hole within the Town border. 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.

- 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 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**

#### **Option 1: Approval**

*"I move to approve the Resolution as introduced by Title."*

#### **Option 2: Approval with Conditions**

*"I move to approve the Resolution as introduced by Title, with the following conditions:"* (list conditions)

#### **Option 3: Continue item to next hearing (need more information to make decision)**

*"I move to continue this item to xxxxxxx meeting on xxxxx, 2022."*

## **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