



STAFF REPORT

To: Honorable Mayor and Members of Town Council

Through: Tara Vargish, Director, Development Services

From: Brad Boland, AICP, Planner II, Development Services Department

Title: Resolution: Memmen Parcel Substantial Compliance

Executive Summary

Barbara J. Lincoln has submitted a Petition for Annexation for a parcel of land which is located west of Ridge Road, south of Fifth Street, and north of the Plum Creek Parkway. The property is surrounded by the Memmen Young Planned Development.

Petitions for Annexation require public hearing before Town Council for review and determination of its Substantial Compliance with the applicable requirements of the Colorado Municipal Annexation Act (Act).

If Town Council concurs a Petition for Annexation is in Substantial Compliance with the Act, the Act mandates that Town Council set a date for its Eligibility Hearing. The Eligibility Hearing determines if



the allegations made in the petition are supportable and eligible to move forward to the Town's Annexation and Zoning process. If this Substantial Compliance Resolution is approved, then the Eligibility Hearing for this petition will be scheduled for October 6, 2020.

Please note that the Substantial Compliance and Eligibility hearings only determine whether or not a Petition for Annexation meets the legal requirements to move forward to the Town's Annexation and Zoning process. It is at the future Town's Annexation and Zoning hearings that Town Council determines whether or not it is in the Town's interest to annex the property.

Discussion

The Property

The annexation petition known as Memmen Parcel was filed with the Town Clerk on July 10, 2020. The proposed annexation area is 5 acres. The property is a vacant site zoned Agricultural 1 under the jurisdiction of Douglas County.

Annexation Process

There are three steps required in the annexation process. The following summarizes the three steps:

1. **Substantial Compliance** – The Town must determine if the annexation petition is in the prescribed form and contains the necessary statutory allegations. In addition, 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. The Town 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, the Town will determine if the assertions 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 Hearing. If this Substantial Compliance Resolution is approved, the Eligibility Hearing for the Memmen Parcel Annexation will be scheduled for October 6, 2020 (***Attachment A***).
3. **Annexation and Zoning** – Once a request has been found to be eligible for annexation, the Town can 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.

Substantial Compliance Findings

This application meets the requirements of the first step in the annexation process. Staff recommends that Town Council make a finding that this application substantially complies with Section 30 of Article II of the Colorado Constitution and with the Colorado Revised Statutes (C.R.S.) § 31-12-107(1) given that:

1. The Annexation Petition has been signed by more than 50% of the landowners, owning more than 50% of the land, excluding right-of-way and property owned by the Town of Castle Rock. In fact, the Annexation Petition is signed by all of the property owners.
2. The petition (***Attachment B***) was filed with the Town Clerk on July 10, 2020.

3. The petition contains:

- a. An allegation that it is desirable and necessary that such territory be annexed to the Town;
- b. An allegation that the eligibility requirements of §§ 31-12-104 and 31-12-105 C.R.S. exist or have been met;
- c. An allegation that the signers of the petition comprise the landowners of more than fifty (50%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys;
- d. A request that the municipality approve the annexation;
- e. The signatures of the land owners;
- f. The mailing address of each signer;
- g. The legal description of the land owned by such signer;
- h. The date of signing of each signature; and
- i. The affidavit of each circulator of such petition, whether consisting of one or more sheets, that each signature therein is the signature of the person whose name it purports to be.

4. An annexation map (**Attachment C**) was filed with the Clerk, containing:

- a. A written legal description;
- b. A map showing the boundary of the area proposed for annexation;
- c. An indication of ownership tracts; and
- d. A depiction of the contiguous boundary of the property with any municipality.

5. No signatures on the petition are dated more than 180 days prior to the date of filing.

Staff finds that the annexation request meets the statutory requirements and the request should be deemed substantially complete.

Budget Impact

The action of determining substantial compliance does not have any financial impact.

Staff Recommendation

The application substantially complies with the State requirements and staff recommends setting an Eligibility Hearing date of October 6, 2020.

Proposed Motion

I move to approve the Resolution as introduced by title.

Attachments

- Attachment A: Resolution
- Exhibit A: Legal Description
- Attachment B: Annexation Petition
- Attachment C: Annexation Plat Map
- Attachment D: CRS §§ 31-12-104 and 31-12-105