



MEETING DATE: December 12, 2023

ITEM NUMBER: 9.A

SECOND READING:

November 14, 2023

TYPE OF ITEM: Consent

PRESENTED BY:

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SUBJECT/AGENDA TITLE:

A Bill For An Ordinance Conditionally Approving The 11386 East Rogers Road Annexation And Concept Plan (Generally Located In The Southwest Quarter Of Section 2, Township 2 North, Range 69 West Of The 6th P.M.) And Zoning The Property MU-E (Mixed Use - Employment)

EXECUTIVE SUMMARY:

An annexation petition has been filed for 11386 East Rogers Road, generally located on the south side of East Rogers Road, south of Weaver Park Road and between Lashley Street and Alpine Street. The application includes annexation of 11386 East Rogers Road, which is approximately 9.24 acres. The property is currently zoned General Industrial in unincorporated Boulder County. The applicant proposes to zone the property MU-E (Mixed-Use – Employment) consistent with its Envision Longmont land use designation of Mixed Employment. Following is the proposed annexation review schedule:

Annexation Review Schedule

1st resolution on statutory compliance	October 10, 2023
2nd resolution and public hearing on statutory compliance	November 14, 2023
1st reading of the annexation ordinance	December 12, 2023
2nd reading and public hearing on the annexation ordinance	January 9, 2024

COUNCIL OPTIONS:

1. Approve the annexation and zoning ordinance, finding the application complies with the City's review criteria and/or state statutes regarding compliance.
2. Approve the annexation and zoning ordinance, with conditions or modifications if necessary, to bring the application into compliance with the City's review criteria and/or state statutes regarding compliance.
3. Do not approve the ordinance, finding the annexation and zoning does not comply with the City's review criteria and/or state statutes.

RECOMMENDED OPTIONS:

Annexation is a discretionary act and the decision to annex the property into the City of Longmont is a policy decision. The Planning and Zoning Commission reviewed the annexation and zoning on September 20, 2023, and voted 5-2 to recommend approval. Option #2 is recommended for City Council action.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

N/A

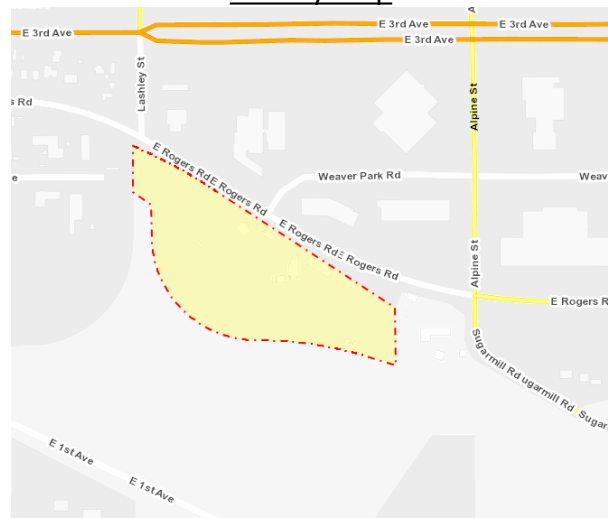
BACKGROUND AND ISSUE ANALYSIS:

This application is a request for annexation of 9.24 acres located at 11386 East Rogers Road and zoning to Mixed-Use – Employment (MU-E) to facilitate development of approximately 355 units of multifamily housing. Multifamily housing is a permitted secondary use in the MU-E zoning district. The property currently contains outside storage, auto repair and auto wrecking uses, and is zoned General Industrial in unincorporated Boulder County. 11386 East Rogers Road is part of a larger county enclave, though does not meet the legal standards of an enclave for annexation purposes.

On October 25, 2022, City Council authorized staff to accept and process an annexation application for 11386 East Rogers Road. A formal annexation application was filed on November 16, 2022, after a neighborhood meeting held November 10, 2022. The Planning & Zoning Commission held a public hearing on September 20, 2023, and recommended approval of the annexation by a 5 to 2 vote.

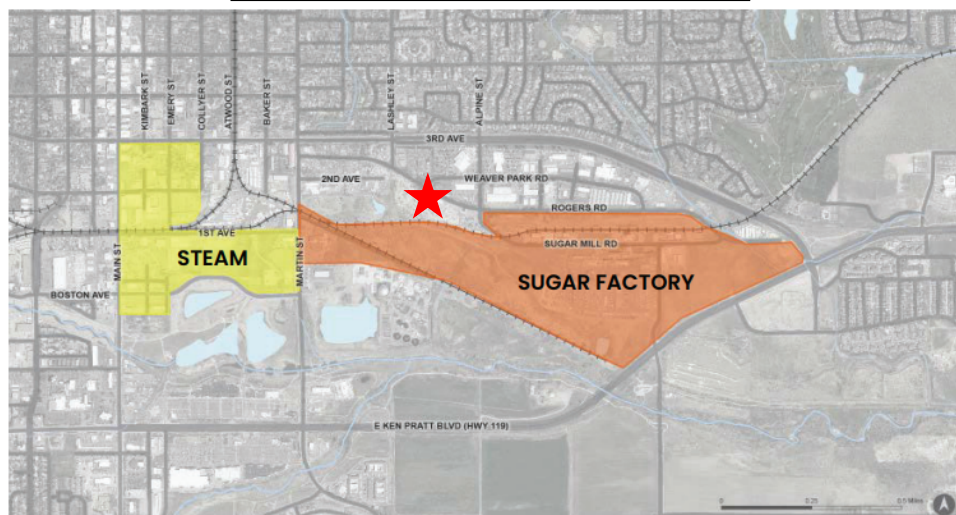
The property is designated Mixed Employment on the Envision Longmont Comprehensive Plan as mixed neighborhood. The proposed MU-E (Mixed-Use – Employment) zoning of the property aligns with the comprehensive plan designation.

Vicinity Map



The subject property is immediately north of the Sugar Factory Subarea Planning Area in an area designated as Mixed Employment in Envision Longmont. A map of this planning area is provided below. The subject property for this proposed annexation is indicated with a red star. The Sugar Factory Subarea Plan is focused on restoration and reuse of the historic sugar factory buildings, with a mix of urban scale land uses. Building a walkable community is emphasized in this area. Brownfield mitigation is an anticipated prerequisite to any development in this area.

Sugar Factory and STEAM Planning Area



City Council reviewed the applicant's request for annexation referral on October 25, 2022, and directed staff to accept the formal annexation application. Referral of the annexation application does not obligate Council to approve the annexation. Annexation is a discretionary, legislative act. The City shall never be compelled to annex unless otherwise required by Colorado Revised Statutes.

11386 East Rogers Road is within the Longmont Planning Area and meets the one-sixth contiguity requirement established by C.R.S. 31-21-104(a). As noted previously, this property is part of a larger unincorporated enclave. There is sufficient infrastructure capacity to serve this property.

Annexation applications require review by the Planning and Zoning Commission as a recommending body. The Commission provides a recommendation on the annexation to the City Council, which is the decision-making body for this type of application. The Planning and Zoning Commission held a public hearing on this proposed annexation at their September 20, 2023, meeting. The Commission's deliberations on this item focused on the issues of secondary uses and apparent discrepancies between Environmental Site Assessments conducted in 2021 and 2022 relating to soil and groundwater contaminants.

The Commission ultimately recommended approval of this proposed annexation by a vote of 5 to 2, conditioned upon review and acceptance of the Limited Phase 2 Environmental Site Assessment dated June 2022. Following the September 20, 2023, Commission meeting, staff and their consultants further reviewed the Environmental Site Assessments and concurred with the June 2022 report findings that no further investigations of the site were warranted given that there were no identified exceedances of state standards for soil and groundwater contaminants. The condition of the Planning and Zoning Commission's recommendation of approval has been satisfied.

CRITERIA EVALUATION

The applicant is responsible for demonstrating that the application meets the applicable review criteria. The following is staff's evaluation of the review criteria.

Review Criteria for All Application Types – Section 15.02.055

- The application is consistent with the comprehensive plan and the purpose of the code and zoning district; conforms to any previously approved concept plan, preliminary plat, or PUD overall development plan; and complies with all applicable statutes, codes, ordinances and regulations.**

The requested annexation and MU-E zoning is generally consistent with the existing Mixed Use-Employment designation in Envision Longmont. The property is located within the Municipal Service Area, and is eligible for annexation based on its location within a county enclave, and meeting the one-sixth contiguity requirement of C.R.S. 31-12-107. The property is accessible to planned or existing utility and transportation infrastructure and within an "area of change" identified in Envision Longmont that is appropriate for the type of infill and redevelopment proposed here.

The proposed property zoning is Mixed-Use – Employment (MU-E). The proposed zoning is consistent with the property's current Envision Longmont Mixed-Use Employment land use designation.

The Mixed Use Employment land use category includes the following characteristics:

- Promotes the diversification of older employment areas by encouraging a greater variety of employment spaces that meet the changing needs of existing businesses and startups.
- Provides flexibility for the adaptive reuse of existing industrial buildings and for the incorporation of high density residential and live/ work opportunities in close proximity to employment and supporting services in transitional areas.

- Located within walking distance of public transportation; enhanced pedestrian and bicycle networks are needed in many cases.

The Mixed Use Employment land use category allows for residential uses as a secondary use at a minimum density of 18 dwelling units per acre, with no maximum density. Primary uses include a range of employment uses, including small-scale manufacturing, processing, wholesaling, indoor and screened outdoor storage, office, flex-space, and commercial services. Secondary uses include supporting retail, hotel, cultural facilities, civic and government facilities, high density residential and live/work uses. If the applicant builds 355 dwelling units as proposed, the gross density at 11386 East Rogers Road will be approximately 38 units per acre, which is consistent with the MU-E zoning district and land use category.

Development in Mixed Use Employment areas will generally be 1 to 4 stories; however, development that incorporates affordable units, a vertical mix of residential and non-residential uses, and/or is located within 1/4 mile of a high-frequency transit stop may be eligible for greater building heights as specified in the LDC. Development abutting lower intensity, established residential neighborhoods should provide transitions in massing and height.

The proposed annexation is consistent with the goals and policies of Envision Longmont. Goal 1.1 seeks to embrace a compact and efficient pattern of growth, while Policy 1.1B encourages infill and redevelopment, particularly higher density infill and redevelopment in centers, mixed-use corridors and other accessible areas of change. 11386 East Rogers Road is located within an area of change identified by Envision Longmont. The surrounding area is an underutilized industrial area that is largely unincorporated Boulder County.

Goal 1.2 promotes a sustainable mix of land uses. 1.2D seeks to plan for a combination of greenfield development, infill development, and adaptive reuse, while policy 1.2E encourages a mix of housing types and 1.2F encourages higher density housing. As noted previously, the subject property is immediately north of the Sugar Factory planning area. This planning area, as well as adjacent properties, contains a number of sites that are prime locations for infill and redevelopment. The proposal for 11386 Rogers Road would build the type of higher density housing encouraged by policy 1.2F.

As noted previously, 11386 East Rogers Road is in a designated area of change. Goal 1.4 seeks to focus infill and redevelopment in such areas. Policy 1.4A encourages targeted infill and redevelopment on vacant lots or where existing structures and uses are no longer viable. Policy 1.4B promotes “activity-generating uses” such as the

multifamily development proposed for this property. The subject property currently contains both outside and inside storage, with a large number of inoperable vehicles onsite. This is not the kind of use promoted by the policies related to Goal 1.4.

2. **The application complies with applicable city standards, including for street and utility design and layout, and adequate utilities are available or will be provided for appropriate urban-level services.**

Applicable city standards for utility and transportation improvements will be followed as this project moves through the development review process. Adequate utilities exist to serve the proposed development of this property.

3. **The application proposes development compatible with surrounding properties in terms of land use, site and building layout and design, and access.**

The subject property is located within a county enclave that includes a number of vacant and underutilized parcels. Uses within the City of Longmont to the north include a number of commercial and enclosed small-scale industrial uses. The properties to the west are in an area zoned Mixed-Use – Corridor, and are currently in review for multifamily development. The Sugar Factory Planning Area is immediately south of the adjacent property, and is proposed for a mix of urban scale uses. The proposed multifamily development is compatible with existing and proposed surrounding uses.

4. **The application will not adversely affect surrounding properties, the natural environment, existing or planned city transportation, or utility services or facilities, or the adverse impacts of the use will be mitigated to the maximum extent feasible.**

Annexation of 11386 East Rogers Road will not adversely affect surrounding properties, the natural environment, existing or planned city facilities. City of Longmont utility providers have adequate capacity to serve the proposed developments.

Phase 1 and Limited Phase 2 Environmental Site Assessments (ESA) have been completed for this property. These studies were completed in 2021 and 2022. The most recent Phase 1 and Limited Phase 2 ESAs did not identify any conditions that would warrant further study. Because there were inconsistencies between the findings of the 2021 and 2022 ESAs, the Planning and Zoning Commission directed staff to conduct additional review to reconcile these inconsistencies. This has been done, and staff as well as an independent reviewer concurred with the findings that there were no hazards that warranted further review.

In addition to the ESAs submitted as part of this application package, an initial concept drainage letter, and an initial raptor nesting survey were also submitted, reviewed and accepted by staff. The raptor study did not identify any active raptor nests onsite, and the concept drainage letter identified existing conditions and preliminary methods for stormwater conveyance. Both the drainage study and raptor survey will be updated as part of future development review processes. Additional studies including a detailed drainage study, tree appraisal and preservation plan, as well as a full Species and Habitat Conservation Survey will be required as part of the preliminary plat and other development review processes.

A traffic study was submitted and accepted as part of the review process. The traffic study found that the proposed development would be successfully incorporated into the existing and future roadway network in Longmont. Future development review processes will incorporate updates to this study and design of needed improvements.

5. The application, where required, complies with the sustainability evaluation system requirements to mitigate impacts of development within the city's riparian areas, and as applicable to other projects as determined by separate agreement.

DRC staff identified potential wetlands south of this property through the DRC review process, and the applicant has submitted a Memorandum of Understanding that a full assessment of any wetlands on or near the site, and findings from this assessment will be included and reviewed as part of the site planning process. Required buffers would mitigate any potential impacts, though at this time, the southern portion of the site is reserved for on-site detention and there are no proposed drive lanes, permanent structures, or pedestrian circulation routes in this area that could conflict with required wetland setbacks, should any wetlands be identified.

6. The application includes an appropriate transportation plan, including multi-modal transportation access, and is integrated and connected, where appropriate, with adjacent development through-street connections, sidewalks, trails and similar features.

A traffic study has been submitted as part of this application. This study will require updates as the proposed development moves through subsequent review processes. Future applications will require a multimodal plan, and appropriate improvements, connections and sidewalks will be incorporated.

Additional Review Criteria for Annexation – Section 15.02.060.A

Annexations shall also comply with the following additional criteria. However, annexation is a discretionary, legislative act. The city shall never be compelled to annex, unless otherwise required by state law, even if all these review criteria have been satisfied.

- a. **The annexation complies with the Municipal Annexation Act of 1965, as amended (C.R.S. § 31-12-101 et seq.). The proposed annexation complies with the Municipal Annexation Act of 1965, as the property boundaries are contiguous with the City of Longmont city limits along at least one-sixth of the boundaries.**

The proposed annexation complies with the Municipal Annexation Act of 1965. The property boundaries are contiguous with the City of Longmont city limits along at least one-sixth of the perimeter of the property.

- b. **The property is within the municipal service area (MSA) or the Longmont Planning Area (LPA) as stated in the comprehensive plan. No property outside of the MSA or LPA 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 a land use plan for the area proposed to be annexed is submitted together with the annexation application.**

The property is within the municipal service area as shown on the Envision Longmont Future Land Use and Transportation System Map.

- c. **The proposed zoning is appropriate, based upon consideration of the following factors:**

- i. **The proposed zoning is consistent with the comprehensive plan designation of the property; and**
- ii. **The proposed land uses are consistent with the purpose and intent of the proposed zoning district.**

The proposed MU-E zoning district is appropriate given that the property is located within an area designated as Mixed-Use Employment in the Envision Longmont comprehensive plan. The proposed multifamily development for this property is permissible as a secondary use within the MU-E zoning district. This particular area of MU-E zoning and land use has not yet approached the 50% maximum threshold for secondary uses.

- d. **The annexation will not limit the ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed.**

The annexation of this property will not limit the ability to integrate surrounding land into the City or cause variances if adjacent land is annexed or developed. Adjacent unincorporated properties are eligible for annexation.

- e. **Unless otherwise agreed to by the city, the landowner has waived in writing any preexisting vested property rights as a condition of such annexation.**

This criterion has been met. The annexation agreement will include conditions relating to continuance of the existing use.

- f. **The property to be annexed meets the environmental requirements of section 15.02.140.**

The applicant has provided a completed Phase 1 Environmental Assessment (ESA) and limited Phase 2 that did not identify any Recognized Environmental Conditions. No additional assessment was recommended.

The findings of the ESA commissioned by the applicant had different results with regard to groundwater contaminants than a previously prepared ESA for this property. At the request of the Planning and Zoning Commission, staff conducted an additional review to reconcile these differences. Staff and an outside environmental expert reviewed both studies and concurred with the findings of the more recent ESA.

- g. **City-initiated annexations shall conform to C.R.S. § 31-12-106 and the annexation ordinance shall include an annexation map meeting the requirements of C.R.S. § 31-12-107(1)(d).**

This annexation is not being initiated by the City of Longmont.

ATTACHMENTS:

Att 1 – Ordinance

Att 2 – Annexation Agreement

Att 3 – Planning and Zoning Commission Resolution recommending conditional approval

Att 4 – Planning and Zoning Commission draft minutes from September 20, 2023, meeting

Att 5 – Planning and Zoning Commission Communication

Att 6 – Vicinity Map

Att 7 – Annexation Map

Att 8 – Concept Plan



Att 9 – Annexation Petition

Att 10 – Environmental Site Assessment Review