Status Update of Potential Annexation Request west of State Highway 93 at Golden Gate Canyon Road

City Council has received a number of emails and inquiries over the past few weeks about a potential request to annex a parcel into the City, near Golden Gate Canyon Road and State Highway 93. Although no application has been filed, Council has asked that this summary be prepared for the community. It is structured as a Frequently Asked Questions (FAQ) for ease in presentation. If you have further questions about the summary itself, please write planning@cityofgolden.net. City Council always welcomes comments or suggestions at citycouncil@cityofgolden.net.

1. **Has an application for annexation for the subject property been filed?** No. The property owners have inquired about some of the issues associated with annexation and are deciding whether to apply. A neighborhood meeting was held on April 5th, but no further indication.

2. **What is the owners’ proposal for the property?** The 103 acre parcel is owned by the Brunel family and currently contains four houses. There is an immediate request to construct one additional house, and for estate purposes to create one or two additional lots for possible future houses. The existing houses are already served by City water from a private system that connects to a City main near Golden Gate Canyon Road, based upon a 2010 agreement. The existing houses have individual wastewater disposal systems (commonly called septic systems). The owners indicate that they would propose to create a total of seven 1.5 acre lots (four existing houses and up to three more) and leave the balance of the parcel in a commonly owned agricultural tract. The owners indicate that they have no interest in developing or selling the land, but that they prefer to leave future decisions to future generations of the family. Their request is to annex to serve the up to three additional homes from the private water system and with septic systems which is common for rural areas but not typical in the City.

3. **Has the City Council or staff committed to Annexing the property?** No. Due to the irregular nature of water and wastewater service to the property, and City staff’s recommendation that the City should require the sale of a 5.7 acre parcel to the City for a possible future Highway 93 road project (as defined by the “Golden Plan” formally adopted by the community), a “pre-annexation” agreement was submitted to Council in February. The “pre-annexation” agreement provided as follows:

   a. If the annexation is submitted and approved, the City is willing to expand the amount of potable water provided by the City to the property on an existing private water system from a maximum of four houses to a maximum of six houses. (The change to up to seven houses came after Council’s review of the agreement and has not been addressed.)
b. If the annexation is submitted and approved, the City would allow the existing houses and the proposed up to two (or perhaps three) houses to utilize County regulated individual wastewater systems (commonly known as septic systems).

c. If the annexation is submitted and approved, the property owner must sell to the City at a mutually agreeable price, approximately 5.7 acres for the City to hold for a potential Highway 93 road project that City Council supports.

d. There would be no parkland fees associated with the up to two additional houses, but the standard cash fee in lieu of school land dedication would be required for the new houses.

e. If in the future there would be a proposal to develop more of the property, the provision of water and wastewater services to the property would be based upon the then current City requirements, including an extra cash contribution for water rights.

f. If in the future there would be a proposal to develop more of the property, the developer would need to request rezoning, and subdivision and address all of the technical and policy requirements of the City at the time, primarily as shown in the City’s then current Comprehensive Plan.

4. Did Council approve the pre-annexation agreement? Yes. Council did approve the unique terms related to utilities and the right of way parcel purchase on February 25th. At the same time, Council had a brief discussion about policy issues that they expect to come up during the review of the request, including whether there should be guarantees related to any future requests beyond the current proposal to construct up to two (now three houses). One of the ideas that Council mentioned at that time (and has been mentioned by community members) is the idea of whether there should be a conservation easement (or equivalent) on the agricultural portions of the property to limit any future proposals. Council specifically did not commit to the annexation and expects such discussions to continue if an application is made.

5. What would be the process for community input and review of an annexation proposal?
A request to annex property to a city and apply a zoning designation is governed by both state and local procedures. The state procedures relate to action by City Council to determine if the proposal meets the minimum eligibility requirements. These two steps that typically occur in the beginning and middle of the process do not consider the merits of whether the City should approve or deny the request, but rather only the minimum eligibility requirements, such as adjacency to the city limits.

The more relevant City process is a series of public hearings where Planning Commission initially and then City Council consider whether it is in the community’s best interests to approve the request. If an application is filed, there will be at least one hearing at Planning Commission with prior notice in the Golden Transcript, a sign posted on the property and letters mailed to nearby property owners and residents. Following Planning Commission’s one or more hearings City Council would be scheduled to have at least one
hearing. Notice for Council’s hearing includes a notice in the Golden Transcript and posting of a sign. Although letters are not sent again to nearby owners and residents the hearing is listed on community calendars and community blogs.

At this time there is no schedule available for these meetings since the owners have not submitted an application yet.

6. Why is there community concern over the proposal? While the near term proposal to maintain the agricultural nature of the property and add a few new homes for family members does not seem to concern community members, the fact that there could be a proposal to rezone and develop the property at some unknown future date is raising statements of concern to the effect that the owner’s ability to propose potential land use changes in the future should be limited. In this way, Golden may be faced with a decision concerning how much to focus now on a hypothetical future land use proposal.

7. If the then current owners would need to ask to rezone in the future for a land use change, why is this different from any other land use change which City Council considers and can approve or deny? This perhaps is the crux of the issue. The burden of proof in a rezoning request is on the applicant who must demonstrate that the proposal (in this case a future suggestion to further develop the property) is in the best interests of the community and supports the goals and recommendations of the Comprehensive Plan. The City’s action on such a request is considered to be rather discretionary and Planning Commission and Council have no obligation to say yes if they do not feel a proposal meets the criteria. Another aspect of this position is that annexation increases City control of future land uses, even if they are unknown now. Even though City water service is assumed to be necessary for development, there are conceivably land uses that could be approved by Jefferson County that the community would not prefer.

The opposite argument is that even though a future rezoning decision would be discretionary, the City would be somehow more obligated to consider the request if the land is already in the City, in other words have less control. While it is true that the level of discretion (the ability to say yes or no) at an annexation is considered to be greater than other types of land use cases, it is debatable whether there is any real difference in a future Council’s authority to approve or deny a future land use case, if the land were to be annexed now.

8. Shouldn’t we do everything we can now to limit future development of the property? Some Goldenites think so. On the other hand, it is difficult to predict what the community’s land use needs may be decades into the future. The property is surrounded by urban land uses on three sides. The longer term future of this property would be an important community discussion.
9. **How would the owner or community limit future development now?** The suggestion made by a few community members is that the owners should donate, or the City should purchase, a conservation easement so that the land remains in private hands, but can only be used for agricultural purposes. A donated conservation easement can result in tax credits worth about half of the value of the development rights eliminated. The benefit to an owner is often overstated by proponents of the program. If the City were to wish to purchase a conservation easement (and the owners were willing to sell) the cost would be almost the total value of the land encumbered by the conservation easement. Both approaches would certainly require more analysis and discussion than has occurred to date.

10. **How can I stay informed?** It is clear that the future implications of the current request are of interest to many community members. Please continue to send your questions or comments to planning@cityofgolden.net and Citycouncil@cityofgolden.net, and stay in touch with the City web site, “e newsletter” and community blogs.