



Date: September 12th, 2022

To: Mayor Kudron and Trustees

From: Kim White, Community Development Director

RE: 120 GCR 663 Request of Pre-annexation Agreement for Use of Town Water



120 GCR 663 in turquoise; Town in yellow

Purpose:

To discuss and review the application and terms for pre-annexation of 120 GCR 663, approximately 4 acres generally located south of the Town water building off West Portal Road, in order to have use of Town water.

Background:

The applicant, Mr. Ruger, owns property adjacent to the Town limits, and would like to tap into the Town water. The municipal code states that the use of water from out-of-town users is subject to the owner agreeing to be annexed into Town immediately, or if the Town is not ready for an annexation, that a pre-annexation agreement be signed.



Municipal Code for Water Customers Outside of Town (10-1-9):

- (A) *Out of Town Customers to Comply with Article.* No customer outside the corporate limits of the Town shall connect to the water system, nor shall any water be furnished from the water system to any water using unit outside the corporate limits of the Town except in accordance with the terms and provisions of this Article.
- (B) *Agreement to Annex Required.* A water using unit outside of the Town's corporate limits may connect to the water system only after the property owner has presented and the Town has accepted either:
1. A legally valid petition to annex to the Town, drafted in accordance with state statute, if said property is eligible to immediately annex; or,
 2. A legally binding and irrevocable pre-annexation agreement in recordable form to run with the land, if said property is not eligible to immediately annex or if the Board of Trustees determines that immediate annexation is not in the Town's best interest.
- In addition, the Board of Trustees may impose such additional terms and conditions as it deems proper and necessary under the circumstances. These provisions may be waived in specific circumstances upon adoption of a resolution of waiver adopted by a majority vote of the full Board of Trustees.
- (C) *Out of Town Water Service to be Twice the In-Town Rate.* Out of Town customers shall pay two (2) times the then current rate for plant investment fees, and for all charges relating to the consumption of water.

Staff Comments:

The applicant is willing to be annexed, however it is a decision that the Board needs to discuss thoroughly. If the Town is not ready to annex, there should be a discussion on conditions with a future annexation.

Trustee Discussion:

Discussion Issues /Terms and Conditions:

1. Access Road
 - a. Access must be maintained to the Town Water Treatment Plant (WTP).
 - b. The existing road to the WTP is currently maintained by the Town. It is rarely plowed (only in cases of a larger storm) and is graded once or twice a year.
 - c. 7-9% grade (assumed / need survey).
 - d. Improvement and maintenance obligations of the applicant and Town will need to be identified.
 - e. The lower east corner of the access road (south of Shadowcliff) is eroding due to grades. Reconstruction and road standards need to be addressed.
 - f. The existing road (CR 663) provides access to Rocky Mountain National Park and adjacent trailheads.
2. Water Line
 - a. The water main is 7-8' under the access road. The Water Department typically leaves snow in the winter, so the pipe has extra protection against freezing.
 - b. The Town may consider requiring the applicant to engineer and reinstall the water main at a deeper depth.
 - c. The applicant will need to provide water to the proposed sites.



3. Water Rights

- a. Water rights will need to be discussed with the applicant. Town Attorney to provide any available research on potential water rights/ditch rights in this location. Town would pursue water credits for proposed development.

4. Adjacent Properties including GC and CPW (Must be contacted by the applicant during this process)

5. Surveying

- a. An updated survey will need to be provided that shows topography, utilities, etc.
- b. Existing and proposed utilities needed to serve the site will need to be identified.
- c. Applicant will need to provide current title work, (including BII exceptions).
- d. All easement information will need to be provided (potential access easement, utility easement, Western Area Power Easement, etc.)
- e. All new construction will need to have buried electric. Existing overhead electric lines will need to be converted to underground lines.

6. Town Tax revenue and increased maintenance costs

- a. Does the Town benefit from this annexation
- b. Does the Town have proper Staff to expand the Town border?
- c. Does the Town have enough water to provide for 3 more water using units?
- d. How many water using fixtures will be in each house?

Trustee Suggested Motion:

Motion to allow the 120 GCR 663 to enter into a pre-annexation agreement in order to use Town water per municipal code 10-1-9.

Or

Motion to allow the 120 GCR 663 to enter into a pre-annexation agreement in order to use Town water per municipal code 10-1-9 with conditions:

Or

Motion to enter into annexation negotiations for immediate annexation.

Or

Motion to deny request for annexation and pre-annexation agreement.