



Vertex Consulting Services, LLC
5825 Delmonico Drive, Suite 320
Colorado Springs, CO 80918

Project Statement

October 21, 2024

Town of Palmer Lake
Town Administrator/Clerk
42 Valley Crescent
PO Box 208
Palmer Lake, CO 80133

Re: Analysis of Statutory Criteria for Annexation Acceptance

To the Town of Palmer Lake,

Please accept this document as the analysis of how the proposed six (6) Buc'ees Palmer Lake sequential annexation petitions meet the requirements of Section 31-12-104 and 105 C.R.S. of the Municipal Annexation Act of 1965, as amended, and, therefore, must be accepted by the Town of Palmer Lake for future consideration of annexation.

Below is an analysis of Section 31-12-104 C.R.S. The *italic* text is the direct statutory citation and the indented text is the analysis identifying compliance with the statute.

(a) That not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality. Contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, public lands, whether owned by the state, the United States, or an agency thereof, except county-owned open space, or a lake, reservoir, stream, or other natural or artificial waterway between the annexing municipality and the land proposed to be annexed. Subject to the requirements imposed by section 31-12-105(1)(e), contiguity may be established by the annexation of one or more parcels in a series, which annexations may be completed simultaneously and considered together for the purposes of the public hearing required by sections 31-12-108 and 31-12-109 and the annexation impact report required by section 31-12-108.5.

Contiguity is achieved via sequential flagpole annexations. One-sixth contiguity equates to roughly 16.67%. The contiguity statement and pertinent calculation are included on Page 1 of

each of the annexation plats on the upper lefthand side of the drawing. Below are the pertinent calculations for each filing:

- Filing 1
 - Total perimeter of area for annexation: 180 feet
 - Length contiguous with Town: 30 feet (16.67%)
- Filing 2
 - Total perimeter of area for annexation: 900 feet
 - Length contiguous with Town: 150 feet (16.67%)
- Filing 3
 - Total perimeter of area for annexation: 4,499.99 feet
 - Length contiguous with Town: 750 feet (16.67%)
- Filing 4
 - Total perimeter of area for annexation: 21,011.4 feet
 - Length contiguous with Town: 3,749.99 feet (17.85%)
- Filing 5
 - Total perimeter of area for annexation: 37,435.73 feet
 - Length contiguous with Town: 17,261.41 feet (46.11%)
- Filing 6
 - Total perimeter of area for annexation: 4,288.03 feet
 - Length contiguous with Town: 1,990.72 feet (46.43%)

(b) That a community of interest exists between the area proposed to be annexed and the annexing municipality; that said area is urban or will be urbanized in the near future; and that said area is integrated with or is capable of being integrated with the annexing municipality. The fact that the area proposed to be annexed has the contiguity with the annexing municipality required by paragraph (a) of this subsection (1) shall be a basis for a finding of compliance with these requirements unless the governing body, upon the basis of competent evidence presented at the hearing provided for in section 31-12-109, finds that at least two of the following are shown to exist:

(I) Less than fifty percent of the adult residents of the area proposed to be annexed make use of part or all of the following types of facilities of the annexing municipality: Recreational, civic, social, religious, industrial, or commercial; and less than twenty-five percent of said area's adult residents are employed in the annexing municipality. If there are no adult residents at the time of the hearing, this standard shall not apply.

The subject property is vacant and there are no existing residents living on the property; therefore, this section does not apply.

(II) One-half or more of the land in the area proposed to be annexed (including streets) is agricultural, and the landowners of such agricultural land, under oath, express an intention to devote the land to such agricultural use for a period of not less than five years.

The property is currently assessed by the El Paso County Assessor's Office as vacant land. In addition, there is no stated intent by the landowner to utilize the land for agricultural purposes.

(III) It is not physically practicable to extend to the area proposed to be annexed those urban services which the annexing municipality provides in common to all of its citizens on the same terms and conditions as such services are made available to such citizens. This standard shall not apply to the extent that any portion of an area proposed to be annexed is provided or will within the reasonably near future be provided with any service by or through a quasi-municipal corporation.

The Town of Palmer Lake does not currently provide gas or electrical service to any citizens within the Town. Electrical service is primarily provided to the citizens of Palmer Lake by CORE Electric Cooperation or by Mountain View Electric Association. The Town of Palmer Lake does not provide sanitation services to any citizens within the Town. Sanitation service is primarily provided by Palmer Lake Sanitation District or Monument Sanitation District.

The Town of Palmer Lake provides water service to most residences within the Town limits. GMS, Inc. prepared a "Water Systems Improvements-22" report for the Town of Palmer Lake, which was dated November, 2022. This report identified the need for a water loop to allow the Town to fully utilize existing water rights and to allow for water service redundancy. The loop was anticipated to continue east along County Line Road/Palmer Divide Road, towards the proposed annexation area. The annexation will facilitate the funding and construction of this critical infrastructure improvement and will also result in the extension of water service to the property in a physically practicable manner.

(2)(a) The contiguity required by paragraph (a) of subsection (1) of this section may not be established by use of any boundary of an area which was previously annexed to the annexing municipality if the area, at the time of its annexation, was not contiguous at any point with the boundary of the annexing municipality, was not otherwise in compliance with paragraph (a) of subsection (1) of this section, and was located more than three miles from the nearest boundary of the annexing municipality, nor may such contiguity be established by use of any boundary of territory which is subsequently annexed directly to, or which is indirectly connected through subsequent annexations to, such an area.

The area proposed to be annexed is immediately adjacent to the Town limits. The furthest portion of property being annexed is currently located approximately 1.8 miles from the existing Town boundary.

(b) Because the creation or expansion of disconnected municipal satellites, which are sought to be prohibited by this subsection (2), violates both the purposes of this article as expressed in section 31-12-102 and the limitations of this article, any annexation which uses any boundary in violation of this subsection (2) may be declared by a court of competent jurisdiction to be void ab initio in addition to other remedies which may be provided. The provisions of section 31-12-116(2) and (4) and section 31-12-

117 shall not apply to such an annexation. Judicial review of such an annexation may be sought by any municipality having a plan in place pursuant to section 31-12-105(1)(e) directly affected by such annexation, in addition to those described in section 31-12-116(1). Such review may be, but need not be, instituted prior to the effective date of the annexing ordinance and may include injunctive relief. Such review shall be brought no later than sixty days after the effective date of the annexing ordinance or shall forever be barred.

This section is not applicable, the proposed annexation does not use a boundary that is in violation of subsection (2). The property is currently identified as being within the Town of Palmer Lake's current "Three Mile Plan" and is planned as a "Retail Node". In addition, no request for judicial review has been filed to date.

(c) Contiguity is hereby declared to be a fundamental element in any annexation, and this subsection (2) shall not in any way be construed as having the effect of legitimizing in any way any noncontiguous annexation.

A minimum of one-sixth contiguity has been achieved for all six of the sequential annexation petitions.

Below is an analysis of Section 31-12-105 C.R.S. The *italic* text is the direct statutory citation and the indented text is the analysis identifying compliance with the statute.

(1) Notwithstanding any provisions of this part 1 to the contrary, the following limitations shall apply to all annexations:

(a) In establishing the boundaries of any 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, shall be divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.

All lands included in the annexation petitions is either dedicated right-of-way or under one single ownership. The two parcels of land included in the annexation petition which are owned under a single ownership will not be separated by the action of annexation.

(b) In establishing the boundaries of any area proposed 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, comprising twenty acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year next preceding the annexation) shall be included under this part 1 without the written consent of the landowners unless such tract of land is situated entirely within the outer boundaries of the annexing municipality as they exist at the time of annexation. In the

application of this paragraph (b), contiguity shall not be affected by a dedicated street, road, or other public way.

The area proposed for annexation is under one single ownership. The owner has signed all petitions.

(c) No annexation pursuant to section 31-12-106 and no annexation petition or petition for an annexation election pursuant to section 31-12-107 shall be valid when annexation proceedings have been commenced for the annexation of part or all of such territory to another municipality, except in accordance with the provisions of section 31-12-114. For the purpose of this section, proceedings are commenced when the petition is filed with the clerk of the annexing municipality or when the resolution of intent is adopted by the governing body of the annexing municipality if action on the acceptance of such petition or on the resolution of intent by the setting of the hearing in accordance with section 31-12-108 is taken within ninety days after the said filings if an annexation procedure initiated by petition for annexation is then completed within the one hundred fifty days next following the effective date of the resolution accepting the petition and setting the hearing date and if an annexation procedure initiated by resolution of intent or by petition for an annexation election is prosecuted without unreasonable delay after the effective date of the resolution setting the hearing date.

The area proposed for annexation was previously included as part of two prior petitions for annexation into the Town of Monument. The first petition was ultimately withdrawn by the landowner prior to formal decision by the Town of Monument Board of Trustees. A second petition for annexation was filed with the Town of Monument, which was subsequently denied by the Board of Trustees. There are currently no active annexation petitions on file with another municipality.

(d) As to any annexation which will result in the detachment of area from any school district and the attachment of the same to another school district, no annexation pursuant to section 31-12-106 or annexation petition or petition for an annexation election pursuant to section 31-12-107 is valid unless accompanied by a resolution of the board of directors of the school district to which such area will be attached approving such annexation.

The annexation will not impact existing school district boundaries.

(e)(I) Except as otherwise provided in this paragraph (e), no annexation may take place that would have the effect of extending a municipal boundary more than three miles in any direction from any point of such municipal boundary in any one year. Within said three-mile area, the contiguity required by section 31-12-104(1)(a) may be achieved by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway. Prior to completion of any annexation within the three-mile area, the municipality shall have in place a plan for that area that generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks,

aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area. Such plan shall be updated at least once annually. Such three-mile limit may be exceeded if such limit would have the effect of dividing a parcel of property held in identical ownership if at least fifty percent of the property is within the three-mile limit. In such event, the entire property held in identical ownership may be annexed in any one year without regard to such mileage limitation. Such three-mile limit may also be exceeded for the annexation of an enterprise zone.

The annexation will not extend the municipal boundary of the Town of Palmer Lake by more than three miles. The annexation is proposed to extend the boundaries by a maximum of approximately 1.8 miles. As stated above, the property is currently identified as being within the Town of Palmer Lake's current "Three Mile Plan" and is planned as a "Retail Node". In addition, no request for judicial review has been filed to date.

(II) Prior to completion of an annexation in which the contiguity required by section 31-12-104(1)(a) is achieved pursuant to subparagraph (I) of this paragraph (e), the municipality shall annex any of the following parcels that abut a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway, where the parcel satisfies all of the eligibility requirements pursuant to section 31-12-104 and for which an annexation petition has been received by the municipality no later than forty-five days prior to the date of the hearing set pursuant to section 31-12-108(1):

(A) Any parcel of property that has an individual schedule number for county tax filing purposes upon the petition of the owner of such parcel;

Not applicable at this time.

(B) Any subdivision that consists of only one subdivision filing upon the petition of the requisite number of property owners within the subdivision as determined pursuant to section 31-12-107; and

Not applicable at this time.

(C) Any subdivision filing within a subdivision that consists of more than one subdivision filing upon the petition of the requisite number of property owners within the subdivision filing as determined pursuant to section 31-12-107.

Not applicable at this time.

(e.1) The parcels described in subparagraph (II) of paragraph (e) of this subsection (1) shall be annexed under the same or substantially similar terms and conditions and considered at the same hearing and in the same impact report as the initial annexation in which the contiguity required by section 31-12-104(1)(a) is achieved by annexing a platted street or alley, a public or private right-of-way, a public or

private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway. Impacts of the annexation upon the parcels described in subparagraph (II) of paragraph (e) of this subsection (1) that abut such platted street or alley, public or private right-of-way, public or private transportation right-of-way or area, or lake, reservoir, stream, or other natural or artificial waterway shall be considered in the impact report required by section 31-12-108.5. As part of the same hearing, the municipality shall consider and decide upon any petition for annexation of any parcel of property having an individual schedule number for county tax filing purposes, which petition was received not later than forty-five days prior to the hearing date, where the parcel abuts any parcel described in subparagraph (II) of paragraph (e) of this subsection (1) and where the parcel otherwise satisfies all of the eligibility requirements of section 31-12-104.

(e.3) In connection with any annexation in which the contiguity required by section 31-12-104(1)(a) is achieved by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway, upon the latter of ninety days prior to the date of the hearing set pursuant to section 31-12-108 or upon the filing of the annexation petition, the municipality shall provide, by regular mail to the owner of any abutting parcel as reflected in the records of the county assessor, written notice of the annexation and of the landowner's right to petition for annexation pursuant to section 31-12-107. Inadvertent failure to provide such notice shall neither create a cause of action in favor of any landowner nor invalidate any annexation proceeding.

Not applicable at this time.

(f) In establishing the boundaries of any area proposed to be annexed, if a portion of a platted street or alley is annexed, the entire width of said street or alley shall be included within the area annexed.

The entire width of Beacon Lite Road is proposed to be annexed.

(g) Notwithstanding the provisions of paragraph (f) of this subsection (1), a municipality shall not deny reasonable access to landowners, owner of an easement, or the owner of a franchise adjoining a platted street or alley which has been annexed by the municipality but is not bounded on both sides by the municipality.

Not applicable.

(h) The execution by any municipality of a power of attorney for real estate located within an unincorporated area shall not be construed to comply with the election provisions of this article for purposes of annexing such unincorporated area. Such annexation shall be valid only upon compliance with the procedures set forth in this article.

Not applicable. 100% of the required ownership signatures have been received; therefore, the annexation will not be by election.