



## Legislation Text

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**File #:** 21-064, **Version:** 1

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A Resolution Approving a Service Plan for the Ellston Park Metropolitan District for a new residential development.

**Presenter:**

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**Summary:**

This service plan would allow for creation of the Ellston Park Metropolitan District (“District”). This would be a small, approximately 29.4 acre metropolitan district serving a residential development (Ellston Park) located west of I-25 and north of Fillmore Road.

The petitioner originally requested an exception from the Special District Policy and the Model Service Plan to authorize Maximum Operational Mill Levy of 34 mills (Gallagher-adjusted) where the maximum allowable Gallagher-adjusted cap is normally 10.0 Mills. Following discussion by the City Council Budget Committee on April 27, 2021, the request has been amended to include a cap of no more than 10.0 mills, Gallagher adjusted, but with an allowance of up to 20.0 mills at the discretion of a the board of directors if and when it has a resident majority.

Covenant enforcement and common area maintenance services are requested to be authorized, with this District essentially “stepping into the shoes” of, and replacing the functions of a traditional homeowners association.

This item was introduced at a Council Work Session on May 24, 2021 where the operational mill levy modification to 10.0 and 20.0 mills was presented.

**Background:**

This proposed metropolitan district would encompass about 29.375 acres and include about 167 single-family and single-family attached residential dwelling units. The maximum combined authorized debt for this district is proposed to be \$15,000,000. To support this figure, the petitioners have provided an attached engineer’s estimate of \$7,700,000 in eligible costs associated with this development.

This district would be authorized to certify a maximum debts service mill levy or up to 30 mills and maximum operational mill levy of 10.0 mills, both Gallagher adjusted back to 2006. There is specific language allowing the operational mill levy to be optionally increased to 20.0 mills, Gallagher adjusted when the board of directors converts to majority resident representation.

This service plan would allow this district to perform operations and maintenance functions including covenant enforcement, landscaping and common area maintenance. The developer anticipates this district will own and maintain several small tracts within this development, including tracts for

stormwater detention and common areas/ landscaping.

Because development applications are still in process, including a zone change, the draft Council resolution approving this service plan, includes a provision limiting the taxing and debt authorities of this district until such time as an “approved development plan”, as defined in the service plan, is in place for this property.

Statutory review criteria

Colorado Revised Statutes Section 32-1-203(2) includes a total of nine (9) criteria which City Council shall or may use to evaluate the decision to approve or not approve this service plan. All of these are listed in Section X of the service plan. The petitioner must provide evidence satisfactory to City Council regarding first four (4) criteria. These criteria are listed below:

- 1) There is sufficient existing and projected need for organized service in the area to be serviced by the District;
- 2) The existing service in the area to be served by the District is inadequate for present and projected needs;
- 3) The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
- 4) The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
- 5) Adequate service is not, and will not be, available to the area through the City or County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
- 6) The facility and service standards of the District are compatible with the facility and service standards of the City within which the District is to be located and each municipality which is an interested party under Section 32-1-204(1), CRS
- 7) The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

8) The proposal is in compliance with any duly adopted City, regional or State long-range water quality management plan for the area.

9) The creation of the District is in the best interests of the area proposed to be served.

Attached separately is a generalized response from the petitioner regarding these criteria.

Staff would note that City and CSU standards typically have to be adhered to for all new City development (Criterion #6, above)

With respect to Criterion # 7, City staff notes that the City's Comprehensive Plan (PlanCOS) acknowledges the general use and importance of special districts but does not contain specific recommendations regarding related policy or use. Additionally, staff notes that special districts that are otherwise consistent with the Policy have not traditionally been considered as discretionary "incentives" with approvals contingent on providing special benefit in advancing the goals of the Comprehensive Plan. This particular project could be considered an "infill project" and therefore be consistent with that important goal of PlanCOS. Similarly, the housing product being proposed for this site could be considered a relatively affordable option and therefore consistent with the Plan. To the extent the availability of this district could result in lower initial sale prices to prospective home purchasers, this could be a benefit.

Criterion # 8 is not particularly relevant because CSU wastewater facilities are consistent and compliant with relevant water quality management plans.

At the April 27, 2021 Budget Committee, discussion focused on the request for a higher operational mill levy cap. They asked for more information on site context, and for a more background on the nature of the improvements not being accepted for City maintenance. A site context map has been provided, along with an exhibit depicting facilities to be maintained by the district. This information was subsequently provided to the Budget Committee by e-mail, and is attached. As noted above, the petitioners have subsequently modified their operational mill levy request.

Typically, small open space, small parks and local detention parcels (such as these) would not be accepted for maintenance by the City. What differentiates this project is that the local streets are not being accepted because their cross sections have been modified from the City standard, at least in part to allow a maximization of small lot single-family units on the site.

With respect to the request for a higher operational mill levy cap, staff notes that this would be a maximum cap, and (unlike debt service mill levies once pledged to debt) a higher levy could be reduced by this district board in the future, either if all the revenues were not needed to meet the budget, or there was a subsequent choice to substitute fees. Also, in the case of this small, single phase, all residential development, it is reasonable to assume the developer would not have a long-term interest in the governance of this district, following buildout and debt issuance.

Attached to support this agenda item are the following documents:

- Transmittal letter including a general response to the Colorado Revised Statutes criteria
- Context map
- Draft City Council resolution
- Redline version of the Service Plan without exhibits
- Final version the Service Plan with exhibits
- Engineering cost certifications for the public improvements
- Public improvements graphic
- Evaluation of operational costs to support the request for an increased operational mill levy
- E-mail responses to Budget Committee

**Previous Council Action:**

N/A

**Financial Implications:**

There are no direct implications to general City taxpayers and ratepayers outside of the boundaries of these applicable metropolitan districts.

**Board/Commission Recommendations:**

N/A

**Stakeholder Process:**

The staff-level Special District Committee has been provided with the materials associated with this request, and no comments or concerns have been provided.

**Alternatives:**

City Council has the options of approving or denying this amended and restated service plan. Council could also continue the item with specific direction provided to staff and the petitioners.

**Proposed Motion:**

Adopt the Resolution Approving a Service Plan for the Ellston Park Metropolitan District