

# City of Brighton

*500 S. 4th Avenue  
Brighton, CO 80601*



## Meeting Minutes

**Tuesday, September 5, 2023**

**6:00 PM**

**Council Chambers**

### **City Council**

**MAYOR - GREGORY MILLS  
MAYOR PRO TEM - CLINT BLACKHURST  
COUNCIL MEMBERS:  
TOM GREEN, MATT JOHNSTON,  
PETER PADILLA, JAN PAWLOWSKI,  
MARY ELLEN POLLACK, ANN TADDEO**

**1. CALL TO ORDER**

*Mayor Mills called the meeting to order at 6:01 p.m.*

**A. Pledge of Allegiance to the American Flag**

*Mayor Pro Tem Blackhurst led the recitation of the Pledge of Allegiance to the American Flag.*

**B. Roll Call**

**Present:** 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

**2. APPROVAL OF REGULAR AGENDA**

**Motion by Councilmember Pawlowski, seconded by Councilmember Padilla, to approve the Regular Agenda as presented. Motion passed by the following vote:**

**Aye:** 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

**3. CONSENT AGENDA**

**A. Approval of the August 1, 2023 City Council Minutes**

**B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE BICYCLE, PEDESTRIAN, AND MULTIMODAL PLAN**

**Resolution No. 2023-81**

**C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, CERTIFYING THE BALLOT CONTENT FOR THE COORDINATED MAIL BALLOT ELECTION TO BE HELD ON NOVEMBER 7, 2023; AND SETTING FORTH OTHER DETAILS RELATED THERETO**

**Resolution No. 2023-82**

**Motion by Councilmember Pawlowski, seconded by Councilmember Pollack, to approve the Consent Agenda as presented. Motion passed by the following vote:**

**Aye:** 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

**4. CEREMONIES**

**A. Recognition of Barr Lake Youth Volunteer**

*Michelle Seubert with Barr Lake recognized Youth Volunteer Clair Wohler.*

**B. Richard Lambert Foundation 10th Anniversary Proclamation**

*Councilmember Green read the Proclamation into the record.*

**Motion by Councilmember Green, seconded by Mayor Pro Tem Blackhurst, to approve the Proclamation. Motion passed by the following vote:**

**Aye:** 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

**5. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA  
(Speakers limited to five minutes)**

*Tom Lampo prayed for the city.*

**6. PUBLIC HEARINGS**

**A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE MILE HIGH LOGISTICS CENTER PLANNED DEVELOPMENT FOR AN APPROXIMATELY 103.3 ACRE PROPERTY, GENERALLY LOCATED TO THE NORTH OF BROMLEY LANE, EAST OF S. 40TH AVENUE, WEST OF THE FUTURE S. 45TH AVENUE ALIGNMENT, AND SOUTH OF SOUTHERN STREET, MORE SPECIFICALLY LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO**

*Mayor Mills read the title of the Ordinance into the record.*

*Mayor Mills opened the public hearing at 6:23 p.m. and City Clerk Natalie Hoel verified the required postings and publications (April 21, 2023 on the City of Brighton Website) for this public hearing were completed.*

*Councilmember Green recused himself due to a conflict of interest.*

*Community Development Director Holly Prather outlined the purpose of the hearing and introduced city staff, fire district staff and their consultant.*

*Senior Planner Nick Di Mario presented the Planned Development (PD) application for the Mile High Logistics Center. A PD process is intended for development concepts that require a higher degree of specific planning. A PD is used for a designated geographic area and are typically used by landowners and developers whose development plans require flexibility from the Land Use & Development Code. A PD is a form of zoning in that the PD contains specific land use and development criteria that differ from the Land Use & Development Code. Any land use related criteria not within the proposed PD will default to the Land Use & Development Code. Staff used the Planned Development and Zoning Map Amendment criteria when reviewing the proposal. The property is generally located to the north of Bromley Lane, east of South 40<sup>th</sup> Avenue, west of the future South 45<sup>th</sup> Avenue alignment, and south of Southern Street. The property is approximately 103.3 acres, was zoned K-Mart Distribution Center PUD in 1993, and platted under the K-Mart Distribution Center Filing No. 1 Subdivision in 1996. The property contains a 1.3 million square foot building, 827 parking spaces, a chain link perimeter fence, an existing stormwater pond and a 24' wide fire access road that wraps around the building.*

*The purpose for the PD is that the large 103.3-acre property contains a 1.3 million sq. ft. mostly vacant structure. The current in-place zoning allows for a limited range of allowed uses being warehouse and distribution. The allowed uses in the proposed PD range from public and civic uses, commercial uses, and industrial uses. The proposed PD may facilitate land uses that involve hazardous materials, and as such, the PD will establish land use standards to mitigate the effects of such uses. The existing PUD allows for a 400,000 square foot building expansion adjacent to Southern Street. Due to the limited scope of what the land standards exist and PUD regulates, many of the land use standards default to the Land Use & Development Code. Standards such as accessory structure size, location,*

*and quantity criteria, landscape buffers and setbacks will default to the Land Use & Development Code. Any land use standard that is not included within the scope of the existing PUD will default to the Land Use & Development Code for review.*

*The existing PUD allows for two land uses, distribution, and warehousing. The proposed PD would allow for a range of uses including public and civic uses, commercial uses, industrial uses, and wireless communication facilities. The proposed PD defines a new use manufacturing – technology. The newly defined use can be summarized as a manufacturing process using raw materials, some of which may be considered hazardous. The activities may produce moderate byproducts such as noise, emissions, or odor, but are capable of being mitigated. Such uses may involve distribution and large truck access and uses shall be limited to technology focused and supportive uses such as, but not limited to research and development operations, healthcare machine production, battery production, computer component and accessory production, 3D printing, and robotics.*

*A 400,000 sq. ft. addition is permitted to the north nearest the residential development. The structure is currently set back 490 ft. from the northern property line. If this expansion were to occur, the structure would be 141 ft. to the property line. Under the proposed PD, expansion would no longer be permitted on the northern portion of the site. Under the proposed PD, the rear setback will be increased to 465 ft.*

*The Land Use & Development Code currently restricts accessory structures to areas of the site that are behind the front building line and outside of any required setbacks. The proposed PD would not allow accessory structures on the northern portion of the site near the existing neighborhoods. They would not be permitted within setbacks or landscape buffers. Accessory structures would be allowed forward of the front building line, away from the existing residential neighborhoods. The Land Use & Development Code allows accessory structures of a maximum size of 1,000 sq. ft., or 50% of the principal structure, whichever is greater. The Land Use & Development Code would permit an accessory structure of 650,000 sq. ft. The Land Use & Development Code allows four total structures. The proposed PD allows a maximum size of an accessory structure of 10,000 sq. ft. and allows only five structures. The Land Use & Development Code requires a 30' landscape buffer on the northern and western property lines, no buffer is required on the eastern and southern property lines. Under the proposed PD, a 30' buffer will be required on the northern, western, eastern, and southern property lines and on the potential C-3 zone district of the Peters Property.*

*The required setbacks under the Land Use & Development Code are 50' front, 10' side, 25' corner side and 15' rear. The proposed PD would require setbacks of 30' front, 100' side, 100' corner side and 465' rear. This would encourage structures to be located away from existing residential areas. Outdoor storage is permitted under the existing Land Use & Development Code and requires that outdoor storage be located behind the front building line and 30' from any property line abutting right-of-way. The proposed PD would require that outdoor storage be confined to a setback of 250' and not contain any hazardous materials. Any outdoor storage would be required to be screened with masonry walls, fences, landscaping, berms, noise attenuation measures, or a combination of these screening devices. The standards would ensure that the property contains adequate outdoor storage and ensure that hazardous materials are not stored in areas that are closest to the existing neighborhoods to the north.*

*Under the proposed PD, a total of three access points will be permitted within the site, however any access point being utilized off Southern Street would be restricted to emergency access only. This will ensure that any truck traffic containing hazardous materials will only be allowed to access the site from Bromley Lane. This will keep deliveries and distribution isolated from the existing and future residential areas adjacent to the site. Regarding hazardous materials, the State of Colorado designates certain highways and interstates as hazmat routes. The closest hazmat route to the property is I-76. State and federal policy mandates that transportation arriving to or leaving the property with hazardous materials must utilize the quickest route to a designated hazmat route. This would ensure that hazardous materials transportation is taken directly to I-76.*

*Under the proposed PD and as a condition of future land use applications, improvements to Southern Street and Bromley Lane will be required. This includes the full build-out of Bromley Lane and Southern Street, a 10' trail adjacent to Bromley Lane and a 6' sidewalk adjacent to Southern Street. Under the existing zoning conditions of the property, these improvements are not required. Since these improvements are required under the proposed PD, the PD would ensure that the necessary*

roadway improvements are made in order to promote smooth vehicular flow, pedestrian access, and walkability.

The PD contains mitigation measures for hazardous materials, specifically that any hazardous materials shall be stored above ground and in such a way that allows for leak monitoring and emergency response. These materials shall be stored in such a way that avoids conflicts with utilities and other storage areas. Uses that involve hazardous materials shall provide various reports and documentation to the city, including a hazardous materials management plan required by any state or federal agency. Said users would be required to participate in a building evacuation and emergency response plan with the Brighton Fire Rescue District and City of Brighton emergency services no less than once per year. An Emergency Response Plan shall be drafted, a Neighborhood Response Plan completed and a fire suppression plan stamped by a fire protection engineer. The city and fire district may require additional fire suppression infrastructure such as fire sprinklers, additional fire hydrants, and hose connections.

The Comprehensive Plan designates this property as Employment – Commercial. The purpose and character of this designation is to promote job creating uses located in urban centers and areas with high visibility and excellent transportation access. In Chapter 3: Future Land Use Plan & Opportunity Areas, the proposed PD would pursue opportunity areas by increasing the number of commercial and industrial opportunities near highly traveled and visible roadways and intersections, increasing employment and job creating opportunities within the Bromley Lane corridor and by increasing pedestrian and vehicular circulation through the required improvements. Chapter 4: Citywide Principles, Policies & Strategies, the proposed PD meets the policies by utilizing existing utility services, encouraging sustainable reuse of the property, preventing the sprawling of residential development, and by pursuing the plan's vision of improving local roadways. Staff and the applicant have worked with internal departments and external agencies to draft a PD that pursues the Comprehensive Plan and adequately pursues the public interest. The PD will contribute to the commercial and industrial employment diversity within the city, provide learning opportunities for technological and trade careers, maintaining growth within the urban service area and promote various forms of pedestrian and vehicular transportation. The PD will facilitate reuse of the property in order to expand business and employment opportunities outside of downtown, increase various forms of employment opportunities and provide for future economic development opportunities. Industrial vacancies are virtually non-existent in the city; however, the size of the vacant structure tends to cloud industrial vacancy data. Pursuant to the Comprehensive Plan, reuse of the property should be explored and promoted. From a strategic perspective, the increase in allowed uses permitted by the PD would promote business opportunities that would fill the underutilized property. The PD contains new Land Use Standards and mitigation measures that ensure the impacts of any particular use do not exceed the current impacts on adjacent properties.

In making its decision, City Council should use the review criteria in Section 2.04 C of the Land Use & Development Code. The PD better implements the opportunities and policies of the Comprehensive Plan through an increase in the allowed land uses within the old K-Mart Distribution Center and the flexibility within the PD promotes the public health, safety, and welfare of the community, and does not strictly benefit the applicant. Pursuant to the criteria in the Land Use & Development Code, the PD exceeds the intense statement of the base zone district and design objectives via increased buffers and setbacks, stricter location criteria, and mitigation measures. The plan reflects sound design principles and actively pursues the goals and objectives of the Comprehensive Plan.

The PD must meet all the review criteria for a zoning map amendment. The PD pursues various opportunity areas and policies of the Comprehensive Plan, and the land use and mitigation standards will ensure that the property does not produce impacts that are a detriment to the surrounding uses. The property will benefit from existing utility services and future users will work with outside agencies to ensure adequate services can be provided and the proposed PD will pursue the needs of the community as identified by the Comprehensive Plan.

In accordance with the Land Use & Development Code, signs were posted on the property on August 18, 2023, notice was mailed to all property owners within 1,000 ft. of the subject property and posted on the City of Brighton website on August 21, 2023. Notice was posted on various social media sites. The Interactive Development map was updated to include the date and time of the hearing. A neighborhood meeting was held on March 13, 2023. Planning staff have received forty-three formal

comments in advance of the hearing. Staff finds that the PD upholds the public's health, safety, and welfare. The Development Review Committee finds that the PD is in general compliance with the requirement of the Land Use & Development Code and as such, staff recommends approval of the Mile High Logistics Center Planned Development. Planning Commission heard the request on August 10, 2023 and voted 3-1 to deny recommending approval of the PD.

Dan Vittone is with Starboard Realty Partners representing ownership of the former K-Mart Distribution Center and the applicant of the proposed PD. Mr. Vittone gave a brief history of the recent tenants that occupied the building including Sears and Costco. Each only used about 20% of the building and the facility has been underutilized for the past fifteen years and has been vacant for eighteen months. There is no benefit to anyone in having the building vacant. The reason for the rezoning is to usher the building to its next chapter. There is not enough flexibility in the current PUD zoning to ensure that the building remains competitive in today's marketplace. A proactive approach needs to be taken to ensure that the laws and zoning regulations evolve to avoid rendering buildings functionally obsolete and becoming a blight on the community. The proposed plan is an adaptive reuse of the existing improvements onsite to reposition the facility to become an asset to the community and not a refuge for transients and waste. The application would add certain additional permitted uses to facilitate vibrant employment in the area. Ownership has agreed to significant mitigation efforts to address potential impacts, which include relinquishing existing entitlements to develop an additional 400,000 sq. ft of building area on the north end of the site, funding and constructing street and trail improvements to Southern Street and Bromley Lane, restricting truck and vehicular access to Bromley Lane away from the neighboring residents and limiting where onsite improvements may be located. While it is typical to limit the discussion at the hearing to the PD document and proposed rezoning, much of the discussion about this project has centered on the prospective end user Amprius Technologies. They are a US based, publicly traded manufacturer of lithium-ion batteries. Mr. Vittone is mindful of the concerns expressed by the community at large and as such, for the benefit of Council and those present, Mr. Vittone has asked Amprius to speak on their technology, fire and life safety concerns, the risk of groundwater contamination, or lack thereof, and the benefits that their occupancy would bring to the city and community. The legal and design teams are available to address any questions that may arise. Council has the opportunity to promote adaptive reuse of an old logistics center. Vacant, unused buildings not only negatively impact surrounding property values, but also drain the regional commercial real estate which would appear stagnant with a facility of this size continuing to sit on the market. This facility would put Brighton on the map as a hub for clean energy, high tech manufacturing and serve to attract similar, ancillary companies to continue to strengthen Brighton's economy and its position in the Metro area.

Kim Martin with Otten Johnson, legal counsel for the applicant. This application is a culmination of all of the efforts over the past several months to address a PD that expands the uses permitted today, but appropriately addresses considerations and mitigations related to some of the uses.

Mark Kieffer with Norris Design explained that the proposed PD is a rezoning of the K-Mart PUD, which is over thirty years old, and a lot has changed since then. The PD would establish new standards and practices that were not contemplated thirty years earlier. Mr. Kieffer presented the details of the PD including the changes to setbacks, accessory buildings, dry storage area, screening, access to the property, roadway improvements, landscaping, signage, fencing and hazardous material regulations. Anything that is not covered by the PD document would default to the city codes and life/safety provisions. A revamp of the existing landscaping is being discussed to reduce water usage.

Kim Martin reviewed the review criteria for a zoning map amendment and how this proposal meets or exceeds the review criteria that was presented by staff including water dedication requirements. The city's Development Review Committee recommended approval, staff recommended approval, no concerns were addressed by referral agencies that have not been mitigated including the Fire Department and the Office of Emergency Management. Planning Commission did recommend denial of the PD. One reason discussed by Planning Commission is that they feel they did not have enough information about the proposed Amprius use of the site. This step is about rezoning, not about any user. Since Amprius is a proposed user, they will give a presentation. Ms. Martin presented the benefits of the PD zoning. The considerations and mitigations addressed in the PD are something that the current code does not address or is less strict than what the PD requires. Ms. Martin explained that the landowner is the applicant, not Amprius.

Andrew Huie, VP of Infrastructure with Amprius Technologies. Mr. Huie explained why Colorado and specifically Brighton were chosen for their new facility. Amprius aims to repurpose a significant portion of the state's largest single-story industrial building and transform it into a state-of-the-art lithium-ion battery manufacturing facility. The facility has the electrical power and structural layout that is ideal for high-volume manufacturing and the ability to expand to meet customer demands. Amprius asks Council to approve the proposed rezoning as it meets all city requirements. When used for distribution, the site stored flammable liquids, gases, and solids. The facility poses no different hazards than when it operated as a distribution center for K-Mart, Sears, and Costco. Mr. Huie spoke about the benefits to the community including jobs, investment in improvements and developing STEM programs. Mr. Huie gave a brief background on Amprius Technologies. Their good neighbor promise includes protecting people and the environment, compliance with all regulatory requirements, minimize disruption, value to the community and a community engagement plan. Amprius has held three public meetings and will continue to engage the community. Mr. Huie explained the manufacturing process and safety measures.

David Semproch, Principal Architect gave an overview of the use for the building for Amprius, dedication to safety regarding storage of hazardous material and chemicals, prevention of escape of hazardous materials from the building and protection for local groundwater, the use of fire areas for fire management in the building, and emergency action plans. The building has been designed to accommodate and store types of hazardous materials. An overview of safety measures was presented including nitrogen blanketing, leak detection systems, a sprinkler system to extinguish fires, dust containment and collection, no unpleasant smells, quiet manufacturing, and public notification if there were an incident. There would be 40% less traffic than with a distribution center. Hazardous materials inventory statements and management plans will be filed with the Brighton Fire Rescue District. The city's drinking water will not be impacted by this facility. Most fires related to lithium-ion batteries are caused by overcharging, unregulated chargers, bad battery combinations, physical damage to the battery, and vehicle accidents. Amprius will store their final product at a 30% state of charge or less as required by DOT shipping regulations.

Andrew Huie asked Council for approval of the rezoning and stated that if approved, construction could begin in late 2023, hiring a workforce would take place in 2024 and production would begin in 2025.

Mayor Mills asked if anyone in the audience had questions for the applicant.

Paul Theodore asked where the water is coming from. Senior Planner Di Mario explained that if the PD is approved, a water resource report would be submitted, and the proposed quantities of shares and the Utilities Department would review those shares to determine if they are sufficient.

Millie Swetkovich asked how likely a general individual in the surrounding community would be able to get a job at the facility. There was no answer as the applicant is the landowner.

Bill Mathis asked how many pounds of lithium would be onsite at any given time. The applicant is the property owner and has no answer. Kim Martin asked if someone other than the applicant could answer any questions. Mayor Mills stated that Amprius could answer questions at this time. Mr. Huie explained that the current process is under review and he does not have an answer at this time.

Christina Richter asked what the percentage of air pollution would be. David Semproch explained that there will be equipment to capture emissions and release only carbon dioxide and water vapor.

Joe Williams asked how the residents can rationalize this as a process when they cannot get any answers. City Attorney Alicia Calderón explained that this is a land use application and the applicant and Amprius are providing responses. This is early in the process and the next step will be site plan where specifics of what will go into the building will take place. Some of these questions are premature. Mr. Williams asked if the further stages in the process only occur after the approval and there is no way to turn back. City Attorney Calderón explained that this is the only public participation process, the city will continue to have a role in the process and be approved by a large group of internal and external reviewers. Mr. Williams asked what recourse there is for residents after approval. City Attorney Calderón stated that once approved, the zoning is approved for certain uses those are vested rights. This is a Planned Development zoning and does not approve any hazardous materials

or its uses. Mr. Williams asked if the residents could come back later and not allow this to happen. Mayor Mills explained that this portion of the agenda allows for questions of the applicant.

Fidel Balderas asked what guidelines there are to approve a PD with hazardous materials to protect the city, how long is the lease for the company, and is there an environmental mandate for the company. Kim Martin explained that hazardous materials are not regulated as a zoning matter under the PUD and hazardous materials have been historically stored onsite. The proposed PD as a matter of land use incorporates regulations related to hazardous materials. Mr. Vittone explained that the lease is for fifteen years. There are strict regulations regarding hazardous materials and requirements for environmental insurance.

Mayor Mills called for a break at 8:02 p.m.

Mayor Mills reconvened the meeting at 8:13 p.m.

Mayor Mills asked if anyone in the audience wished to speak on behalf of or against the request.

Senator Kevin Priola spoke in favor of the proposal.

Mark Gabriel spoke in favor of the proposal.

Justin Adcock spoke in favor of the rezoning.

Glenna Carrell spoke in opposition to the rezoning.

Mark Yoss spoke in favor of the Planned Development.

Yvette Martinez spoke in favor of the rezoning.

Shelly Cunningham feels there has been a lack of transparency.

Jan Ryan spoke in opposition of the rezoning.

Natalie Cummings read two letters in support of the rezoning.

Denise Swetkovich spoke in opposition to the rezoning.

Daniel Ryley spoke in favor of the rezoning.

Rich Werner spoke in favor of the rezoning.

Jessie Williams spoke in opposition of the rezoning.

Joe Williams spoke in opposition of the rezoning.

Shane Bacon spoke in opposition of the rezoning.

Darla Morton spoke in opposition of the rezoning.

Gilda Ramirez spoke in opposition of the rezoning.

Jody Nowicki spoke in favor of the rezoning.

Kevin Barnes spoke in favor of the rezoning.

Christina Richter spoke in opposition of the rezoning.

Rebecca Schuyler spoke in favor of the rezoning.

Joe Sanchez spoke in favor of the rezoning.



*Bill Mathis spoke in opposition of the rezoning.*

*Krisann Siegel spoke in opposition of the rezoning.*

*Angela Pirrone spoke in opposition of the rezoning.*

*Nathan Siegle spoke in opposition of the rezoning.*

*Mayor Mills called for a break at 9:45 p.m.*

*Mayor Mills reconvened the meeting at 9:54 p.m.*

*Mayor Mills asked staff if they wanted to add anything based on comments from the public.*

*Fire Marshal Elizabeth Bednarcik explained that the request for reviews and permitting comes through her office. Approval is given if everything that is being proposed aligns with the Fire Code. If it is allowed in the Fire Code and it is allowed under the city's zoning, then it is approved. Regarding residents in Adams County that do not have fire hydrants, the fire department will arrive with equipment that carries water. Regarding the evacuation plan and how long it takes, there is an evacuation plan required for schools and other facilities with greater than fifty people. The Office of Emergency Management has an evacuation plan for the city. Fire Marshal Bednarcik asked everyone to have an evacuation plan from their home or for the city for their family. Regarding the Fire District not having the safety data sheets, zoning is early in the process, and these will be provided later in the process.*

*Michael O'Brien, Consultant for the Brighton Fire Rescue District answered the question regarding how to put out a typical fire compared to a lithium-ion fire. When looking at an ev fire, the batteries are heavily encapsulated to keep water out of the battery pack, so it is difficult to reach. A fire in a batter factory is different. Layers are made and put into the battery pouch. Some discussions have mixed lithium-ion and lithium metal. Some examples were specific to lithium metal. Traditional water cannot be used on lithium metal. The lithium-ion will be trucked in a mix and will be similar to a flammable liquid and will be used in specific equipment that puts just a little bit in each pouch, this is now becoming a battery. When dealing with fixed fire protection inside buildings, there are a couple ways to deal with the fire. Because it isn't concealed in the large battery packs, the fire suppression system can get where it needs to.*

*Director of Public Works Greg Labrie explained that the applicant was required to submit a traffic impact study and staff reviewed to ensure that it was in compliance with the standards. The traffic being generated by the site will not have an adverse impact on the roadway system and traffic from the site would use the roundabout to access I-76. Staff is planning to install traffic signals along Bromley Lane and the I-76 Interchange. Improvements will be made when the Swink property is developed.*

*Mr. Vittone answered questions regarding any other lessees for the building, offers to purchase, tried rezoning to something else, what happened to K-Mart, Sears and Costco and was Walmart interested in the building. Mr. Vittone was approached by some prospects and there is a short-term lease about to expire with someone that is currently storing water on the property. They have never been approached by Walmart. The applicant was once under contract with Carvana, but they decided to move to Colorado Springs. Albertsons submitted an offer on the property but determined that it was cost prohibitive to reconfigure the building for their use. The applicant was approached by, but never received an offer from a furniture manufacturing assembly team and a tire distributor. Under the existing PUD, hazardous materials can be stored in the building. The applicant is trying to put the regulations in place to address the concerns of the citizens. The building could be extended 465' to the north and store hazardous material products for distribution. This option is being eliminated with the PD. This is the first attempt to rezone the property. There was no reason to rezone because Sears and Costco stayed in occupancy of the building. They tried to sell the building, but any modification to the site plan requires a rezoning. The applicant is trying to broaden the uses and get the building leased.*

*Two other questions were asked regarding the size of the other facility that Amprius owns and has Amprius managed a facility of this size before. Mr. Huie explained that the Fremont site is the pilot*

facility and lab scale facility. This high-volume facility will be the first of its kind for Amprius in the US. There is a former sister subsidiary in Asia that manufactures twice what will be done in Phase 1.

Mayor Mills asked if the applicant would like to add anything.

Mr. Vittone explained that this is an application to lease the building. If this is approved and a lease is solidified with Amprius, there will still be 600,000 sq. ft. to lease.

Mr. Huie explained that roughly 225 jobs will be anticipated for the local community. Amprius held three community engagement meetings and will continue that throughout the journey. Mr. Huie has relocated to the area and will work at the facility if this is approved.

Mayor Mills asked if any correspondence had been received.

City Clerk Natalie Hoel explained that the correspondence that was received was included in the City Council packet and additional correspondence has been placed on the dais for each Councilmember.

Mayor Mills asked if there were questions from City Council.

Councilmember Johnston stated that this is not what a zoning hearing is supposed to be and asked what spot zoning is. Director Prather explained that spot zoning is where you take one parcel of land and zone it to something vastly different from the surrounding properties. Councilmember Johnston stated that spot zoning should not be done. Amprius should never have been part of the discussion and the zoning has nothing to do with them coming into the area. If the zoning is approved, it will stay that way and the industrial uses creates a different classification of the building and the hazmat that gets carried on and off the site. US Highway 85 and E-470 have been approved as hazmat routes in the city. If the hazmat has to be transported, it will go down Bromley Lane to US Highway 85. Councilmember Johnston asked if the zoning ok for the long term in this area. There is no guarantee that any residents from Brighton will get any jobs. Zoning changes need to be the basis of a rezone. If this rezoning is approved for industrial uses, it is out of Council's hands.

Councilmember Padilla stated that the zoning request from the applicant is to make this property marketable to lease or sell. There is discussion around the potential tenant that affects how people are feeling about the site. The city has grown around the site and if homes were purchased next to a 1.4 million sq. ft. warehouse building, you must consider that this will not be homes or a recreation center, it will be commercial or industrial use, so this is not spot zoning. This site could be an asset to the community or a blight if it fails. This site is designed for and allows the receipt, storage, and shipment of hazardous materials. There is a request to consider expanding the PD. Councilmember Padilla asked what the difference is from moving from a PUD to a PD instead of changing to industrial zoning. Senior Planner Di Mario explained that staff felt it was appropriate to use this process due to the sensitive nature of the prospective users. Staff believed that rezoning to a straight zone in the Land Use & Development Code would not allow for adequate mitigation measures and land use standards to address the concerns of the community. The proposed PD puts those standards in place. This allows staff and the applicant to agree to standards above and beyond the Land Use & Development Code. Councilmember Padilla asked if there was not an exact match to specifically codify the agreements to protect the neighborhood and complete the improvements. Senior Planner Di Mario stated that the PD process was the best way to address community concerns and roadway improvements. Councilmember Padilla asked about the risk of water at the facility escaping back into the city's water system. Utilities Engineering Manager Anna Sparks explained that the city has a centralized system of pressurized water, so it does not allow water to come into the system that way. Councilmember Padilla stated that he has a backflow preventer on his home that does this. Engineering Manager Sparks explained that this building will have this also. Councilmember Padilla asked what would have to be filtered out and removed from the site. Engineering Manager Sparks stated that there are standards related to wastewater. If something was produced that is not allowed in the wastewater system, they are required to treat it onsite and there is an option to take it for treatment offsite. Councilmember Padilla asked about the requirements for containment if a tank fails. Engineering Manager Sparks explained that when there is a leak in the system, the pressurized water system will not allow their material to leak into the city's centralized water system. The city's water system could not be contaminated by this. The secondary containment having to do with the tanks is outside of her purview. Councilmember Padilla stated that the hazardous materials in the potential use

are heavily regulated and have safety requirements. Councilmember Padilla relies on the response from the Fire Marshal and their experts in relation to the concerns regarding a response to hazardous materials. Councilmember Padilla lives within a mile of this facility and its use is important. This is a creative option and the professionals have determined that the safety concerns are in hand. Safety of the community also includes what is the future of the city and what do we want to be. Brighton was competitive because this facility already exists.

Councilmember Taddeo is not against technology, but if one were buying a home and did research, they would not want the property to be rezoned. Even with safeguards in place, problems could happen. The benefits do not outweigh the detriment that can come to the city by allowing the rezoning. Councilmember Taddeo was elected to serve the residents and do what is best for them.

Mayor Mills asked if a larger substation would be required for the power being used at this facility. Senior Planner Di Mario explained that this is under the purview of United Power. If this is approved, they would be an external reviewing agency and they would make that decision.

Mayor Mills closed the public hearing at 10:44 p.m.

**Motion by Councilmember Padilla, seconded by Mayor Pro Tem Blackhurst, to approve the Ordinance. Motion passed by the following vote:**

**Aye:** 4 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Padilla, and Councilmember Pawlowski

**No:** 3 - Councilmember Johnston, Councilmember Pollack, and Councilmember Taddeo

**Recuse:** 1 - Councilmember Green

**7. ORDINANCES FOR INITIAL CONSIDERATION**

**8. ORDINANCES FOR FINAL CONSIDERATION**

**9. RESOLUTIONS**

**10. UTILITIES BUSINESS ITEMS**

**11. GENERAL BUSINESS**

**12. REPORTS**

A. By the Mayor

B. By Department Directors

C. By the City Attorney

D. By the City Manager

E. By City Council

**13. EXECUTIVE SESSION**

**14. ADJOURNMENT**

Mayor Mills adjourned the meeting at 10:47 p.m.

CITY OF BRIGHTON, COLORADO

Gregory Mills  
Gregory Mills, Mayor

**ATTEST:**

Natalie Hoel  
Natalie Hoel, City Clerk

October 3, 2023  
Approval Date