

Annexing Open Space to enable MDR—Unnecessary and a Bad Statewide Precedent

Annexation is the way a city takes county lands into the city, to expand the city's borders. In Colorado, since 1965, having open space between a city and unincorporated land in a county was an absolute bar to a city grabbing county land through open space. Every County in Colorado, including Boulder County, has kept this bar in place. Now, for the first time, Boulder County wants to create an exception, an exception that will allow the City to annex County Open Space into the city limits for the express purpose of annexing and developing adjoining land. This will set a precedent that County Open Space can be annexed, not just in Boulder County but for every county in the state. Boulder is throwing away more than 50 years of precedent even as they admit it is not needed.

- Annexation through open space is not necessary. The county has said multiple times that this is the route they will take, though they've also admitted there are other ways to annex the land they want to develop. This means they are throwing out 50 years of precedent only for convenience.
- This is an exception to a state law. If this exception is made, the next exception will be easier, and the exception after that easier still. This annexation ultimately can imperil all county open space across the state.
- If a city is allowed to annex through the bar that is, then there is nothing to stop continued annexations beyond the open space at a later time.
- Boulder County has already tried to justify this annexation by saying the land is only a trail corridor and not really open space. If property deeded to the County for use only as open space is not real open space, how many other properties can be considered "not real" when it is convenient?

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Subject: RE: BVCP 2015 Update Information Request
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Hi, Pete,

In answer to your question for me on annexation, Ron Stewart has agreed to let the county open space parcel outlined in turquoise be annexed to provide the contiguity needed so the BCH property can be annexed.



Hope that helps,
Janis

Prior to 1965, a city could declare that they were annexing some part of the county, and neither the county government nor people living in the county could say no. The Colorado Municipal Annexation Act of 1965 set the rules by which cities can annex land in their county. The Act requires cities to share a boundary with at least 1/6th of the property to be annexed, but allows cities to jump across roads, rights of way, rivers, lakes, streams, ditches, public lands, pretty much anything, **except county owned open space**. This is the only tool a county has to stop a city within the county from annexing land it wants.

Once Boulder County has set precedent to allow annexation of open space, examination of the Boulder Assessor's map shows the City of Boulder could use a combination of city and county open space to make enclaves of almost any area in the county it chooses. An enclave is an island of county properties encircled by city properties. Cities can unilaterally annex enclaves after three years, with no vote of the people living in the enclave. This is not an ability the County should be strengthening. It does not protect the rights and voice of county residents.

Finally, the County Attorney has stated in writing that annexation through open space is not necessary. They could pursue annexation along Twin Lakes Road to reach the properties, a so-called flagpole annexation. Instead they're pursuing the more convenient route of "annexation through open space." In the process the County is tossing away over 50 years of precedent. It seems a poor trade.

Cross-jurisdictional impact: Unprecedented use of county open space to enable annexation and development.

References: <http://ttag.org/colorado-municipal-annexation-act-of-1965/>