

RESOLUTION 23-11143

A RESOLUTION APPROVING PETITION FOR ANNEXATION AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law; and

WHEREAS, annexation of said territory would be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

Parcels of Land situated in the SE 1/4 of Section 10, T.1S., R.25E., Yellowstone County, Montana, more particularly described as follows:

Tract 1 of Certificate of Survey No. 1400, recorded April 15, 1974, under Document No. 960326;

Tract 6-B of Amended Tract 6 Certificate of Survey No. 2064, recorded February 8, 2002, under Document No. 3163883;

Tracts 2A and 2B of Amended Tract 2 Certificate of Survey No. 3125, recorded March 17, 2009, under Document No. 3499049, Tract 2B being deeded to the City of Billings as a right-of-way site (King Avenue West) per Quitclaim Deed, recorded March 17, 2009, under Document No. 3499051;

All documents are on file and of record in the office of the Yellowstone County Clerk and Recorder.

Said annexation containing 6.096 gross acres and 5.897 net acres, more or less.

(# 23-06) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved, subject to the following conditions:

- Within 45 working days and prior to site development, a mutually acceptable Development Agreement shall be executed between the owner(s) and the

City that shall stipulate, among other things, specific infrastructure improvements and right-of-way dedication, provide guarantees for said improvements, and include a Waiver of Right to Protest the Creation of Special Improvement Districts which will be recorded with the Yellowstone County Clerk and Recorder.

If the above conditions are not satisfied as set forth herein, the annexation will not be effective and any subsequent requests for annexation of the property legally described within this resolution shall be processed as a new petition for annexation.

3. **EFFECTIVE DATE.** This resolution to annex the above-described territory shall be effective immediately upon satisfaction of all conditions. If the above condition(s) are not satisfied, this resolution shall be null and void and shall have no effect.
4. **PROCEDURE.** All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 24th day of July, 2023.

CITY OF BILLINGS:

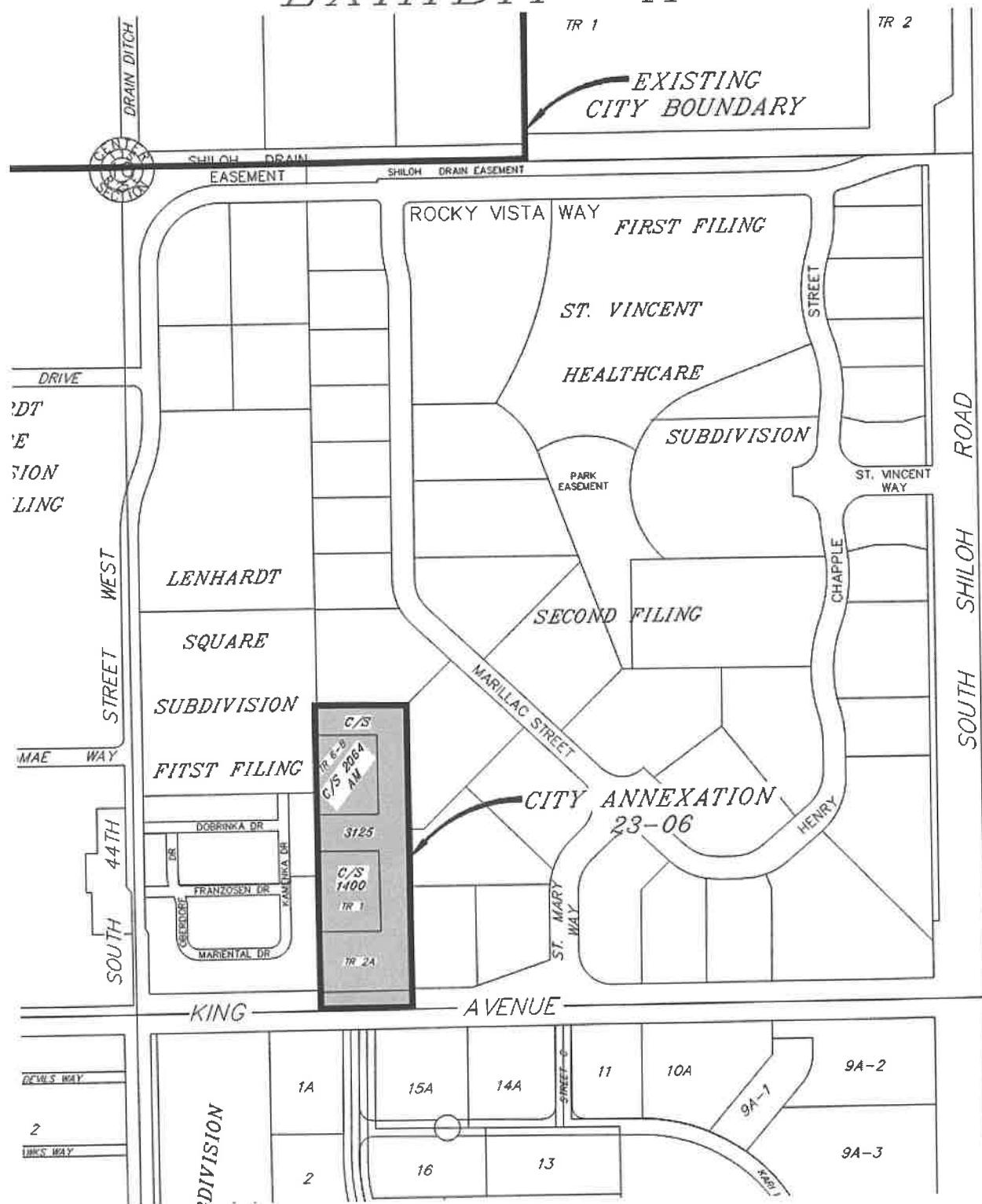
BY: William A. Cole
William A. Cole, Mayor

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

(# 23-06)

EXHIBIT "A"



City Council Regular

Date: 07/24/2023
 Title: Public Hearing and Resolution Annexation 23-06
 Presented by: Hunter Kelly, Planner 1
 Department: Planning & Community Services
 Presentation: Yes
 Legal Review: Not Applicable
 Project Number: PZX-23-00104

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COUNCIL ACTION *Approved 8-0*
owner, Choriki, Tidswell
Absent / Excused
JUL 24 2023

db
 CITY CLERK

RECOMMENDATION

Staff recommends the City Council hold a public hearing on the annexation. Upon completion of the hearing, staff recommends the City annex the petitioned property with the staff recommended conditions of approval.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Sanderson Stewart on behalf of Michele Mack and Molly & Darrell Spaeny submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located north of King Avenue West, West of Saint Mary Way and East of South 44th Street West. The land being annexed is described as being Tract 1 of Certificate of Survey No. 1400, recorded April 15, 1974, under Document No. 960326; Tract 6-B of Amended Tract 6 Certificate of Survey No. 2064, recorded February 8, 2002, under Document No. 3163883; Tracts 2A and 2B of Amended Tract 2 Certificate of Survey No. 3125, recorded March 17, 2009, under Document No. 3499049, Tract 2B being deeded to the City of Billings as a right-of-way site (King Avenue West) per Quitclaim Deed, recorded March 17, 2009, under Document No. 3499051; containing 6.096 gross acres and 5.897 net acres, more or less.

The property is zoned Rural Residential (RR1). This is not a zoning district recognized by the City.

It is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. Staff finds the proposed annexation complies with the adopted Annexation Policy criteria as follows:

1. The area is located within the City's Annexation Petition Area on its Limits of Annexation Map.
2. The City is able to provide adequate city services within a time period mutually agreed to by the property owners requesting annexation and the city. The Annexation Agreement (conditional approval) is the binding contractual agreement that identifies requirements of the City and the Developer to ensure services are provided in a mutually agreed upon time. The Annexation Agreement will be considered at a subsequent City Council meeting with its accompanying preliminary plat. The developer is required to meet this condition within 45 days.
3. Existing or proposed public improvements within the area to be annexed will meet City standards. The Annexation Agreement which is a condition of approval outlines public improvements required of the developer as part of annexing in the City. The property does present opportunity to be redeveloped in the future. Related to redevelopment, the only way this property could be developed in the city not according to adopted policies and regulations, would require action from City Council or the Board of Adjustment to grant variances allowing deviations from adopted codes. It is required and standard practice that prior to the issuance of any building permit, the building and site plans will undergo planning review to confirm it is designed in accordance with zoning regulations.
4. All property owners within the area to be annexed must sign a Waiver of Right to Protest future Special Improvement Districts. The waiver is provided as part of the Annexation Agreement. This waiver is good in perpetuity and is not subject to the 20-year provision identified in the Montana Subdivision and Platting Act.
5. If annexed, any proposed land use will comply with the zoning. This property is concurrently undergoing a zone change (ZC 1030). The proposed zoning contemplates potential redevelopment, but does not create any illegal nonconforming uses with the existing structures.
6. Residential densities planned for development within the area to be annexed must meet an overall average density of at least 4-7 dwelling units per acre. The property as currently development does not meet this range, but the associated zone change does allow for redevelopment of the property in accordance with desirable range. This property is being proposed to be rezoned to Neighborhood Mixed-Use 2 (NX2) through Zone change 1030. The NX2 Zoning allows for densities of 2-8 dwelling units per structure. Future development will be able to support densities of 4/7 dwelling units per acre with this zoning.
7. The proposed land use within the area to be annexed shall conform to the goals of the City of Billings Growth Policy. The goals most similar to the proposed development are listed below.
 1. Strong Neighborhoods
 - Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels

- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Implementation of the Infill Policy is important to encourage development of underutilized properties

2. Home Base

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

Departmental Response: City and County Departments were given the opportunity to comment on this annexation. City departments responded favorably and detailed responses are provided below. The County Public Works Department did not respond to this annexation request.

- Water and Sanitary Sewer: Public water and sanitary sewer service is available to the property proposed for annexation. The Developer will be responsible for the design and construction of a sanitary sewer main and a water main in King Avenue West along the frontage of the above-described property. The purpose of this annexation is to tie into existing city services due to a failing septic system.
- Storm water: Any development will be compliant with the adopted Stormwater Management Manual.
- Transportation: The Developer Tract will be accessed from King Avenue West. The Public Right-of-way along King Avenue West will be dedicated to the City of Billings.
- Fire Stations: The Billings Fire Department currently serves the subject property through the Billings Urban Fire Service Area agreement. The Billings Fire Department will continue to serve the property upon annexation. As this and additional annexations are built out, additional fire department resources will be needed to meet and maintain our high level of service due to the increased call volume and burden on our department these annexations create. The nearest fire station is Station #5, located at 605 S 24th Street W, approximately 2.68 road miles or 7 minutes driving time to the subject property.
- Parks: No Parkland or Trails will be required as part of this annexation.
- School facilities: The School district did not raise any special requests or concerns during their review of this proposal but did note the three nearby schools (Meadowlark Elementary, Ben Steele Middle School, and West High School) are over capacity.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property, however the Fire Department in its comments above did note its concerns as additional property is annexed into the City.

- Transit: The annexed area is not directly serviced by a MET Route. MET will begin to directly service the intersection of King Ave W and 44th St W in the Autumn of 2023 and does not object to this annexation.
- Police: This proposed development is adjacent to established city limits and will not require an adjustment in schedules or staffing at this time. There is sufficient ingress/egress to the area. Continued development and annexation without commensurate resources has adversely affected our ability to deliver services.
- Public Utilities: The Public Works-- Distribution and Collection Division had no concerns with the annexation request.
- Public Works -Street and Traffic Division: The Street and Traffic Division stated that it has no concerns with serving the property.
- Public Works-Solid Waste: The Solid Waste Division had no concerns with annexing the property, but pointed out that State Law allows the property owner to choose what garbage hauler may service the property after it is in the City.
- Ambulance Service: The City does not provide ambulance service, however it does dictate the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. Depending on factors at any given time such as traffic and congestion, this property may be within the area of acceptable response time.
- Legal and Finance: General Fund services, such as the Legal and Finance Departments should not be negatively impacted by this annexation.
- Other Departments: City/County services including Library, Planning, and Environmental Health are only slightly

affected by the annexation since they will continue to serve the property whether it is in the City or the County. The Planning Division staff supports the annexation because it is consistent with the Limits of Annexation map and the criteria of the annexation policy has been met. Further, coordination with other departments does not raise concerns that cannot be mitigated. These decisions have a cumulative effect, therefore, City Council is being provided with a recommendation of approval.

STAKEHOLDERS

Annexation by petition does not require notification of adjoining landowners; however, it does require that the City Council conduct a public hearing, advertise the hearing, and post the property with information on the annexation petition and public hearing. Notice of the public hearing was posted on the property and was advertised in the *Yellowstone County News*.

ALTERNATIVES

The City Council may

- Approve,
- Conditionally approve or
- Deny the petition for annexation.

Denial of the petition will mean the City Council cannot consider other agenda items related to this property regarding the development agreement and ward boundary ordinance. On June 1, 2023, the annexation petition was submitted to the Planning Division by the owner's agent. On July 24, 2023, the City Council is scheduled to take action on the petition.

FISCAL EFFECTS

This application has no impact on the Planning Division Budget.

Attachments

Limits of Annexation
Annexation Resolution

Limits of Annexation

