

City Council Regular

Date: 10/09/2023
 Title: Public Hearing and Resolution Annexation 23-08
 Presented by: Hunter Kelly, Planner 1
 Department: Planning & Community Services
 Presentation: Yes
 Legal Review: Not Applicable
 Project Number: PZX-23-00162

COUNCIL ACTION APP 11-0
 RES. 23-11169
 Res. modified on
 pg 2 OCT 09 2023
 JH
 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)

Performance Engineering, on behalf of G2 Investments LLC, submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located South of S Frontage Road Riverside Drive and west of Sugar Avenue. The land being annexed is described as being Parcels of Land situated in the NE 1/4 of Section 15, T.1S., R.26E., Yellowstone County, Montana, more particularly described as follows: Lots 3, 4, 5, 6 and 7 of Riverside Acreage Tracts Subdivision, recorded November 9, 1960, under Document No. 651367, less portions of said parcels for Right-Of-Way purposes in Judgment and Final Order of Condemnation documents, Book 830, Page 4, under Document No. 766608, Book 830, Page 8, under Document No. 766609, and Book 830, Page 12, under Document No. 766610, recorded November 19, 1965, respectively, and Quit Claim Deed Book 1394, Page 248 under Document No. 1679259 recorded April 14, 1993, all documents on file and of record in the office of the Yellowstone County Clerk and Recorder; Said annexation containing 10.186 gross net acres, more or less.

The property is zoned CX -- Heavy Commercial. This is a zoning district recognized by the City.

Annexation Policy Criteria

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 Zone 1 of the Limits of Annexation Map, as shown on the Limits of Annexation Map Exhibit.
2. The City will be able to provide adequate city services at a cost acceptable to the City within a time period mutually agreed to by the property owners requesting annexation and the City. The Annexation Agreement, which is a condition of approval, is the binding contractual agreement that identifies requirements of the City and the Developer to ensure services are provided in a mutually agreed to time. The Annexation Agreement will be considered at this same City Council meeting. The developer is required to meet this condition within 45 days per the attached resolution.
3. Existing or proposed public improvements within the area to be annexed must meet City standards. The Annexation Agreement, which is a condition of approval, will outline public improvements required of the developer as part of developing the property. 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.
4. All property owners within the area to be annexed must sign a Waiver of Right to Protest the creation of Special Improvement Districts. Waiver of Right to Protest the creation of Special Improvement Districts is part of the conditions of approval.
5. All residential property owners within the area to be annexed must create or join an existing park maintenance district. This does not apply to this annexation as they are all commercial properties.
6. Residential densities planned for development within the area to be annexed must meet an overall average minimum density of primary dwelling units per acre as per the current City of Billings Growth Policy or similar planning documents. This does not apply to this annexation as they are all commercial properties.
7. The proposed land use within the area to be annexed shall conform to the goals of the Adopted City of Billings Growth Policy:
 - o Essential Investments (relating public and private expenditures to public values)
 - The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans.
 - Infill development and development near existing City infrastructure may be the most cost-effective.

- Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable.
- Prosperity (promoting equal opportunity and economic advancement)
 - A diversity of available jobs can ensure a strong Billings' economy.
 - Successful businesses that provide local jobs benefit the community.
 - Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses.
 - Retaining and supporting existing businesses helps sustain a healthy economy.

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.

- Water and Sanitary Sewer: Public water and sanitary sewer service is available to the property proposed for annexation. The Developer will be responsible for connecting to the sanitary sewer main and water main in South Frontage Road along the frontage of the above-described property, and shall be responsible for payment of the system development fees.
- Storm water: Any development will be compliant with the adopted Stormwater Management Manual.
- Transportation: The Developer Tract will be accessed from South Frontage Road. The Public Right-of-way along South Frontage Road 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. The nearest fire station is Station #2, located at 503 S 28th Street, approximately 1.82 road miles or 4 minutes driving time to the subject property.
- Parks: The subject property is zoned Heavy Commercial, which is not a zoning that triggers any park land or cash-in-lieu contributions under subdivision or zoning regulations. Riverfront Park, a regional City Park, is to the west of the subject property and could be utilized by employees of business that may occupy this area in the future. The developer will be required to construct a 10-foot wide multi-use trail along the Frontage Road. The path shall be constructed at the time of lot development. The Developer also is required to provide trail easements along the eastern edge of the subject property and along the southern portion of the property, paralleling the Yellowstone River, that are buildable for a future multi-use trail.
- School facilities: The School district did not raise any special requests or concerns during their review of this proposal. This is typical of annexation of commercial annexations.

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. The nearest MET Route currently operates through the intersection of King Avenue East and Jackson Street. This intersection is approximately 1 mile from the proposed annexation location via roadway. MET does not anticipate that fixed-route would operate in the area until more significant commercial and/or residential growth necessitated transit service in the area.
- 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 annexation and development without commensurate resources has affected their ability to deliver service.
- 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 Annexation Agreement and Ward Boundary Ordinance. On August 17, 2023, the annexation petition was submitted to the Planning Division by the owner's agent. On October 9th, 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

Annexation Resolution 23-08

Limits of Annexation

RESOLUTION NO. 23 -

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 NE 1/4 of Section 15, T.1S., R.26E., Yellowstone County, Montana, more particularly described as follows:

Lots 3, 4, 5, 6 and 7 of Riverside Acreage Tracts Subdivision, recorded November 9, 1960, under Document No. 651367,

Less portions of said parcels for Right-Of-Way purposes in Judgement and Final Order of Condemnation documents, Book 830, Page 4, under Document No. 766608, Book 830, Page 8, under Document No. 766609, and Book 830, Page 12, under Document No. 766610, recorded November 19, 1965 respectively, and Quit Claim Deed Book 1394, Page 248 under Document No. 1679259 recorded April 14, 1993, all documents on file and of record in the office of the Yellowstone County Clerk and Recorder;

Said annexation containing 10.186 gross net acres, more or less.

(# 23-08) See Exhibit "A" Attached

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

annexation

- 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.

changed to lower case

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 9th day of October, 2023.

CITY OF BILLINGS:

BY: _____

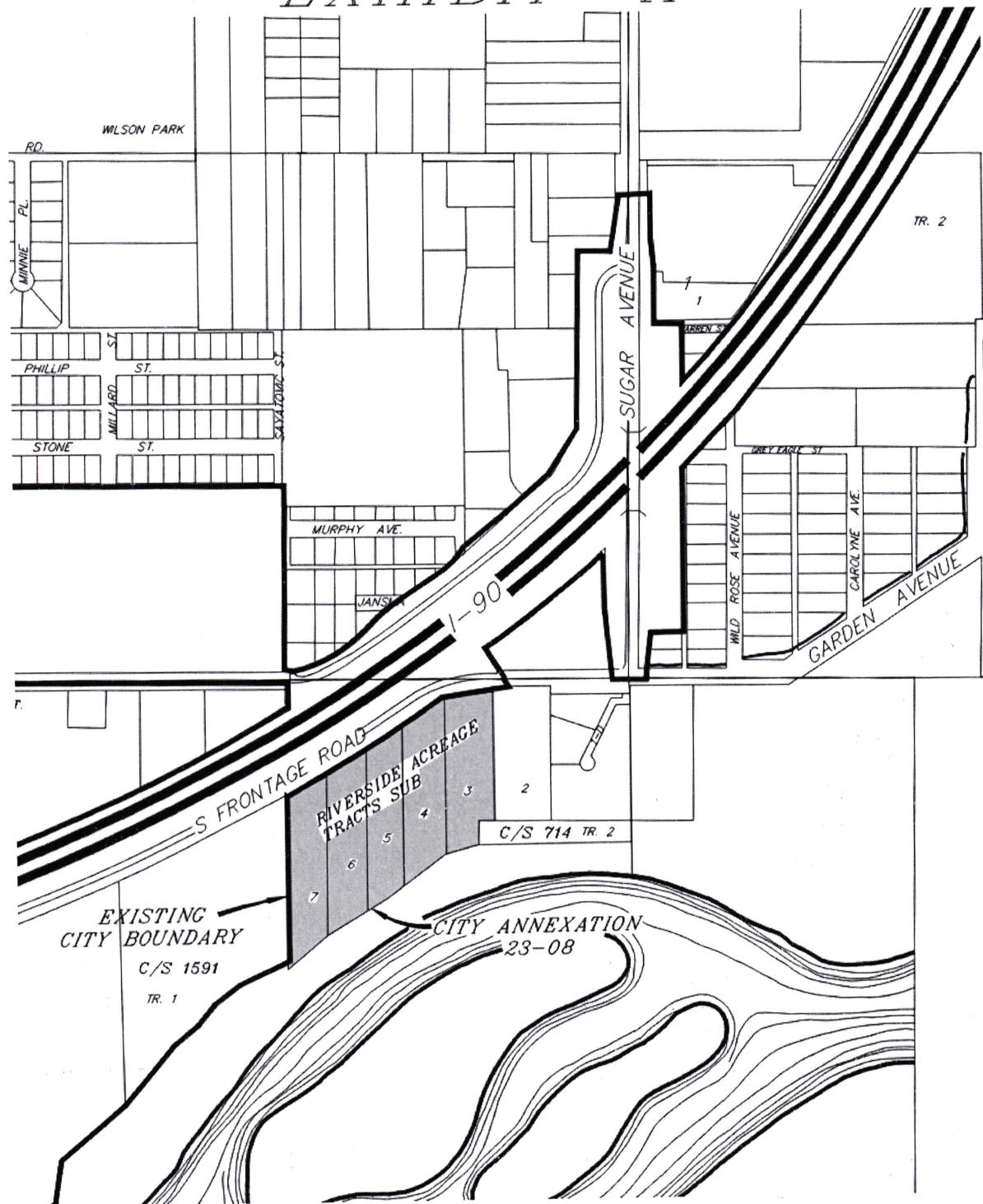
William A. Cole, Mayor

ATTEST:

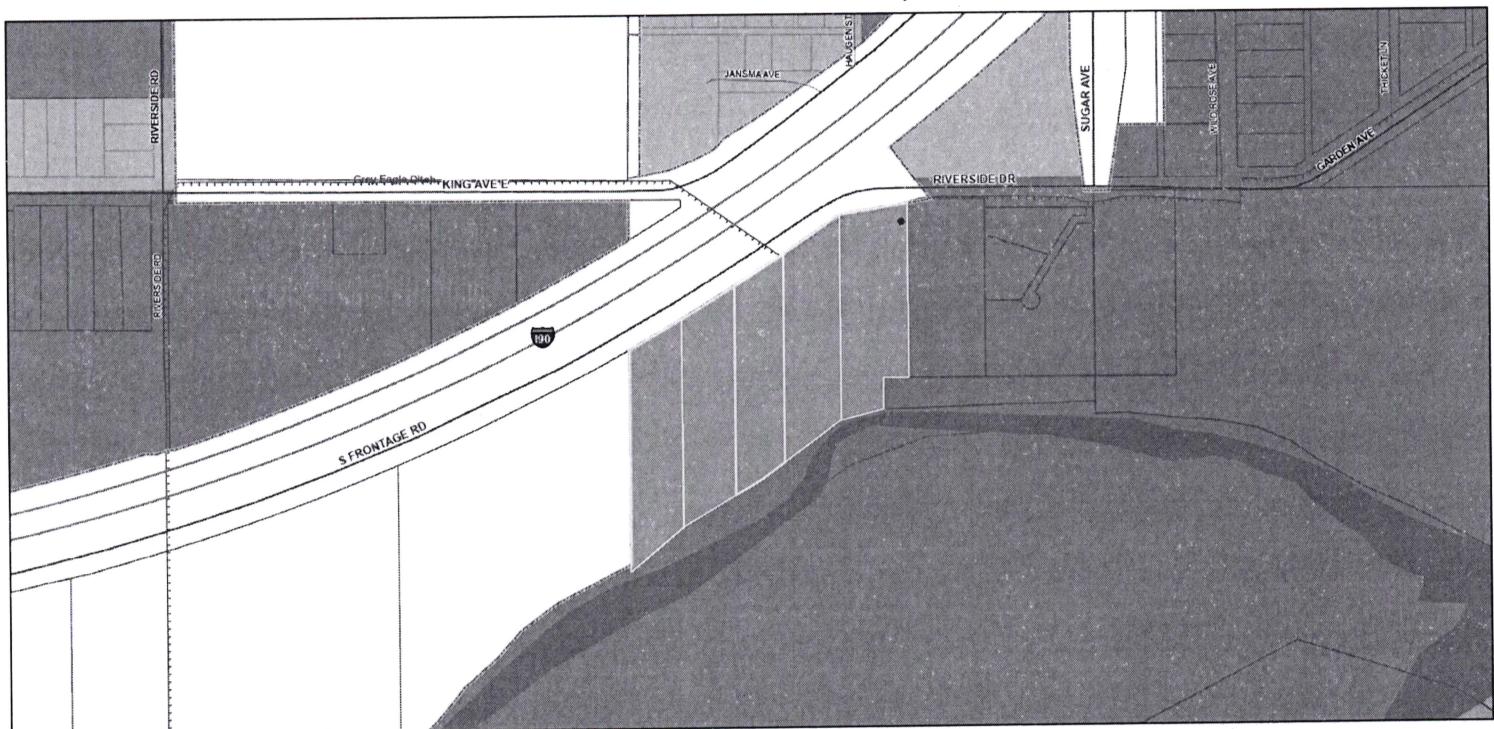
BY: _____

Denise R. Bohlman, City Clerk
(# 23-08)

EXHIBIT "A"



Limits of Annexation Map



9/14/2023, 9:58:56 AM

Limits of Annexation

Zone 1 Petition Area

Zone 3 County Developed Area

Streams, Ditches, Canals

Canal or Ditch

Other

Water Body

Tax Parcels

Billings City Limits

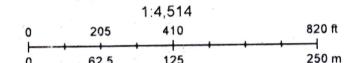
Road Centerline

Interstate

ARTERIAL

COLLECTOR

STREET



Web AppBuilder for ArcGIS

RESOLUTION 23-11169

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 NE 1/4 of Section 15, T.1S., R.26E., Yellowstone County, Montana, more particularly described as follows:

Lots 3, 4, 5, 6 and 7 of Riverside Acreage Tracts Subdivision, recorded November 9, 1960, under Document No. 651367,

Less portions of said parcels for Right-Of-Way purposes in Judgement and Final Order of Condemnation documents, Book 830, Page 4, under Document No. 766608, Book 830, Page 8, under Document No. 766609, and Book 830, Page 12, under Document No. 766610, recorded November 19, 1965 respectively, and Quit Claim Deed Book 1394, Page 248 under Document No. 1679259 recorded April 14, 1993, all documents on file and of record in the office of the Yellowstone County Clerk and Recorder;

Said annexation containing 10.186 gross net acres, more or less.

(# 23-08) 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 Annexation 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 9th day of October, 2023.



CITY OF BILLINGS:

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

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk
(# 23-08)

EXHIBIT "A"

