

RESOLUTION 23-11115

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:

Tracts of Land situated in the NW 1/4 of Section 19, T.1S., R.26E, P.M.M., Yellowstone County, Montana, said tracts being a portion of Tract 2 of Certificate of Survey No. 3592, recorded July 2nd, 2015, under Document No. 3745237 and a portion of Tract 2A-1 of Amended Tract 2A of Amended Tract 2, Certificate of Survey No. 3594, recorded March 2nd, 2022, under Document No. 4009586 on file and of record in the office of the Yellowstone County Clerk and Recorder, more particularly described as follows:

Beginning at the northwest corner of Lot 5, Block 24 of Annafeld Subdivision, Fourth Filing, recorded May 25th, 2022, under Document No. 4018177 on file and of record in the office of the Yellowstone County Clerk and Recorder; Thence S 00°08'35" E along the line common to said Certificate of Survey No. 3594 and Annafeld Subdivision, Fourth Filing a distance of 709.30 feet; Thence N 89°57'58" W for a distance of 185.93 feet; Thence N 00°02'02" E for a distance of 155.58 feet; Thence N 89°57'59" W for a distance of 184.98 feet; Thence N 00°02'02" E for a distance of 355.80 feet; Thence S 89°57'58" E for a distance of 76.01 feet; Thence N 00°02'02" E for a distance of 361.07 feet to a point on the line common to said Certificate of Survey No. 3594 and Certificate of Survey No. 3592; Thence N 00°09'54" W for a distance of 30.00 feet; Thence N 89°58'09" E for a distance of 282.65 feet to a point on the line common to said Certificate of Survey No. 3592 and Annafeld Subdivision, Fourth Filing; Thence along the west line of said Annafeld Subdivision, Fourth Filing, the following three courses and distances: S 00°09'54" E for a distance of 30.00 feet; N 89°58'09" E for a distance of 9.55 feet; S 00°08'35" E for a distance of 163.49 feet to said Point of Beginning.

Said annexation containing 6.307 gross and net acres, more or less.

(# 23-01) 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 Subdivision Improvement Agreement shall be approved as part of a Preliminary Plat approval for Annafeld Subdivision, 5th Filing.
- Within 14 working days, a standalone Waiver of Right to Protest, granted in perpetuity, shall be signed by the developer and filed with the Yellowstone County Clerk and Recorder upon the City's approval of the annexation.

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 MCA, 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 April, 2023.



CITY OF BILLINGS:

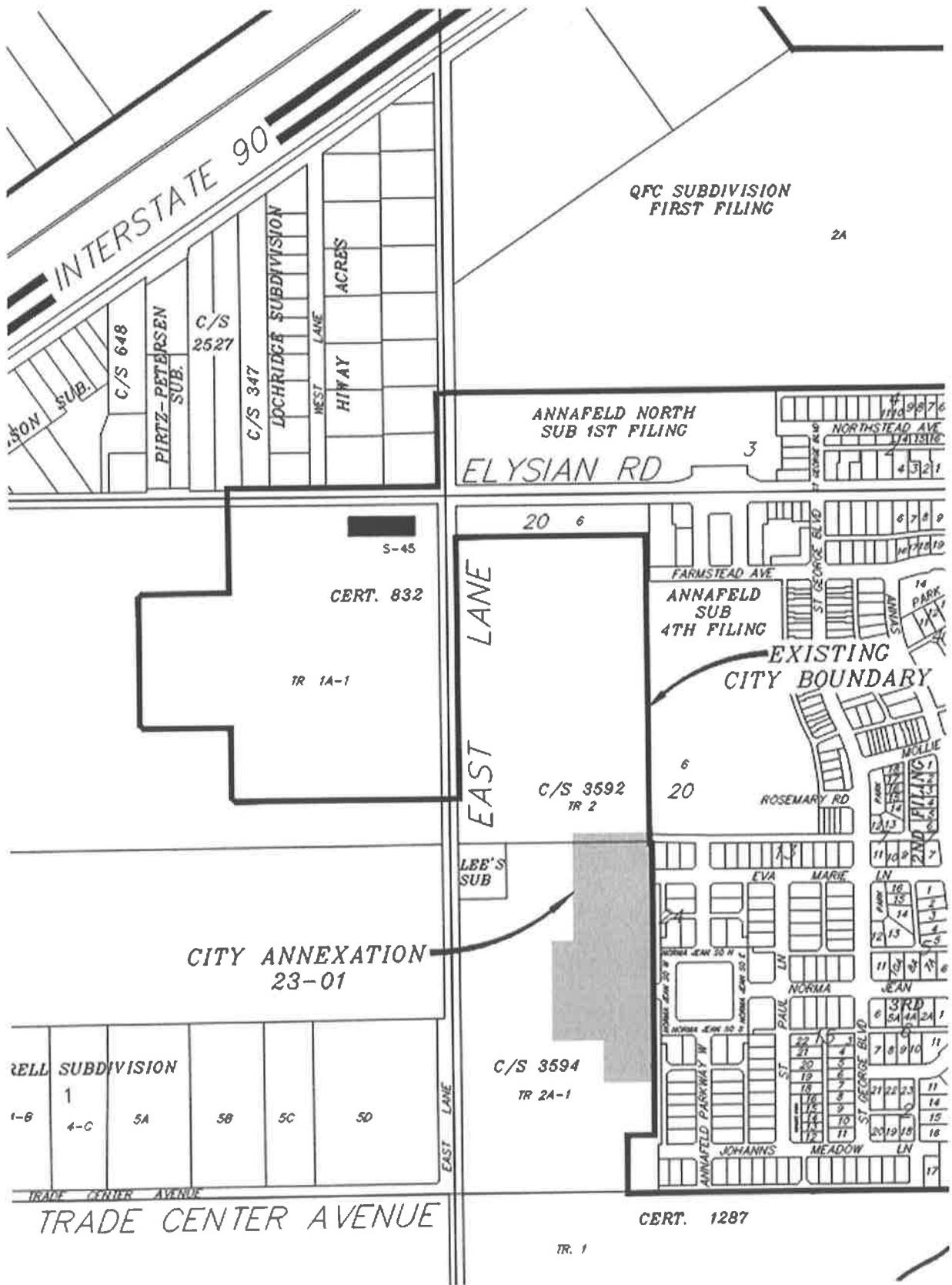
BY: William A. Cole
William A. Cole, Mayor

ATTEST:

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

(# 23-01)

EXHIBIT "A"



Res. 23-1115 Item 5
 COUNCIL ACTION *approved*
 11-0
 APR 24 2023
 db
 CITY CLERK

City Council Regular

Date: 04/24/2023
 Title: Public Hearing and Resolution for Annexation 23-01
 Presented by: Hunter Kelly, Planner 1
 Department: Planning & Community Services
 Presentation: Yes
 Legal Review Not Applicable

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 behalf of McCall Development submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located East of East Lane and South of Elysian Road. The land being annexed is described as Tracts of Land situated in the NW 1/4 of Section 19, T.1S., R.26E, P.M.M., Yellowstone County, Montana, said tracts being a portion of Tract 2 of Certificate of Survey No. 3592, recorded July 2nd, 2015, under Document No. 3745237 and a portion of Tract 2A-1 of Amended Tract 2A of Amended Tract 2, Certificate of Survey No. 3594, recorded March 2nd, 2022, under Document No. 4009586 on file and of record in the office of the Yellowstone County Clerk and Recorder, more particularly described as follows:

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Said annexation containing 6.307 gross and net acres, more or less.

The property is zoned Planned Development (PD). This is a zoning district recognized by the City. Property immediately adjacent to the subject property was previously annexed in order to build the Annafeld Subdivision. 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. This annexation is part of the 5th Filing of the Annafeld subdivision. This subdivision will have Subdivision Improvement Agreement approved by City Council within 45 working days of annexation approval.
3. Existing or proposed public improvements within the area to be annexed will meet City standards. The Subdivision Improvement 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 future Special Improvement Districts. A standalone waiver is required as a condition of approval for this annexation. The waiver is good in perpetuity and is not subject to the 20-year limitation as identified in the Montana Subdivision and Platting Act.
5. If annexed, any proposed land use will comply with the zoning.
 1. A zone change is not required as part of this annexation. This parcel is zoned PD (Planned Development) which is recognized by the City.
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. This area being annexed will be part of the Annafeld subdivision, 5th Filing. This filing of the subdivision is approximately 8 dwelling units per acre.

7. The proposed land use within the area to be annexed shall conform to the goals of the City of Billings Growth Policy. This parcel is most in line with the following:

1. Strong Neighborhoods - Safe, accessible and comfortable places for people to walk and gather
2. Housing choices for all ages and families
3. Interconnected network of sidewalks and trails that are safe at all times

A strong neighborhood is a place where we will be comfortable no matter our age, income or heritage and provides gathering spaces to encourage everyday interaction between residents.

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. Sanitary sewer service will be provided by connecting to the existing 8-inch gravity sewer main located in Rosemary Road, Eva Marie Lane, Norma Jean Lane, and Annafeld Parkway W. There is an existing 10-inch sewer main located in Centennial Farm Road, from St. George Boulevard to Annafeld Parkway E., and extends north in Annafeld Parkway E. to Farmstead Avenue. The subdivision water system will consist of new 12-inch water main in Norma Jean and in a portion of St. Peter Lane. 8-inch water mains will be installed in the remaining streets in Annafeld Subdivision, Fifth Filing. Future filings of the Annafeld Planned Development will provide the opportunity to make additional connections to the trunk main in Elysian Road providing water main looping.
- **Storm water:** Any development will be compliant with the adopted Stormwater Management Manual.
- **Transportation:** The Developer Tract will be accessed from Farmstead Avenue, Centennial Farm Road, Rosemary Road, Eva Marie Lane, Norma Jean Lane, and Annafeld Parkway West. The Public Right-of-way along East Lane 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 1623 East Lane, approximately 2.86 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. This is typical for commercial development such as this. Though this development will bring jobs to the vicinity it will not necessarily equate to new residences or students.

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 route currently operates through the intersection of Elysian Road and Mullowney Lane. This intersection is approximately 1.12 miles from the proposed annexation location via roadway.
- **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. Despite recent passage of a safety levy, continued annexation and development will affect our ability to deliver service without commensurate resources.
- **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 affect, 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. On March 1, 2023, the annexation petition was submitted to the Planning Division by the owner's agent. On April 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 Map

Annexation Resolution

Limits of Annexation

