

Res. Z3-11122 Item 7 a. i.

COUNCIL ACTION	Approved
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MAY 22 2023	
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CITY CLERK	

City Council Regular

Date: 05/22/2023
 Title: Resolution Approving Annexation 23-03
 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. In this case, a joint public hearing that considers both the annexation and associated zone change 1025. Upon completion of the hearing, staff recommends the City annex the petitioned property with the staff recommended conditions of approval.

NOTE: Though a joint hearing is being held, individual action will need to be taken on each item.

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

KLJ Engineering on behalf of Ned and Van Zimmerman submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located North of Rimrock Road and East of 54th Street West. The land being annexed is described as being Parcels of Land situated in the SW 1/4 of Section 29, and the NW 1/4 of Section 32, T.1N., R.25E., Yellowstone County, Montana, more particularly described as follows: Tract 2B of Amended Tract 2 of Certificate of Survey No. 1834, recorded November 25th, 1997, under Document No. 1900549 on file and of record in the office of the Yellowstone County Clerk and Recorder. Including adjacent Right-Of-Way of Rimrock Road. Said annexation containing 32.928 gross acres and 30.608 net acres, more or less.

The property is currently zoned N3 (Single Family Residential) and is located in the county. This is a zoning district recognized by the City, however this property is currently undergoing a rezone to PND (Zone Change 1025), in compliance with the zoning code which requires properties to annex as a Planned Neighborhood Development.

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.
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. This property is currently being rezoned as a PND (Planned neighborhood Development) through Zone Change 1025
 1. 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. 54 West Subdivision will have 66 residential lots on 16.21 acres of land, with a mixture Single Family and Duplex friendly zoning, which equates to approximately 4 dwelling units per acre.
6. 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
 1. Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
 2. Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
 3. 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

4. Neighborhoods that are safe and attractive and provide essential services are much desired
5. Implementation of the Infill Policy is important to encourage development of underutilized properties

2. Home Base
 1. A mix of housing types that meet the needs of a diverse population is important
 2. The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
 3. Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
 4. Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
 5. Public safety and emergency service response are critical to the well-being of Billings' residents
 6. 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 connections to the sanitary sewer main and a water main in 54th Street West along the frontage of the above-described property.
- **Storm water:** Any development will be compliant with the adopted Stormwater Management Manual.
- **Transportation:** The Developer Tract will be accessed from 54th Street West. The 37-foot-wide right-of-way half-width along 54th Street 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 #7, located at 1501 54th St West, approximately 1.0 road miles or 2-3 minutes driving time to the subject property.
- **Parks:** No Parkland or Trails will be required as part of this annexation.
- **School facilities:** School District #2 provides service to students within this subdivision from elementary to high school (Arrowhead Elementary School, Ben Steele Middle School, and West High School). School District #2 provided comment for this annexation petition that West High School (2113 Enrolled / 1731 Maximum) and Ben Steele Middle School (781 Enrolled / 750 Maximum) are over capacity, and Arrowhead Elementary (437 Enrolled / 460 Maximum) is just under capacity. Additional conversations not specific to this annexation between City Administration and School District #2 Administration suggest the capacity issues are currently not something that should deter growth. School District #2 is in a process in the next year to evaluate its sub-district areas that serve each school as part of its ongoing work to manage 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. The nearest route, MET Route 24, currently operates through the intersection of Poly Drive and Rehberg Ln, which is the nearest accessible point to the property. This intersection is approximately 3.26 miles from the proposed annexation location via roadway. MET does not anticipate that fixed-route service 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. 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 regarding the zone change and ward boundary ordinance. On April 1, 2023, the annexation petition was submitted to the Planning Division by the owner's agent. On May 22, 2023, the City Council is scheduled to take action on the petition.

FISCAL EFFECTS

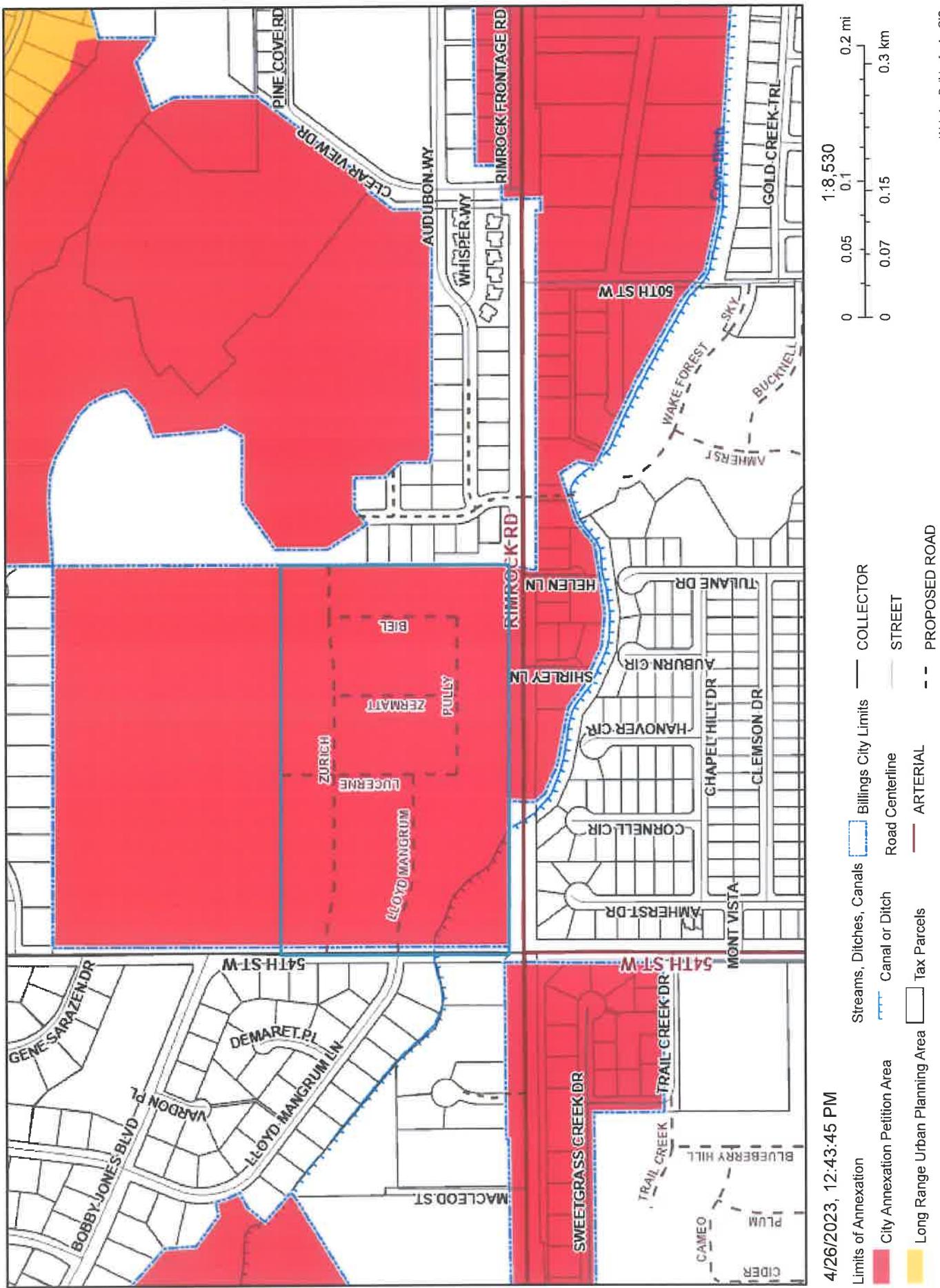
This application has no impact on the Planning Division Budget.

SUMMARY

Attachments

Annexation Resolution
Limits of Annexation Map

Limits of Annexation Map



RESOLUTION 23-11122

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 SW 1/4 of Section 29, and the NW 1/4 of Section 32, T.1N., R.25E., Yellowstone County, Montana, more particularly described as follows:

Tract 2B of Amended Tract 2 of Certificate of Survey No. 1834, recorded November 25th, 1997, under Document No. 1900549 on file and of record in the office of the Yellowstone County Clerk and Recorder.

Including adjacent Right-Of-Way of Rimrock Road.

Said annexation containing 32.928 gross acres and 30.608 net acres, more or less.

(# 23-03) 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 Fifty Four West Subdivision.
- 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 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 22nd day of May, 2023.

CITY OF BILLINGS:



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

ATTEST:

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

(# 23-03)

EXHIBIT "A"

