

**City Council Regular**

**Date:** 06/12/2023  
**Title:** Joint Public Hearing and Resolution- Annexation 23-04  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review:** Not Applicable  
**Project Number:** N/A

COUNCIL ACTION APP 11-0  
RES 23-1125  
JUN 12 2023  
*[Signature]*

CITY CLERK

**RECOMMENDATION**

Staff recommends the City Council hold a public hearing. In this case, a joint public hearing that considers both the annexation and the associated Zone Change 1026, a zone change from Agricultural to Public 3 (P3). 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)**

The Montana Department of Military Affairs have petitioned for annexation using the provisions of Section 7-2-4600, MCA. The property is located at 3648 AJ Way. The property is described as Tracts 2 and 3 of Certificate of Survey 1889. The land is legally described as Parcels of Land situated in the NW 1/4 and NE 1/4 of Section 26, T.1N., R.26E., Yellowstone County, Montana, more particularly described as follows: Tracts 2 and 3 of Certificate of Survey No. 1889, recorded May 17th, 1979, under Document No. 1129245 on file and of record in the office of the Yellowstone County Clerk and Recorder. Said annexation containing 40.01 gross net acres, more or less. The property is zoned Agricultural, a zone not recognized by the City of Billings. Therefore, an associated zone change application is being submitted for the use of P3 to allow the development of a Montana Army National Guard facility. Specifically the property owner intends to construct a Limited Army Aviation Support Facility. This would be considered a civic campus in accordance with the zoning and buildings will likely be constructed over the course of several years and as more land is acquired.

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: The property is confirmed to be in the red area, see attached 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 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 will meet City standards: The existing property is vacant therefore and planned infrastructure will be new and is required to meet the City's regulations. 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. No variances have been requested, and the structure is intended to be conforming to zoning and all other City of Billings regulations.
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. This waiver is attached to the Annexation Agreement. 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. All residential property owners within the area to be annexed must create or join an existing park maintenance district: This criteria is not applicable, as confirmed by the Parks Department as there is not a park maintenance district governing the area, nor is there a parkland dedication requirement for the development. Parkland dedication

may be required in the future if the property is subdivided in accordance with the Subdivision and Platting Act, though the likelihood of this is small since the Department of Military Affairs will be developing the parcels for the use of a Limited Army Aviation Support Facility.

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 criteria is not applicable to this annexation since the land is proposed to be developed as a civic campus that will house a Limited Army Aviation Support Facility. There are no planned residential uses for the property.

7. The proposed land use within the area to be annexed must conform to the goals of the Adopted City of Billings Growth Policy: Chapter 2 of the 2016 City of Billings Growth Policy outlines 7 growth guidelines. Essential Investments, Place Making, Community Fabric, Strong Neighborhoods, Home Base, Mobility and Access and Prosperity. Particularly this parcel with the proposed zoning is most in line with the following:

**Essential Investments:**

- Infill development and development near existing City infrastructure may be the most cost-effective
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Mobility and Access (transportation choices in places where goods and services are accessible to all)

**Prosperity:**

- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses

**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: The developer tracts will connect to existing water and sanitary sewer mains that are located in AJ Way.
- Storm water: The developer will manage storm drainage within the Developer Tracts in accordance with the City of Billings Stormwater Management Manual (2018).
- Transportation: The subject property will be accessed from AJ way.
- 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 in order to meet and maintain a high level of service due to the increased call volume and burden on our department these annexations create. The nearest fire station is Station #1, located at 2305 8th Ave. N., approximately 4.15 road miles or approximately 9 minutes driving time to the subject property depending on traffic. A major concern for this property is the water supply for fire suppression. The minimum required water supply is 1,500 gpm. Currently, only 80 gpm is supplied to the area. Currently, the City's Public Works has a pump station to increase that amount, but it has to be manually activated. Public Works is planning to upgrade this pump to an automatic variable frequency drive pump. Once installed there will no longer be a need for the manual pump and the water supply will increase thus alleviating the concerns for the Fire Department. Additionally, the National Guard will be installing, internal to the site, buried dry hydrants to be available in addition to the municipal water supply. The Guard is installing these on their own volition to have available for internal fires.
- Parks: There is no parkland required as part of this annexation request.
- School facilities: School District 2 does not generally provide recommendations on land-use applications, but rather provides broad statements regarding capacity issues. For this petition, the school district is likely to feel minimal or no impacts because the development is not residential in nature. The School District has provided the following capacity information. Alkali Elementary current enrollment number is 353 and capacity is 394; Castle Rock Middle School enrollment is 707 and capacity is 715; and Skyview High School: current enrollment number is 1,593 and max capacity is 1,684. The school district provided no additional comments.

**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 emergency services in its comments above did note its concerns as additional property is annexed into the City. Those concerns did not warrant a recommendation of denial.

- Transit: The nearest fixed route, with the existing routes and planned new routes to take effect Summer 2023, is approximately 2.25 miles away via Zimmerman Trail at Rimrock Rd and 38th St West. The rimrocks do provide a significant barrier for transit to be able to provide closer service to this area. Fixed-route service also serves

- Billings Logan International Airport approximately 2.5 miles away. Transit does not anticipate serving the area with fixed route service in the foreseeable future, but will continue to provide paratransit service within all of Billings city limits as time and space allows.
- Police: This property is adjacent to areas already receiving service. There is adequate ingress/egress and there will not be a need to adjust schedules or beat structure. Continued annexation and development without commensurate resources will adversely affect the department's ability to deliver services over time.
- 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.
- 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. 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 this property is within the City's Annexation Petition Area and is expected to be brought into the City to develop at urban density and utilize City services. Having this property annex and be used for aviation related development is appropriate given the proximity to the Billings Logan International Airport. The Planning and Community Services Department and the Planning Division supports this annexation petition. Staff finds the annexation policy criteria have been met.

#### **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. The hearing was legally advertised in the *Yellowstone County News*.

#### **ALTERNATIVES**

The City Council may approve or deny the petition for annexation. Denial of the petition will mean the City Council cannot consider any other associated items with this annexation.

- On March 28, 2023, the annexation petition was submitted to the Planning Division by the owner's agent.
- The Council is scheduled to hold a hearing and take action on June 12, 2023.

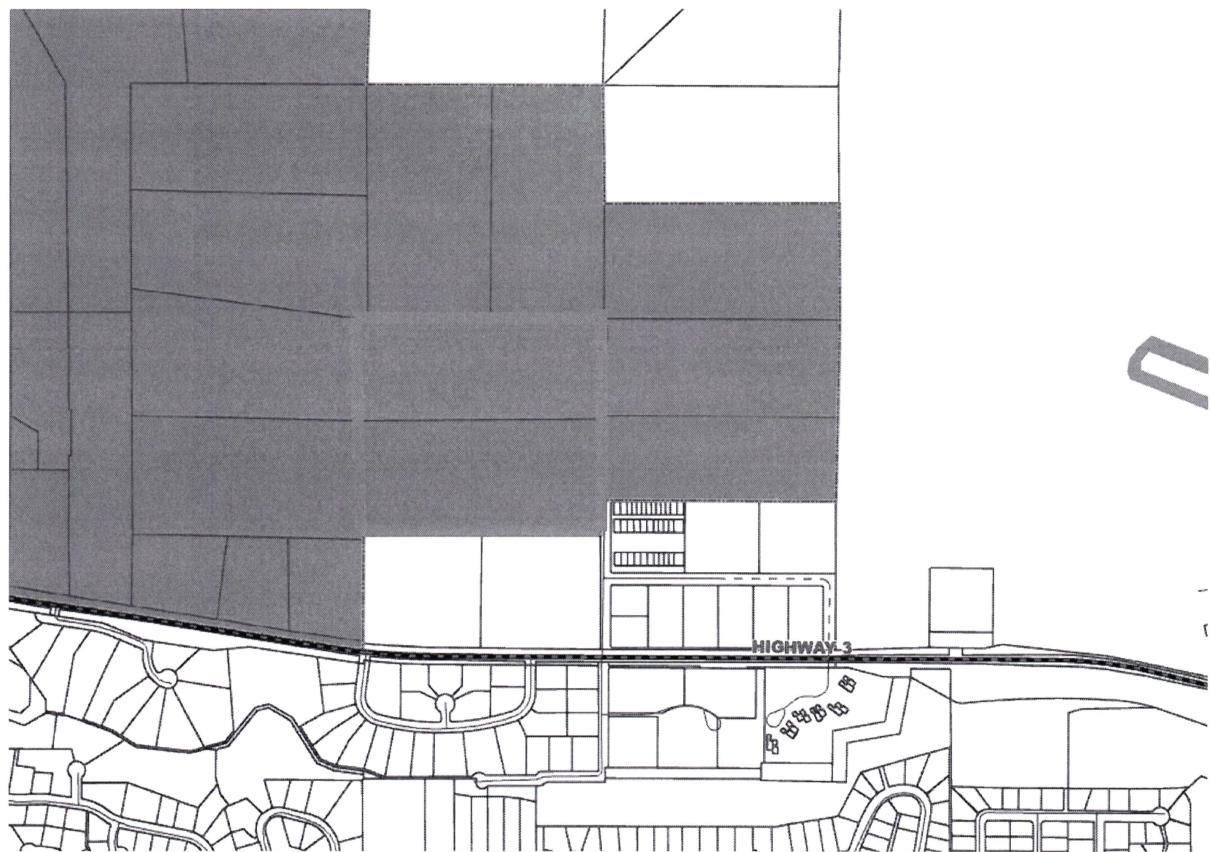
#### **FISCAL EFFECTS**

This application has no impact on the Planning Division Budget.

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#### **Attachments**

Limits of Annexation Map  
Resolution



Limits of Annexation Map

## RESOLUTION 23-11125

### 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 NW 1/4 and NE 1/4 of Section 26, T.1N., R.26E., Yellowstone County, Montana, more particularly described as follows:

Tracts 2 and 3 of Certificate of Survey No. 1889, recorded May 17th, 1979, under Document No. 1129245 on file and of record in the office of the Yellowstone County Clerk and Recorder.

Said annexation containing 40.01 gross net acres, more or less.

(# 23-04) See Exhibit "A" Attached

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

- Upon annexation a standalone Waiver of Right to Protest shall be filed with the Yellowstone County Clerk and Recorder.
- Within 45 working days and prior to site development, a mutually acceptable Annexation Agreement shall be preliminarily approved between the owner(s) and the City that shall stipulate 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.

4. 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.

5. 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 12<sup>th</sup> day of June, 2023.



CITY OF BILLINGS:

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

ATTEST:

BY: Denise R. Bohlman  
Denise R. Bohlman, City Clerk  
(# 23-04)

*EXHIBIT "A"*

