

**RESOLUTION 23-11165**

**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:

Parcel of Land situated in the NW 1/4 of Section 28, T.1S., R.26E., Yellowstone County, Montana, more particularly described as follows:

Lot 7 of Blue Creek Acreage Tracts Subdivision, recorded March 29, 1963, under Document No. 703845, on file and of record in the office of the Yellowstone County Clerk and Recorder.

Including all adjacent Right-Of-Way of Blue Creek Road / State Highway No. 416.

Said annexation containing 3.206 gross acres and 2.804 net acres, more or less.

(# 23-07) 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 25<sup>th</sup> day of September, 2023.



CITY OF BILLINGS:

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

ATTEST:

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

(# 23-07)

# EXHIBIT "A"



CERT. 2790-M  
TR. 1  
EXISTING CITY BOUNDARY

CERT. 646

TR. B-3 2ND AMENDED  
TR. B-3C

CITY ANNEXATION  
23-07

CERT. 2708  
TR. 1

BLUE CREEK ACREAGE  
TRACTS SUBDIVISION

BLUE

CREEK ROAD

COLEEN DR

15  
16  
17  
18  
19  
20  
11  
10  
9  
8  
7  
6  
5  
4  
3  
2  
1  
14-A  
14-B  
13  
12  
11  
10  
9  
8  
7  
6  
5  
4  
3  
2  
1  
KENT DR  
DAWN LN

UNPLATTED

EXISTING  
CITY BOUNDARY

CERT 1209

TR 8

STATE SECONDARY 416  
TR 11  
TR 10  
TR 9  
MARIAN CR  
TR 1  
TR 2  
TR 3  
SHAW WAY  
TR J

TR 7

COLLIER RD  
TR 5-A

BLUE CREEK ACREAGE  
TRACTS SUBDIVISION

CERT 2544

TR 8

BRIARWOOD  
GOLF COURSE

**City Council Regular**

**Date:** 09/25/2023  
**Title:** Public Hearing and Resolution Annexation 23-07  
**Presented by:** Hunter Kelly, Planner 1  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review:** Not Applicable  
**Project Number:** PZX-23-00140

Res. 23-11165

COUNCIL ACTION		Approved 8-0
Tidwell, Boyett, Rupsis		Absent / Excused
SEP 25 2023		
 <b>CITY CLERK</b>		

**RECOMMENDATION**

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

Note: Although a joint hearing is held on the annexation and zone change, the Council is required to take two separate actions.

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

Sanderson Stewart, on behalf of Andrew Boetticher, submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located at 2449 Blue Creek Road, north of Blue Creek Road and West of Colleen Drive. The land being annexed is described as being Parcel of Land situated in the NW 1/4 of Section 28, T.1S., R.26E., Yellowstone County, Montana, more particularly described as Lot 7 of Blue Creek Acreage Tracts Subdivision, recorded March 29, 1963, under Document No. 703845, on file and of record in the office of the Yellowstone County Clerk and Recorder. Including all adjacent Right-Of-Way of Blue Creek Road / State Highway No. 416. Said annexation containing 3.206 gross acres and 2.804 net acres, more or less. The property is zoned RR1 (Rural Residential 1ac -- 2.99ac). This is not a zoning district recognized by the City. There is a concurrent zone change (ZC 1035) to bring the zoning into compliance with N3 (Suburban Neighborhood Residential) Zoning.

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 must be located within Zone 1 or Zone 3 of the Limits of Annexation Map.
  - As evidenced on the attached "Limits of Annexation" Exhibit.
2. The City must 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.
  - Included as a condition of approval of the resolution and provided as an attachment to the Annexation Agreement.
5. All residential property owners within the area to be annexed must create or join an existing park maintenance district.
  - This property is not adjacent to an existing park maintenance district nor creating additional parkland for City, therefore the criteria does not apply.
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.
  - While only one residence is planned for now, the size of this property could allow for future redevelopment for additional single family homes due to the size of the lot.
7. The proposed land use within the area to be annexed must conform to the goals of the Adopted City of Billings

Growth Policy. The following growth policy statements most apply to this development.

- **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 the design and construction of sanitary sewer and a water main connections in Blue Creek Road 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 Blue Creek Road. The Public Right-of-way along Blue Creek Road will be dedicated to the City of Billings.
- Fire Stations: The Blue Creek Volunteer Fire Department currently serves the subject property. The nearest fire station is the Blue Creek Volunteer Fire Department, located at 2504 Blue Creek Road, approximately 100 feet or 30 seconds of driving time to the subject property. The Billings Fire Department will also be able to serve the property upon annexation through Station #4, located at 475 6th St. W, approximately 5 road miles or 11-13 minutes driving time to the subject property. The existing fire hydrants along Blue Creek Rd. are in excess of 800' from the property. A hydrant will be required to meet the minimum 600' distance requirement if a residence is built.
- Parks: No Parkland or Trails will be required as part of this annexation.
- School facilities: This area is served by School District 2 & School District 3. Blue Creek Elementary (SD3) did not respond for comment. Riverside Middle School (SD2) will serve this area and is under capacity. Senior High School (SD2) will serve this area and is 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. The nearest MET route currently operates through the intersection of S. Billings Blvd & Midland Road. This intersection is approximately 2 miles from the proposed annexation location via roadway. MET does not anticipate that a 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. This area is disjointed from the rest of the patrol area so it gets moderate attention. Continued development and annexation without commensurate resources has affected the Police Department's 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 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 annexation agreement and ward boundary ordinance. On July 25, 2023, the annexation petition was submitted to the Planning Division by the owner's agent. On September 25, 2023, the City Council is scheduled to take action on the petition.

## **FISCAL EFFECTS**

This application has no impact on the Planning Division Budget.

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## **Attachments**

Annexation Resolution 23-07  
Limits of Annexation

**RESOLUTION NO. 23 -**

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CITY OF BILLINGS:

BY: \_\_\_\_\_

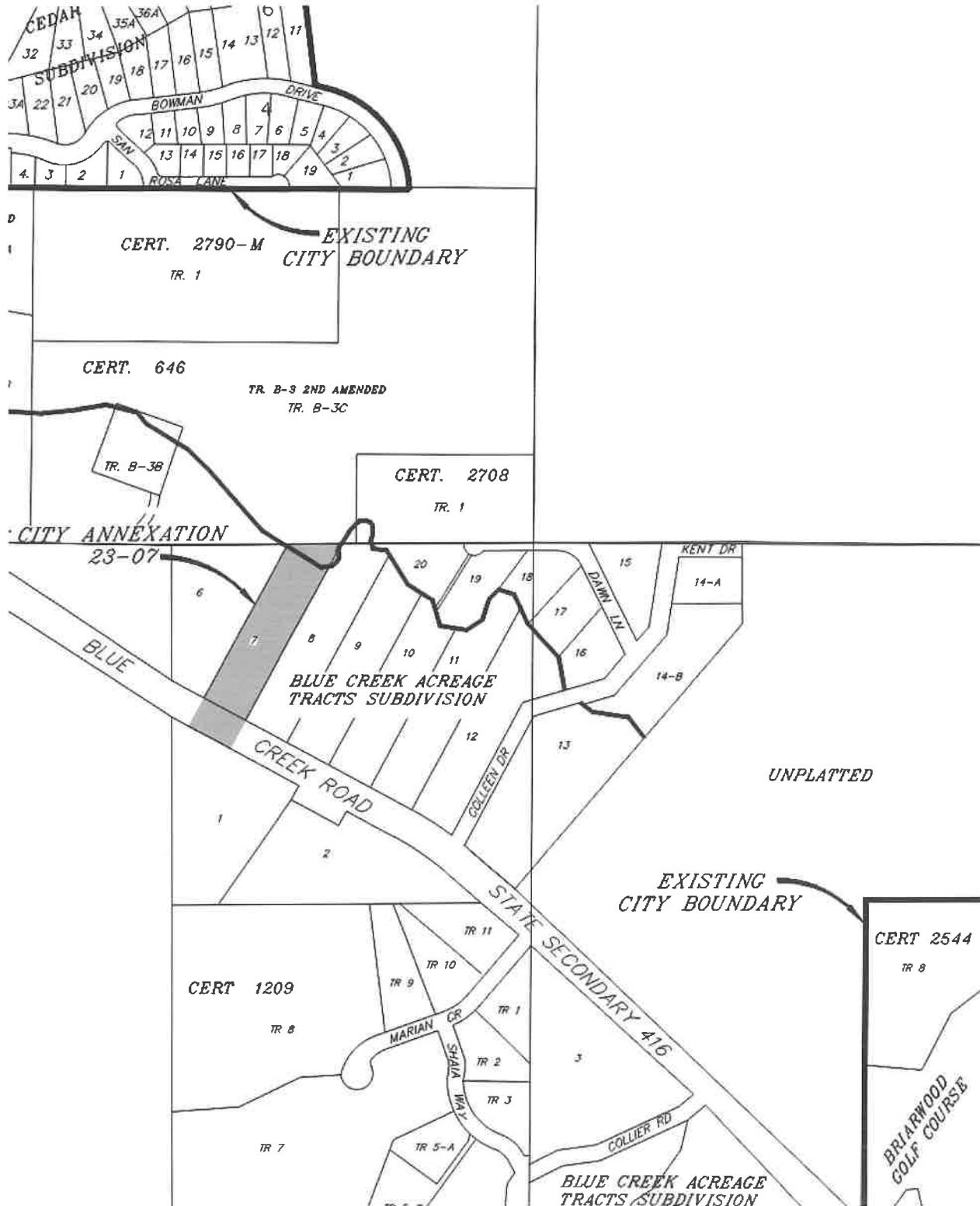
William A. Cole, Mayor

ATTEST:

BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk  
(# 23-07)

*EXHIBIT "A"*



## Limits of Annexation Map

