

**Date:** 10/09/2023  
**Title:** Zone Change 1035 - 2449 Blue Creek Road - RR1 to N3 - 2nd Reading  
**Presented by:** Hunter Kelly, Planner 1  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review:** Not Applicable  
**Project Number:** PZX-23-00141

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#### RECOMMENDATION

The City Council approved Zone Change 1035 and adopted the findings of the 10 review criteria following a public hearing on September 25. Planning staff recommends the City Council take second reading action consistent with its first reading action.

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

This is a zone change request from Rural Residential 1 (RR1), a county zone district, to Suburban Neighborhood Residential (N3) on Lot 7 of Blue Creek Acreage Tracts Subdivision, a 2.804 acre piece of land. There is a concurrent petition for annexation to the city.

This zone change request is to allow for the annexation of the subject property to ultimately allow connection to city services. All annexations require the property be zoned with a zoning district that is recognized by the City Zoning. The property is currently zoned RR1 which is a zone district only allowed in the county. A zone change in combination with the annexation is required.

#### APPLICATION DATA

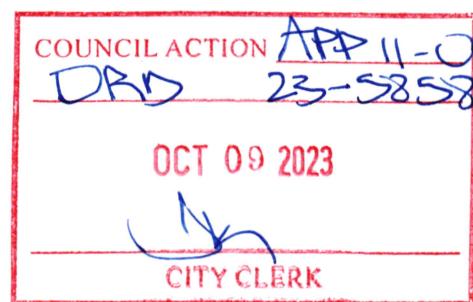
**OWNER:** Andrew Boetticher  
**AGENT:** Andrew Boetticher  
**LEGAL DESCRIPTION:** BLUE CREEK ACREAGE TRACTS SUBD, S28, T01 S, R26 E, Lot 7  
**ADDRESS:** 2449 Blue Creek Road  
**CURRENT ZONING:** RR1 (Rural Residential 1 ac to 2.99 ac)  
**EXISTING LAND USE:** Vacant/Agricultural  
**PROPOSED USE:** Residential  
**SIZE OF PARCEL:** 2.804 Acres

#### CONCURRENT APPLICATIONS:

Petition for Annexation 23-07

#### SURROUNDING ZONING AND LAND USE:

**NORTH:** Zoning: RR1  
**Land Use:** Vacant Land  
**SOUTH:** Zoning: P2 - Public - Civic & Institutional  
**Land Use:** Blue Creek Fire Volunteer Fire Department  
**EAST:** Zoning: RR1  
**Land Use:** Vacant  
**WEST:** Zoning: RR1  
**Land Use:** Vacant/Agricultural



The property owners intended to develop a single-family residence on the lot in the County, but the property is not eligible to install a septic system due to close proximity of city services. The only available method for wastewater management on the lot was through the connection to city sewer mains located in Blue Creek Road. Connection to city services requires an annexation, and the annexation requires a zone change to a residential district in the city.

#### STAKEHOLDERS

The applicant held a pre-application neighborhood meeting on July 24th, 2023 at 7pm. The meeting was held at the subject property. While there were only eight property owners within the 300' mailing radius, twelve participants showed up to the meeting. Minutes taken at the pre-app meeting show there were six opposed to the action and six in support. The six in opposition were concerned the proposal would "force their own properties into annexation". The applicant tried to explain how the City does not forcibly annex property, but was met with skepticism by those in opposition. The meeting lasted a total of 40 minutes.

The Zoning Commission held a public hearing for this zone change on September 5, 2023. Planner Hunter Kelly gave a staff presentation on the item to the Zoning Commission. Commissioner Goss asked about the distance of the subject property in relation to the current city limits, with staff responding its was equidistantly a mile from Cedar Park Subdivision and Briarwood Estates, which are in city limits. Commissioner Brooks asked about the possibility of denser development on the lot, especially in light of SB 323. Staff responded that the proposed zoning could allow for more houses than currently proposed, due to the current minimum street frontage standards for the N3 Zoning. Commissioner Brooks further inquired on the supposed septic issues for the site, and staff recalled the information provided in the application: DEQ claimed the property was not ideal for a septic wastewater system. There were no more questions for staff. The applicant was then invited to speak: Andrew Boetticher went to the podium and discussed the specific conditions regarding wastewater management on the site that ultimately required this annexation and subsequent zone change. There were no further questions for the applicant. No members of the public spoke on the project. Chairman Larson then closed the public hearing. Commissioner White made a motion for approval, and was seconded by Commissioner Brooks. There was no further discussion. The Zoning Commission recommended approval on a 5-0 Vote.

The public hearing(s) were advertised in the Yellowstone County News, the property was posted and notices were sent to the surrounding owners. No surrounding owners contacted the Planning staff prior to the writing of this report.

### **City Council Public Hearing and 1st reading September 25, 2023**

The City Council held a joint hearing on the annexation of the property and the zone change on September 25, 2023, and received the Zoning Commission recommendation and discussed the proposed Zone Change 1035. The City Council received no testimony from the public, and closed the public hearing. The City Council asked questions to clarify the proposed zoned change. Council Member Joy made a motion to approve the zone change on first reading and adopt the findings of the 10 review criteria. The motion was seconded by Council Member Shaw and approved on an 8 to 0 vote.

### **ALTERNATIVES**

The City Council may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1035; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1035; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

The City Council held a public hearing for first reading on September 25. Two reading are required for zone changes. Denying this zone change on second reading would be inconsistent with first reading action.

### **FISCAL EFFECTS**

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

### **SUMMARY**

The City Council prior to making a decision on the zone change shall consider the following criteria:

1. Is the new zoning designed in accordance with the Growth Policy?

**The proposed zoning conforms to the following City of Billings 2016 Growth Policy and guidelines:**

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.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning (N3) requires minimum setbacks, open and landscaped areas and building separations per section

27-300.5. The new zoning, as do all zoning districts, provides adequate building separations to provide security from fire and other dangers. Buildings developed within the city limits will comply with building and fire safety codes.

3. Whether the new zoning will promote public health, public safety and general welfare?

The proposed zoning (N3) would allow the owner to develop a single family home which is similar to the surrounding area. The site and structure regulations found in 27-300.5 in the N3 district promote the minimum standards to ensure public health and safety and promote general welfare. An on-site septic facility is prohibited for the property due to proximity to existing city services. Annexation and zoning of the property will promote public health and public safety.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?

Transportation: The proposed zoning will have little impact on the surrounding transportation systems as there are no more than 1 residence expected on the property. There will be no significant impact on the transportation network at this time and a minimal impact if an additional single family home were to be constructed. Blue Creek Road is a state maintained principle arterial. There are no capacity concerns. Water and Sewer: The property does not have access to utilities at this time, however the applicant has requested annexation. Upon annexation approval the property will connect to City water and sewer. Water and sewer are available in the adjacent right of way. Schools and Parks: Schools and parks should not be significantly affected by the proposed zone change as there are no more than 1 residence expected on the property. Fire and Police: The property will be served by the City of Billings Fire and Police upon successful annexation. The Police and Fire Departments have not stated concerns with the request.

5. Will the new zoning provide adequate light and air?

The proposed N3 zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air as required by the site a structure regulations found in 37-300.5. Any residential structure built in the future must comply with the setback and separation requirements in Section 27-300.5 ensuring adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

The new zoning will have no significant effect on vehicle and pedestrian traffic. The property is intended to create a single household and generate minimal trips. Additionally, the property is located adjacent to Blue Creek Road, a principal arterial roadway with adequate capacity to handle the additional residence.

7. Will the new zoning promote compatible urban growth?

The proposed zone change will not negatively impact urban growth. Any future home must be in compliance with the N3 zone and is an acceptable use of property within the City of Billings. The size of this property could allow for future redevelopment for additional single family homes due to the size of the lot. From a service standpoint, annexation and serving properties with nearby city services is ideal. This property is adjacent to city water and sewer facilities. With all of these items considered, the new zoning allows for opportunity to promote future and compatible urban growth.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed development continues the character of the district. The development pattern in this area is single family homes. The existing county zone allows single family homes only and the N3 zone is a compatible and similar city zone. The zone designation and annexation will not alter how the property is being used presently, therefore there are no suitability concerns.

9. Will the new zoning conserve the value of buildings?

The new zoning is not expected to alter the value of any buildings in the area. Any new or redevelopment of the property will need to meet the applicable site development requirements in the zoning code, including landscaping, screening, building heights and setbacks for the N3 zoning district.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will allow a residential property outside the City limits of Billings to be annexed into the City and connect to City services so the property can be used for a residential dwelling. There are no indicators the N3 zoning is not the most appropriate use of the land.

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Attachments

ORDINANCE 23-5858

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THE ZONE CLASSIFICATION ON C.O.S. 3795,  
PARCEL C, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1. RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Section 27-1628, BMCC, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.*

**Section 2. DESCRIPTION.** **Lot 7 of Blue Creek Acreage Tracts Subdivision**, is presently zoned **Rural Residential 1 acre to 2.99 acres (RR1)** a county zone, and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning for **Lot 7 of Blue Creek Acreage Tracts Subdivision**, is hereby changed from **Rural Residential 1 acre to 2.99 acres (RR1)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Suburban Neighborhood Residential (N3)**, as set out in the Billings, Montana City Code.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law, or upon effective date of Resolution 23-11165 approving the annexation of the above territory, whichever is later.

**Section 5. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 6. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other

provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 25th day of September, 2023.

PASSED, ADOPTED and APPROVED on second reading this 9<sup>th</sup> 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

Zone Change 1035 - Lot 7 of Blue Creek Acreage Tracts Subdivision