

Return to: City Clerk  
City of Missoula  
435 Ryman Street  
Missoula MT 59802-4297

**RESOLUTION NUMBER \_\_\_\_\_**

**A resolution of intention to annex and incorporate within the boundaries of the City of Missoula, Montana a parcel of land legally described as Tract 2-A of Certificate of Survey No. 6689 located in the Northwest Quarter of Section 7, Township 13 North, Range 19 West, P.M.M., as shown on Exhibit A, and zone the property OS Open Space, T3 Neighborhood Edge, T4-O Neighborhood General - Open, T4-R Neighborhood General - Restricted, and T5 Mixed-Use Center, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval, set a public hearing for June 12, 2023, and refer this item to the Land Use and Planning Committee on June 7 and June 21, 2023:**

**WHEREAS**, the James D. Dougherty Family, LLC, owner of 100% of the property described herein as Tract 2-A of COS 6689, has filed Petition No. 10156 with the City Clerk requesting annexation and waiving the need to prepare a service plan for the annexation; and

**WHEREAS**, it is the Missoula City Council's decision to consider this petition for annexation pursuant to the statutory annexation by petition method set forth in Title 7 Chapter 2 Part 46 Section 4601 (3)(a)(ii) Montana Code Annotated (MCA); and

**WHEREAS**, the herein described property is within the City of Missoula Utility Service Area boundary, the City has current and future capacity to serve the property and development, and the owners/developers will pay all costs to extend the municipal sewer and water service to the property; and

**WHEREAS**, the City Council desires the annexation and zoning of the herein described property be conditioned upon annexation subject to the following conditions:

**Zoning**

1. Approval of the annexation shall be contingent upon City Council approval of the Sapphire Place Subdivision and Master Site Plan.

**Streets, General**

2. The following statement shall appear on the face of each plat, in the covenants, conditions, and restrictions, and on each instrument of conveyance, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for future improvements and maintenance of Flynn Lane, Sapphire Lane, Roper Way, Burnet Drive, and Pine Butte Boulevard including but not limited to paving, curbs and gutters, non-motorized facilities, street widening and drainage facilities, and may be used in lieu of their signatures on a SID petition."
3. The developer shall provide a street signage plan and install street signage in accordance with the Manual on Uniform Traffic Control Devices, subject to review and approval by Public Works &

Mobility and the Fire Department, prior to final plat approval. The signage plan shall include a name for the alley providing vehicular access to Lots 24 – 29.

#### Road and Alleys

4. The developer shall provide plans for and install half street improvements to Flynn Lane, a neighborhood bike street (two-way track), including dedication of public right-of-way, drive lane, curb and gutter, landscaped boulevard, street trees, stormwater facilities, and bicycle and pedestrian facilities as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks & Recreation, prior to final plat approval.
5. The developer shall provide plans for and install improvements to Sapphire Lane, an urban secondary street, including two drive lanes, parking lane, curb and gutter, sidewalks, landscaped boulevard (includes landscaped parking islands and tree wells, with topsoil as specified in the Missoula City Public Works Standards and Specifications Manual), street trees, and stormwater facilities as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks and Recreation, prior to final plat approval.
6. The developer shall provide plans for and install alleys within public access easements and rights-of-way as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and City Fire, prior to final plat approval.
7. The developer shall provide plans for and install improvements to Roper Way, an urban secondary street, including two drive lanes, parking lane, curb and gutter, sidewalks, landscaped boulevard (includes landscaped parking islands and tree wells, with topsoil as specified in the Missoula City Public Works Standards and Specifications Manual), street trees, and stormwater facilities as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks and Recreation, prior to final plat approval.
8. The developer shall acquire an emergency fire access easement across a portion of Tract B of COS No. 6850 and extend a fire access road from Lot 9 to Roper Way as shown on the preliminary plat, or construct a fire apparatus turnaround on the Sapphire Place property, subject to review by Public Works & Mobility and City Fire, prior to final plat approval.
9. The developer shall provide plans for and install improvements to Pine Butte Boulevard, a main street primary street, including two drive lanes, parking lanes, curb and gutter, boulevards, (includes landscaped parking islands and tree wells, with topsoil as specified in the Missoula City Public Works Standards and Specifications Manual), street trees, and sidewalk as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks and Recreation, prior to final plat approval.
10. The developer shall acquire and dedicate a public access easement and provide plans for and install half-street improvements for the eastern half of Burnet Drive, a neighborhood street, along Lot 33 to the intersection with Pine Butte Boulevard, including two drive lanes, parking lane, curb and gutter, landscaped boulevard, street trees, and sidewalk as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks and Recreation, prior to final plat approval.
11. The developer shall acquire additional public access easement and install an alley along the south property boundary, including a full connection to Burnet Drive, subject to review and approval by Public Works & Mobility and City Fire, prior to final plat approval.

#### Non-Motorized Transportation

12. The developer shall provide plans for and install Flynn Trail through the Common Area, on the north side of Pine Butte Boulevard, and the west side of Flynn Lane, as shown on the preliminary plat and plans, and amend the existing right-of-way agreement if seeking reimbursement, subject to review and approval by Public Works & Mobility and Parks & Recreation, prior to final plat approval. The amendment to the right-of-way agreement shall address impact fee offsets/reimbursement for installation costs for these improvements, pursuant to Title 15.

13. The developer shall provide plans for and installation of improvements to a mid-block pedestrian path within Open Space #5 and provide a 20-foot non-motorized public access easement, subject to review and approval by Development Services and Public Works & Mobility, prior to final plat approval.
14. The developer shall provide plans for and installation of improvements to the pedestrian path in Open Space #1 within a 20-foot non-motorized public access easement along the frontage of abutting lots to the east, subject to review and approval by Development Services, Public Works & Mobility, and Parks & Recreation, prior to final plat approval.
15. The developer shall construct a Trail Street within the existing 40-foot public right-of-way located immediately to the north of the subject property including a 12-foot multi-use path with 14-foot vegetated planting strips on both sides of the path, subject to review and approval of Public Works & Mobility and Parks & Recreation, prior to final plat approval.

#### Rights-of-Way and Easements

16. All proposed rights-of-way and easements shall be shown on the face of the plat and identified for their width and purpose, in accordance with Missoula City Public Works Standards and Specifications Manual, subject to review and approval by Public Works & Mobility, prior to final plat approval.

#### Transit

17. The developer shall petition for the property to be included in the Missoula Urban Transportation District, subject to review and approval by Development Services, prior to final plat approval.

#### Airport Influence Area

18. The developer shall obtain an aviation easement from the Airport Authority, in compliance with the Airport Influence Area Resolution, and present evidence of the easement, subject to review and approval by Development Services, prior to final plat approval.

#### Fire Protection

19. The developer shall provide plans for fire suppression water flow and hydrant placement, subject to review and approval by City Fire Department and Public Works & Mobility, prior to final plat approval. The developer shall install all fire hydrants prior to final plat approval. In the event the developer enters into an improvements agreement with the City of Missoula to postpone installation of certain improvements until after final plat approval, fire hydrants must be installed prior to combustible construction in the area the hydrants are intended to serve, subject to review and approval by City Fire Department and Public Works & Mobility.

#### Water Supply, Sewage Disposal, Stormwater Management, and Solid Waste

20. The developer shall provide plans for and installation of water supply, sewage disposal, stormwater management, and solid waste disposal facilities for review and approval by Public Works & Mobility, City/County Health Department, and Montana Department of Environmental Quality, prior to final plat approval. Construction of all appurtenant facilities shall be in accordance with City policies and agency approvals.

#### Agricultural Water Rights

21. The developer shall dedicate on the final subdivision plat ditch or culvert easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities on the property to lands adjacent to or beyond the property boundaries in quantities and in a manner that is consistent with historic and legal rights. The language on the final plat shall also prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
22. The developer shall present documentation that the water rights have been removed from the property and provide a statement on the face of the final plat and in the Development Covenants as follows: "Water rights have been removed from the property and lot owners are notified that

the land is classified as irrigated and may continue to be assessed for irrigation water delivery even though the water may not be deliverable," subject to review and approval by Development Services, prior to final plat approval.

#### Ground Water

23. The developer shall include the following note on the final plat and in the Development Covenants: "Basements shall be prohibited until such time as the owner provides sufficient evidence to the City of Missoula Public Works & Mobility Department that no threat to the public safety or loss of property will result in those areas proposed for basements," subject to review and approval by Development Services and Public Works & Mobility.

#### Historic Resources

24. The developer shall submit plans for the restoration of and modifications to the historic ice house and residence for review and approval by Development Services and the City Historic Preservation Officer prior to any structural alterations and prior to final plat approval.
25. The developer shall submit an application to the State Historic Preservation Office to individually list/register the historic ice house and residence prior to any structural alterations and prior to final plat approval.
26. Any alteration or demolition which affects the exterior appearance of either the historic ice house or residence shall require a historic preservation permit prior to issuance of a building permit.

#### Natural Resources

27. The developer shall submit plans for the preservation and maintenance of the existing orchard and pine trees in the vicinity of the historic structures in Open Space #4, as presented in the Master Site Plan Parkland Dedication and Conceptual Landscape Plan exhibits, subject to review and approval of Development Services and Parks & Recreation, prior to final plat approval.

#### Landscaping

28. The developer shall provide plans for boulevard landscaping and landscape plans for all streets, trails, parking lots, and open space, common area, and parkland areas, subject to review and approval by Parks and Recreation, prior to final plat approval. The property owner shall be responsible for obtaining boulevard landscaping permits prior to building permit approval and for installation of boulevard landscaping adjacent to development prior to certificate of occupancy, subject to review and approval of Parks and Recreation, prior to final plat approval.

#### Parkland

29. The developer shall provide plans for and install park improvements in all open space and parkland areas including but not limited to grading, application of topsoil, irrigation systems, turf grass and dryland seed or sod, and installation of park trees, subject to review and approval by Parks & Recreation, prior to final plat approval.
30. The developer shall provide maintenance plans for common areas and mutually controlled facilities per Section 5-020.14.K of the City Subdivision Regulations, subject to review and approval by Development Services and Parks & Recreation, prior to final plat approval.

#### Noxious Weeds

31. The developer shall provide a Weed Management and Revegetation Plan, appended to the Development Covenants and approved by the Missoula County Weed District, subject to review and approval by Development Services, prior to final plat approval.

#### Development Covenants

32. The developer shall submit final Development Covenants meeting the requirements of City Subdivision Regulations Section 5-020.14.K, subject to review and approval by Development Services, prior to final plat approval.

33. The developer shall include the following statements in the Development Covenants, subject to review and approval by Development Services, prior to final plat approval: Sections of the Development Covenants regarding common area maintenance, wood burning devices, weed control, agricultural operations, radon mitigation, basements, water rights, SID/RSID, and fire protection may not be amended or deleted without written approval by the governing body.

**WHEREAS**, Section 7-2-4211 MCA requires municipalities to include the full width of any public street or road rights-of-way that are adjacent to the property being annexed; and

**WHEREAS**, the Flynn Lane public street and access easement extending north from Camden Street, adjacent to and along the subject property, and along the south boundary of Tract 1-A of Certificate of Survey No. 6689, is not within the municipal boundary of the City of Missoula; and

**WHEREAS**, the parcel described herein is currently within the Sxwtpqyen Neighborhoods Town Center Neighborhood Unit Type of the Sxwtpqyen Neighborhoods Master Plan. The Sxwtpqyen Neighborhoods Master Plan is the applicable regional plan and the recommended zoning in the City is OS Open Space, T3 Neighborhood Edge, T4-O Neighborhood General - Open, T4-R Neighborhood General - Restricted , and T5 Mixed-Use Center in accordance with MCA 76-2-303(3)(a) and Missoula Municipal Code criterion 20.85.040(l)(2c), it is the intention of the City of Missoula to annex this property with the recommended city zoning. FURTHER, the parcel is situated adjacent to City Council Ward Area No. 2 and the Captain John Mullan Neighborhood Council District, and it is the intention of the Council to add this parcel to said Ward and Neighborhood Council District; and

**WHEREAS**, in the judgment of the City Council of the City of Missoula, it is deemed to be in the best interest of the City of Missoula, the inhabitants thereof and the current and future inhabitants of the tracts and parcels of land described herein, which have petitioned for annexation and are within the urban growth boundary, that the boundaries of the City of Missoula shall be extended to include the same within the corporate limits.

**NOW THEREFORE BE IT RESOLVED** that it is the intention of the City Council of the City of Missoula to incorporate and annex into the City's jurisdictional boundary the herein described property, apply city zoning as stated within, and assign the property to the said Ward and Neighborhood Council District; and

**BE IT FURTHER RESOLVED** that the City shall, pursuant to Section 76-2-303 and 7-1-4127 MCA, publish in the Missoulian, a newspaper of general circulation in the City of Missoula, which newspaper is nearest to the said land being considered for annexation, at least once a week for two successive weeks on May 14<sup>th</sup>, 2023, and May 21<sup>st</sup>, 2023, a notice of the public hearing date and that such resolution of intention will appear on the City Council agenda for the meeting scheduled on June 5, 2023, and that the City will receive expressions of approval or disapproval in writing of this proposed alteration of the boundaries of the city and zoning until 5:00 p.m. on June 26<sup>th</sup>, 2023 and that a City Council public hearing shall be held Monday, June 12<sup>th</sup>, 2023 at 6:00 p.m. at the regularly scheduled City Council meeting with final consideration on the resolution at the regularly scheduled City Council meeting on Monday, June 26<sup>th</sup>, 2023; and

**BE IT FURTHER RESOLVED** that if the city annexation of any lot(s), parcel(s), block(s) or tract(s) of land annexed into the city pursuant to this city annexation resolution or any provision of this resolution is ever held to be invalid or unconstitutional, the City Council hereby declares that any such decision shall not affect the validity of the annexation of the remaining lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or the remaining provisions of this resolution. The City Council hereby declares that it would have passed this resolution and annexed each lot(s), parcel(s), block(s) or tracts(s) of land into the city as well as each provision of this resolution irrespective of the fact that the annexation of any one or more lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or provision of this resolution may have been declared invalid or unconstitutional, and if for any reason the annexation of any lot(s), parcel(s), block(s), tract(s) of land or any provision of this resolution should be declared invalid or unconstitutional, then the annexation of the remaining lot(s), parcel(s), block(s) or tracts(s) of land and resolution provisions are intended to be and shall be in full force and effect as enacted by the City Council.

**PASSED AND ADOPTED** this 5th day of June, 2023.

**ATTEST:**

**APPROVED:**

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Martha L. Rehbein, CMC  
City Clerk

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Jordan Hess  
Mayor

(SEAL)

Exhibit A: Annexation Map

