

Memorandum

REPORT TO: City Commission

FROM: Greg Sullivan, City Attorney
Kelley Rischke, Assistant City Attorney

SUBJECT: Authorize the City Manager to sign a Waiver of Affordable Housing Provision in Laurel Glen Annexation Agreement

MEETING DATE: February 25, 2025

AGENDA ITEM TYPE: Agreement - Property

RECOMMENDATION: Authorize the City Manager to sign a Waiver of the enforcement of an affordable housing provision found within the Laurel Glen Annexation Agreement because the terms obligating developers to provide affordable housing cannot be ascertained.

STRATEGIC PLAN: 4.1 Informed Conversation on Growth: Continue developing an in-depth understanding of how Bozeman is growing and changing and proactively address change in a balanced and coordinated manner.

BACKGROUND: In 2003, the City executed an annexation agreement with landowners Chuck Hinesley, representing the Hinesley Family Limited Partnership, and Sydney and Ethel Dykstra, for a parcel of land known as the Laurel Glen Annexation. The annexation agreement contains the following provision:

13. **Affordable Housing**
The landowners hereby acknowledge that annexation and development of the subject property will have an impact on the cost and availability of housing stock in the Bozeman area. The landowners have prepared and submitted a written letter evidencing its intent to develop and offer housing units which will be within Single Family Affordability Limits, as that term has been defined in H.U.D. guidelines, which letter by reference is made a part of this agreement and incorporated herein.

One landowner of lots subject to the Laurel Glen Annexation Agreement discovered the affordable housing provision while attempting to sell some of their property. The landowner did not have a copy of the referenced letter and requested a copy of the letter from the City. After extensive efforts to locate the letter referenced in the affordable housing provision of the Laurel Glen Annexation Agreement, the City and landowner are unable to locate it. The letter was not attached to the recorded Annexation Agreement. The City was unable to locate the letter in its Community Development records or in the City Clerk's archives. Without the letter, the City cannot ascertain

the terms of any obligations to provide affordable housing within the annexed land.

Notably, the Laurel Glen subdivision is largely already built out. To the City's knowledge, no affordable housing has ever been required or provided as it has been developed.

The landowner has requested the City waive the applicability and enforcement of the affordable housing provision, leaving the rest of the terms of the Laurel Glen Annexation Agreement unaffected. Please find the 2003 Annexation Agreement and the proposed Waiver of Affordable Housing Provision in Laurel Glen Annexation Agreement attached. The waiver states that the City forever waives its ability to enforce the affordable housing provision, even if the letter is later found.

Because the City is unable to locate the letter and to settle the matter for this and future landowners within the area annexed by the Laurel Glen Annexation Agreement, the City Attorney recommends authorizing the City Manager to sign the attached Waiver.

UNRESOLVED ISSUES: None.

ALTERNATIVES: Do not authorize the City Manager to sign the Waiver.

FISCAL EFFECTS: None.

Attachments:

[Laurel Glen Annexation Agreement.pdf](#)

[Rosa III Waiver of Affordable Housing Provision.pdf](#)

Report compiled on: February 14, 2025