

Attachment D

AMENDED PLANNED DEVELOPMENT AGREEMENT
LENHARDT SQUARE
For Tract 3A, C/S 2063
in the City of Billings, Yellowstone County, Montana

THIS AGREEMENT, made and entered into this ____ day of _____, 2013, by and between STOCK LAND PROPERTIES, Inc., a Montana corporation (hereinafter referred to as "Owner"), and the City of Billings (hereinafter referred to as "City").

WITNESSETH

WHEREAS, the undersigned is the Owner of all of Tract 3A, C/S 2063 within the Lenhardt Square Planned Development, according to a Document No. 3460596 on file with County Clerk and Recorder;

WHEREAS, Tract 3A, C/S 2063 is currently governed by a planned development agreement on file with Clerk and Recorder as Document No. 3464966 and as amended by Document No. 3501505 and as outlined within the City Zoning Ordinance;

WHEREAS, the aforesaid Owner applied for a change of the development density allowed as shown in Exhibit B (First Amended) – General Requirements for the above-described real property from 15 dwelling units per acre to 20 dwelling units per acre;

WHEREAS, the City has approved the change to Exhibit B (First Amended) – General Requirements after due and proper administrative review, notice and public hearing, all in accordance with City Ordinances and requirements;

NOW, THEREFORE, in consideration of the premises, the Owner and the City hereby establish and declare that Exhibit B (First Amended) – General Requirements of the Lenhardt Square Planned Development Agreement is hereby amended to allow a development density of 20 units per acre on Tract 3A, C/S 2063, effective immediately.

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT.

All persons, corporations or other entities, who now have or shall hereafter acquire any interest in and to the above-described real property shall be taken and held to agree to the zoning of the above-described real property as Planned Development and as described in the foregoing documents and as amended by this agreement.

Public for the State of Montana, personally appeared Thomas W. Hanel, known to me to be the Mayor and duly authorized agent of the City of Billings, executing the within instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, having first been authorized so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

(Notary Seal)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission Expires: ____, 20__

Note: This Exhibit B (Second Amended) is a modification of the Planned Development Agreement for Lenhardt Square, Exhibit B (First Amended) (pages 6 and 7), recorded on April 29, 2009 as Document No. 3505105.

EXHIBIT B (Second Amended)
GENERAL REQUIREMENTS

Minimum Lot Size Per Structure	MF-4**	MF-R**	MU**
1 dwelling unit	6,000	6,000	
2 dwelling units	7,000	7,000	
3 dwelling units	8,500	8,500	
4 dwelling units	10,000	10,000	
5 dwelling units		11,000	
6 dwelling units		12,000	
7 dwelling units		13,000	
8 dwelling units		14,500	
9 dwelling units		16,000	
10 or more dwelling units		1,500 sq.ft. each additional dwelling unit	
 Minimum Setback Requirements (in feet from property line unless otherwise specified)			
Front:			
From Linear Parkway ¹	5	5	5
From back of curb	20 ²	20	0 ³
Sides:⁴			
1 Story	5	5	5
2 Story	8	8	8
3+ Story	9 + 1/story	9 + 1/story	0
Side Adjacent to Street	10	10	0
Rear:⁴			
Arterials	25	25	25
Maximum Height (in feet)	34	40	80 ⁵
Maximum Lot Coverage	50%	50%	100%
Maximum Average Densities (Dwelling Units/Acre)	10	20 (Tract 1A & 3A) 15 (Tract 3A)	20
Fence/Wall/Berm/Shrub Max. Height			
Front Yard and Adjacent to Street	2	2	2
Rear and Side Yards not on Street	8	8	6

* The limitations described in this table are subject to, and in no way supersede, all applicable building codes and regulations. Developers shall at all times comply with the International Building Code, the International Fire Code, and all other local, state, or federal building codes or regulations.

** As of the date this Agreement was originally approved, these zones generally correspond to the following Tracts: MF-4 (Tract 2A, Tract 5A.1); MF-R (Tract 1A, Tract 3A); MU (Tract 4A, Tract 5A.2).

¹ If not inconsistent with the Master Design Guidelines and upon approval of the Reviewer, the front setback from any Linear Parkway may be reduced to less than 5 feet, provided the structure is a minimum of 5 feet from any hard surface walkway or bikeway in the Linear Parkway. This setback does not apply from the Linear Parkway on the north side of King Avenue.

² Staggered building facades and angled placement of structures relative to the front lot line are encouraged in all zones. The minimum setback requirement in the MF-4 zone is also a maximum setback or “build-to” requirement. In that zone at least 20% of the façade must be at the applicable minimum setback line (measured from either the curb or the Linear Parkway) if the structure is oriented parallel to the street. If the structure is oriented at an angle to the street, at least one structural corner of the structure must be located at the setback line.

³ At 40 feet or 3 stories visible from street, remainder of floors must be set back at least 30% of the depth of the lot.

⁴ The zero lot line on one side of a shared property line allowed pursuant to 27-617 Unified Zoning Regulations for adjacent single family dwellings shall also be permitted in all zones and for accessory structures and garages.

⁵ Height limitation applies to the uppermost, enclosed portion of the structure. Antennae, towers, and non-enclosed portions of a structure may extend fifteen feet (15') above the uppermost, enclosed portion of the structure. The enclosed portion of a structure is the portion that is contained on all sides and overhead.