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**PLANNED DEVELOPMENT AGREEMENT**  
**PARCEL 1 OF CERTIFICATE OF SURVEY NO. 840, IN**  
**YELLOWSTONE COUNTY, MONTANA**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between **CK Land, LLC and William Schultz, Trustee**, whose address for the purpose of this agreement is 2210 Anna Drive, Billings, MT 59106, hereinafter referred to as “Owner,” and **Yellowstone County, Montana**, hereinafter referred to as “County.”

**WITNESSETH:**

**WHEREAS**, the Owner owns approximately 20.77 acres of real property in Yellowstone County, Montana specifically described as Parcel 1 of Certificate of Survey 840. The planned development shall only apply to the northern 10.77 acres of said parcel. The foregoing property shall be known as “Barrett Road Planned Development,” or a related name that may be assigned later.

**WHEREAS**, the Barrett Road Planned Development will consist of multi-family residential housing.

**WHEREAS**, the Owner desires to place certain building and use restrictions on the property, specify certain land uses, and create a pattern of development that promotes community service, economic activity, convenience, and amenity for the Barrett Road Planned Development and surrounding neighborhoods.

**WHEREAS**, the aforesaid Owner and the County desire to ensure the Barrett Road Planned Development will be developed and maintained consistent with the standards described in this agreement.

**THEREFORE**, the undersigned hereby establish and declare the following plan for the Barrett Road Planned Development as set forth herein, which shall apply to all of the real

estate described hereinabove, shall bind all of the present and future property owners to such real estate, and shall run with the land.

## **AGREEMENT**

### **I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT**

All persons, corporations, or other entities, who shall hereafter acquire any interest in and to the above described property, in whole, or in part, shall be taken and held to agree, to conform to, and observe the following land uses, restrictions, and other stipulations as to the use thereof, and as the construction of improvements thereon.

### **II. LAND USES AND BUILDING RESTRICTIONS**

Unless expressly designated below, all other standards or requirements of the Zoning Regulations for Yellowstone County or shall be followed for the type of use within each of the areas described herein. If annexed into the City of Billings the City of Billings Zoning Regulations will govern.

**A.** All land within the PD-RMF-R area has an underlying zone of Residential Multi-Family – Restricted (RMF-R). Development within this zone shall have the following additional building restrictions:

- All construction within the PD area must not exceed a maximum building height of 24 feet.
- All multi-family buildings (3 or more attached units) must not exceed one (1) building story.
- Multi-family buildings may only have a maximum of 6 attached dwelling units.
- The development must have an alternating color scheme with a minimum of two (2) main/base color types ensuring that no adjacent buildings on the same side of the street have the same main/base color. Trim, wainscoting, batten, etc. are allowed to be the same color throughout.
- Each dwelling unit shall have two (2) off-street parking spots, including any garage provided.
- Fronts of all building rooflines shall be broken up by dormers or attached garages. Additionally, buildings adjacent to Barrett Road shall break the rear rooflines with an additional dormer for each unit or a combined dormer for two (2) units within the building.

As a part of development, a clear pedestrian connection shall be made connecting development with pedestrian path and trails along the Holling Drain on the western edge of the property. Connection will be made in the form of boulevard sidewalk

along Barrett Road fronting the property. All pedestrian paths shall be a minimum of 5-feet wide.

All allowed land uses as outlined within the Yellowstone County Zoning regulations for the underlying zone shall be allowed within the PD-RMF-R zoned area, with the following exceptions:

**Exceptions (uses not allowed) within the PD-RMF-R zone:**

- Amateur Radio Antenna Support Structure (All)
- Broadcasting Stations and Studios and Antenna Support Structures (All)
- Cemeteries
- Extractive Industries (All)
- Fraternity/Sorority House
- Public Parking
- Neighborhood Convenience Store

**III. SIGNAGE AND LIGHTING**

The intent of signage and lighting design regulation is to encourage the use of signage and lighting as a design component to enhance buildings, landscaping, or other site features while not detracting from the aesthetics of adjacent neighborhoods.

**A. Signage**

- a. Signage should be provided in accordance with the PDA, with the intent to compliment the pedestrian-oriented environment. The signage requirements included in Article 27-700 of the Zoning Regulations and any subsequent amendments thereto shall govern the regulation of signage in Barrett Road Planned Development so far as they are not inconsistent with the Planned Development Agreement and the below standards.
- b. All signs shall comply with the design guidelines below:
  - i. All signs, except for neighborhood identification signs, shall be placed flat against a building or designed as part of an architectural feature thereof.
  - ii. No electronic message displays or signs are allowed.
  - iii. No balloon signs are allowed.
  - iv. No rooftop signs are allowed.

**B. Exterior Lighting**

- a. All exterior lighting must be installed or shielded to minimize light intrusion into residential units in adjacent neighborhoods.
  - i. All outdoor pole lighting shall be fully shielded and mounted at heights no greater than fifteen (15) feet above grade.

- ii. All outdoor lighting, except street lighting, shall be aimed or shielded so as to minimize stray light trespassing across property boundaries.

#### **IV. LANDSCAPING REQUIREMENTS**

All landscaping and performance standards as outlined within section 27-1101 of the Yellowstone County's Zoning or the City of Billings Zoning Regulations, if annexed, shall be followed as required within the underlying zone. Additionally, all development must comply with the requirements outlined in this Section of the Planned Development.

##### **A. General Landscape Area Requirements**

- a. A Landscaping Master Plan will be required at the time of either Subdivision or Master Site Plan approval outlining all landscape requirements for the development. Landscaping Master Plan shall address maintenance and replacement of all landscaping proposed for the development.
- b. A palette of regionally appropriate drought and climate tolerant plant materials is required to be used.
- c. The use of drip irrigation and/or other water efficient irrigation systems is required.
- d. A variation of elements must be provided along public frontage; no less than two (2) types of trees may be used in a single development lot.
- e. Trees and shrubs must be grouped for aesthetic and irrigation purposes.
- f. There shall be one (1) tree per two units planted in the front yard of each building.
- g. Lawn must have a minimum width of four (4) feet.
- h. Plant materials must be maintained and dead plants must be replaced in a timely manner.

##### **B. Right-of-Way and Landscaped Green Belt Improvements**

- a. A minimum 35 foot landscaped green belt, which may be incorporated into any required building setbacks, shall be landscaped and maintained along any property line that abuts Barrett Road.
- b. A minimum of one (1) canopy boulevard tree per 25-feet of frontage shall be planted as part development along Barrett Road.
- c. A minimum of 20 foot landscaped green belt, which may be incorporated into any required building setbacks, shall be landscaped and maintained along eastern and southern property boundaries. Landscaping must include a minimum of one (1) canopy tree per 25-feet along exterior boundary.
- d. Developers shall be responsible for installation and maintenance of the landscaped green belts in accordance with Section IV.A.

- e. Landscaped green belts and required setbacks may overlap so that the total area of the two is the greater of either the green belt or the setback.
- f. All improvements shall comply with The City of Billings and Yellowstone County's clear vision standards.

**C. Parking Lot Landscaping**

- a. Parking visible from Barrett Road and community open space shall be screened with a combination of berms, low walls, or landscaping. Maximum height of berms and walls shall be three (3) feet from top of curb of the parking area; landscape materials and plants should allow for clear visibility zones.

**V. OTHER SPECIAL AGREEMENTS**

**A. Maximum Unit Density**

- a. Development is restricted to a maximum of 10 units per acre with a maximum dwelling unit capacity of 100 units overall, plus or minus two (2) percent to allow for layout variation.

**B. Paved Roads – Public or Private**

- a. All roads within the area shall be paved as part of development. Temporary gravel roads will only be allowed during construction.

**C. Pedestrian Safety**

- a. A hard surface pedestrian sidewalk or path shall be installed on Barrett Road, along the property frontage, as part of any Subdivision or Master Site Plan. Sidewalk or path must be either asphalt or concrete with a minimum width of 5-feet, meeting all applicable Yellowstone County or City of Billings Public Works standards. Additionally, sidewalk or path must be located a minimum of 5-feet off of either the asphalt edge or curb with appropriate ADA crossings at the development road intersections with Barrett Road.

**D. Traffic Accessibility Study**

- a. A Traffic Accessibility Study will be completed, meeting all applicable Yellowstone County or City of Billings Public Works standards, at the time of Subdivision or Master Site Plan submittal. Approval of either Subdivision or Master Site Plan will be contingent upon acceptance of the Traffic Accessibility Study by Yellowstone County or the City of Billings.

**E. Parkland and/or Open Space**

- a. An interior area for a private park/open space is shown on the Conceptual Master Plan attached to this PD agreement. The interior private park/open space must be a minimum of one (1) contiguous acre. This area is allowed to move within the final layout but must be maintained as contiguous.
- b. The interior park/open space will be communal open space for the use of residents within the development. It must be developed in a manner conducive with active recreation with appropriate trees and landscaping.

- c. The interior park/open space shall incorporate a Dog Park into the layout. The Dog Park and contiguous open space shall be programmed as part of the Landscape Master Plan and must be installed by the owner/developer as part of any development.
- d. This area will not be parkland owned or managed by Yellowstone County or the City of Billings. Parkland/open space will be developed, owned and managed by the landowner/developer in accordance with the Landscape Master Plan.

**V. MODIFICATION OF THE APPROVED PLANNED DEVELOPMENT**

Any modification of the approved development plan shall be processed using the same procedures for a new application, as set forth in the Yellowstone County Zoning Regulations or the City of Billings Zoning regulations. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

No change in the overall character of the development;

No increase in the number of residential units greater than two (2) percent;

No additional allowed uses;

No reduction in open space greater than two (2) percent; and

No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

“OWNER”

**CK Land, LLC**

By: \_\_\_\_\_  
Title:

**William Schultz, Trustee**

By: \_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of **CK Land, LLC and William Schultz, Trustee** who executed the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

This agreement is hereby approved and accepted by Yellowstone County, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“COUNTY”

**COUNTY OF YELLOWSTONE, MONTANA**

County of Yellowstone  
Board of County Commissioners

By: \_\_\_\_\_  
Chairman

By: \_\_\_\_\_  
Commissioner

By: \_\_\_\_\_  
Commissioner

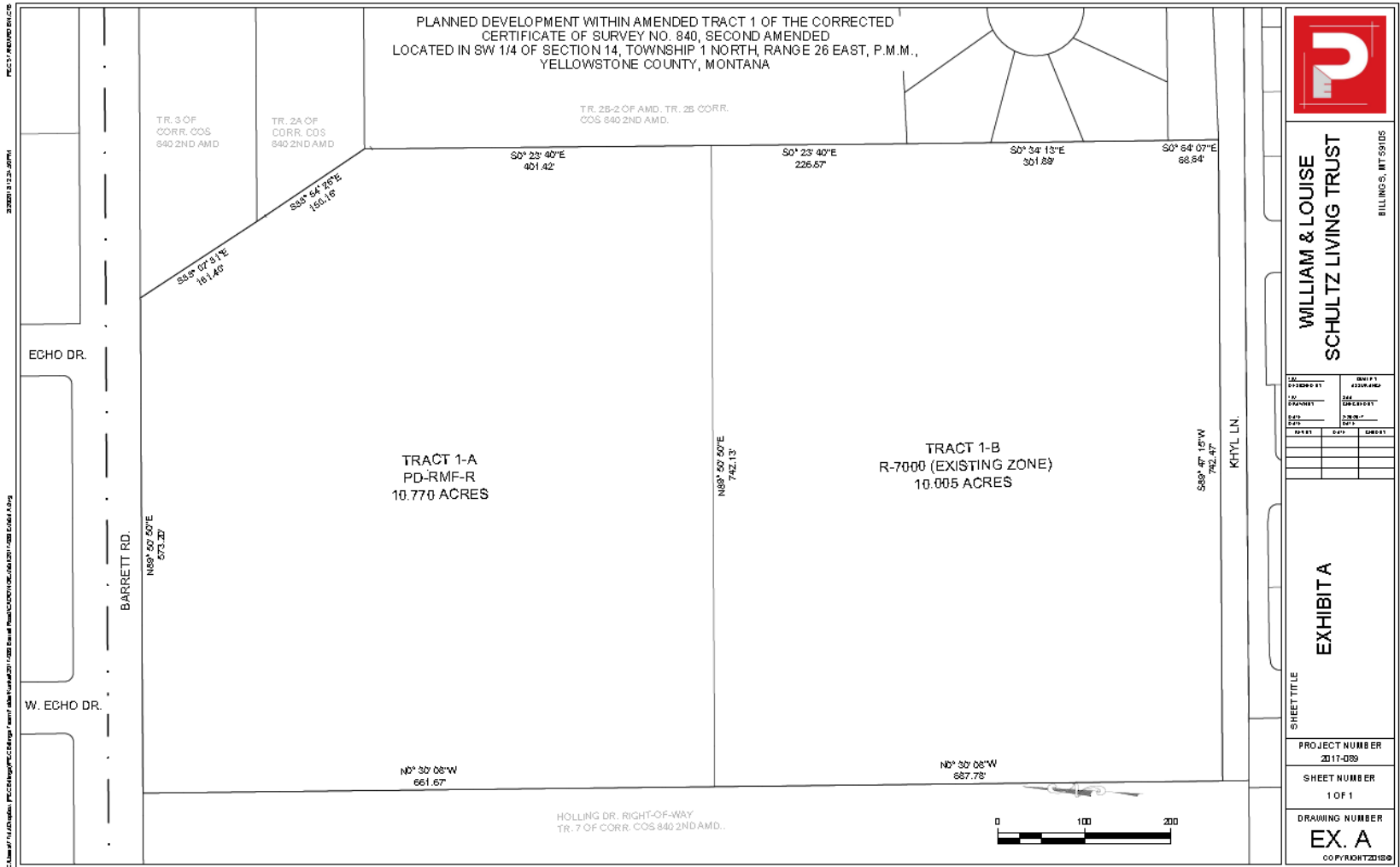
Attest: \_\_\_\_\_  
County Clerk and Recorder

STATE OF MONTANA     )  
  : ss  
County of Yellowstone    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, known to me to be the Board of County Commissioners and County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose name are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Exhibit A (2 pages)



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