

After Recording Return to:
Dusty & Tiffany Sims
3514 Stone Brook Dr
Billings, MT 59101

Planned Development Agreement
Amendment to
Yellowstone Planned Development (PD)
Lots 26A, 26B, 27, 28, 29, 30 and 31, Block 4
Yellowstone Addition in the
City of Billings, MT

THIS AGREEMENT is made and entered into this ____ day of _____, 2020, by and between RUSSELL and COLLEEN CHERRY, whose address for the purpose of this agreement is 750 Broadwater Avenue, Billings, MT 59101, hereinafter referred to as the “Owner” and the **City of Billings**, Montana, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the owner owns the property described as Lots 26A, 26B, 27, 28, 29, 30 and 31 of Block 4 of Yellowstone Addition a 24,450 square foot parcel of land general located at 750 Broadwater.

WHEREAS, the property is currently zoned Planned Development (PD) with an underlying zone district of Neighborhood Commercial (NC).

WHEREAS, the Planned Development agreement allows uses in addition to those uses allowed by right or special review approval for the NC zone district including Auto Rental.

WHEREAS, the property has received special review approval in the past to conduct Auto Repair and a Car Wash.

WHEREAS, the owner desires to continue to allow auto oriented uses compatible with the neighborhood.

THEREFORE, the undersigned hereby amend, re-establish and declare the following plan of the Yellowstone PD with an underlying zone district of Neighborhood Commercial (NC). All requirements set forth 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 the City of Billings shall be followed for the type of use within the land described herein.

A. All land in the PD is designated as: Neighborhood Commercial – NC. All allowed land uses as outlined within the City of Billings Zoning regulations for the underlying zone shall be allowed within the Planned Development as follows:

1. All uses permitted by right in the Neighborhood Commercial (NC) zone;
2. All uses requiring Special Review approval in the NC zone; and
3. The following additional uses:
 - a. Auto Rental/without drivers – 1987 SIC Manual Code 7514
 - b. Automotive Dealers – 1987 SIC Manual Code 5511 (New and Used), 5521 (Used Only), and 5571 (Motorcycles, Scooters etc.)

B. Supplemental Area, Yard and Height Requirements:

1. All NC zone district standards apply including height, setbacks and lot coverage.

C. Special Review 528 granted on July 27, 1994 for a car wash is still in effect for the property including all conditions of approval.

D. Special Review 730 granted on November 25, 2002 for an auto service station is still in effect for the property including all conditions of approval.

E. Site Development:

1. All existing site improvements will be continuously maintained until removed and replaced.
2. Replaced site improvements including but not limited to landscaping, signage, storm water management systems, pavement, buildings shall meet any current City of Billings code requirements for such improvements at the time of replacement, remodel or upgrade.
3. No site changes will be allowed that make the site less conforming to City of Billings code requirements.
4. No vehicles parked on the property may extend out over the public sidewalks along any street frontage.
5. When outdoor parking lot lights are replaced the fixture shall be a full cut off shield fixture and the total height of the light pole shall not exceed 15 feet.

III. 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 City of Billings Zoning regulations. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

1. No change in the overall character of the development;
2. No increase in the number of residential units greater than two (2) percent;
3. No additional allowed uses;
4. No reduction in open space greater than two (2) percent; and
5. 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”

RUSSELL CHERRY

COLEEN CHERRY

Notary
STATE OF MONTANA
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 and 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 the City of Billings, this ____ day of _____, 20____.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor, William A Cole

Attest: _____
Denise Bohlman, City Clerk

Notary
STATE OF MONTANA
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 Mayor of the City of Billings, Montana, whose name are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

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