

ORDINANCE 20-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THE ZONE CLASSIFICATION ON LOT 27-31  
& 26A 26B (1<sup>ST</sup> ADD TO BLK 4)(LESS 50 SF STREET), OF  
BLOCK 4, YELLOWSTONE ADDITION SUBDIVISION BE  
AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1. RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

**Section 2. DESCRIPTION.** LOT 27-31 & 26A 26B (1<sup>ST</sup> ADD TO BLK 4)(LESS 50 SF STREET), OF BLOCK 4, YELLOWSTONE ADDITION SUBDIVISION GENERALLY LOCATED at 750 Broadwater Avenue is presently zoned **Planned Development with underlying zoning of Neighborhood Commercial (PD-NC)** and is shown on the official zoning map within this zone.

**Section 3. PLANNED DEVELOPMENT AMENDMENT.** The official **Planned Development** on file in the office of the City Clerk under Ordinance 98-5066 is hereby deleted in its entirety and replaced with the new **Planned Development Agreement attached as Exhibit A** as set out in the Billings, Montana City Code.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 5. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 6. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other

provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 24th day of August, 2020.

PASSED, ADOPTED and APPROVED on second reading this 14<sup>th</sup> day of September, 2020.

CITY OF BILLINGS

BY: \_\_\_\_\_

William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk

Zone Change 981 – 750 Broadwater Avenue PD Amendment

## EXHIBIT A

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

\_\_\_\_\_

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.

IN WITNESS WHEREOF, I hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written

\_\_\_\_\_  
Notary Public in and for the State of Montana

“CITY”

**CITY OF BILLINGS, MONTANA**

By: \_\_\_\_\_  
Mayor, William A Cole

Attest: \_\_\_\_\_  
Denise Bohlman, City Clerk

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 Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names 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