

From: LuAnn Herring <LHerring@sullinscorp.com>
Sent: Monday, January 25, 2021 2:16 PM
To: Cromwell, Nicole <CromwellN@billingsmt.gov>
Subject: [EXTERNAL] FW: Bitterroot CITY Zone Change 988 Project# PZX-21-00004

Hi Nicole Cromwell,
I am writing regarding Bitterroot CITY Zone Change 988 Project# PZX-21-00004

This just seems very wrong to me that you can promise one thing and then change. Please see attached. I tried to put as much information as I could starting with Billing Gazette 2004 meeting about multi-family homes on this property.

I would not have had my home built here if I knew this would change. (other people on the Phone call on Dec. 14th stated the same). It was never brought up to me when building in 2018-2019 That this would be happening. All pictures and paperwork showed, this area would be single family homes.

This is one of the reasons I did not want to buy a McCall home in the Josephine Crossing Development because of town homes.

This seems very dishonest.

It seems they do not have issues selling homes here after being built. They seem to sell pretty fast.

I understand they want to make more money with their land but at a cost to home owner?

I have the most expensive home here I paid \$651,000 which I knew would be the highest home, but I liked the area. At the time I was at the architect before I built. I was worried about the other home owners because my home is more modern. (Yes I cared about the other homeowners)

I stated this and was told that this would be checked into. I was told that the other homeowners would be glad to have my home here because it would bring their home values up because of my home cost.

I really feel If a promise was made to this development and people around it. It should be kept.

Sincerely,
LuAnn Herring
2626 Meadow Creek Loop
858-735-7236

undersigned from any liability arising from the implementation, or enforcement of these Protective Covenants and any amendment thereto.

7.6 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

7.7 Amendment. Any provisions herein may be amended or revoked, and additional provisions added, at any time by a written instrument recorded in the office of the Clerk and Recorder of Yellowstone County, Montana, duly signed and acknowledged by the Owners of record of not less than seventy percent (70%) of the lots subject to this Declaration; provided, however, that so long as Declarant owns any lots in the Subdivision, then the consent of Declarant shall be required before these covenants and restriction may be altered or amended.

8

RES

3721474

10/21/2014 10:21 AM Pages: 9 of 9 Fees: 63.00
Jeff Martin Clerk & Recorder, Yellowstone MT

7.8 Term. These Covenants shall be binding for a term of thirty (30) years from the date of these Covenants, after which time the Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Owners of not less than sixty percent (60%) of the lots has been recorded in the real estate records of the Yellowstone County Clerk, and Recorder, agreeing to revoke or terminate these Covenants.

RES

3721474

10/21/2014 10:21 AM Pages: 9 of 9 Fees: 63.00
Jeff Martin Clerk & Recorder, Yellowstone MT

7.8 Term. These Covenants shall be binding for a term of thirty (30) years from the date of these Covenants, after which time the Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Owners of not less than sixty percent (60%) of the lots has been recorded in the real estate records of the Yellowstone County Clerk, and Recorder, agreeing to revoke or terminate these Covenants.

**III.
REAL ESTATE TO WHICH COVENANTS APPLY**

3.1 These Covenants shall apply to the Subdivision which includes the following described lots and blocks within the Subdivision:

All Blocks of and Lots within the Bitterroot Heights Subdivision, 2nd Filing

**IV.
BUILDING USE AND RESTRICTIONS**

- 4.1 **Lot Purpose.** Each lot in the Subdivision, shall be known and described as a residential lot. None of the lots may be used or improved for other than private residential purposes, and no structure shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling with a private attached or semi-attached, or detached garage. Total garage or workshop space shall not exceed 50% of the total size of the dwelling unit.
- 4.2 **Subdivision.** No single family lot shall be subdivided, re-subdivided, split, altered or reduced to smaller than 7500 square feet. Only one dwelling with its associated garage will be permitted per

2

https://billingsgazette.com/news/local/heights/developer-may-alter-plans-for-subdivision/article_ce0c365a-6147-57f6-a79d-bbba431d1711.html

Developer may alter plans for subdivision

DIANE COCHRAN Of The Gazette Staff
May 13, 2004

SALE! Subscribe for \$1/mo.

Heeding concerns expressed by neighbors, a Billings development company has agreed to consider changing its proposed subdivision on Mary Street in the Heights.

During a contentious public meeting last week, **owners of B&R Development** said they would look at creating a buffer zone of large lots around the proposed 127-acre Bitterroot Heights subdivision and **include a provision against duplexes in the property's covenants.**

"I feel a whole lot better now than I did before," said neighbor Lori Ankrum as the meeting ended.

Ankrum was among about 20 Heights residents who peppered developers **Gene Brosovich and George Rosenfeld** and engineer Chuck Strum with questions about the project for more than two hours last Wednesday.

Brosovich and Rosenfeld organized the meeting after the Billings City Council postponed voting on their request for a zoning change because neighbors to the proposed subdivision filed a valid protest against it. Almost 30 residents signed a petition opposing the project.

The company requested changing the zoning from Residential 9600 to Residential 7000 to allow for a greater number of affordable lots. Bitterroot Heights would target first-time home buyers who cannot afford properties larger than 7,000 square feet, Brosovich said.

But duplexes can be built under Residential 7000 zoning, and neighbors fear they will see multifamily homes go up in Bitterroot Heights. **Rosenfeld and Brosovich have promised not to build duplexes**, but some neighbors say they don't know whether to trust them.

"Why don't you take a look at our record?" he asked. "We've built 300 homes in this town. I don't know what else we can do to get more trust from you folks."

Brosovich and Rosenfeld said they will consider changing the lot sizes along Mary and Bitterroot to 9,600 square feet or requesting Residential 9600 zoning for the project's perimeter with interior Residential 7000 zoning.

To change their zoning application, they would have to withdraw their pending request and wait four months to bring it before the council again. B&R's original request is scheduled to go before the council again on May 24.

Although meant to address only the zoning issue, the meeting covered a raft of concerns related to the Bitterroot Heights project.

Attorney Phil Oliver, who lives on Bitterroot, said he strongly advises his clients against making verbal contracts. Although the developers say they will write a covenant against duplexes, that cannot be done until after the Residential 7000 zoning is approved and the project moves forward. That makes Oliver uneasy.

"I have to admit, if you guys stand up in front of the City Council, you would have permanent egg on your face if you didn't do what you say you're going to do, which is better than nothing," Oliver said.

Brosovich said his company wants to accommodate the project's neighbors. He spoke highly of B&R's other Billings project, the Daniels Subdivision, which is east of Hawthorne Lane between Crist and Peony drives.

Project Location

Bitterroot Heights is a new residential subdivision located at the northeast corner of the Heights neighborhood in Billings. The subdivision is bordered by two arterial streets: Bitterroot Drive, Mary Street, and collector street, Hawthorne Lane. The remainder of the property is contained by the railroad bed and Five Mile Creek. Prior to subdividing the property, almost 75% of the property was used as a gravel pit. The south side of the property contains a branch line of the BBWA Canal. Several existing drainages are on site. Ground water appearing at the surface runs constantly through these shallow ditches. The old branch of the BNSF railroad transcends the northwest corner of the site. The City of Billings now owns the right-of-way. It is identified as a bicycle corridor on the Heritage Trail Plan.

Subdivision Requirements

The gross area of the subdivision is 127 acres. It is projected that a total of 380-390 lots will be developed. The zoning for the subdivision is R-7000 Restricted, which limits the build-out to single-family homes. Parkland dedication requirements according to The City of Billings Subdivision Regulations require that 11% of the net area of land proposed to be subdivided into parcels of one-half acre or smaller be contributed to the parkland dedication. The total lot area is 77.49 acres. The resulting dedication required equates to 8.52 acres.

According to the Subdivision Master Plan, a total of 18.99 acres of parkland and public open space is proposed. According to this park master plan, approximately 8.33 acres of park land is planned to be fully developed. According to the subdivision improvement agreement (SIA) the proposed improvements described in the master plan is to be implemented at 51 percent of the build-out. It is proposed that the implementation will be funded through a park special improvement district (PSID). The SID will be a developer-initiated SID (private contract) to implement the park system. The proposed PSID coverage is all areas within the Bitterroot Heights subdivision. During the master plan process, it was evaluated to expand the coverage to include property owners outside of the subdivision, however, at this time Daniels Park fulfills the parkland requirements of those adjacent subdivisions. If, however, Daniels Park is liquidated, a reconsideration of the PSID must be considered. Likewise, all property owners within the Bitterroot Heights subdivision will be signing waivers of protest to the creation of a Parks Maintenance District (PMD). It is the policy of the Parks Department to create a PMD with any parkland improvements.

Parkland and Public Open Space Improvements

In the Parks 2020 plan, Framework A, "Essential Recreation Park Land," Diagram 2, identifies this area as a need for a future community park in this area of Billings. The parkland dedication tract was provided in a configuration and acreage that allows for improvements desirable in today's park systems. According to the diagram, a "Community Park" has a service area of 1-1/2 mile radius, and is typically 10-20 acres. The projected user groups are Community residents, Neighborhood residents and

MUNITY IMPACT AND CRITERIA FOR PUBLIC INTEREST

of need for the subdivision:

Bitterroot Heights Subdivision is proposed to be a single-family residential subdivision with lot sizes varying from just over 7,000 square feet, up to more than 12,000 square feet. Development character will include a significant quantity of single family homes priced and targeted towards first-time home buyers. Also included will be a section of the subdivision developed with a "bungalow" style, utilizing alleys for rear garage access, and developed with front (street side) porches. Portions of the subdivision will also offer "premium" lots adjacent to drainageway or natural area amenities. The intent is to build a development with a stronger sense of community. The development will fill a need for entry-priced single family housing.

Homes within the Bitterroot Heights Subdivision are anticipated to be sold for prices over a wide range, beginning from the mid -\$100,000's. With the exception of large lot residential areas to the north and east, homes in developed areas near the Bitterroot Heights Subdivision are comparable to that proposed. The Bitterroot Heights Subdivision is anticipated to appeal to first-time buyers and buyers wanting the unique development character offered by the "bungalow" style of front porches and rear alley garage access. Large tracts of habitat preserved within the subdivision, as well as the preservation of the open channel drainages throughout the subdivision will also offer unique characteristics and special qualities for this subdivision. These characteristics make Bitterroot Heights Subdivision unique for this part of the City.

sed public opinion:

Names and addresses of property owners of record immediately adjoining or surrounding the land are shown on sheet 3 of the Preliminary Plat. The



using:

- a. At build-out of the subdivision, it is anticipated that 381 single family residential dwellings will exist. No multi-family dwellings or mobile homes are proposed.
- b. The type of structures anticipated for this subdivision does not include recreational or second homes.
- c. It is estimated that the subdivision will be developed in six (6) to eight (8) phases over the next 6-8 years. It is estimated the subdivision will be 50% developed in the year 2009, and 100% developed by the year 2013.
- d. It is projected that the subdivision will develop with a total of 381 lots on a gross area of 127 acres, resulting with a density of about 3.0 dwelling units per acre.

- d. All subdivision roads will be constructed with approval by the City of Billings Public Works Department and will be designed with sufficient stormwater management provisions to meet the state department of health and environmental sciences guidelines for prevention of water pollution and erosion.
- e. When fully developed, this subdivision is expected to generate approximately 3,972 daily vehicle trips. Traffic will be directed to adjacent principle arterial streets (Mary Street and/or Bitterroot Drive). No existing local or neighborhood streets will be impacted by subdivision traffic. The reader is referred to the Traffic Accessibility Study developed for this subdivision for additional detail.
- f. Capacity of existing and proposed streets and intersections is fully documented in the Traffic Accessibility Study developed for this subdivision.
- g. A Traffic Accessibility Study has been developed for the proposed subdivision as required by section 23-702(a) as a separate document.

ilities:

- a. The subdivision concept plan has been submitted to affected utilities for review. Affected utilities have responded by indicating their needs for easements. Necessary utility easements are shown on the Preliminary Plat.
- b. On-site services for electric, natural gas, telephone and cable will be installed coincident with construction of roads and other utilities (water and sewer). The subdivider will pay for installation of utilities where required.
- c. All new on-site utilities will be placed underground. The existing overhead electric utility currently located adjacent to the property along Bitterroot Drive and Mary Street will remain.
- d. Utility completion will be coincident with completion of road construction, anticipated by the winter of 2004.

ergency services:

- a. Fire protection services will be provided by the City of Billings Fire Department. The proposed subdivision is within the City Limits and within the urban fire district.
- b. Police protection services will be provided by the City of Billings Police Department as the subdivision is located within the City Limits.
- c. Ambulance services are available for the subdivision and can be provided by American Medical Response.

Bitterroot HEIGHTS

unique property, Bitterroot Heights is a quality subdivision located in the heart area of Billings, with all city services included. Conveniently located to shopping, schools, and health facilities, this new neighborhood features colonial and burgundy-style single-family homes.



During the design of the subdivision, creation of natural areas and waterways, playgrounds and an active key features to overall enjoyment of the development, residents will have access to approximately 200 acres of park lands which include two ponds, a picnic shelter, basketball court, tennis and track.

2. In trails, which run the far ends of subdivision to park, will tie to the Heritage bicycle corridor, along the west side. In addition,

large natural area and wetland will provide bird and wildlife habitat along the Snake Creek corridor.



Bitterroot Heights provides several recreational amenities while preserving the natural beauty of existing landscape features. Combined with quality housing, trails, and park lands, Bitterroot Heights is an attractive, desirable and exciting neighborhood to live.



Legend

- Waterway
- Trail
- Phase 1
- Trail
- Subroads



Bitterroot Blvd

1/2

Herstate Engineering
1505 Hwy 7
Billings MT 59102



3312585
Page: 1 of 3
11/22/2004 02:11P

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS ON THE BRV DEVELOPMENT, LLC REAL PROPERTY**

THIS DECLARATION is made November 22, 2004, by

the undersigned, hereinafter called "Declarant".

RECITALS:

Declarant makes this Declaration of Covenants, Conditions and Restrictions upon the following facts:

1. Declarant is the owner of the following described real property situated in Yellowstone County, Montana:

Tract 3A of Certificate of Survey No. 2317 in the SE ¼ of Section 11, Township 1 N., Range 28E. P.M.M.

2. Declarant desires and intends to place covenants, conditions and restrictions on the above described real property for the benefit of the real property and the adjacent owners of real property within One Hundred Fifty Feet (150') of the exterior boundaries of the above-described property on the South and East of said real property.

3. Declarant states that the purpose of the Declaration of Covenants, Conditions and Restrictions is to cause the above-described real property to be more compatible with residential property to the South and East of said real property.

GENERAL CONDITIONS

- 4. Duplex or multi-family dwelling uses are prohibited.
- 5. Residential lots adjacent to Bitterroot Drive and Mary Street along the property's east and south boundaries shall be 9,600 square feet or larger.



3289174

Page: 2 of 3
05/24/2004 12:47P

1 costs of the action including reasonable attorney fees for all action taken to enforce
2 these covenants, conditions and restrictions.
3

4 **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**
5 **ON THE B & R DEVELOPMENT PROPERTY DATED May 19, 2004.**
6

7 **B & R DEVELOPMENT**

8
9 By: Eugene Brosovich
10 Eugene Brosovich,
11 President
12

By: George Rosenfeld
George Rosenfeld
Secretary-Treasurer

State of: Montana
County of: Yellowstone

On this 19 day of May 2004; personally appeared Eugene Brosovich
and George Rosenfeld before me a notary public for the State of
Montana; signing of Declaration of Covenants, Conditions, &
Restrictions on the B & R Development Real Property.

* signing as President - Secretary-Treasurer
of B & R Development



Whitney Jagelski
Whitney J. Jagelski
Notary Public for State of MT
residing at: Billings, MT
my commission expires June 25, 2005