

## APPLICATION FOR VARIANCE

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings-Section of the Site Development Ordinance.

1. Legal description of property: Lot 1A-2, Block 62, of Amended Plat of Lake Hills  
Subdivision 25th Filing Amended within the W1/2SE1/4 of  
Tax ID# C08239 Sec. 9, T01 N, R26 E, P.M.M. City of Billings, Yellowstone  
County, MT
  
2. Address (If unknown, contact the City Engineer's office) or general location: \_\_\_\_\_  
Lot 1A-2, Block 62, Amended Plat of Lake Hills Subdivision 25th Filing Amended, City of  
Billings, MT
  
3. Owner (s): CANAL VISTA LLC  
(Recorded Owner)  
2519 SUNNYVIEW LN, BILLINGS, MT, 59102-1544  
(Address)  
(406)698-1601 SUE@LOVELYMONTANA.COM  
(Phone Number) (Email)
  
4. Agent (s): GREG REID  
(Name)  
550 S. 24TH ST. W. STE. 201, BILLINGS, MT, 59102  
(Address)  
(406) 894-2210 GREID@WWCENGINEERING.COM  
(Phone Number) (Email)
  
5. Section of the Site Development Ordinance that this request for variance applies to: \_\_\_\_\_  
BMCC Sec. 6-1208(h)(5)
  
6. Reason for request: See attached memo.
  
7. Covenants for deed restriction on the property: Yes X No \_\_\_\_\_

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for the variance requested. Also, that all the information presented is true and correct.

Signature: *Susan B Lovely* Date: 6-3-22  
(Recorded Owner)

Fee: \_\_\_\_\_ Receipt #: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Application #: \_\_\_\_\_

# APPLICATION FOR VARIANCE

## Site Development Ordinance, Section 6 – 1200 of the Municipal Code City of Billings

### Instructions

The city council may grant a variance from the terms of this article in specific cases when the city council finds that the granting of the variance will serve the public interest and welfare; and will not conflict with any adopted zoning regulations, comprehensive plan, or subdivision regulations.

The attached application form must be filled out in entirety. Please type or print. You may attach additional pages if space is needed.

1. The applicant shall present (3) copies of a dimensioned site plan of the property for which the application is submitted which shall include, but not limited to the following:
  - a. The location and dimension of all vehicular points of ingress and egress, drive approaches, curb and gutter, sidewalks, off-street parking spaces, channelization's and traffic circulation.
  - b. The location and size of all existing and proposed buildings, structures and improvements.
  - c. The existing buildings, structures, and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures, and improvements shall be labeled as such and indicated by a dash or dotted line.
2. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.
3. If there are any covenants or deed restrictions on the property subject to variance, submit a copy of them and indicate their expiration date.
4. A fee shall accompany the application for a variance. Checks, credit cards or money orders should be made payable to the City of Billings. Current fees are: \$200.00
5. All plans and other exhibits submitted with the application will be retained as a part of the permanent public record.
6. *Procedure.* A public hearing shall be set and conducted by the city council. Applications for variances shall be in writing to the public works department on forms prescribed by this department. An application fee shall accompany the application for variance. The application shall set forth the details of the variance requested and the grounds on which it is claimed that the variance should be granted. Notice of the hearing shall be given as follows:
  - a. The applicant will post a sign upon his or her property indicating the general nature of the request and the time, date, and place of the public hearing at least fifteen (15)

days prior to the hearing date. The public works department will provide the signs. Failure of the applicant to post the required sign is deemed a withdrawal of the application for variance.

- b. The time, date, and place of the public hearing shall be published in a newspaper of general circulation at least fifteen (15) days prior to the hearing date. Public Works Department will advertise the proposed variance.

## VARIANCE PROCEDURE

1. After variance request is received by the Public Works Department, a date for the review staff meeting is set (under normal circumstances this happens within one week of submission).
2. The review staff studies each application with references to its appropriateness and effect on existing and proposed land uses.
3. The review staff reports their findings, in writing, to the Building Department.
4. A packet with all the necessary information is prepared for the City Council. This packet must first be approved by the Public Works Director before it can be submitted to the City Clerk to be placed on the Council Agenda.
5. After the necessary approval is obtained three (3) copies of the packet are prepared and sent to the City Clerk.
6. The City Clerk must place a notice, stating the date of the Council Meeting in which the variance request will be heard, in a public publication fifteen (15) days prior to the meeting.
7. A field inspector is sent to verify that the property, for which the variance has been requested, is posted.
8. The owner or his agent who submitted the variance is notified of the council meeting date.
9. After Council has made a decision, the Public Works Department sends a letter to the applicant notifying them of the results, seven (7) days after the public hearing.
10. This whole process takes from 30 to 45 days to complete (under normal circumstances).

## MEMORANDUM

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550 S 24<sup>th</sup> St W, Suite 201 Billings, MT 59102  
PHONE: (406) 894-2210

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**TO: Mac Fogelsong, City Engineer, City of Billings Engineering**

**FROM: Greg Reid, Billings Branch Manager, WWC Engineering**

**DATE: June 21, 2022**

**SUBJECT: SLS Canal Vista Master Site Plan - Variance Application**

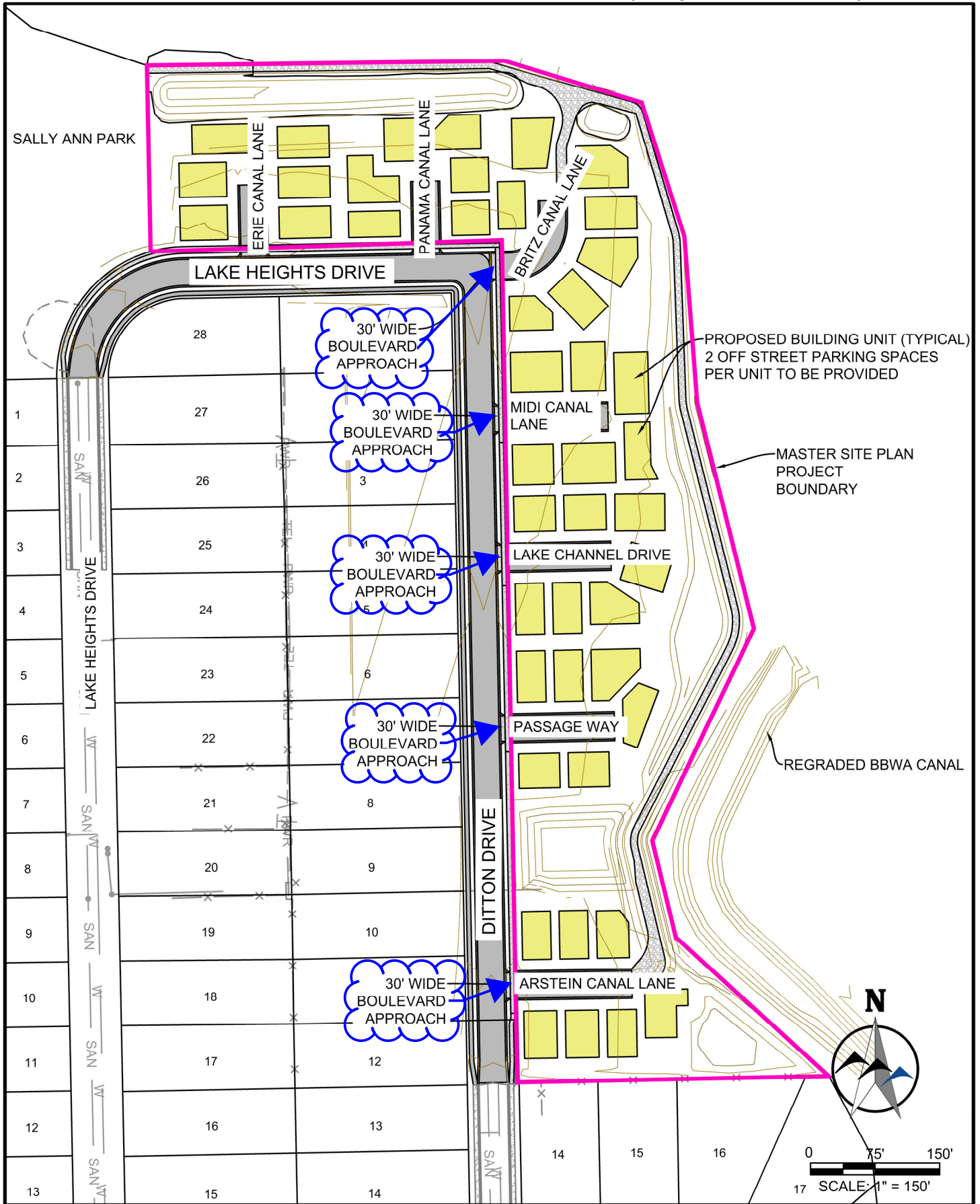
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WWC Engineering (WWC) has prepared the following memorandum to provide a summary of reasons to grant a variance for the number of curb cuts allowed off the east side of Ditton Drive to Lot 1A-2, Block 62, of the Amended Plat of Lake Hills Subdivision 25<sup>th</sup> Filing Amended (the Plat).

The aforementioned lot is proposed to be developed as a patio home project with multiple boulevard drive approaches. Each curb cut would provide access to patio home units. The patio home project for this lot proposes 5 curb cuts along Ditton Drive frontage, and said frontage is 978.20 feet per the Plat. Per City of Billings Municipal Code, a single lot is allowed 2 curb cuts for the first 600 feet of frontage, and an additional curb cut for every additional 300 feet of frontage. As a result, the proposed patio home project would be allowed 4 curb cuts per code.

The property has Covenants, Codes, and Restrictions (CCRs), and the CCRs state that the area east of Ditton Drive is identified for a patio home project. This type of project requires the Owner to aggregate the lots along the east side of Ditton Drive and the north side of Lake Heights Drive into a single lot; and also complete a Master Site Plan application through the City of Billings. As the CCRs also required west of Ditton Drive to remain as originally platted, the right-of-way for Ditton Drive was kept in the original location, in turn making short, combined drives required as a second parallel roadway was not feasible. Due to these factors, a variance from the City of Billings Municipal Code is required.

The final reasoning a variance should be granted is the original plat of the property had 13 individual residential lots, which would have resulted in 13 curb cuts along the east side of Ditton Drive. The proposed patio home project meets the intentions of the property as stated in the CCRs, while also reducing the number of curb cuts along the east side of Ditton Drive from 13 to 5.



**CANAL VISTA SUBDIVISION**  
**MASTER SITE PLAN**  
 YELLOWSTONE COUNTY, MT

PREPARED FOR  
**CANAL VISTA, LLC**

PREPARED BY  
**WWC ENGINEERING**

550 S. 24TH ST. W., SUITE 201  
 BILLINGS, MT 59102  
 (406) 894-2210  
 www.wwcengineering.com

DESIGNED BY: GWJ  
 DRAWN BY: GWJ  
 CHECKED BY: GTR  
 DATE: 06/2022

SHEET  
**MSP**

*Janice Taylor*  
1550 Poly Dr  
Bly NT 59102



SECOND AMENDMENT  
TO DECLARATION OF RESTRICTIONS FOR DEVELOPMENT OF  
LAKE HILLS SUBDIVISION, TWENTY-FIFTH FILING

THE UNDERSIGNED, being the owners of two-thirds of the lots and tracts, on an area basis, in Lake Hills Subdivision, Twenty-Fifty Filing, do hereby amend the Declaration of Restrictions for Development of Lake Hills Subdivision, Twenty-Fifth Filing, recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana on July 11, 1962, as Document #688243, records of Yellowstone County, Montana, as follows:

The Restrictions shown in Document No. 688243, records of Yellowstone County, Montana, as paragraphs number 1 through 13 are hereby amended with the following:

The undersigned owners place these covenants and restrictions upon said property for the benefit of the owners of all property in Lake Hills Subdivision, Twenty-Fifth Filing, for the purpose of protecting the value and desirability of the real property in Lake Hills Subdivision, Twenty-Fifth Filing.

The covenants, restrictions and conditions herein contained shall run with the land and shall be binding on all parties and persons and all persons claiming under them.

The Grantees of any lot, by acceptance of a conveyance, covenant and agree faithfully to observe and abide by all of said conditions, covenants and restrictions.

1. No lot shall be used or improved for anything other than private residential purposes.
2. Any structure hereafter placed or erected on any lot shall be of new construction, and no structure including prefabricated or manufactured homes of any type shall be moved onto any of said lots.
3. Any structure hereafter to be erected on any lot shall be commenced within sixty (60) days after equipment and/or material to be used in the construction thereof are moved onto the location, and all construction shall be pursued with reasonable diligence.



4. No tent, trailer or other temporary structure shall be used for living quarters on any lot, nor shall any basement or garage be so used except after completion of the dwelling of which such basement or garage is a part.
5. Livestock or poultry shall not be kept or maintained on any lot, nor shall domestic pets be kept or maintained for breeding or commercial purposes on any lot. A maximum of two dogs and two cats can be kept by the owners of any one residence. Animal kennels must be placed within 20 feet of the residence and in an area which is inconspicuous and removed from the direct view of neighbors and the primary road.
6. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which might become an annoyance or nuisance to the neighborhood, or that is unsightly, unclean or presents a hazardous condition. No trash or obsolete materials shall be allowed to accumulate on any of the above described lots. No non-operating or non-licensed vehicles or portions thereof shall be permitted on any lot, except inside a garage. Nor shall any motor vehicles used in organized or unorganized automobile or stock races be stored or maintained on said premises, except inside a garage.
7. No lot shall be used at any time for a business or commercial activity, with the exception of in-home businesses not visible from the outside of the residence which do not require special permits from Yellowstone County or the State of Montana, and produce only minimal customer or employee traffic. However, the undersigned or their nominee may use any lot for model homes and to promote sales.
8. Except as provided herein, no structure shall be erected or maintained on any tract or lot excepting the following:
  - i. Except on Blocks 62 and 65, one (1) residential dwelling is allowed on each lot.
  - ii. A minimum of a double garage is required for each dwelling, attached or detached.
  - iii. An attached or detached storage shed may be constructed as long as it meets the following criteria:
    - \* On Block 64 Lots 1 through 13 inclusive a structure may be built not to exceed eight hundred (800) square feet in size nor exceed eighteen (18) feet in height.



- \* On all other lots the area of the structure shall not exceed one hundred forty four (144) square feet in size, and the height of the structure shall not exceed twelve (12) feet.
  - \* It is located on a concrete slab or foundation.
  - \* The siding and roofing matches that of the residence.
9. Each residence shall be constructed so that the area (exclusive of porches, terraces, patios, and garages) enclosed within the perimeter of the foundation shall not be less than 1150 square feet when measured at the intersection of a plane passing at right angles through a vertical projection of the foundation walls.
10. Fences shall comply with all ordinances enacted by the City of Billings in effect at the time the fence is erected. All fences shall be constructed from materials which are commonly used for fencing and shall not be constructed from railroad ties, tires, rubble or salvaged material. All fences must be maintained in good repair, upright, and not unsightly in appearance.
11. All houses and residences, including attached garages, shall be set back from the property lines of the lots as follows:
- \* Front: All houses shall be set back thirty (30) feet from the front side of the lot, which shall be the narrow side of the lot adjoining the street. Houses located on corner lots shall be at least twenty-five (25) feet from the street sideline.
  - \* Side: All structures shall be located at least five (5) feet from the sideline of the lot.
  - \* Rear: All structures shall be located at least twenty (20) feet from the rear line of the lot.
12. All boats, boat trailers, RVs and campers are to be kept to the rear of the house at all times.
13. Siding and Trim: muted and subdued colors should dominate the main body of the building. If used, vinyl siding must be a minimum thickness of .046, and be certified by the Vinyl Siding Institute. The trim should accent or contrast the main body of the building, adding visual interest to the predominant neutral tones. All residences must have stone or brick accents on the front.



14. Roof design should be consistent with building size, shape, and form with the roof pitch being no less than 5 in 12 pitch on the main roof. Architectural grade asphalt shingles are required. Muted and subdued colors should be chosen to harmonize with the surrounding color schemes.
15. Fireplaces, chimneys and flues are to be designed to avoid smoke and fumes at ground levels during down slope wind. Chimneys must be clad with natural stone, stucco, artificial stucco, brick or material matching the siding. A choice of materials that match the dwelling is encouraged for chimneys that extend more than three feet above the roof surface or line.
16. Dormers and secondary roofs are encouraged, both to add interest and scale to major roof areas and to make habitable use of space within the roofs. Dormers and secondary roofs may have gable, hip or shed forms and may be stacked in multiple forms.
17. Exposed concrete foundation walls between ground level and exterior wall siding shall be a maximum of eight (8) inches. Foundation exposure over eight (8) inches shall be finished with synthetic textured stucco (stained a subdued color in harmony with the building), stone, or siding. Front steps will be concrete, brick or stone. No wood steps are allowed at the front of any residence. Steps other than the front may be wood. An asphalt or concrete driveway must be completed by the time of occupancy unless delayed due to weather conditions, and in such case must be installed as soon as weather permits.
18. Antennas/satellite dishes no more than three (3) meters in diameter should be positioned in unobtrusive locations with consideration given to local aesthetics and views from adjacent properties.
19. No log buildings are allowed.
20. All garbage cans and other containers shall be kept in garages or in enclosures such that they will be concealed from view of streets and lots, which are adjacent to the lot on which they are located, excepting on garbage pick up days.
21. These Covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these Covenants and Restrictions are recorded, after which time said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years at a time, unless revoked in their entirety by recording of a written instrument, executed according



to the terms of paragraph 25.

The grantee of any lot covenants and agrees by the acceptance of a conveyance to the lot to faithfully observe and comply with said Covenants and Restrictions, conditions and limitations applicable thereto.

22. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
23. Lots in Blocks 62 and 65 may be further subdivided, re-platted, or re-zoned for a Planned Development or patio home project in that Block, pursuant to the Montana Unit Ownership Act.
24. Any provision herein may be enforced by an owner of any lot subject to these Covenants and Restrictions by an action for damages including legal fees and court costs, if any, arising out of a violation; or by an action to restrain a threatened or prospective violation; or to restrain a continuing violation by injunction, prohibitive, prospective or mandatory, or in any other manner permitted by law. Any such action maintained by anyone on account of a violation of Paragraphs 8 and 9, excepting in regards to detached garages or storage sheds, shall commence not later than one year after completion of the structure which violates such provision. In the event of a suit to enforce these restrictions, the losing party shall be required to pay all costs of the action, including reasonable attorney fees incurred by the prevailing party.

Any provision herein may be amended or revoked at any time by the recording of a written instrument, executed by two-thirds of the lot or tract owners in said subdivision, on an area basis, in the office of the Clerk and Recorder of Yellowstone County, Montana.

25. The Declaration of Restrictions for Development of Lake Hills Subdivision, Twenty-Fifth Filing, recorded under Document #688243, records of Yellowstone County, Montana and the Amendment to Declaration of Restrictions duly filed for record in the office of said County Clerk and Recorder on April 2, 1981 as Document #1194110, recorded in Book 1226, Page 2064, continue to be in effect.
26. In the event of a conflict between the provisions of this Second Amendment and the Declaration and Amendment described above, the provisions of this Second Amendment shall control.



The legal description of the land affected is as follows:

Lake Hills Subdivision - Twenty-Fifth Filing,  
situated in the W1/2SE1/4, Section 9 - T. 1  
N., R.26.E., M.P.M., Yellowstone County,  
Montana.

IN WITNESS WHEREOF, Laure Taylor Inc. a Montana corporation,  
and Susan B. Lovely, have executed this Second Amendment to  
Declaration of Restrictions for Development of Lake Hills  
Subdivision, Twenty-Fifth Filing, this 23 day of  
April, 2002.

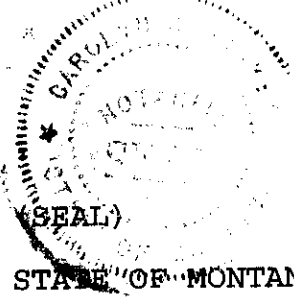
Laure Taylor  
Laure Taylor  
President Laure Taylor Inc.

Susan B. Lovely  
Susan B. Lovely

STATE OF MONTANA )  
County of Yellowstone )

)  
: SS.  
)

This instrument was acknowledged before me on  
April 23, 2, 2002, by LAURE TAYLOR as President of LAURE  
TAYLOR INC.



Carolyn B. Bakker  
Carolyn B. Bakker  
(print or type name of notary)  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission Expires 6/30, 2004

STATE OF MONTANA )  
County of Yellowstone )

)  
: SS.  
)

This instrument was acknowledged before me on April 23,  
2002, by SUSAN B. LOVELY.



Carolyn B. Bakker  
Carolyn B. Bakker  
(print or type name of notary)  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission Expires 6/30, 2004





C O N S E N T

I, the undersigned owner of Lots 11, 12, and 13, Block 64, Lake Hills Subdivision, Twenty-Fifth Filing, Yellowstone County, Montana, do hereby consent to be bound by the Second Amendment to Declaration of Restrictions for Development of Lake Hills Subdivision, Twenty-Fifth Filing, recorded ~~April 8<sup>th</sup>~~, 2002, under Document No. \_\_\_\_\_, records of the Clerk and Recorder of Yellowstone County, Montana.

This Consent shall run with the land and shall be binding upon the undersigned, their heirs, successors and assigns forever.

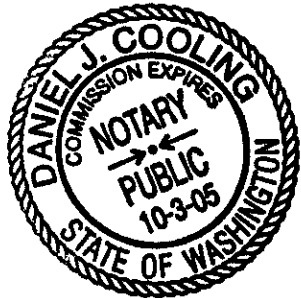
DATED this 8<sup>th</sup> of April, 2002.

Rochelle Holz  
ROCHELLE HOLZ

STATE OF MONTANA )  
 ) : ss.  
County of Yellowstone )

This instrument was acknowledged before me on 4-8-2002, 2002, by ROCHELLE HOLZ.

Daniel Cooling  
Daniel Cooling



(SEAL)

(print or type name of notary)  
Notary Public for the State of ~~Montana~~  
Residing at Billings, ~~Montana~~ Washington  
My Commission Expires 10-03-05, 2002