

MEMORANDUM

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Date: June 30, 2023

Re: Application for Zone Change, PUD, Sisters of Charity of Leavenworth Health System, Inc., 91.34 Acres, 715 Henry Chapple St.

To Whom it May Concern:

This memorandum is being provided in conjunction with the Sisters of Charity of Leavenworth Health System's ("SCL Health") Application for Zone Change, which has been submitted by SCL Health through Sanderson/Stewart. A copy of the Application is attached as **Exhibit 1** ("Application"). Likewise, a copy of the proposed amendment to the Zone Change is

attached at **Exhibit 2** (“**Proposal**”). This memorandum, at the request of Nicole Cromwell, details the modifications SCL Health requests in the Proposal.

I. The Property

The property in question is approximately 91.34 acres to the West of Shiloh Blvd and North of King Avenue (the “**Property**”). SCL Health recently re-platted most of this Property through an amended plat of the Subdivision, Plat of Amended St. Vincent Healthcare Subdivision, which was recorded on December 21, 2022, in the real property records of Yellowstone County, State of Montana, at reception number 4037363 (“**Amended Plat**”). The Amended Plat is attached hereto as **Exhibit 3**. Based on a series of recent transactions in the Amended Plat, SCL Health has combined and reconfigured a few lots. A comparison of the Amended Plat over the prior plat is attached at **Exhibit 4**.

II. Current Zoning

The Property is currently zoned as a PUD. That is St. Vincent Healthcare Foundation, Inc., a Montana public benefit corporation, as agent for SCL Health, entered into that certain Planned Development Agreement (“**Original PDA**”) for the St. Vincent Healthcare Subdivision, dated June 23, 2011, and recorded on June 12, 2014, in the real property records of Yellowstone County, State of Montana, at document number 3707747. The Original PDA was amended by that certain Consent to Minor Modification of Planned Development Agreement for St. Vincent Healthcare Subdivision, dated June 23, 2011, and recorded on November 21, 2014, in the real property records of Yellowstone County, State of Montana, at document number 3724597 (“**First Amendment to PDA**”). The Original PDA and First Amendment to PDA were amended again by that certain Second Consent to Minor Modification of Planned Development Agreement for St. Vincent Healthcare Subdivision, dated January __, 2015 and recorded on February 27, 2015, in

the real property records of Yellowstone County, State of Montana, at document number 3732703 (“**Second Amendment to PDA**”) (the Original PDA, First Amendment to the PDA and the Second Amendment to the PDA, are referred to collectively as the “**PDA.**”)

3. Requested Amendment

There are two primary considerations for the Property. The first is to update the PDA so it matches the Amended Plat. The second is to modernize PDA to replace references to the Shiloh Overlay Corridor District with the current code.

Below is a paragraph-by-paragraph analysis and comparison (if applicable) of each change in the Proposal.

Recitals: The recitals in the Proposal simply set forth the Property and status of the PDA. There is no comparison of these recitals in the PDA.

¶1: General: This paragraph simply states that the Proposal is an amendment to the PDA and that if there are inconsistencies between the PDA and the Proposal, the Proposal controls. There is no comparison of this paragraph in the PDA.

¶2 Amended Plat: This paragraph describes and details the Amended Plat. In particular, the Proposal removes and replaces prior references to the prior plats with the Amended Plat.

For example, **¶2.B** – updates the locations of the Sign Easements. Note that the physical location of the sign easements is similar; the Proposal just uses the Amended PDA to show the sign easement locations.

Next, **¶2.C** updates the definition of Campus based on the Amended Plat. In the PDA, the Campus was defined as:

- E. **The Campus.** “The Campus” means Block 2, Lots 1-8; Block 3, Lots 1-9; and Block 4, Lots 2 and 3. The Campus is intended to be a collegiate-like arrangement of buildings, open space, parking areas and landscaping in which the buildings are interconnected with walkways and open, landscaped space, and surface parking is screened at its perimeter by landscaping or an arrangement of buildings. The Campus is intended to be a juxtaposition of buildings of many different functions which encourages and facilitates easy pedestrian circulation, develops an identifying style, and creates a sense of place as a neighborhood environment. There shall be paved access to all structures, through public and/or private rights-of-way in order to insure access, including but not limited to Fire Department access.

The Proposal modernizes the term Campus, based on the Amended Plat, and provides:

Campus. The term “**Campus**,” as defined in the PDA, shall be amended based on the Amended Plat to mean:

- i. Block 2, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 2A, 11, and 12.
- ii. Block 3, Lots 1, 1A, 2, 3, 4, 5, 6, 8, 9, 10, 11, and 12.
- iii. Block 4: Lots 2, 3, 2A-2, 3A, and 4.

Next, ¶2.D, updates the term Commercial Neighborhood based on the Amended Plat. That is, in the PDA, Commercial Neighborhood is defined as:

- F. **The Commercial Neighborhood.** “The Commercial Neighborhood” means Block 1, Lots 2-7.

Based on the Amended Plat, the Proposal redefines the Commercial Neighborhood as

The Commercial Neighborhood. The term “**Commercial Neighborhood**,” as defined in the PDA, shall be amended based on the Amended Plat to mean:

- iv. Block 1: Lots 2A, 3A-1, 4A, 4B, 5A, 6A-1, 6A-2, and 6A-3.

Next, in ¶2.E, the Proposal updates the “St Vincent Park.” That is in the PDA, St. Vincent Park was defined as

- J. **St. Vincent Park.** “St. Vincent Park” shall be a private park space developed and maintained by the Maintenance Director, at no cost to the City of Billings. St. Vincent Park shall be an area of approximately 1.76 acres located in Lot 2, Block 3, of St. Vincent Healthcare Subdivision.

The Proposal updates this definition based on the Amended Plat, as follows:

St. Vincent Park. The term “**St. Vincent Park**,” as defined in the PDA, shall be amended based on the Amended Plat to mean approximately 2.771 acres located in Lot 7, Block 3, as depicted on the Amended Plat.

Next, ¶2.F of the Proposal updates all references to the Shiloh Overlay District and replaces these references with CMU-2 Zoning and NX 2 Zoning. As stated above, this request is to modernize the zoning on the Property since the City of Billings has adopted a new code. There is no comparison of this, as the idea is to change all of the references to the Shiloh Overlay District to the new code.

In ¶3 of the Proposal, SCL Health adds five additional prohibited uses. That is the PDA currently has 33 prohibited uses. SCL Health desire to add the following as prohibited uses:

- 34. **Marijuana**. The sale, growing or manufacturing of any product or by-product of the marijuana plant.
- 35. **Body Painting or body piercing salons**.
- 36. **Dry cleaning plants or public Laundromats** (provided this shall not apply to nominal supportive facilities for on-site service-oriented pickup and delivery by the ultimate consumer and other incidental non-dry cleaning services that are not self-service).
- 37. **Manufactured housing**.
- 38. **Chain Link Fencing** (provided this shall not apply to temporary or mobile chain link fencing used (a) during any construction activities or (b) for outdoor events, where the public needs to be separated from an event).

Next, ¶4 updates the notice address for SCL Health and St. Vincent Healthcare. That is, in the PDA, the notice addresses are

If to SVH: St. Vincent Healthcare
Attn: President/CEO
1106 North 30th Street
P.O. Box 35200
Billings, Montana 59107-5200

With copies to: St. Vincent Healthcare Foundation, Inc.
Attn: Executive Director
1106 North 30th Street
P.O. Box 35200
Billings, Montana 59107-5200

¶4 updates these addresses to:

If to SCL Health: 500 Eldorado Blvd., Ste. 4300
Broomfield, Colorado 80021
Attn: Legal Department

With a copy to: St. Vincent Healthcare
Attn: Business Development
1106 North 30th Street

Billings, MT, 59107-5200

Lastly, ¶5 are the “boilerplate” provisions, which are included in the PDA. For example,

- ¶5.A in the Proposal is identical to Article X of the PDA.
- ¶5.B is Article XI.B of the PDA.
- ¶5.C is Article XI.C of the PDA
- ¶5.D is Article XI.D of the PDA
- ¶5.E is Article XI.F of the PDA
- ¶5.F is Article XI.G of the PDA
- ¶5.G is Article XI.H of the PDA.
- ¶5.H is Article XI.J of the PDA.
- ¶5.I is Article XI.K of the PDA
- ¶5.J is Article XI.L of the PDA
- ¶5.K is Article XI.M of the PDA
- ¶5.L is Article XI.N of the PDA
- ¶5.M is Article XI.O of the PDA.
- ¶5.N is Article XI.P of the PDA
- ¶5.O is Article XI.Q of the PDA.

Exhibit 1

Zone Change Application

See attached

Exhibit 2

Proposal

See attached

Exhibit 3

Amended Plat

See attached

Exhibit 4

Amended Plat Comparison

See attached