

ORDINANCE 23-5843

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE PLANNED DEVELOPMENT ZONE
AGREEMENT ON Tract 2A of C/S 3535 and Tract 1A-1of
C/S 832, 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. Tract 2A of C/S 3535 and Tract 1A-1of C/S 832, is presently zoned **Planned Development – Highway Commercial and Controlled Industrial (PD-HC and PD-CI)**, and is shown on the official zoning map within this zone. The Planned Development agreement for this property was filed with the Clerk and Recorder under document No. 3666419.

Section 3. ZONE DISTRICT AMENDMENT. The official original **Planned Development Agreement known as Viking Tvetene Planned Development filed as document No. 3666419** is hereby amended for the tracts noted above within the city limits and the attached amended PD Agreement as shown in Exhibit A, shall apply to these tracts. Such amended Planned Development will be executed and filed with the Clerk and Recorder and shall be subject to all the rules and regulations pertaining to Planned Development Agreements 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 All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.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 26th day of June, 2023.

PASSED, ADOPTED and APPROVED on second reading this 10th day of July, 2023.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

Attest:

BY: Denise R. Bohlman for
Denise R. Bohlman, City Clerk

Zone Change 1027 – Viking Tvetene Planned Development Agreement Amendment

EXHIBIT A

Return to:
City Clerk
City of Billings
PO Box 1178
Billings, MT 59101

PLANNED DEVELOPMENT AGREEMENT

**TRACT 2A OF COS 3535 AMENDED, AND TRACT 1A-1 OF
COS 832 AMENDED IN YELLOWSTONE COUNTY,
MONTANA**

THIS AGREEMENT is made and entered into this _____ day of __, 2023, by and between **Development 55, LLC**, whose address for the purpose of this agreement is 2210 N Plaza Drive, Rapid City, SD 57701, hereinafter referred to as "Owner." **Elysian School District #23, Billings, Montana** whose address for the purpose of this agreement is 6416 Elysian Road, Billings Montana 59101 hereinafter referred to as "School." And the **City of Billings**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the School and the Owner desire to provide for harmonious development of the property with land uses and restrictions acceptable to both parties.

WHEREAS, the undersigned are the owners of Tract 2A of COS 3535 Amended, and Tract 1A-1 of Certificate of Survey No. 832, Amended in the City of Billings.

WHEREAS, the aforesaid Owner, School, and City desire to amend and supplement the existing Planned Development Agreement recorded as Document Number 3666419, on file and of record at the Yellowstone County Clerk and Recorder's Office, as provided within this agreement, and Tract 1A-1 C/S 832 will be designated as **Public 2**, a zone district of the City of Billings, and subject to all regulations set forth for **Public 2** districts.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporation, 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 2019 Yellowstone County's Zoning Ordinance shall be followed for the type of use within each of the areas described herein.

- A. Restricted Use **School Buffer Zone A** as depicted on attached **Exhibit A** (underlying county zone: Highway Commercial – HC).
All allowed land uses as outlined within the Yellowstone County Zoning Regulations for the underlying Zone shall be allowed within the **School Buffer Zone A** with the following exceptions (SIC numbers noted are as defined by the “*Standard Industrial Classification Manual*”, 1987 Edition by the Executive Office of the President, O.M.B.):

Exceptions (uses not allowed) within School Buffer Zone A:

Division A: Agriculture, Forestry, and Fishing

Group 07 – Agricultural Services

- Veterinary services for Livestock – Boarding
- Veterinary services for Animal specialists – Boarding

Group 08 – Forestry

- Equipment storage and wholesale sales

Division B: Mining

- Construction sand and gravel mining (SIC 1442)

Division C: Construction

Group 16 – Heavy Construction Other Than Building Construction – Contractors

- Open storage of equipment and supplies

Division D: Manufacturing

Group 20 – Food and Kindred Products

Alcoholic beverages manufacturing & bottling (SIC 2082, 2083, 2084, 2085)

Group 21 – Tobacco Products

- Offices only

Group 24 – Lumber and Wood Products, Except Furniture

- Hardwood and special product sawmills (2426, 2429)
- Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)
- Wood Buildings and Mobile home manufacture (245)

Group 81 – Chemicals and Allied Products

- Growing, harvesting, or selling of Marijuana based products

Group 24 – Leather and Leather Products

Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewer

Group 41 – Local & Suburban Transit & Interurban Highway Passenger Transport

- Bus terminal operation only, without maintenance facilities (4173)

Group 42 – Motor Freight Transportation and Warehousing

- Trucking terminal and maintenance facilities (421, 423)

Group 43 – U.S. Postal Service

- With truck terminal

Group 46 – Pipelines, except natural gas

Group 47 – Transportation services

- Warehouses, terminals

Group 48 – Communications

- Amateur Radio Antenna Support Structures

- Broadcast antenna or tower farms

Group 49 – Electric, Gas, and Sanitary Services

- Transmission and distribution, electric and gas

Division F: Wholesale Trade

Group 51 – Wholesale Trade – Nondurable Goods

- Groceries; beer, wine and distilled beverages (514, 518)

- Tobacco and tobacco products; (5149)

Division G: Retail Trade

Group 52 – Building Materials, Hardware, Garden Supply, and mobile Home Dealers

- Mobile home dealers (manufactured homes) (527)

Group 58 – Eating and Drinking Places

- With the sale of beer and wine only for on-premise consumption, without gaming

- With the sale of beer and wine only for on-premise consumption, with gaming

- With the sale of alcoholic beverages for on-premise consumption, with gaming

Group 59 – Miscellaneous Retail (Strictly Carryout)

- Fuel dealers (598)

Division I: Services

Group 70 – Hotels, Rooming Houses, Camps, and Other Lodging Places

- Roaming, boarding houses; organization hotels and lodging houses, on a membership basis (702, 704)
- Camps and recreational vehicle parks (703)

Group 72 – Personal Services

- Funeral service and crematories (726)

Group 78 – Motion Pictures

- Drive-in motion picture theaters (7833)

B. Restricted use **Zone B as depicted on attached **Exhibit A** (underlying county zone: Controlled Industrial – CI)**

All allowed land uses as outline within 2019 Yellowstone County Zoning regulations for the underlying zone shall be allowed within the restricted use **Zone B**, with the following exceptions:

Exceptions (uses not allowed) within restricted use **Zone B:**

Division A: Agriculture, Forestry, and Fishing

Group 09 – Fishing, Hunting, and Trapping

- Fish hatcheries and preserves (092)

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

Group 21 – Tobacco Products

- Offices only

Group 24 – Lumber and Wood Products, Except Furniture

- Hardwood and special product sawmills (2426, 2429)
- Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)
- Wood Buildings and Mobile home manufacture (245)

Group 81 – Chemicals and Allied Products

- Growing, harvesting, or selling of Marijuana based products

Group 24 – Leather and Leather Products

- Offices only

Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewer

- Group 40 – Railroad Transportation
- Passenger and freight terminals
- Group 42 – Pipelines, Except Natural Gas

The following uses are allowed within the Restricted Use Zone B, with special review approval:

Division D: Manufacturing

- Group 20 – Food and Kindred Products
- Alcoholic beverages manufacturing and bottling (2082, 2083, 2084, 2085) By Special Review
- Group 41 – Local & Suburban Transit & Interurban Highway Passenger Transportation
- Bus terminal operation only, without maintenance facilities (4173) By Special Review

Division F: Wholesale Trade

- Group 51 – Wholesale Trade – Nondurable Goods
- Groceries; beer, wine and distilled beverages (514, 518) – By Special Review
- Tobacco and tobacco products; (5149) By Special Review

III. LANDSCAPING REQUIREMENTS

Unless expressly designated below, all landscaping, buffering, and screening standards as outlined within Article 27-1200 of the 2021 City of Billings Zoning Code shall be followed as required with the following exceptions:

A. School Buffer Zone “A”

Within the School Buffer Zone “A” as depicted on the attached Exhibit “A,” a residential development is not required to install an opaque screen fence or open fence adjacent to the School’s property.

IV. OTHER SPECIAL AGREEMENTS

A. Access

Vehicular Access onto Elysian Road and East Lane from School Buffer Zone A and Restricted Use Zone B shall be a minimum of 150 feet from the **School**.

[Left intentionally blank, signature pages to follow]

IN THE WITNESS WHEREOF, the OWNERS have set their hands and official seals on this
_____ day of _____, 2023.

“OWNER”

DEVELOPMENT 55, LLC

By: _____ Its: _____

STATE OF _____)

:

ss County of

)

On this ____ day of _____, 2023, before me, a Notary Public in and for the State of
_____, personally appeared _____, known to me to be the
_____ of **DEVELOPMENT 55, LLC** who executed the foregoing instrument and
acknowledged to me he/she executed the same.

SS

[Intentionally blank with signatures on the following pages]

IN THE WITNESS WHEREOF, the SCHOOL have set their hands and official seals on this

_____ day of _____, 2023.

“SCHOOL”

ELYSIAN SCHOOL DISTRICT #23, BILLINGS, MONTANA

Luke Shelton, Superintendent of Elysian
School District #23, Billings, Montana

STATE OF _____)

:

ss County of

)

On this ____ day of _____, 2023, before me, a Notary Public in and for the
State of Montana, personally appeared Luke Shelton, known to me to be the
Superintendent of **ELYSIAN SCHOOL DISTRICT #23, BILLINGS, MONTANA**
who executed the foregoing instrument and acknowledged to me he executed the same.

SS

[Intentionally blank with signatures on the following pages]

Viking Land, LLC as a party of the existing agreement recorded as Document Number 3666419 hereby recognizes and accepts the amendments identified within this document.

I hereby set my hand on this _____ day of _____, 2023.

VIKING LAND, LLC

By: _____ Its: _____

STATE OF _____)

:

ss County of

)

On this ____ day of _____, 2023, before me, a Notary Public in and for the State of _____, personally appeared _____, known to me to be the _____ of **VIKING LAND, LLC** who executed the foregoing instrument and acknowledged to me he/she executed the same.

SS

[Intentionally blank with signatures on the following pages]

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 2023.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
William A. Cole, Mayor

Attest: _____
Denise R. Bohlman, City Clerk

STATE OF _____)

:

ss County of

)

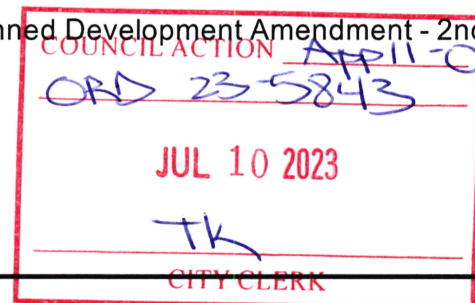
On this ____ day of _____, 2023, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

SS

[Left intentionally blank]

City Council Regular

Date: 07/10/2023
Title: Zone Change 1027 - Viking Tvetene Planned Development Amendment - 2nd reading
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: No
Legal Review: Not Applicable
Project Number: PZX-23-00048

**RECOMMENDATION**

The Zoning Commission recommended approval and adoption of the findings of the 10 review criteria for Zone Change 1027. The City Council approved the zone change on first reading on June 26, 2022. A second reading is required to give final approval to the zone change. Staff recommends the City Council approve the ordinance on second reading to be consistent with first reading action.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

This is a zone change request to amend the underlying Zoning master-plan for the several lots in the Viking Tvetene Planned Development zone generally located south and west of the intersection of East Lane and Elysian Road. The original Planned Development zone was approved by the County Commissioners in 2013 to include land west of Elysian School with underlying zoning of Highway Commercial (HC) and Controlled Industrial (CI), two zone districts that have now been retired. The Planned Development also included a reduced set of allowed uses in both underlying zone districts to protect the school and the surrounding agricultural and residential uses. The property was recently annexed to the city and property has been sold to Elysian School to accommodate the growing campus. This zone change and amendment to the PD agreement will update the names of the owners to include the school district, and a development company along with Viking Land, LLC. The amendment also updates the special agreements in the document and names the city's code for landscaping requirements for parcels that were recently annexed to the city. The amendment will make this agreement easier to interpret and enforce and provide continuing predictability for the school and owners of property in the development and surrounding owners.

The change in the underlying Zoning master-plan will expand the area with underlying HC zoning and decrease the area for the underlying CI zoning. In addition, the two parcels recently purchased by the school will be zoned Public 2 (P2) to match the school's existing zoning. The HC and CI zone districts are archived zone districts in use for all Planned Developments in the city and county. The new zoning code adopted in February 2021 anticipated the need to use these archived zone districts for the 80+ Planned Development zone districts. The owners in these Planned Developments can rely on these archived districts to guide the development within these areas. Section 27-107 of the zoning code does provide language to guide the interpretation of these Planned Development documents:

Section 27-107.D. Planned developments and master site plans approved prior to the effective date.

- 1. Any planned development identified on the zoning map and approved prior to the effective date shall remain valid. Planned developments that refer to zone districts not included in this zoning code shall use the archived zoning code requirements. For example, a reference to an underlying zone district of "community commercial" shall refer to the use table, use standards, and other requirements for that zone district in the archived zoning code.*
- 2. Planned development and master site plan approvals that predate the adoption of this zoning code shall be narrowly interpreted and are limited to the specified terms of approval. Where a term was not defined or a process not specified in the PD or MSP approval, the most closely similar provision of this zoning code shall be applied. For example, if a planned development does not specify a process for amendment, the process for amending planned development approvals in this zoning code will be used.*

Planning staff recommended approval of the proposed zone change and amendment to the Planned Development agreement to the City Zoning Commission. The Zoning Commission conducted a public hearing on June 6, 2023 and concurred with the staff recommendation. The increase in the underlying HC zone is to accommodate a multifamily development project adjacent to the school property. The HC zone district allows multifamily residential development similar to the retired Residential Multifamily-Restricted (RMF-R) zone district. For example, the original zoning for Riverfront Pointe Estates (east of Mullowney Lane) was Highway Commercial. There is no substantial change in the original findings for this Planned Development except the type of traffic may change from commercial truck traffic to more residential type traffic.

A minor subdivision of the property was approved by the City Council on May 22, 2023. One of the conditions of approval is to require an update to the Traffic Impact Study and road improvements as required to handle the intended type and volume of traffic on adjacent streets and roads. Another condition of the approval requires at least three pedestrian connections to the school property. This will allow any students in the new residential neighborhoods to walk to the school without traveling on a collector or arterial street. The updates and amendments align with the 2016 City Growth Policy to encourage strong neighborhoods with walkable streets and housing choices. In addition, the limitation of uses within both underlying zone districts protects and encourages compatible uses on the property.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on March 24, 2023, at the Elysian School. Approximately 13 surrounding property owners attended the meeting along with the agents for the owners, IMEG Corp staff Anna Vickers, Matt Suek, and Renae Heisler. The meeting notes are attached.

The Planning staff published a legal ad, posted the property and sent notification to the 69 property owners within the required notice area of 1,320 feet. The Planning staff did not receive any letters, emails or phone calls regarding the proposed zone change prior to the Zoning Commission hearing.

Zoning Commission Hearing

The Zoning Commission conducted a public hearing on June 6, 2023, and received the staff report and recommendation for approval. The applicant's agent, Anna Vickers of IMEG Corp., provided testimony in favor of the application and answered questions from the Zoning Commission. There was no other testimony. Commission member David Goss asked whether the 2019 County Zoning Code could be amended and then make the PD agreement out-of-date. Staff stated the 2019 County Zoning Code named in the document is an archived version (Dec 2020) of the code and cannot be amended by the County. The 2019 County Code is similar to the City's archived Zoning Code (February 2021).

The Chair Michael Larson closed the public hearing. Commission member Dan Brooks made a motion to recommend approval and adoption of the findings of the 10 review criteria. The motion was seconded by Commission member Greg McCall and was approved on a 4-0 vote. Commission member Trina White was absent.

City Council Public Hearing

The City Council conducted a public hearing on June 26, 2023, and received the Zoning Commission recommendation and testimony from the applicant's agent, Anna Vickers of IMEG Corporation. No other testimony was received. Council member Shaw made a motion to approve the proposed zone change and adopt the findings of the 10 review criteria. The motion was seconded by Council member Purinton, and the motion was approved on a 11 to 0 vote.

ALTERNATIVES

The City Council may:

- Approve and adopt the findings of the ten review criteria for Zone Change 1027; or,
- Deny and adopt different findings of the ten review criteria for Zone Change 1027; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

The applicant has not requested a delay or a withdrawal of the application.

FISCAL EFFECTS

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

SUMMARY

Before making a decision on the zone change request, the City Council shall consider the recommended findings of the Zoning Commission for the 10 review criteria.

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

Essential Investments:

Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors
Infill development and development near existing City infrastructure may be the most cost-effective

Community Fabric:

Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
Attractive street-scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods
Outdoor public spaces provide casual and relaxing gathering areas for people
Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
Attractive street-scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods

Strong Neighborhoods:

Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction
Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces

Home Base:

A mix of housing types that meet the needs of a diverse population is important
Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

Mobility and Access:

Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
"Safe Routes to Schools" promotes physical health and reduces vehicle trips, earning parents more time and less cost for transportation

Prosperity:

A diversity of available jobs can ensure a strong Billings' economy
Successful businesses that provide local jobs benefit the community
Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
Retaining and supporting existing businesses helps sustain a healthy economy

2. Is the new zoning designed to secure from fire and other danger?

The subject property is currently served by the Billings Fire Department. No development has occurred yet but a new city subdivision has been approved. The nearest fire station is located on S 24th Street, approximately 3 miles north of the subject property. Depending on the specific uses, additional review for fire protection would be conducted during the development process for this property. City water and other improvements will be in place to protect the new uses from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will not be affected by the proposed change. The underlying zone districts and prohibited uses will continue to provide predictability and compatibility between uses.

4. Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?

Transportation: The existing zoning and new development will increase traffic on East Lane, Elysian Road and Shackelford Lane, the three access roads available to the property. The increase is addressed through the traffic analysis during the recent subdivision. Street and road improvements will be needed as part of the final plat.

Water and Sewerage: The property will be served by city water and sewer. There were issues raised during the annexation or subdivision of the property effecting the provision of water or sewer.

Schools and Parks: The proposed zoning will help protect the Elysian School property and function. The proposed adjacent development will be residential in nature. The School district supports the amendment to the agreement.

Fire and Police: The subject property is serviced by the Billings Fire Department and the Billings Police Department. The Fire Department and BPD commented at the annexation request that additional development will continue to strain current department resources.

5. Will the new zoning provide adequate light and air?

The existing PD zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air. The amendment does not alter these requirements.

6. Will the new zoning effect motorized and non-motorized transportation?

Non-motorized travel -- walking and biking -- is an essential part of the circulation plan for this area of Billings. Elysian Road will be widened and a new multi-use path will be constructed. At least three pedestrian accesses will be provided to Elysian School from the new residential development in the underlying HC zone district. The preliminary traffic impact study identified that all accesses from the development should be stop-controlled intersections and that several surrounding intersections will require improvements either as part of the subdivision or with contributions to improvements in the future. Those contributions will be done at the time of final plat approval.

7. Will the new zoning promote compatible urban growth?

The proposed expansion of the HC zone and the reduction in the CI zone will accommodate the school's anticipated

growth and will add more compatible urban growth around the school. The CI zoning will accommodate uses that are in demand in this area of southwest Billings including warehousing.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed PD amendment does consider the character of the district and the suitability of the property for the proposed uses. This area of southwest Billings is undergoing rapid development compared to other areas of Billings. The demand for housing choices including townhomes, apartments and smaller single family residences is increasing. The underlying HC zone also allows some retail and personal services that can provide neighborhood services. This area of southwest Billings has limited access to retail and personal services south of the interstate. Subdivisions to the east, Annafeld and parts of Harmony Meadows, have mixed use zoning that can support additional retail and commercial development.

9. Will the new zoning conserve the value of buildings?

The property consists of undeveloped parcels. Approval of the zone change to amend the PD agreement will continue to provide certainty to surrounding landowners and may help to maintain property values of adjacent buildings.

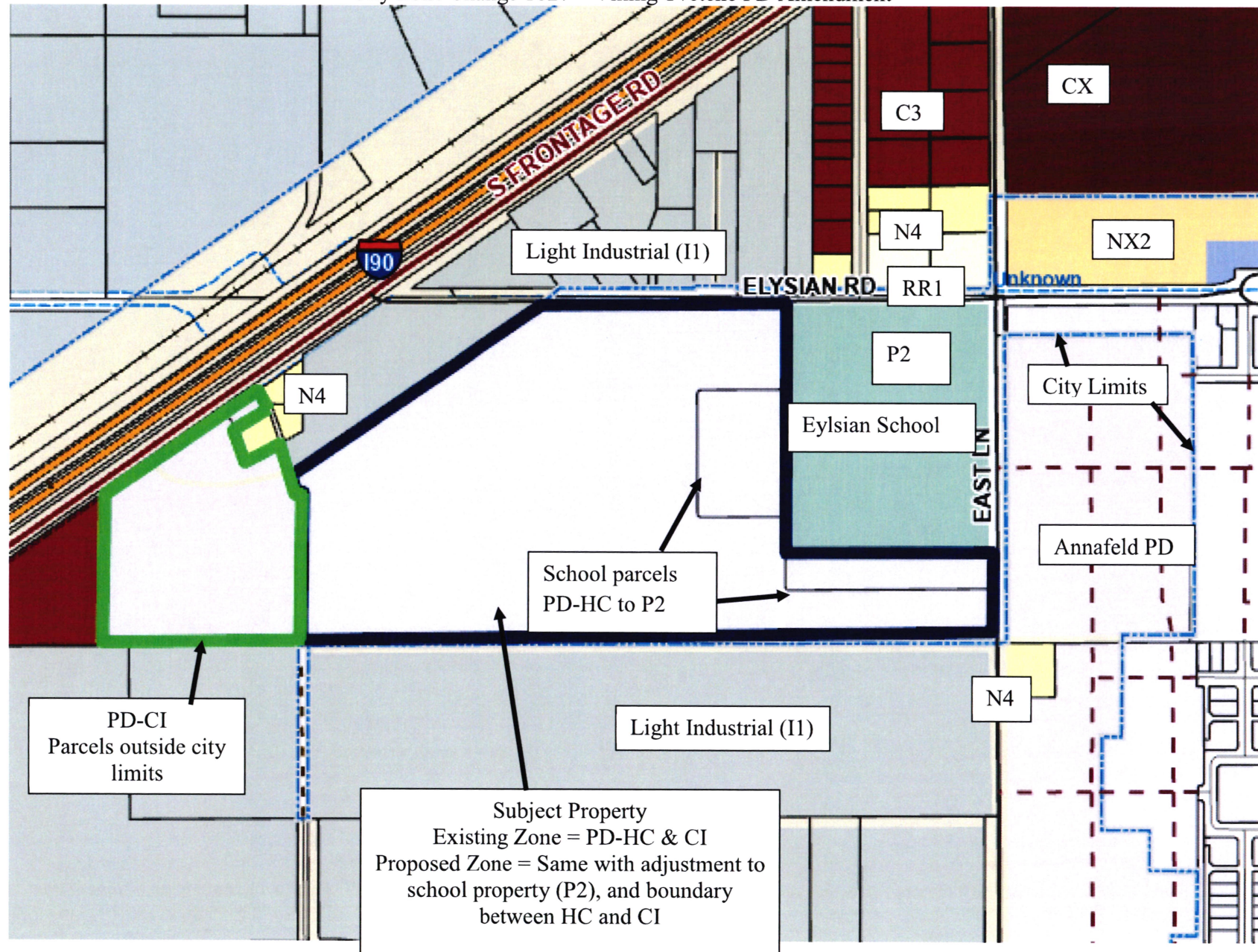
10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

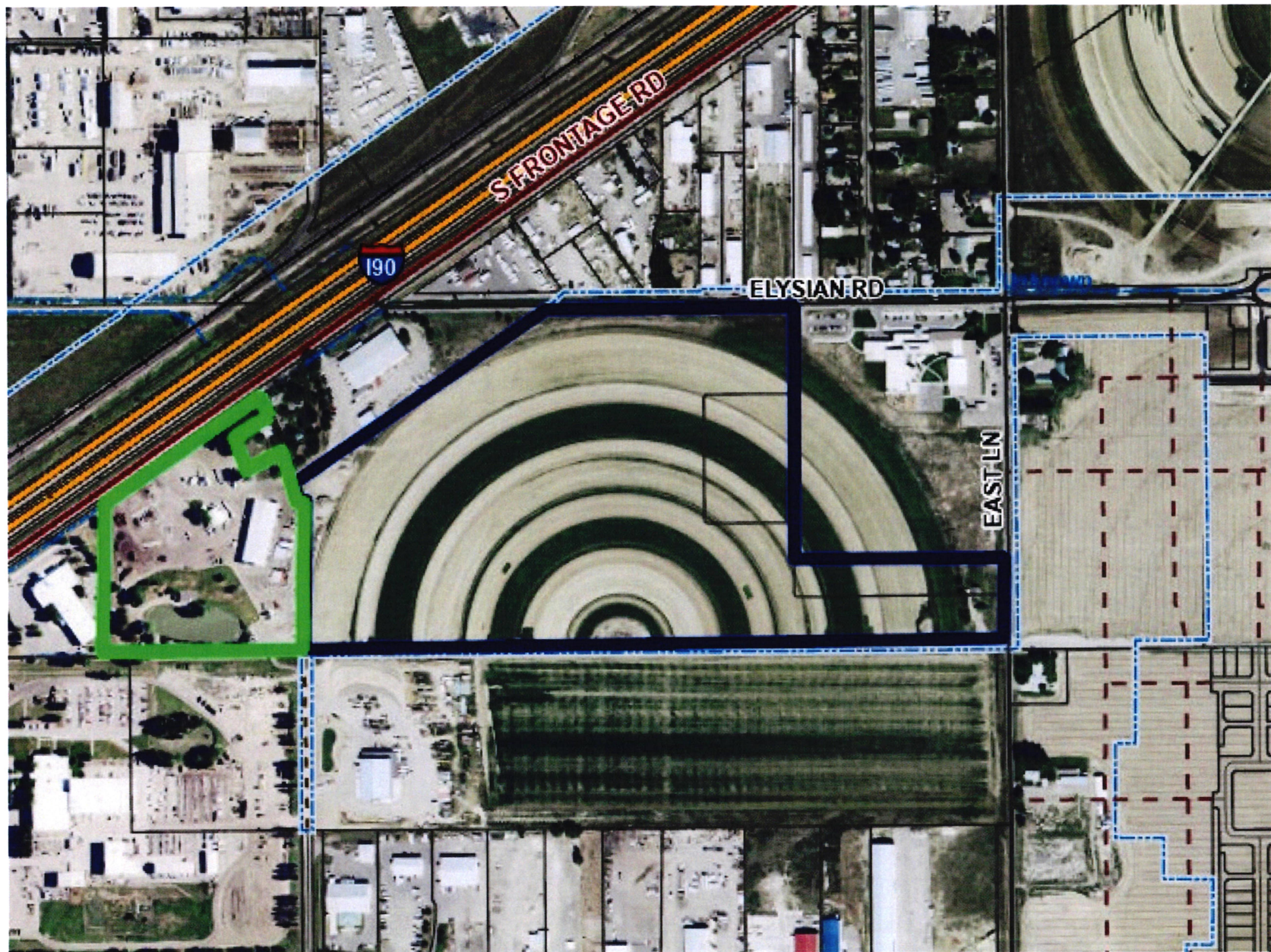
The proposed amendment to the PD may encourage the most appropriate use of this land in Billings.

Attachments

Zoning Map and Site Photos
Existing PD Agreement
Amended PD for city parcels
Pre app meeting notes
Application and Letter
Ordinance ZC 1027

City Zone Change 1027 – Viking Tvetene PD Amendment





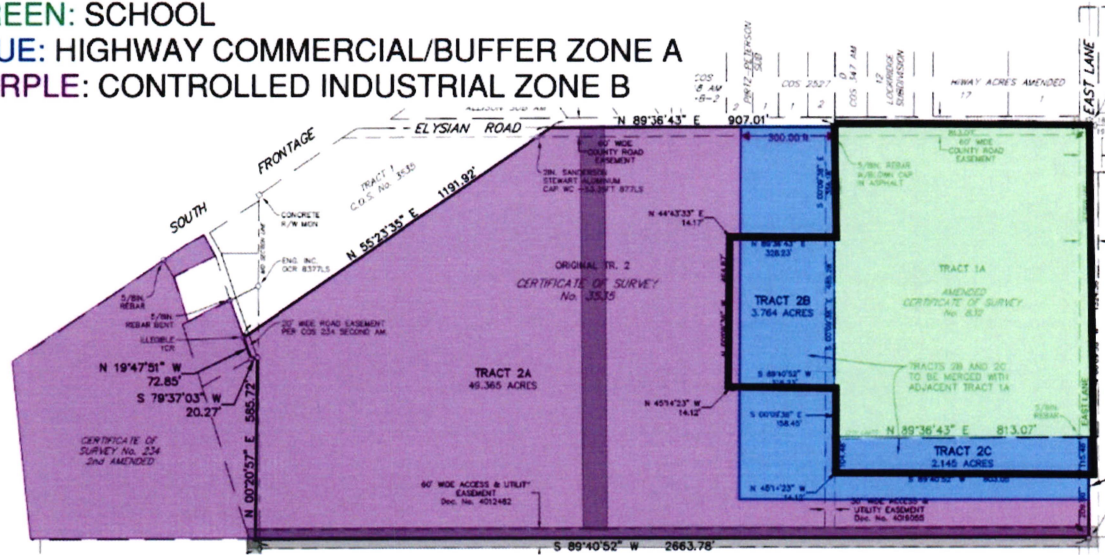
Subject Property

EXISTING ZONING

GREEN: SCHOOL

BLUE: HIGHWAY COMMERCIAL/BUFFER ZONE A

PURPLE: CONTROLLED INDUSTRIAL ZONE B

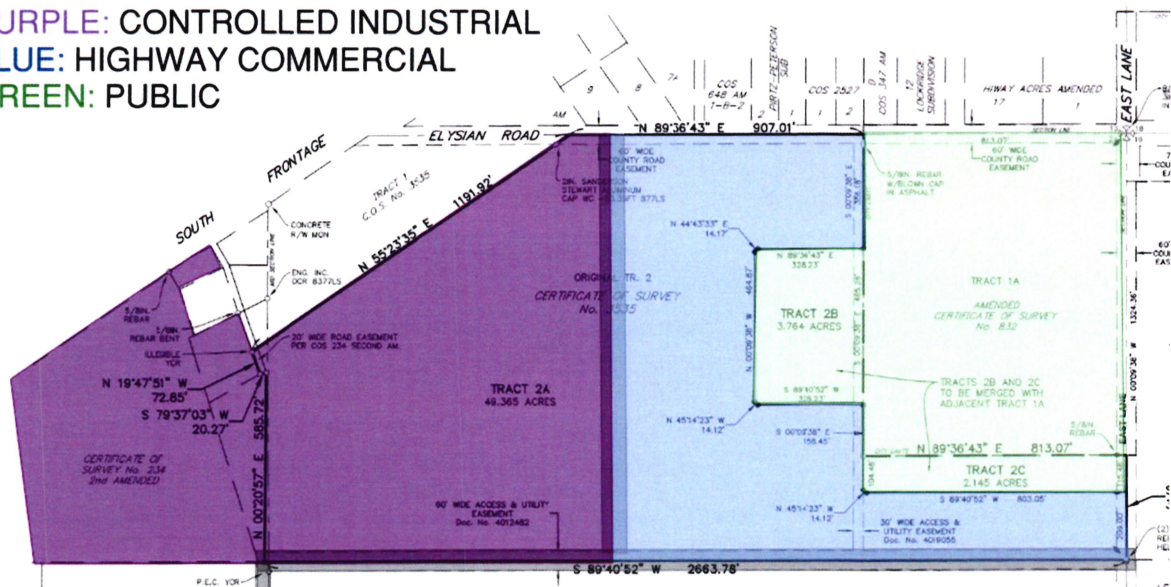


PROPOSED ZONING

PURPLE: CONTROLLED INDUSTRIAL

BLUE: HIGHWAY COMMERCIAL

GREEN: PUBLIC





Subject Property view south from Elysian Rd



View south and west from Elysian Rd



View west on Elysian Rd



View north across Elysian Rd



View north and east across Elysian Rd



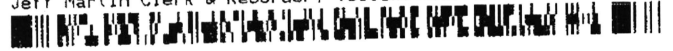
View east on Elysian Rd – Elysian School



View north west from East Lane



View south east from Elysian Rd

AG**3666419**05/03/2013 08:50 AM Pages: 1 of 9 Fees: 63.00
Jeff Martin Clerk & Recorder, Yellowstone MT

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

PLANNED DEVELOPMENT AGREEMENT

TRACTS 2, 3, 4, AND 5, OF CERTIFICATE OF SURVEY NO. 234, SECOND AMENDED, AND TRACT 6-A OF AMENDED TRACTS 6 AND 7, CERTIFICATE OF SURVEY NO. 234, SECOND AMENDED IN YELLOWSTONE COUNTY, MONTANA

THIS AGREEMENT is made and entered into this 30 day of April, 2013, by and between **Viking Land, LLC**, whose address for the purpose of this agreement is 6844 South Frontage Road, hereinafter referred to as "Owner," and **Yellowstone County, Montana**, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, the owner is in discussions with the Elysian School District No. 23 regarding a potential sale of a portion of the owners property to the school district for the purposes of expansion of the existing Elysian School.

WHEREAS, the School District and the Owner desire to provide for harmonious development of the property with land uses and restrictions acceptable to both parties.

WHEREAS, the undersigned is the Owner of all of Tracts 2, 3, 4, and 5 of Certificate of Survey No. 234, Second Amended and Tract 6-A of Amended Tracts 6 and 7, Certificate of Survey No. 234, Second Amended in Yellowstone County.

WHEREAS, the aforesaid Owner and the County desire to place building and use restrictions on the above-described property, as provided in this agreement.



THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

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 Yellowstone County's Zoning Ordinance shall be followed for the type of use within each of the areas described herein.

- A.** Restricted Use **School Buffer Zone A** and **School Purchase Parcel** as depicted on attached **Exhibit A** (underlying county zone: Highway Commercial - HC).

All allowed land uses as outlined within the Yellowstone County Zoning Regulations for the underlying Zone shall be allowed within the **School Buffer Zone A** and **School Purchase Parcel**, with the following exceptions (SIC numbers noted are as defined by the "*Standard Industrial Classification Manual*", 1987 Edition by the Executive Office of the President, O.M.B.):

Exceptions (uses not allowed) within School Buffer Zone A and School Purchase Parcel:

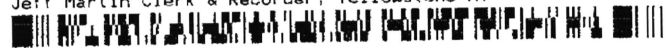
Division A: Agriculture, Forestry, and Fishing

Group 07 - Agricultural Services

- Veterinary services for Livestock - Boarding
- Veterinary services for Animal specialists - Boarding

Group 08 - Forestry

- Equipment storage and wholesale sales

**Division B: Mining**

- Construction sand and gravel mining (SIC 1442)

Division C: Construction

Group 16 - Heavy Construction Other Than Building Construction - Contractors

- Open storage of equipment and supplies

Division D: Manufacturing

Group 20 - Food and Kindred Products

Alcoholic beverages manufacturing & bottling (SIC 2082, 2083, 2084, 2085)

Group 21 - Tobacco Products

- Offices only

Group 24 - Lumber and Wood Products, Except Furniture

- Hardwood and special product sawmills (2426, 2429)
- Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)
- Wood Buildings and Mobile home manufacture (245)

Group 28 Chemicals and Allied Products

- Growing, harvesting, or selling of Marijuana based products

Group 31 - Leather and Leather Products

Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewer

Group 41 - Local & Suburban Transit & Interurban Highway Passenger Transportation

- Bus terminal operation only, without maintenance facilities (4173)

Group 42 - Motor Freight Transportation and Warehousing

- Trucking terminal and maintenance facilities (421, 423)

Group 43 - U.S. Postal Service

- With truck terminal

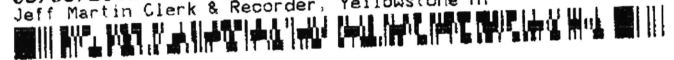
Group 46 - Pipelines, except natural gas

Group 47 - Transportation services

- Warehouses, terminals

Group 48 - Communications

- Amateur Radio Antenna Support Structures
- Broadcast antenna or tower farms



Group 48 - Commercial Antenna Support Structures

- Tower farms

Group 49 - Electric, Gas, and Sanitary Services

- Transmission and distribution, electric and gas

Division F: Wholesale Trade

Group 51 - Wholesale Trade - Nondurable Goods

- Groceries; beer, wine and distilled beverages (514, 518)
- Tobacco and tobacco products; (5194)

Division G: Retail Trade

Group 52 - Building Materials, Hardware, Garden Supply, and Mobile Home Dealers

- Mobile home dealers (manufactured homes) (527)

Group 58 - Eating and Drinking Places

- With the sale of beer and wine only for on-premise consumption, without gaming
- With the sale of beer and wine only for on-premise consumption, with gaming
- With the sale of all alcoholic beverages for on-premise consumption, with gaming

Group 59 - Miscellaneous Retail (Strictly Carryout)

- Fuel dealers (598)

Division I: Services

Group 70 - Hotels, Rooming Houses, Camps, and Other Lodging Places

- Rooming, boarding houses; organization hotels and lodging houses, on a membership basis (702, 704)
- Camps and recreational vehicle parks (703)

Group 72 - Personal Services

- Funeral service and crematories (726)

Group 78 - Motion Pictures

- Drive-in motion picture theaters (7833)

- B. Restricted use **Zone B** as depicted on attached **Exhibit A** (underlying county Zone: controlled Industrial - CI)



All allowed land uses as outlined within the Yellowstone County Zoning regulations for the underlying zone shall be allowed within the restricted use **Zone B**, with the following exceptions:

Exceptions (uses not allowed) within restricted use Zone B:

Division A: Agriculture, Forestry, and Fishing

Group 09 - Fishing, Hunting, and Trapping

- Fish hatcheries and preserves (092)

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

-

Group 21 - Tobacco Products

- Offices only

Group 24 - Lumber and Wood Products, Except Furniture

- Hardwood and special product sawmills (2426, 2429)
- Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)

Group 28 - Chemicals and Allied Products

- Growing, harvesting or selling of Marijuana based products

Group 31 - Leather and Leather Products

- Offices only

Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewer

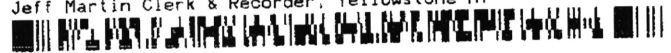
Group 40 - Railroad Transportation

- Passenger and freight terminals

Group 46 - Pipelines, Except Natural Gas

The following uses are allowed within the Restricted Use Zone B, with special review approval:

Division D: Manufacturing



Group 20 - Food and Kindred Products

- Alcoholic beverages manufacturing and bottling (2082, 2083, 2084, 2085) By Special Review

Group 41 - Local & Suburban Transit & Interurban Highway Passenger Transportation

- Bus terminal operation only, without maintenance facilities (4173)
- By Special Review

Division F: Wholesale Trade

Group 51 - Wholesale Trade - Nondurable Goods

- Groceries; beer, wine and distilled beverages (514, 518) - By Special Review
- tobacco and tobacco products; (5194) By Special Review

IV. LANDSCAPING REQUIREMENTS

Unless expressly designated below, all landscaping and performance standards as outlined within section 27-1101 of the Yellowstone County's Zoning ordinance shall be followed as required within the underlying county zone outlined herein, with the following exceptions:

A. School Buffer Zone A

Within the **School Buffer Zone A** as depicted on attached Exhibit A, regardless of the size of the development, a bufferyard shall be provided on the common boundary with the Elysian School property which shall include

- 15' Minimum width bufferyard
- Three trees per 40 lineal feet
- 6' sight obscuring fence or wall located on property.

The bufferyard shall be required at the time of development of the property adjacent to the Elysian School Purchase Parcel.

V. OTHER SPECIAL AGREEMENTS

A. Access

AG

3666419

05/03/2013 08:50 AM Pages: 7 of 9 Fees: 63.00
Jeff Martin Clerk & Recorder, Yellowstone MT

Vehicular Access onto Elysian Road and East Lane from School Buffer
Zone A and Restricted Use Zone B shall be a minimum of 150 feet from
the School Purchase Parcel

IN WITNESS WHEREOF, the parties hereto have set their hands and official
seals on the date first above written.

"OWNER"

VIKING LAND, LLC

By: *mi tnt*Its: President

STATE OF MONTANA)

: ss

County of Yellowstone)

On this 2nd day of May, 2013, before me, a Notary Public in
and for the State of Montana, personally appeared Mike Tvetene,
known to me to be the President of VIKING LAND, LLC who
executed the foregoing instrument and acknowledged to me that he/she executed the
same.



Linda K. Vandersloot
Notary Public in and for the State of Montana
Printed Name: Linda K. Vandersloot
Residing at: Billings
My commission expires: 5/25/15



This agreement is hereby approved and accepted by Yellowstone County, this
30 day of April, 2013.

"COUNTY"

COUNTY OF YELLOWSTONE, MONTANA

County of Yellowstone
 Board of County Commissioners

By: _____

Chairman

By: Bill Kennedy

Commissioner

By: _____

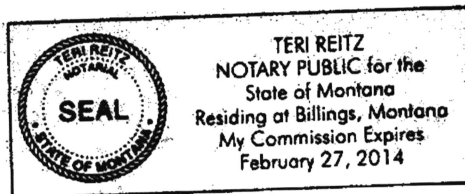
Commissioner

Attest: Jeff Martin

County Clerk and Recorder

STATE OF MONTANA)
 : ss
 County of Yellowstone)

On this 30 day of April, 2013, before me, a Notary Public in
 and for the State of Montana, personally appeared James E. Reno,
Bill Kennedy, John Ostlund,
 and Jeff Martin, known to me to be the Board of County
 Commissioners and the County Clerk and Recorder, respectively, of Yellowstone
 County, Montana, whose names are subscribed to the foregoing instrument in such
 capacity and acknowledged to me that they executed the same on behalf of Yellowstone
 County, Montana.



Teri Reitz
 Notary Public in and for the State of Montana

Printed Name: Teri Reitz

Residing at: Billings

My commission expires: 2-27-2014

PLANNED DEVELOPMENT AGREEMENT

TRACT 2A OF COS 3535 AMENDED, AND TRACT 1A-1 OF COS 832 AMENDED IN YELLOWSTONE COUNTY, MONTANA

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, by and between **Development 55, LLC**, whose address for the purpose of this agreement is 2210 N Plaza Drive, Rapid City, SD 57701, hereinafter referred to as "Owner." **Elysian School District #23, Billings, Montana** whose address for the purpose of this agreement is 6416 Elysian Road, Billings Montana 59101 hereinafter referred to as "School." And the **City of Billings**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the School and the Owner desire to provide for harmonious development of the property with land uses and restrictions acceptable to both parties.

WHEREAS, the undersigned are the owners of Tract 2A of COS 3535 Amended, and Tract 1A-1 of Certificate of Survey No. 832, Amended in the City of Billings.

WHEREAS, the aforesaid Owner, School, and City desire to amend and supplement the existing Planned Development Agreement recorded as Document Number 3666419, on file and of record at the Yellowstone County Clerk and Recorder's Office, as provided within this agreement.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporation, 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 2019 Yellowstone County's Zoning Ordinance shall be followed for the type of use within each of the areas described herein.

- A.** Restricted Use **School Buffer Zone A** as depicted on attached **Exhibit A** (underlying county zone: Highway Commercial – HC).

All allowed land uses as outlined within the Yellowstone County Zoning Regulations for the underlying Zone shall be allowed within the **School Buffer Zone A** with the following exceptions (SIC numbers noted are as defined by the "*Standard Industrial Classification Manual*", 1987 Edition by the Executive Office of the President, O.M.B.):

Exceptions (uses not allowed) within School Buffer Zone A:

Division A: Agriculture, Forestry, and Fishing

Group 07 – Agricultural Services

- Veterinary services for Livestock – Boarding
- Veterinary services for Animal specialists – Boarding Group 08 – Forestry
- Equipment storage and wholesale sales

Division B: Mining

- Construction sand and gravel mining (SIC 1442)

Division C: Construction

Group 16 – Heavy Construction Other Than Building Construction – Contractors

- Open storage of equipment and supplies

Division D: Manufacturing

Group 20 – Food and Kindred Products

Alcoholic beverages manufacturing & bottling (SIC 2082, 2083, 2084, 2085)

Group 21 – Tobacco Products

- Offices only

Group 24 – Lumber and Wood Products, Except Furniture

- Hardwood and special product sawmills (2426, 2429)
- Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)
- Wood Buildings and Mobile home manufacture (245)

Group 81 – Chemicals and Allied Products

- Growing, harvesting, or selling of Marijuana based products

Group 24 – Leather and Leather Products

Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewer

Group 41 – Local & Suburban Transit & Interurban Highway Passenger Transport

- Bus terminal operation only, without maintenance facilities (4173)

Group 42 – Motor Freight Transportation and Warehousing

- Trucking terminal and maintenance facilities (421, 423)

Group 43 – U.S. Postal Service

- With truck terminal

Group 46 – Pipelines, except natural gas

Group 47 – Transportation services

- Warehouses, terminals

Group 48 – Communications

- Amateur Radio Antenna Support Structures

- Broadcast antenna or tower farms
- Group 49 – Electric, Gas, and Sanitary Services
- Transmission and distribution, electric and gas

Division F: Wholesale Trade

- Group 51 – Wholesale Trade – Nondurable Goods
- Groceries; beer, wine and distilled beverages (514, 518)
 - Tobacco and tobacco products; (5149)

Division G: Retail Trade

- Group 52 – Building Materials, Hardware, Garden Supply, and mobile Home Dealers
- Mobile home dealers (manufactured homes) (527)
- Group 58 – Eating and Drinking Places
- With the sale of beer and wine only for on-premise consumption, without gaming
 - With the sale of beer and wine only for on-premise consumption, with gaming
 - With the sale of alcoholic beverages for on-premise consumption, with gaming
- Group 59 – Miscellaneous Retail (Strictly Carryout)
- Fuel dealers (598)

Division I: Services

- Group 70 – Hotels, Rooming Houses, Camps, and Other Lodging Places
- Roaming, boarding houses; organization hotels and lodging houses, on a membership basis (702, 704)
 - Camps and recreational vehicle parks (703)
- Group 72 – Personal Services
- Funeral service and crematories (726)
- Group 78 – Motion Pictures
- Drive-in motion picture theaters (7833)

- B.** Restricted use **Zone B** as depicted on attached **Exhibit A** (underlying county zone: Controlled Industrial – CI)

All allowed land uses as outline within 2019 Yellowstone County Zoning regulations for the underlying zone shall be allowed within the restricted use **Zone B**, with the following exceptions:

Exceptions (uses not allowed) within restricted use Zone B:

Division A: Agriculture, Forestry, and Fishing

- Group 09 – Fishing, Hunting, and Trapping
- Fish hatcheries and preserves (092)

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

Group 21 – Tobacco Products

- Offices only

Group 24 – Lumber and Wood Products, Except Furniture

- Hardwood and special product sawmills (2426, 2429)
- Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)
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Group 81 – Chemicals and Allied Products

- Growing, harvesting, or selling of Marijuana based products

Group 24 – Leather and Leather Products

- Offices only

Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewer

Group 40 – Railroad Transportation

- Passenger and freight terminals

Group 42 – Pipelines, Except Natural Gas

The following uses are allowed within the Restricted Use Zone B, with special review approval:

Division D: Manufacturing

Group 20 – Food and Kindred Products

- Alcoholic beverages manufacturing and bottling (2082, 2083, 2084, 2085) By Special Review

Group 41 – Local & Suburban Transit & Interurban Highway Passenger Transportation

- Bus terminal operation only, without maintenance facilities (4173)
- By Special Review

Division F: Wholesale Trade

Group 51 – Wholesale Trade – Nondurable Goods

- Groceries; beer, wine and distilled beverages (514, 518) – By Special Review
- Tobacco and tobacco products; (5149) By Special Review

III. LANDSCAPING REQUIREMENTS

Unless expressly designated below, all landscaping, buffering, and screening standards as outlined within Article 27-1200 of the 2021 City of Billings Zoning Code shall be followed as required with the following exceptions:

A. School Buffer Zone “A”

Within the School Buffer Zone “A” as depicted on the attached Exhibit “A,” a residential development is not required to install an opaque screen fence or open fence adjacent to the School’s property.

IV. OTHER SPECIAL AGREEMENTS

A. Access

Vehicular Access onto Elysian Road and East Lane from School Buffer Zone A and Restricted Use Zone B shall be a minimum of 150 feet from the **School**.

[Left intentionally blank, signature pages to follow]

IN THE WITNESS WHEREOF, the OWNERS have set their hands and official seals on this _____ day of _____, 2023.

“OWNER”

DEVELOPMENT 55, LLC

By: _____

Its: _____

STATE OF _____)

: ss

County of _____)

On this ____ day of _____, 2023, before me, a Notary Public in and for the State of _____, personally appeared _____, known to me to be the _____ of **DEVELOPMENT 55, LLC** who executed the foregoing instrument and acknowledged to me he/she executed the same.

SS _____

[Intentionally blank with signatures on the following pages]

IN THE WITNESS WHEREOF, the SCHOOL have set their hands and official seals on this _____ day of _____, 2023.

“SCHOOL”

ELYSIAN SCHOOL DISTRICT #23, BILLINGS, MONTANA

Luke Shelton, Superintendent of Elysian
School District #23, Billings, Montana

STATE OF _____)

: ss

County of _____)

On this ____ day of _____, 2023, before me, a Notary Public in and for the State of Montana, personally appeared Luke Shelton, known to me to be the Superintendent of **ELYSIAN SCHOOL DISTRICT #23, BILLINGS, MONTANA** who executed the foregoing instrument and acknowledged to me he executed the same.

SS _____

[Intentionally blank with signatures on the following pages]

Viking Land, LLC as a party of the existing agreement recorded as Document Number 3666419 hereby recognizes and accepts the amendments identified within this document.

I hereby set my hand on this _____ day of _____, 2023.

VIKING LAND, LLC

By: _____

Its: _____

STATE OF _____)

: ss

County of _____)

On this ____ day of _____, 2023, before me, a Notary Public in and for the State of _____, personally appeared _____, known to me to be the _____ of **VIKING LAND, LLC** who executed the foregoing instrument and acknowledged to me he/she executed the same.

SS _____

[Intentionally blank with signatures on the following pages]

This agreement is hereby approved and accepted by the City of Billings, this _____ day of _____, 2023.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF _____)

: ss

County of _____)

On this ____ day of _____, 2023, 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.

SS _____

[Left intentionally blank]



MEETING NOTES

Date	March 24, 2023
Project	Elysian Subdivision Zone Change
Project Number	22008916.01
Attendees	Anna Vickers, Matt Suek, Renae Heisler

Arlynn Lafurge, Mike Lahey, Luke Shelton, Scott Lawson, Jolynn Lawson, Tammy Cosgrove, Arliss Keller, Janna Ostermiller, Tracy Ostermiller, Mike Fouch, Linda Buckaman, G. Armstrong, T. Tafoya

ANNA: Started Presentation

Mike L.: In relation to the school is this located to the east?

Scott: No this is south of the school.

Arlynn: This is going on the other side of east lane

Scott: Looking at the school from Elysian this is going left of the school then?

Matt: Let's let Anna get through the presentation, because she may answer some of these questions in this presentation.

IMEG: *please see included presentation slides.*

Arliss: So, you are essentially just moving the buffer zone out more?

IMEG: That's correct, the school's boundary line relocation took some of the property that was initially set up within the PUD as a buffer zone. The desired result is to adjust buffer zone A that has an underlying zoning of Highway Commercial to the spot shown.

Arliss: Lot 4 is not going to contain residential homes, right?

IMEG: Lot 4 has the potential to contain residential homes along with all other allowable uses within highway commercial that are not excluded through the Planned Development Agreement. At this point the use of Lot 4 is unknown.

Mike F.: Are all 5-lot going to be annexed into the city?

IMEG: Yes, the proposed 5-lots are slated to be annexed into the city.

Arlynn: Are we all going to annexed into the city as well?

IMEG: No, annexation will only be applicable to the area proposed to be subdivided.

T. Tafoya: My biggest concern is how will this affect the traffic that is already so bad out here?

IMEG: I can understand that would be a concern. During the subdivision process there is a requirement to undergo a traffic impact study. This study includes a number of intersections in the area, as you see in the map. At this point, the extent of this

particular development's effect on traffic is unknown. What we have learned in the study is what you say, traffic is already bad in this area.

T. Tafoya: With the new development down the road, we have people that drive down Elysian going 60 MPH now.

Anna: Have you tried calling the police department?

T. Tafoya: We call it in, but the Sheriffs don't want anything to do with it.

Scott: So, with the traffic are you guys responsible for making changes based on your traffic impact study?

IMEG: As part of subdivision, the developer will be required to contribute a sum or provide improvements associated with the development. This sum or improvements are dictated to us from City Public Works or MDT. Typically, a sum is provided to the City. How the City chooses to spend that money is not determined by us.

T. Tofoya: But how are you going to make that happen when we had to fight tooth and nails for the county to even put in a cross walk at Elysian Rd, just so that the kids could safely get to school.

IMEG: As part of subdivision, we must have sidewalks.

Tracy: We used to let our kids play out in the street all the time and now we are so worried that someone speeding down the road not paying attention will hit a child.

T. Tofoya: I really think East Lane and Elysian need a four way stop.

T. Tofoya: How many more kids will be using the school?

IMEG: It's unknown at this time. But we have had conversations with the school who is excited at the prospect of additional students.

Mike: The city has already approved all of this?

IMEG: No, this meeting is a preliminary step in the process. In order of operations, we have to have this meeting regarding zoning before submittal of items to the City for the zone change.

Tracy: I mean you guys have already started to put in utilities on the lots.

IMEG: Those were not done by us. Those were done by a different owner.

T. Tofoya: Going back to the traffic who is going to be responsible for maintaining the roads with all the additional truck traffic, I see how much damage those big trucks do to our roads.

IMEG: As part of annexation the portion of roadways adjacent to the property will be annexed as well. So Elysian Road, East Lane, and Shackelford Lane will all be City maintained roads. Frontage Road is a state maintained road.

T. Tafoya: So, do you also have to contribute money to the school like you would with the traffic

IMEG: Contributions to the school are paid through taxes, so yes.



Janna: No one seems to really know what city is and what is the county out here

Scott: Is this going to affect our taxes

IMEG: It shouldn't be we are not tax assessors.

Arlynn: So where are the schools additional 6 acres

IMEG: *Reference to the BLR from the school.*

Janna: What exactly are the uses for controlled industrial and highway commercial

IMEG: The Planned Development Agreement makes the uses on this property be more restrictive than typical zoning. Additionally, Controlled Industrial is a lot like what it states a lot of commercial offices. Highway commercial is the allowances within that designation of zoning if not restricted by the Development agreement. This allows for commercial uses, such as offices and also for residential uses.

T. Tofoya: So that means that no bars and stuff like that will be allowed in these lots

IMEG: There's restrictions on alcohol and marijuana sales within the development agreement.

T. Tofoya: Another one of my major concerns is the wildlife, when I moved out here you would always see deer and other animals and now it is very rare to see any wildlife.

Janna: I mean the new developments have already started to push out all the wildlife

IMEG: As part of zoning, we are required to assess items such as accordance with the growth policy, neighborhood character and uses, typically assessment of wildlife is something that is done within the subdivision and will be done within the subdivision. But as you've mentioned, unfortunately, much of the wildlife has already left the area due to prior developments.

Luke: My name is Luke Shelton I am the superintendent here at Elysian Schools and I have been in conservation with Anna and the School Board, and I know that there have been a lot of concerns about the buffer zone, but I just want you all to know that the school board is very on board with this new buffer zone. We all think that this is very favorable for all parties.

Tracy: How is this going to affect the crime in our neighborhood? We used to be able to keep our doors always unlocked, and now as soon as we get home have to lock our doors. We used to let our kids out to play and now we can't even let them out without worrying about them.

IMEG: Crime is a concern everywhere in the City. As the property lies right now, these two zonings are allowed. All this proposal does is allow for a larger buffer zone. This would benefit the school and the potential developer. And at least have two known uses on two of the lots. One being a fulfillment center and the other being residential. Otherwise this property will continue to have it's existing zoning and someone else could develop it and that use is unknown.

Scott: The city limits will stay the same for our properties, correct?



IMEG: If your property is part of the City it will remain in the City. If your property is part of the County it will remain in the County.

Arlynn: What is going to happen to the population of the school, and will the school be able to handle it?

IMEG: The number of new students is currently unknown. The school has indicated a desire for new students.

Arlynn: Who exactly are you representing in this meeting?

IMEG: We are here on behalf of the prospective buyer of the property to discuss the zoning change.

IMEG discussed next steps regarding school board meeting on April 3. Compilation and submittal of the zone change request. City Planning Department review of the zone change request. Future notification regarding a public hearing of the zone change request. And the ability for anyone to reach out via email or phone call in order to ask questions or receive the presentation information. Meeting was then concluded.





ATTENDANCE RECORD

IMEG #: 22008916.00

Project: Elysian Subdivision

Meeting Description: Pre-application Neighborhood Meeting

Date: 03/24/2023 Time: 5:30 p.m.

Place: Elysian Elementary School

ATTENDEE NAME	PHONE #	E-MAIL
Arlynn LaFuege	406-697-1477	arlynn.lafuege@gmail.com
MIKE LAHEY	406 672 7732	
Luke Shultz	656-4101	lshulz@elysianschool
Scott Lawson	698 5047	
Jolynn Lawson	670 1319	
Tammy Cosgrove	406 861-0902	Tammy.Cosgrove@egm.net



ATTENDANCE RECORD

IMEG #: 22008916.00

Project: Elysian Subdivision

Meeting Description: Pre-application Neighborhood Meeting

Date: 03/24/2023 Time: 5:30 p.m.

Place: Elysian Elementary School

ATTENDEE NAME	PHONE #	E-MAIL
ARLiss Kelter	656 2654	
Anna Ostermiller	671 5512	
Trocy Ostermiller	671-0054	
MIKE FOUCH	425-1661	
Linda Buckman	690 1432	



ATTENDANCE RECORD

IMEG #: 22008916.00

Project: Elysian Subdivision

Meeting Description: Pre-application Neighborhood Meeting

Date: 03/24/2023 Time: 5:30 p.m.

Place: Elysian Elementary School

ATTENDEE NAME	PHONE #	E-MAIL
Arlynn LaFuege	406-697-1477	arlynn.lafuege@gmail.com
MIKE LAHEY	406 672 7732	
Linda Shultz	656-4101	lshultz@elysianschool
Scott Lawson	698 5047	
Jodynn Lawson	670 1319	
Tammy Cosgrove	406 861-0902	TammyCosgroveFR@gmail.com



ATTENDANCE RECORD

IMEG #: 22008916.00

Project: Elysian Subdivision

Meeting Description: Pre-application Neighborhood Meeting

Date: 03/24/2023 Time: 5:30 p.m.

Place: Elysian Elementary School

ATTENDEE NAME	PHONE #	E-MAIL
ARLISS KELLER	656 2654	
JANNA OSTERMILLER	671 5512	
TROY OSTERMILLER	671-0054	
MIKE FOUCH	425-1661	
LINDA BUCKMAN	690 1432	



ATTENDANCE RECORD

IMEG #: 22008916.00

Project: Elysian Subdivision

Meeting Description: Pre-application Neighborhood Meeting

Date: 03/24/2023 Time: 5:30 p.m.

Place: Elysian Elementary School

ATTENDEE NAME	PHONE #	E-MAIL
G. ARMSTRONG	406.655.4439	GARMSTRONG@IN-TECH.COM
T. Tafay	406-647-3861	

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** Planned Development Agreement

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

The existing zoning provides for highway commercial underlay of school restricted use buffer zone A and controlled industrial underlay of school restricted use buffer zone B. The proposed zoning provides both of these zoning types but relocates the boundary of restricted use buffer zone A and buffer zone B to accommodate for the school's growth that's occurred since 2013, when the original agreement took place. Additionally, the expansion of highway commercial with buffer zone A allows for potential residential uses adjacent to the school.

3. **Subject Property Map:** please attach to this form

4. **Legal Description of Property:**

Parcel 1A1 of COS 832 (Amd), Parcel 2A of COS 3535 Amended,

Tracts 2, 3, 4, and 5 of COS 234 Second Amendment in Section 24, Township 1 south, Range 25 east, PMM, Yellowstone County, MT

5. **Neighborhood Task Force Area:** Yes // No If Yes, Name of Task Force and mailing address of Chairperson:

6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form

7. **A copy of the meeting notice.** please attach to this form

8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form

9. **The undersigned affirm the following:**

1) The pre-application neighborhood meeting was held on the 24th, day of March, 2023.

2) The zone change application is based on materials presented at the meeting.

Owner (s): Viking Land, LLC; Development 55, LLC, Elysian Telephone: _____
School District #23, Billings, Montana, and Cogburn Holdings, LLC - Under contract

Address: 6844 South Frontage Rd. Billings, MT 59101; 6416 Elysian Email: _____
Rd. Billings, MT 59101; 2210 N Plaza Dr. Rapid City,
SD 57701

Agent (s): IMEG Corp - Anna Vickers Telephone: 406-248-9000

Address: 175 N 27th St. Ste 1312, Billings, MT 59101 Email: anna.m.vickers@imegcorp.com

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #** _____ **- Project #** _____

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning: Planned Development Agreement

Proposed Zoning: Planned Development Agreement

TAX ID# D008620, D008600, D008560, D008570 CITY ELECTION WARD _____

Legal Description of Property: Parcel 1A1 of COS 832 (Amd), Parcel 2A of COS 3535 Amended,
in Section 24, Township 1 south, Range 25 east, PMM, Yellowstone County, MT

Address or General Location (If unknown, contact City Engineering): 6844 South Frontage Rd. Billings, MT 59101; 6416 Elysian Rd. Billings, MT 59101

Size of Parcel (Area & Dimensions): 62.55 (see included)

Present Land-Use: Industrial, School, and vacant

Proposed Land-Use: Industrial, School, Residential, and unknown

Covenants or Deed Restrictions on Property: Yes _____ No x _____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Viking Land, LLC, Development 55, LLC, Cogburn Holdings, LLC (Under contract with Development 55), and Elysian School

(Recorded Owner)

6844 South Frontage Rd. Billings, MT 59101; 6416 Elysian Rd. Billings, MT 59101; 2210 N Plaza Dr. Rapid City, SD 57701
(Address)

(Phone Number)

(email)

Agent(s): IMEG Corp - Anna Vickers

(Name)

175 N 27th St. Ste 1312, Billings, MT 59101

(Address)

406-248-9000

anna.m.vickers@imegcorp.com

(Phone Number)

(email)

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 a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: _____ Date: _____

(Recorded Owner)



Date Stamp

Zone Change Application Packet 2023/2024

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
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Signature: 

(Recorded Owner)

Authorized Signer: Cogburn Holdings Date: 4/14/2023

Date Stamp

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Signature: 

(Recorded Owner)

Authorized
Signatory,
Development
55 LLC

Date: 4/14/2023

Date Stamp

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(email)

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Signature: Donald Tustene

(Recorded Owner)

Authorized
Signatory,
Viking Land
LLC

Date: 4/14/2023

Date Stamp

Zone Change Application Packet 2023/2024

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Signature: *Luke Shelton*

(Recorded Owner)

Elysian School District #23

Date: 4/15/2023

Superintendent

Date Stamp

Zone Change Application Packet 2023/2024

Billings Zone Change Application Packet Elysian PUD Rezoning

Summary:

The new zoning is a restructuring of the old zoning PUD. The restructure of the layout accommodates Elysian School's expansion of property. The original PUD that was negotiated between Elysian School and Viking Land allowed for a School Buffer Zone 'A'. This buffer zone restricted uses adjacent to the school's parcel and had the underlying zoning of Highway Commercial. As the school expanded its property, the buffer zone was diminished, placing the school adjacent to Zone 'B' of the PUD. Zone 'B' continues restricted uses with the underlying zoning of Controlled Industrial. However, Zone 'B' is not as restrictive of development as Zone 'A'.

During the development process of the adjacent proposed Elysian Subdivision, the issues within the current PUD's restricted zones was discovered. In an effort to allow Elysian School the intended buffer zone within the PUD the proposed reallocation of each zone is the requested update. This reallocation allows the school the intended Zone 'A' buffer. Additionally, within the Highway Commercial uses that are allowed within zoning and not restricted by the agreement, residential uses are allowed. The allowance of residential use is highly supported by the school and the developer of the proposed Elysian Subdivision.

10 Statutory Zone Change Criteria:

Below is a list of the 10 Statutory Zone Change requirements in *italics*. Response to each criteria is provided below.

1. Whether the new zoning is designed in accordance with the growth policy.

The requested new zoning is designed in accordance with many criteria within the growth policy. The City of Billings Growth Policy states the following growth guidelines:

- "Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and liability of Billings."
 - The new zoning allows for safe and affordable interconnected sidewalks and trails. The property adjacent to the school, currently owned by Development 55, is desired to be developed by new purchasers. The purchasers are currently undergoing subdivision and have completed annexation of the property. As part of the subdivision design, the new purchasers would like the possibility to have residential that is allowed within Zone 'A'. The rezoning is a realignment of the existing zonings within the Planned Development Agreement (PUD). The existing zonings and subdivision regulations allow for planning and construction of safe and affordable interconnected sidewalks and trails.
- "Infill Development and development near existing City infrastructure may be the most cost effective."
 - The property has been annexed to the City of Billings contingent upon annexation conditions. The intent of the annexation was the ability for future development to use existing City infrastructure. The zoning is supportive of desired infill development. The proposed zoning allows for a variety of uses of residential, commercial and industrial.

- "A supportive school system that inspires, motivates, and prepares students for meaningful employment is important for ensuring a high quality competitive community."
 - The proposed zoning realignment is supportive of the school system. By realigning School Buffer Zone 'A' the property will protect the schools undesired surrounding uses while encouraging development through the ability to connect to city infrastructure. This ability allows for more tax dollars in the area which increases school funding. Additionally, the zoning revision allows for the use of residential. Elysian School has specifically requested the possibility for additional residential and the desire for more students.
- "Public Health and safety and emergency service response are critical to the well-being of Billings' residents, business, and visitors."
 - The zoning allows for setbacks, landscaping, maximum density restrictions all of which are important to public health. In addition, the proposed new zoning alignment will allow for a mix of uses that will mutually benefit properties in the area. This PUD is specifically designed to accommodate the school, the adjacent industrial and residential.
- "Public and private partnerships are valuable for creating enhanced entryways into Billings."
 - The proposed PUD amendment has been done through partnership of private businesses such as Viking Land and Development 55, and public entity, Elysian School. This proposed change allows for a cohesive area and design.
- "Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels."
 - The proposed zoning allows for the existing School Buffer Zone 'A' to be relocated which accommodates for the schools expansion over the years. The underlying zoning of School Buffer Zone 'A' of Highway Commercial refers to the standards of Residential Multi-Family Restricted zoning for residential development. Residential Multi-Family Restricted allows for one to 8 unit residential. If the property were to remain as is, a mixture of housing types would not be possible. The current Restricted Use Zone 'B' only allows for single family homes after a special review.
- "Strategically placed industrial parks will encourage a more diverse city economy and will better help manage effluent and emission from industrial processes."
 - As the zoning currently sits on the property, Restricted Use Zone 'B' is adjacent to the school. By allowing for the proposed amendment to the PUD, the industrial uses will be strategically placed. This will allow for continued industrial use, which is compatible with some parts of the neighborhood. The reallocation of School Buffer Zone 'A' will place Highway Commercial uses close to the school and existing residential.

2. Whether the new zoning is designed to secure from fire and other dangers.

The proposed new zoning will continue to secure from fire and other dangers. The zoning allows for open space, setbacks and other design standards that are associated with parking, building location for emergency access, etc.

3. Whether the new zoning will promote public health, public safety, and general welfare.

The zoning code will continue to promote public health, safety, and general welfare. It is the desire of the school and future developer to allow for the School Buffer Zone 'A.' This buffer zone allows for additional public safety associated with any development next to the school. Additionally, the restructuring of the two buffer zones allows for potential compatible uses adjacent to similar uses. The Controlled Industrial which underlies, Restricted Zone 'B,' would continue to be on the western side of the property, in proximity to existing industrial use. The Highway Commercial zoning which underlies, School Buffer Zone 'A,' allows for the potential of commercial or residential uses in proximity to the school and existing residential uses.

4. Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The intent of this zoning restructure is to continue to allow for the schools buffering and use restrictions on the property adjacent to them. The zoning allows for provisions of transportation, water, sewer, and parks as required with development. The potential developer has annexed the parcel owned by Development 55 into the City of Billings. As part of the annexation a set of conditions was given to the developer that requires a subdivision improvements agreement. The Elysian Subdivision is currently being reviewed by City of Billings agencies. This rezoning accompanies the overall development plan for the properties regarding transportation, water, sewer, school and other public requirements.

5. Whether the new zoning will provide adequate light and air.

The new zoning will provide for adequate light and air. The new zoning will still use zoning code which addresses setbacks, spacing between buildings, maximum density, etc.

6. Whether the new zoning will affect motorized and nonmotorized transportation.

The new zoning is a reallocation of existing zonings in the area. The effect of motorized and nonmotorized transportation will remain the same as it is currently.

7. Whether the new zoning will promote compatible urban growth.

Yes, the proposed new zoning alignment is compatible with urban growth. This realignment accommodates for the school's growth that has occurred since the original PUD in 2013. This request protects the school and existing residential areas, while allowing for additional opportunities for mixed residential uses.

8. Whether the new zoning considers the character of the district and the peculiar sustainability of the property for particular uses.

The proposed new zoning is a realignment of an existing PUD on the property. These zoning and uses are allowable on the property already. This rezoning request simply expands School Buffer Zone 'A' in order to allow the school the buffer zone that was originally negotiated in 2013 within this PUD. The Controlled Industrial zoning which underlies, Restricted Zone 'B', would continue to be on the western side of the property, in proximity to existing industrial use. The Highway Commercial which underlays,

School Buffer Zone 'A,' allows for the potential of commercial or residential uses in proximity to the school and existing residential uses.

9. Whether the new zoning will conserve the value of buildings.

The proposed new zoning is a realignment of an existing PUD on the property. These zoning and uses are allowable on the property already. This rezoning request simply expands School Buffer Zone 'A' in order to allow the school the buffer zone that was originally negotiated in 2013 within this PUD. The value of buildings in the area should not be affected as this is not a new zoning, simply a realignment of existing zoning on the property.

10. Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

The proposed new zoning is a realignment of an existing PUD on the property. These zoning and uses are allowable on the property already. This rezoning request simply expands School Buffer Zone 'A' in order to allow the school the buffer zone that was originally negotiated in 2013 within this PUD.