

ORDINANCE 23-5851

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE PLANNED DEVELOPMENT ZONE AGREEMENT for St Vincent's Healthcare Subdivision generally located on the north west corner of the intersection of King Ave W and Shiloh Rd, legally described as Block 1, Lots 1, 2A, 3A-1, 4A, 4B, 5A, 6A1, 6A2, 6A3; Block 2, Lots 1 -12 and Lot 2A; Block 3, Lots 1, 1A, 2-12; and Block 4 Lots 1-4 and Lots 2A2 and 3A, of St Vincent Healthcare Subdivision, a 91.34-acre parcel of land, 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. *St Vincent's Healthcare Subdivision generally located on the north west corner of the intersection of King Ave W and Shiloh Rd, legally described as Block 1, Lots 1, 2A, 3A-1, 4A, 4B, 5A, 6A1, 6A2, 6A3; Block 2, Lots 1 -12 and Lot 2A; Block 3, Lots 1, 1A, 2-12; and Block 4 Lots 1-4 and Lots 2A2 and 3A, of St Vincent Healthcare Subdivision, is presently zoned Planned Development – Entryway Light Industrial with the Shiloh Corridor Overlay District, 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. 3732703.*

Section 3. ZONE DISTRICT AMENDMENT. *The official original Planned Development Agreement known as St Vincent Healthcare Planned Development filed as document No. 3732703 is hereby amended as shown in Exhibit A. All sections of document No. 3732703 not amended by Exhibit A shall remain in full force and effect. Such amended Planned Development document will be executed and filed with the County 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.*

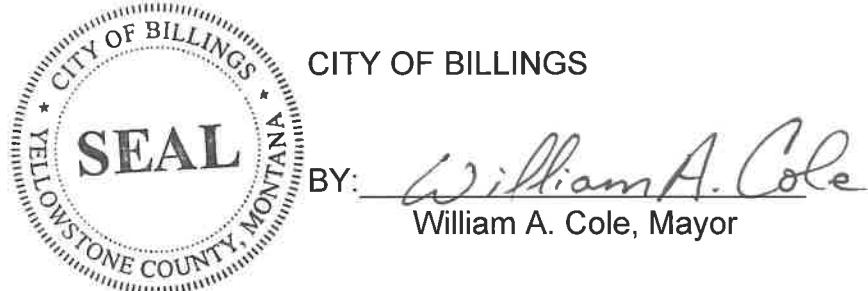
Section 4. EFFECTIVE DATE. *This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.*

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 28th day of August, 2023.

PASSED, ADOPTED and APPROVED on second reading this 11th day of September, 2023.



Attest:

BY: *Denise R. Bohlman* Deputy for

Denise R. Bohlman, City Clerk

Zone Change 1033 – St Vincent Healthcare Planned Development Agreement Amendment

EXHIBIT A

After Recording, return to:

SCL Health
500 Eldorado Blvd., Suite 4300
Broomfield, CO 80021
Attn: Legal Department

THIRD AMENDMENT TO PLANNED DEVELOPMENT AGREEMENT FOR THE ST. VINCENT HEALTHCARE SUBDIVISION

This Third Amendment to Planned Development Agreement (“**Amendment**”) for the St. Vincent Healthcare Subdivision is entered into this _____ day of _____, 2023, by and between the Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation, of 500 Eldorado Blvd., Ste. 4300, Broomfield, Colorado 80021 (“**SCL Health**”) and the City of Billings, a Montana municipality (the “**City**”) of 210 North 27th Street, Billings, Montana 59101.

WHEREAS, 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, for the development of approximately 113 acres of real property on the west side of Billings, Montana, more commonly known as the St. Vincent Healthcare Subdivision (the “**Property**”);

WHEREAS, 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**”);

WHEREAS, 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**”);

WHEREAS, the Original PDA, First Amendment to PDA, and Second Amendment to PDA are collectively referred to herein as the “**PDA**;”

WHEREAS, until now, there has been not been a great amount of development in the Property, and some terms and requirements of the PDA are no longer relevant and need updating;

AND WHEREAS, the undersigned desires to update the PDA terms pursuant to this Amendment.

NOW, THEREFORE, in consideration of mutual covenants and conditions set forth herein, and for such other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, it is agreed as follows:

1. **General.** This Amendment is intended to be, and shall be construed as, an amendment to the PDA. To the extent that the terms and conditions of this Amendment conflict with the terms and conditions of the PDA, the terms and conditions of this Amendment shall control. Capitalized terms used in this Amendment shall have the meaning ascribed to them in the Lease.

2. **Amended Plat.** The City approved 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 A-1**. Based upon this Amended Plat, the following amendments are necessary to the PDA.

A. **Plat.** All references to the Plat in the PDA are amended and restated as the Amended Plat and all references to Exhibit A in the PDA are amended and restated as **Exhibit A-1**.

B. **Signs Easements.** The Sign Easements shown on Exhibits A & B in the PDA are amended and shown on **Exhibit A-1**.

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

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

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

E. **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.

F. **Shiloh Overlay District.** All references to the Shiloh Corridor Overlay District are replaced with the CMU-2 Zoning District established in Chapter 27 of the City Code

of Billings. Notwithstanding the foregoing, and solely as it relates to Block 2, Lots 1, 2, 3, 4, 5, 6, 7, and 8, in addition to CMU-2, the requirements and standards of an NX2 Zoning District shall also apply.

3. **Prohibited Uses.** The following shall be added to the list of prohibited uses in Article IV.C of the PDA:

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).

4. **Notices.** Any notices or demands required to be given under the PDA, as amended, shall be provided to SCL Health, as provided for in Section IX.E, at the following address:

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

With copy to: St. Vincent Healthcare
Attn: Business Development
1106 North 30th Street
Billings, MT, 59107-5200

5. **Miscellaneous.**

A. NOTICE. THIS AMENDMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE PROPERTY AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THE PDA AS AMENDED BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

B. **Neutral Interpretation.** SCL Health and the City hereby stipulate and agree that the PDA, as amended, shall be construed using neutral interpretation and that this

Agreement shall not be construed in favor of any party or against any party.

C. The PDA Governs. If there is any conflict between the PDA, as amended and other zoning regulations and/or ordinances, the terms and conditions of the PDA, as amended, shall govern.

D. Amendment, Modification, and Termination. This Amendment may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of SCL Health and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the Municipal Code of Billings, Montana.

E. Waiver. Failure of one party to notify the other party of a default in the manner provided in the PDA, as amended, shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

F. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

G. Limitation on Enforcement. The PDA, as amended, is for the benefit of SCL Health, the City, the other owners within Property, and their heirs, devisees, assigns, and trustees, and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

H. Severability. Should any provision of this Amendment be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this Amendment, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.

I. No Partnership. The provisions of the PDA, as amended, are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

J. Captions and Headings. The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Amendment.

K. Entire Agreement. The PDA, as amended, contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof.

L. Construction. In construing the provisions of the PDA, as amended, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.

M. Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

N. **Conflict.** It is the intent of the parties to implement Chapter 27 of the City Code of Billings, throughout The Subdivision. In the event of any conflict between the express terms of this PDA and Chapter 27 of the City Code of Billings, the express terms and conditions of the PDA, as amended, shall govern.

O. **Run with the Land.** The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of SCL Health, the City, the owners of the Lots in the Property, and their heirs, successors, and assigns.

[signature pages follow]

IN WITNESS WHEREOF, the parties executed this Agreement the day and year first written above.

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.,
a Kansas non-profit corporation

By: _____

Name: _____

Its: _____

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, as _____ of Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

CITY OF BILLINGS,
a municipality

By: _____

Name: William A. Cole

Its: Mayor

STATE OF MONTANA)
)
COUNTY OF YELLOWSTONE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, as _____ of the City of Billings, a municipality.

WITNESS my hand and official seal.

Notary Public

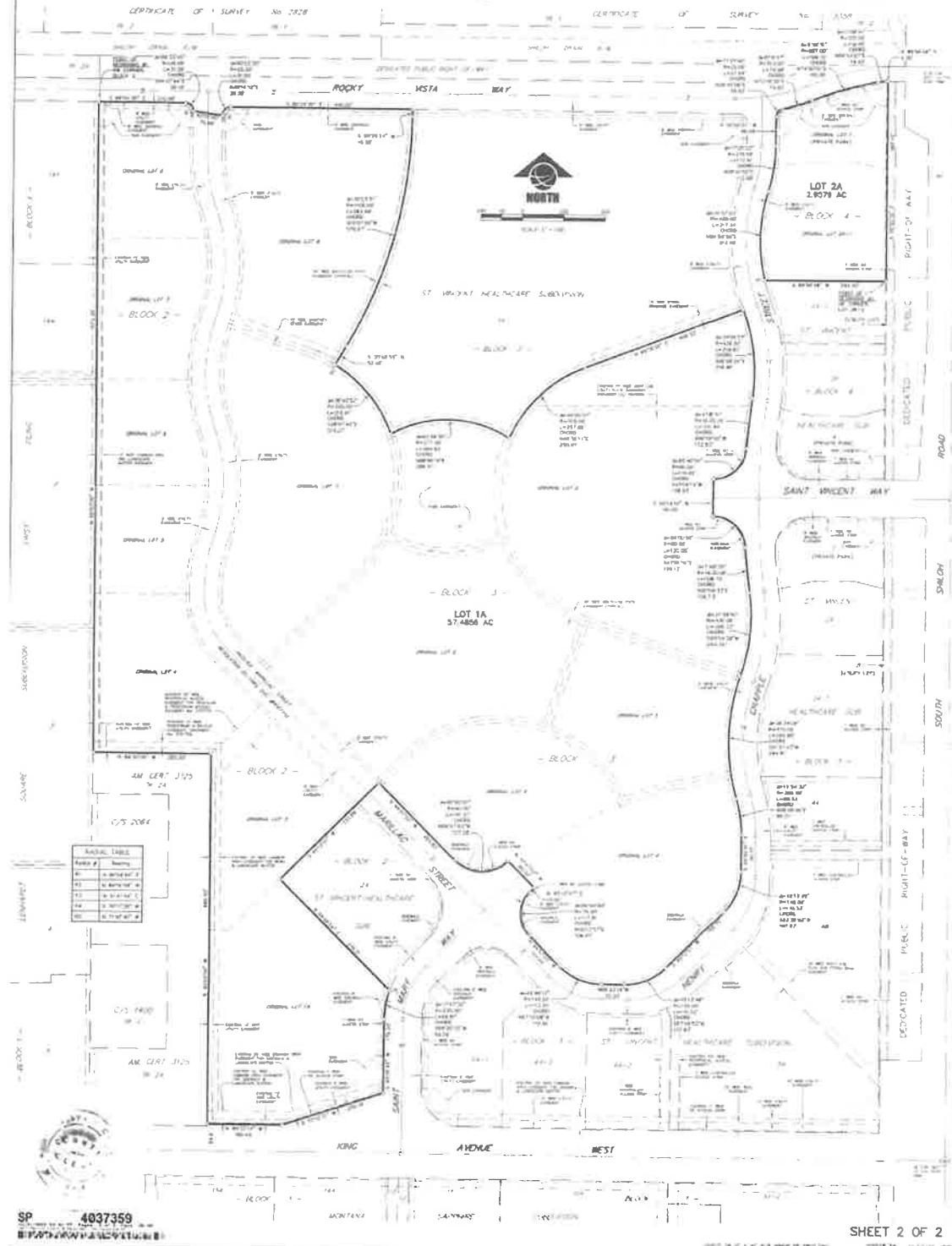
My Commission Expires: _____

PLAT OF
AMENDED ST. VINCENT HEALTHCARE SUBDIVISION

BEING A VACATION OF LOTS 1A & 3-8 OF BLOCK 2, LOTS 2-8 OF BLOCK 3, LOTS 1 & 2A1 OF BLOCK 4, AND A PORTION OF VACATED MARILLAC STREET RIGHT-OF-WAY (PER RESOLUTION 22-1060, DOC. #4027755), ALL WITHIN ST. VINCENT HEALTHCARE SUBDIVISION, SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA.

PREPARED FOR : SCL HEALTH-MONTANA
PREPARED BY : SANDERSON-STEWART

OCTOBER, 2022
BILLINGS, MONTANA



SP 4037359
MONTANA DEPARTMENT OF LAND MANAGEMENT

SHEET 2 OF 2

City Council Regular

Date: 09/11/2023
Title: Zone Change 1033 - 2nd reading - St Vincent's Healthcare Planned Development Amendment
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: No
Legal Review: Not Applicable
Project Number: PZX-23-00124

APP 11-0

COUNCIL ACTION	ORD 23-5851
SEP 11 2023	
JH	
CITY CLERK	

RECOMMENDATION

The Zoning Commission recommends approval of the Planned Development amendment for Zone Change 1033 and adoption of the findings of the 10 review criteria. The City Council approved the zone change on first reading on August 28, 2023. A second reading is required to finalize the zone change. Staff recommends the City Council approve the zone change on second reading consistent with first reading action.

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

This is a zone change request to allow an update to the Planned Development document for the St Vincent's Healthcare Subdivision at the intersection of King Ave West and Shiloh Road. The planned development zone for the property was first adopted in 2004 when the hospital first acquired the 113 acres of land at the intersection. At the time, plans for improvements to Shiloh Road were just entering the planning stages and no development had occurred in the area except for the residential development on the east side of Shiloh Road. By 2002, the new Zoo Drive interchange on I-90 was complete and the Shiloh corridor improvements to create a limited-access separated arterial street from Zoo Drive to Rimrock Road were under way. These improvements were completed by 2010 and development along the corridor accelerated.

The city developed and adopted zoning overlay districts in 2004 and 2005 for land within 500 feet of the Shiloh Road centerline to try and ensure development would add to and complement the new right of way improvements. The overlay districts did not change the underlying zoning district uses, but required enhances building design, landscaping and sign standards. There were two overlay districts - one for property north of King Ave West (2004) and one for property south of King Ave West (2005). The original planned development zone adopted for the St. Vincent's Healthcare property was approved by the City Council at the time of annexation in 2004, prior to the Shiloh Corridor Overlay district adoption. Seven years later, the owners re-drafted the original document when a new subdivision was created. The 2011 amendment was approved by the City Council and several sections of the new document referred to the Shiloh Corridor Overlay district for landscaping, signage and site design. The first building in the subdivision was constructed in 2017 and new buildings are added every year. The completion of the new Rocky Vista University medical college this year is a key development that will set the stage for building out the subdivision.

The original and the current planned development emphasize the need to develop a coherent campus with similar and complementary designs throughout including safe pedestrian paths and green spaces within the campus. The St Vincent's Healthcare hospital will remain in the downtown core with a planned new 9-story hospital building to begin construction later this year. The west end property will focus on providing clinical services, private medical services, medical education, as well as future housing choices in the subdivision. The subdivision and development has an extensive set of covenants, restrictions and building design standards administered by St Vincent's Healthcare through a private design and consulting firm. The planned development zoning district is compatible with these private agreements and the zoning requires a developer to provide a letter of approval from the private reviewing agency prior to submitting for a building, sign, fencing or any other city required development permit. This ensures the private and public requirements are both met before a development moves forward.

The proposed amendment to the planned development will update the legal descriptions of lots and blocks within the subdivision (amended in 2022), remove references to the Shiloh Corridor Overlay district, name new underlying zone districts of Corridor Mixed Use 2 (CMU2) and Mixed Residential 2 (NX2) for these lots and generally clean the document of references to out-of-date city regulations and requirements. The bulk of the existing Planned Development Agreement (PDA) will remain in full force and effect. Both the annotated proposed PDA amendment and the current PDA are attached to this report. The applicant's counsel has also provided a synopsis of the purpose and details of the PDA modification.

Planning staff reviewed the application and prepared findings to support a recommendation of approval for the

amendment. The Zoning Commission concurred with the findings and is forwarding a recommendation of approval to the City Council. The modifications will align the document with the current zoning while leaving in place the guarantees on site development standards above and beyond city basic standards. The proposal ensures the existing and future lot owners of continuity of development and assurance of compatibility as the development is built-out.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on June 26, 2023, at the offices of the agent, Sanderson Stewart. Three surrounding property owners attended the meeting. There were concerns about management of existing and future traffic on King Ave West particularly at 44th St West which is a two-way stop controlled intersection. There was also concern about pedestrian safety crossing arterial streets.

Planning staff did not receive any emails or correspondence from the legal notices sent to surrounding owners.

Zoning Commission August 1, 2023

The Zoning Commission held a public hearing on August 1, 2023, on the zone change request and received the staff report and testimony from the applicant's agent, John Halverson and Rick Leuthold of Sanderson Stewart. No other testimony was received. Mr. Halverson explained the need to clean up this document after the City adopted its new zoning code in 2021. He stated the document has corrected references to lots and blocks, removes any reference to the retired Shiloh Overlay district. He testified the amendment simplifies the administration of the site development and adds some prohibited uses to the document. Commission members asked questions regarding the details of the amendment and whether these changes represent a change in direction for SCL Health. Mr. Leuthold and a representative of SCL Health both testified the changes are not a major shift in the development direction for the overall subdivision but will help simplify development decisions for SCL and potential buyers and tenants in the future.

The public hearing was closed. Commission member Greg McCall made a motion to recommend approval and adoption of the findings of the ten review criteria. The motion was seconded by Commission member Dan Brooks. The motion was approved on a unanimous vote.

City Council Public Hearing 1st reading August 28, 2023.

The City Council conducted a public hearing on August 28, 2023, and received the Zoning Commission recommendation and testimony from the applicant's agent John Halverson. There was no other testimony. City Council members asked questions regarding the updated Planned Development. Mayor Cole urged the applicant to explore pedestrian connections to the west into Lenhardt Square as there is only one connection now to an adjacent parcel.

The public hearing was closed. Council member Neese made a motion to approve the zone change and adopt the recommended findings of the 10 review criteria. Council member Shaw seconded the motion. The motion was approved on a unanimous vote.

ALTERNATIVES

The City Council may:

- Approve and adopt of the findings of the 10 review criteria on 2nd reading; or
- Deny the amendment to the PDA and adopt different findings of the 10 review criteria; or
- Move to delay the public hearing one time for up to 60 days; or
- Allow the applicant to withdraw the zone change.

The applicant has not requested a delay or to withdraw the application. The Planning staff has not received any testimony from surrounding owners either in favor or opposed to the PDA amendment. The Council did not receive any testimony at the first reading public hearing. The Council approved the zone change on first reading.

FISCAL EFFECTS

Approval or denial of the requested zone change will not affect the Planning Division budget.

SUMMARY

Prior to making a decision, the City Council shall consider the findings of the ten review criteria for this zone change as recommended by the Zoning Commission. The City Council adopted these findings on first reading August 28, 2023.

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 and West Billings Neighborhood Plan. The amendment to the PDA represents an update to better fit with the new zoning (2021) the city

adopted. Overall, the PDA meets the following Growth Policy Guidelines

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. Several lots have already developed in the subdivision. The nearest fire station is located on S 24th Street, approximately 2 miles east of the subject property. Depending on the specific uses, additional review for fire protection would be conducted during the development process for lots within the subdivision. City water and other improvements are 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 new underlying zone districts of CMU2 and NX2 along with the 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 continue to increase traffic on the surrounding arterial streets. A traffic study was completed for the subdivision and as each new development occurs, the study is reviewed and updated as needed. The property has good access in all directions. A reciprocal access easement exists to the Spaeny and Amen property recently annexed to the city. Additional contributions to nearby intersection improvements may be indicated in future traffic impact updates. None are planned at this time.

Water and Sewerage: The property is served by city water and sewer. There are no issues with provision of these services now or for future development.

Schools and Parks: The proposed amendment should have no effect on schools or parks. There are several private parks planned for development within the subdivision along with trails and green spaces.

Fire and Police: The subject property is serviced by the Billings Fire Department and the Billings Police Department. There are no concerns from these departments with the proposed zone amendment.

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. There are several dedicated pedestrian pathway and bike trails within the subdivision that connect to existing public improvements adjacent to Shiloh Road and King Ave West. The amendment will have no effect on these transportation choices.

7. Will the new zoning promote compatible urban growth?

With the proposed update to the underlying zoning from the retired Entryway zone district to Corridor Mixed Use 2 (CMU2) with some lots also designated for Mixed Residential 2 (NX2), the development will be compatible with the adjoining properties and with the character of this urban growth area. More specific development requirements will remain in place for this PDA and will ensure continuity for the lot owners.

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 West Billings is undergoing rapid development compared to other areas of Billings. The demand for medical services, personal services, housing choices including townhomes, apartments and smaller single family residences is increasing. The underlying CMU2/NX2 zones will allow the subdivision to continue building for those services and amenities that are in demand.

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

Most of the existing language of the PDA will continue and will ensure there are no nonconforming issues with the existing developments. 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

ZC 1033 Ordinance

Proposed PD amendment annotated

ORDINANCE 23-_____

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

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PASSED by the City Council on first reading this 28th day of August, 2023.

PASSED, ADOPTED and APPROVED on second reading this 11th day of September, 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1033 – St Vincent Healthcare Planned Development Agreement Amendment

EXHIBIT A

After Recording, return to:

SCL Health
500 Eldorado Blvd., Suite 4300
Broomfield, CO 80021
Attn: Legal Department

THIRD AMENDMENT TO PLANNED DEVELOPMENT AGREEMENT FOR THE ST.
VINCENT HEALTHCARE SUBDIVISION

This Third Amendment to Planned Development Agreement (“**Amendment**”) for the St. Vincent Healthcare Subdivision is entered into this ____ day of _____, 2023, by and between the Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation, of 500 Eldorado Blvd., Ste. 4300, Broomfield, Colorado 80021 (“**SCL Health**”) and the City of Billings, a Montana municipality (the “**City**”) of 210 North 27th Street, Billings, Montana 59101.

WHEREAS, 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, for the development of approximately 113 acres of real property on the west side of Billings, Montana, more commonly known as the St. Vincent Healthcare Subdivision (the “**Property**”);

WHEREAS, 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**”);

WHEREAS, 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**”);

WHEREAS, the Original PDA, First Amendment to PDA, and Second Amendment to PDA are collectively referred to herein as the “**PDA**;”

WHEREAS, until now, there has been not been a great amount of development in the Property, and some terms and requirements of the PDA are no longer relevant and need updating;

AND WHEREAS, the undersigned desires to update the PDA terms pursuant to this Amendment.

NOW, THEREFORE, in consideration of mutual covenants and conditions set forth herein, and for such other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, it is agreed as follows:

1. **General.** This Amendment is intended to be, and shall be construed as, an amendment to the PDA. To the extent that the terms and conditions of this Amendment conflict with the terms and conditions of the PDA, the terms and conditions of this Amendment shall control. Capitalized terms used in this Amendment shall have the meaning ascribed to them in the Lease.

2. **Amended Plat.** The City approved 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 A-1. Based upon this Amended Plat, the following amendments are necessary to the PDA.

A. **Plat.** All references to the Plat in the PDA are amended and restated as the Amended Plat and all references to Exhibit A in the PDA are amended and restated as **Exhibit A-1**.

B. **Signs Easements.** The Sign Easements shown on Exhibits A & B in the PDA are amended and shown on **Exhibit A-1**.

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

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

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

E. **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.

F. **Shiloh Overlay District.** All references to the Shiloh Corridor Overlay District are replaced with the CMU-2 Zoning District established in Chapter 27 of the City Code of Billings. Notwithstanding the foregoing, and solely as it relates to Block 2, Lots 1, 2, 3, 4, 5, 6,

7, and 8, in addition to CMU-2, the requirements and standards of an NX2 Zoning District shall also apply.

3. **Prohibited Uses.** The following shall be added to the list of prohibited uses in Article IV.C of the PDA:

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).

4. **Notices.** Any notices or demands required to be given under the PDA, as amended, shall be provided to SCL Health, as provided for in Section IX.E, at the following address:

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

With copy to: St. Vincent Healthcare
Attn: Business Development
1106 North 30th Street
Billings, MT, 59107-5200

5. **Miscellaneous.**

A. NOTICE. THIS AMENDMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE PROPERTY AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THE PDA AS AMENDED BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

B. **Neutral Interpretation.** SCL Health and the City hereby stipulate and agree that the PDA, as amended, shall be construed using neutral interpretation and that this Agreement shall not be construed in favor of any party or against any party.

C. The PDA Governs. If there is any conflict between the PDA, as amended and other zoning regulations and/or ordinances, the terms and conditions of the PDA, as amended, shall govern.

D. Amendment, Modification, and Termination. This Amendment may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of SCL Health and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the Municipal Code of Billings, Montana.

E. Waiver. Failure of one party to notify the other party of a default in the manner provided in the PDA, as amended, shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

F. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

G. Limitation on Enforcement. The PDA, as amended, is for the benefit of SCL Health, the City, the other owners within Property, and their heirs, devisees, assigns, and trustees, and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

H. Severability. Should any provision of this Amendment be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this Amendment, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.

I. No Partnership. The provisions of the PDA, as amended, are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

J. Captions and Headings. The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Amendment.

K. Entire Agreement. The PDA, as amended, contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof.

L. Construction. In construing the provisions of the PDA, as amended, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.

M. Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

N. Conflict. It is the intent of the parties to implement Chapter 27 of the City Code of Billings, throughout The Subdivision. In the event of any conflict between the express terms of this PDA and Chapter 27 of the City Code of Billings, the express terms and conditions of the PDA, as amended, shall govern.

O. Run with the Land. The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of SCL Health, the City, the owners of the Lots in the Property, and their heirs, successors, and assigns.

[signature pages follow]

IN WITNESS WHEREOF, the parties executed this Agreement the day and year first written above.

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.,
a Kansas non-profit corporation

By: _____

Name:

Its:

STATE OF COLORADO)

)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of ____, 2023, by _____, as _____ of Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

CITY OF BILLINGS.

a municipality

By: _____

Name: William A. Cole

Its: Mayor

STATE OF MONTANA)

)

COUNTY OF YELLOWSTONE)

The foregoing instrument was acknowledged before me this ____ day of ____, 2023, by _____, as _____ of the City of Billings, a municipality.

WITNESS my hand and official seal.

Notary Public

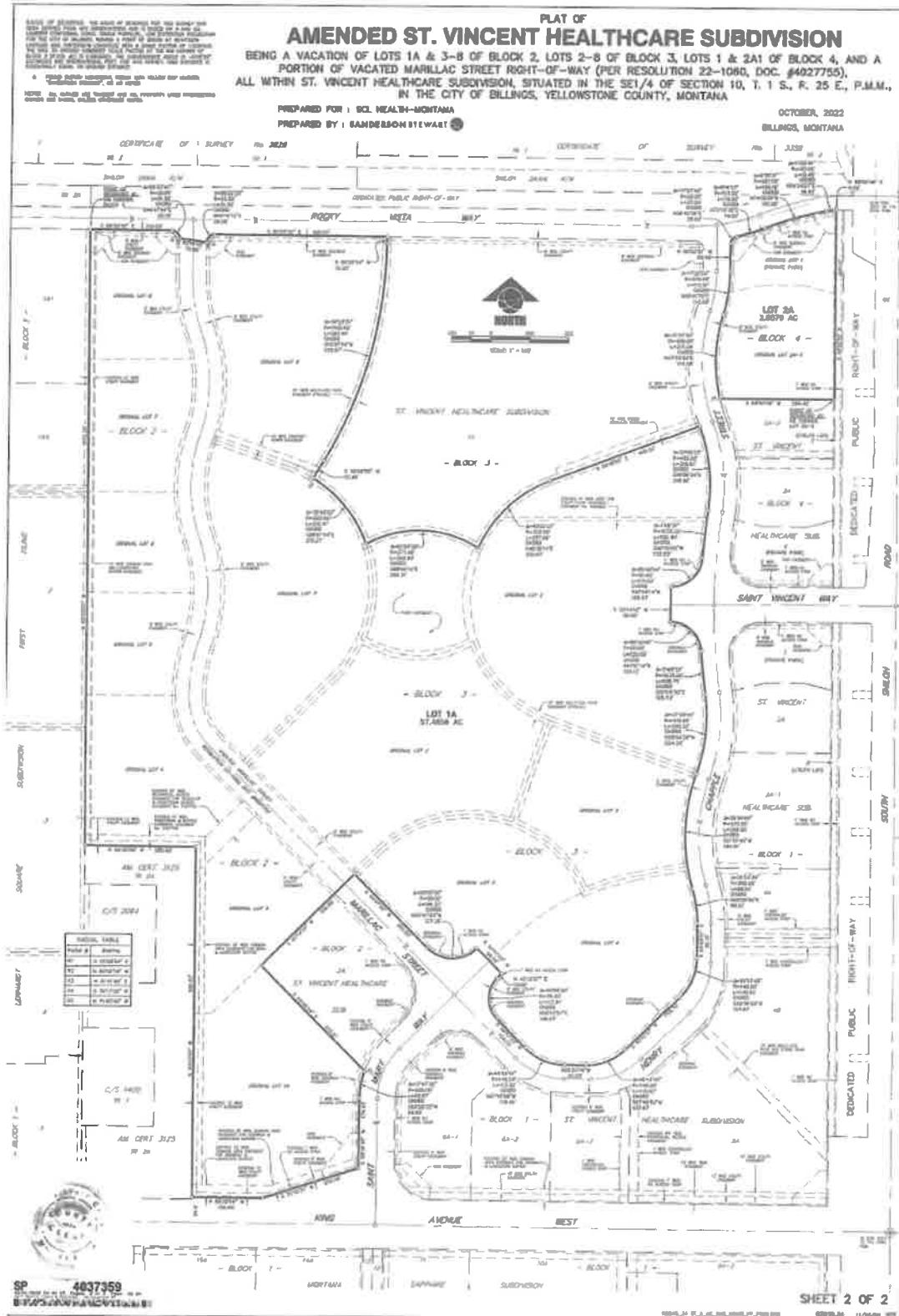
My Commission Expires: _____

PLAT OF
AMENDED ST. VINCENT HEALTHCARE SUBDIVISION

BEING A VACATION OF LOTS 1A & 3-B OF BLOCK 2, LOTS 2-8 OF BLOCK 3, LOTS 1 & 2A1 OF BLOCK 4, AND A PORTION OF VACATED MARILAC STREET RIGHT-OF-WAY (PER RESOLUTION 22-1060, DOC. #4027755), ALL WITHIN ST. VINCENT HEALTHCARE SUBDIVISION, SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: SCL HEALTH-MONTANA
PREPARED BY: SANDERSON STEWART

OCTOBER, 2022
BILLINGS, MONTANA



After recording, return to:

SCL Health
500 Eldorado Blvd., Suite 4300
Broomfield, CO 80021
Attn: Legal Department

**THIRD AMENDMENT TO PLANNED DEVELOPMENT AGREEMENT FOR THE
ST. VINCENT HEALTHCARE SUBDIVISION**

This Third Amendment to Planned Development Agreement (“Amendment”) for the St. Vincent Healthcare Subdivision is entered into this ____ day of _____, 2023, by and between the Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation, of 500 Eldorado Blvd., Ste. 4300, Broomfield, Colorado 80021 (“SCL Health”) and the City of Billings, a Montana municipality (the “City”) of 210 North 27th Street, Billings, Montana 59101.

WHEREAS, 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, for the development of approximately 113 acres of real property on the west side of Billings, Montana, more commonly known as the St. Vincent Healthcare Subdivision (the “Property”);

WHEREAS, 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”);

WHEREAS, 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”);

WHEREAS, the Original PDA, First Amendment to PDA, and Second Amendment to PDA are collectively referred to herein as the “PDA;”

WHEREAS, until now, there has been not been a great amount of development in the Property, and some terms and requirements of the PDA are no longer relevant and need updating;

AND WHEREAS, the undersigned desires to update the PDA terms pursuant to this Amendment.

NOW, THEREFORE, in consideration of mutual covenants and conditions set forth herein, and for such other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, it is agreed as follows:

(The following sections of the current PDA will remain in full force and effect except as modified below: Article I. Purposes; Article II. Definitions; Article III – Binding Effect; Article IV – Regulation of Uses; Article V – Parks and Green Spaces; Article VI – Site Development, Architecture and Design; Article VII – Signs; Article VIII – Enforcement; Article IX -General Provisions; and Article X - Notice)

1. **General.** This Amendment is intended to be, and shall be construed as, an amendment to the PDA. To the extent that the terms and conditions of this Amendment conflict with the terms and conditions of the PDA, the terms and conditions of this Amendment shall control. Capitalized terms used in this Amendment shall have the meaning ascribed to them in the Lease.

2. **Amended Plat.** The City approved 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 A-1. Based upon this Amended Plat, the following amendments are necessary to the PDA.

A. **Plat.** All references to the Plat in the PDA are amended and restated as the Amended Plat and all references to Exhibit A in the PDA are amended and restated as Exhibit A-1.

B. **Signs Easements.** The Sign Easements shown on Exhibits A & B in the PDA are amended and shown on Exhibit A-1.

C. **Campus.** The term “Campus,” as defined in the PDA, shall be amended based on the Amended Plat to mean: *(modifies Article II.E of the current PDA)*

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

iii. Block 4: Lots 2, 3, 2A-2, and 3A.

D. The Commercial Neighborhood. The term “Commercial Neighborhood,” as defined in the PDA, shall be amended based on the Amended Plat to mean: *(modifies Article II. F of the current PDA)*

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

E. 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. *(modifies Article II.J of the current PDA)*

F. Shiloh Overlay District. All references to the Shiloh Corridor Overlay District are replaced with the CMU-2 Zoning District established in Chapter 27 of the City Code of Billings. Notwithstanding the foregoing, and solely as it relates to Block 2, Lots 1, 2, 3, 4, 5, 6, 7, and 8, in addition to CMU-2, the requirements and standards of an NX2 Zoning District shall also apply. *(modifies Article IV.A 2 and 3 of the current PDA as well as other Articles that contain references to the Shiloh Corridor Overlay including Articles VI.A, VI.D, and IX.P)*

3. Prohibited Uses. The following shall be added to the list of prohibited uses in Article IV.C of the PDA:

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**. *(this use is already prohibited by Article IV.C.13 in the current PDA)*

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).

4. Notices. *(modifies Article IV.C of the current PDA)* Any notices or demands required to be given under the PDA, as amended, shall be provided to SCL Health, as provided for in Section IX.E, at the following address:

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

With copy to: St. Vincent Healthcare
Attn: Business Development
1106 North 30th Street
Billings, MT, 59107-5200

5. Miscellaneous.

A. *(modifies Article X of the current PDA)*NOTICE. THIS AMENDMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE PROPERTY AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THE PDA AS AMENDED BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

(all numerical items below modifies existin Article IX of the existing PDA – primarily by updating the name of the Party to SCL Health)

B. Neutral Interpretation. SCL Health and the City hereby stipulate and agree that the PDA, as amended, shall be construed using neutral interpretation and that this Agreement shall not be construed in favor of any party or against any party.

C. The PDA Governs. If there is any conflict between the PDA, as amended and other zoning regulations and/or ordinances, the terms and conditions of the PDA, as amended, shall govern.

D. Amendment, Modification, and Termination. This Amendment may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of SCL Health and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the Municipal Code of Billings, Montana.

E. Waiver. Failure of one party to notify the other party of a default in the manner provided in the PDA, as amended, shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

F. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

G. Limitation on Enforcement. The PDA, as amended, is for the benefit of SCL Health, the City, the other owners within Property, and their heirs, devisees, assigns, and trustees, and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

H. Severability. Should any provision of this Amendment be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this

Amendment, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.

I. No Partnership. The provisions of the PDA, as amended, are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

J. Captions and Headings. The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Amendment.

K. Entire Agreement. The PDA, as amended, contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. (*this language excluded that exists in the current PDA: "The provisions of this Agreement shall be construed as a whole and not strictly for or against any party."*)

L. Construction. In construing the provisions of the PDA, as amended, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.

M. Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

N. Conflict. It is the intent of the parties to implement Chapter 27 of the City Code of Billings, throughout The Subdivision. In the event of any conflict between the express terms of this PDA and Chapter 27 of the City Code of Billings, the express terms and conditions of the PDA, as amended, shall govern.

O. Run with the Land. The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of SCL Health, the City, the owners of the Lots in the Property, and their heirs, successors, and assigns.

[signature pages follow]

IN WITNESS WHEREOF, the parties executed this Agreement the day and year first written above.

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.,
a Kansas non-profit corporation

By: _____

Name:

Its:

STATE OF COLORADO)
)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of ____, 2023, by _____, as _____ of Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

CITY OF BILLINGS,
a municipality

By: _____

Name: William A. Cole

Its: Mayor

STATE OF MONTANA)
)
)
COUNTY OF YELLOWSTONE)

The foregoing instrument was acknowledged before me this ____ day of ____, 2023, by _____, as _____ of the City of Billings, a municipality.

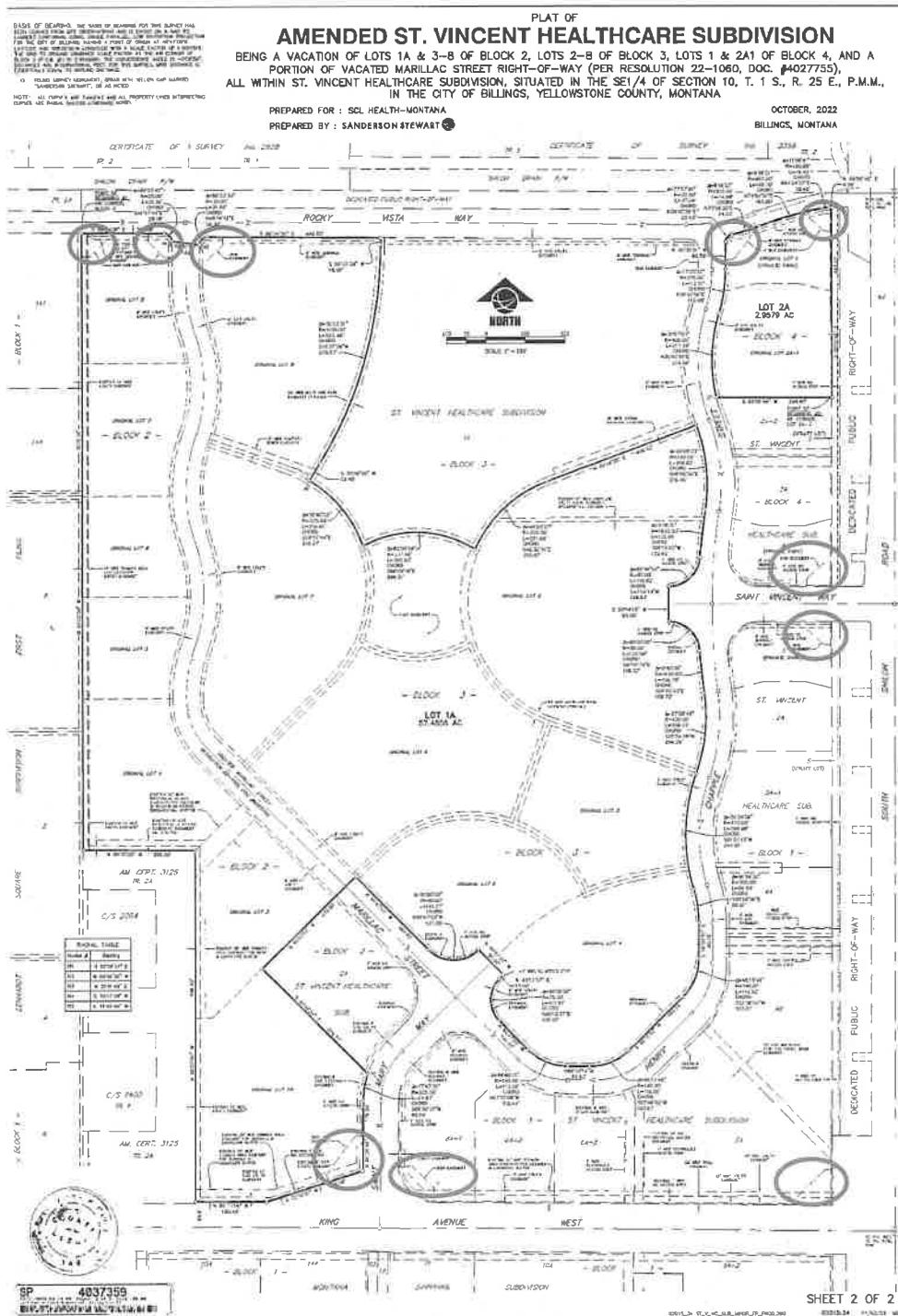
WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

Exhibit A-1

Amended Plat



City Council Regular

Date: 08/28/2023
Title: Zone Change 1033 - St Vincent's Healthcare
- Public Hearing
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes
Legal Review: Not Applicable
Project Number: PZX-23-00124

Planned Development Amendment	
COUNCIL ACTION	Approved
11-0	
AUG 28 2023	
db	
CITY CLERK	

RECOMMENDATION

The Zoning Commission recommends approval of the Planned Development amendment for Zone Change 1033 and adoption of the findings of the 10 review criteria.

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

This is a zone change request to allow an update to the Planned Development document for the St Vincent's Healthcare Subdivision at the intersection of King Ave West and Shiloh Road. The planned development zone for the property was first adopted in 2004 when the hospital first acquired the 113 acres of land at the intersection. At the time, plans for improvements to Shiloh Road were just entering the planning stages and no development had occurred in the area except for the residential development on the east side of Shiloh Road. By 2002, the new Zoo Drive interchange on I-90 was complete and the Shiloh corridor improvements to create a limited-access separated arterial street from Zoo Drive to Rimrock Road were under way. These improvements were completed by 2010 and development along the corridor accelerated.

The city developed and adopted zoning overlay districts in 2004 and 2005 for land within 500 feet of the Shiloh Road centerline to try and ensure development would add to and complement the new right of way improvements. The overlay districts did not change the underlying zoning district uses, but required enhances building design, landscaping and sign standards. There were two overlay districts - one for property north of King Ave West (2004) and one for property south of King Ave West (2005). The original planned development zone adopted for the St. Vincent's Healthcare property was approved by the City Council at the time of annexation in 2004, prior to the Shiloh Corridor Overlay district adoption. Seven years later, the owners re-drafted the original document when a new subdivision was created. The 2011 amendment was approved by the City Council and several sections of the new document referred to the Shiloh Corridor Overlay district for landscaping, signage and site design. The first building in the subdivision was constructed in 2017 and new buildings are added every year. The completion of the new Rocky Vista University medical college this year is a key development that will set the stage for building out the subdivision.

The original and the current planned development emphasize the need to develop a coherent campus with similar and complementary designs throughout including safe pedestrian paths and green spaces within the campus. The St Vincent's Healthcare hospital will remain in the downtown core with a planned new 9-story hospital building to begin construction later this year. The west end property will focus on providing clinical services, private medical services, medical education, as well as future housing choices in the subdivision. The subdivision and development has an extensive set of covenants, restrictions and building design standards administered by St Vincent's Healthcare through a private design and consulting firm. The planned development zoning district is compatible with these private agreements and the zoning requires a developer to provide a letter of approval from the private reviewing agency prior to submitting for a building, sign, fencing or any other city required development permit. This ensures the private and public requirements are both met before a development moves forward.

The proposed amendment to the planned development will update the legal descriptions of lots and blocks within the subdivision (amended in 2022), remove references to the Shiloh Corridor Overlay district, name new underlying zone districts of Corridor Mixed Use 2 (CMU2) and Mixed Residential 2 (NX2) for these lots and generally clean the document of references to out-of-date city regulations and requirements. The bulk of the existing Planned Development Agreement (PDA) will remain in full force and effect. Both the annotated proposed PDA amendment and the current PDA are attached to this report. The applicant's counsel has also provided a synopsis of the purpose and details of the PDA modification.

Planning staff reviewed the application and prepared findings to support a recommendation of approval for the amendment. The Zoning Commission concurred with the findings and is forwarding a recommendation of approval to the City Council. The modifications will align the document with the current zoning while leaving in place the

guarantees on site development standards above and beyond city basic standards. The proposal ensures the existing and future lot owners of continuity of development and assurance of compatibility as the development is built-out.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on June 26, 2023, at the offices of the agent, Sanderson Stewart. Three surrounding property owners attended the meeting. There were concerns about management of existing and future traffic on King Ave West particularly at 44th St West which is a two-way stop controlled intersection. There was also concern about pedestrian safety crossing arterial streets.

Planning staff did not receive any emails or correspondence from the legal notices sent to surrounding owners.

Zoning Commission August 1, 2023

The Zoning Commission held a public hearing on August 1, 2023, on the zone change request and received the staff report and testimony from the applicant's agent, John Halverson and Rick Leuthold of Sanderson Stewart. No other testimony was received. Mr. Halverson explained the need to clean up this document after the City adopted its new zoning code in 2021. He stated the document has corrected references to lots and blocks, removes any reference to the retired Shiloh Overlay district. He testified the amendment simplifies the administration of the site development and adds some prohibited uses to the document. Commission members asked questions regarding the details of the amendment and whether these changes represent a change in direction for SCL Health. Mr. Leuthold and a representative of SCL Health both testified the changes are not a major shift in the development direction for the overall subdivision but will help simplify development decisions for SCL and potential buyers and tenants in the future.

The public hearing was closed. Commission member Greg McCall made a motion to recommend approval and adoption of the findings of the ten review criteria. The motion was seconded by Commission member Dan Brooks. The motion was approved on a unanimous vote.

ALTERNATIVES

The City Council may:

- Approve and adopt of the findings of the 10 review criteria; or
- Deny the amendment to the PDA and adopt different findings of the 10 review criteria; or
- Move to delay the public hearing one time for up to 60 days; or
- Allow the applicant to withdraw the zone change.

The applicant has not requested a delay or to withdraw the application. The Planning staff has not received any testimony from surrounding owners either in favor or opposed to the PDA amendment.

FISCAL EFFECTS

Approval or denial of the requested zone change will not affect the Planning Division budget.

SUMMARY

Prior to making a decision, the City Council shall consider the findings of the ten review criteria for this zone change as recommended by the Zoning Commission.

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 and West Billings Neighborhood Plan. The amendment to the PDA represents an update to better fit with the new zoning (2021) the city adopted. Overall, the PDA meets the following Growth Policy Guidelines

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. Several lots have already developed in the subdivision. The nearest fire station is located on S 24th Street, approximately 2 miles east of the subject property. Depending on the specific uses, additional review for fire protection would be conducted during the development process for lots within the subdivision. City water and other improvements are 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 new underlying zone districts of CMU2 and NX2 along with the 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 continue to increase traffic on the surrounding arterial streets. A traffic study was completed for the subdivision and as each new development occurs, the study is reviewed an updated as needed. The property has good access in all directions. A reciprocal access easement exists to the Spaeny and Amen property recent annexed to the city. Additional contributions to nearby intersection improvements may be indicated in future traffic impact updates. None are planned at this time.

Water and Sewerage: The property is served by city water and sewer. There are no issues with provision of these services now or for future development.

Schools and Parks: The proposed amendment should have no effect on schools or parks. There are several private parks planned for development within the subdivision along with trails and green spaces.

Fire and Police: The subject property is serviced by the Billings Fire Department and the Billings Police Department. There are no concerns from these departments with the proposed zone amendment.

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. There are several dedicated pedestrian pathway and bike trails within the subdivision that connect to existing public improvements adjacent to Shiloh Road and King Ave West. The amendment will have no effect on these transportation choices.

7. Will the new zoning promote compatible urban growth?

With the proposed update to the underlying zoning from the retired Entryway zone district to Corridor Mixed Use 2 (CMU2) with some lots also designated for Mixed Residential 2 (NX2), the development will be compatible with the adjoining properties and with the character of this urban growth area. More specific development requirements will remain in place for this PDA and will ensure continuity for the lot owners.

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 West Billings is undergoing rapid development compared to other areas of Billings. The demand for medical services, personal services, housing choices including townhomes, apartments and smaller single family residences is increasing. The underlying CMU2/NX2 zones will allow the subdivision to continue building for those services and amenities that are in demand.

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

Most of the existing language of the PDA will continue and will ensure there are no nonconforming issues with the existing developments. 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

Chart of Zoning History

Proposed PD amendment annotated

Current PDA

St Vincent Healthcare Counsel memo on PD Amendments

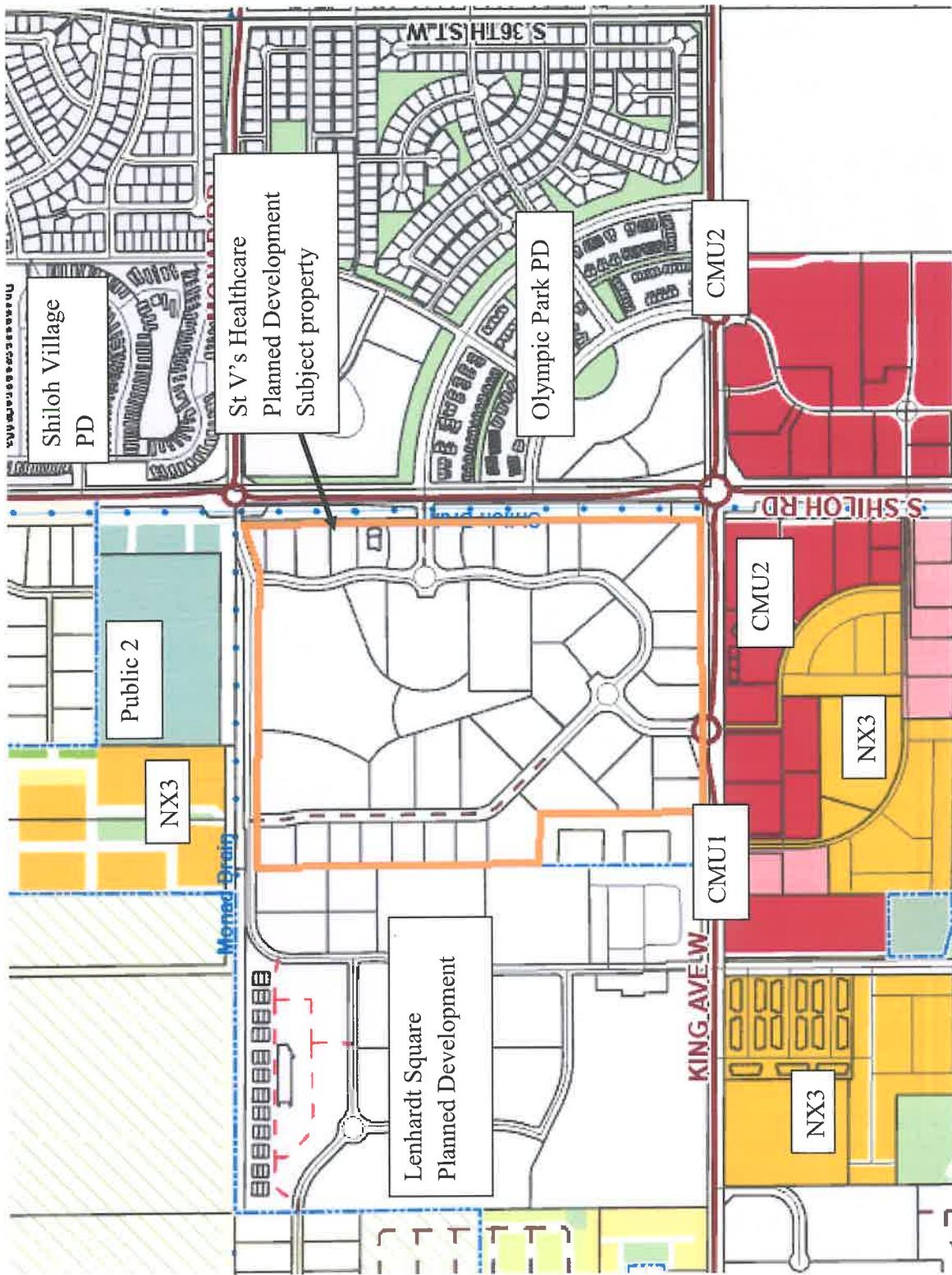
Application and Letter

Pre application and meeting notes

Subdivision Lots

Current Subdivision

City Zone Change 1033 – St Vincent Healthcare PD Amendment
Zoning Map and Site Photos





Subject Property



Subject Property



Subject Property view from King Ave West – north and east



View east on King Ave W



View north east to medical services in St Vincent Healthcare with frontage on Shiloh Rd



View north to Rocky Vista University and new medical services



View north west – Billings Dialysis Clinic and Interpointe Apts



View south across King Ave W to Montana Sapphire

Zoning History for City ZC 1033 – St Vincent’s Healthcare Planned Development Amendment

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
St. Vincent Healthcare Shiloh Rd & King Ave W	City ZC 722	May 24, 2004	Agriculture to Planned Development	Y	PD zone for healthcare & ancillary commercial uses
St. Vincent Healthcare Shiloh Rd & King Ave W	City ZC 870	Jan 24, 2011	PD Amendment	Y	Adjustment to allow flexibility
Minor Amendment to PD agreement	NA				
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Vista West	City ZC 894	5/12/2012	A-1 to RMF-R	Withdrawn	
Vista West	City ZC 1004	2/25/2021	A to N2, NX2/NX3 and P1	Withdrawn	
Vista West	City ZC 1021	2/12/2023	A to PND N1, NX2/NX3 & P1	Y	
Ridgeline Development	City ZC 997	9/13/2021	A-1 to MU-PND – NX2, N2, CMU1, P1	Y	First PND zone change
Lenhardt Square	City ZC 991	6/14/2021	Update to PD agreement	Y	Increased density and normalized height measurements
Western Sky Sub	City ZC 977	July 13, 2020	Adjust Zone District Boundaries	Y	
Western Sky Sub	City ZC 975	Jan 27, 2020	Underlying zoning amendment	Y	
Western Sky Sub	City ZC 802	May 17, 2007	A-1 to CC, RMF-R, R-50, R-70, R-96 & Public	Y	Included entire NW section of 160 acres
Western Sky Sub	City ZC 957	Sept 11, 2017	CC, RMF-R, R-50, R-70, R-96 & Public to Planned Development	Y	Underlying zones CC, NC RMF & RMH
Hoop Dreams – Apartments	City ZC 900	Aug 13, 2012	R-50 to RMF-R	Y	Apartment Developments at 44th St W and King Ave W
Hoop Dreams – Apartments	City ZC 912	July 8, 2013	Public & R-50 to RMF-R	Y	Additional apartments
Montana Sapphire Sub	City ZC 673	July 9, 2001	A-1 to Entryway Light Industrial (ELI)	Y	New industrial park
Montana Sapphire Sub	City ZC 903	Sept 24, 2012	ELI to HC	Y	Affinity of Billings Fuel Fitness Divide Bar & Grill
Montana Sapphire Sub Long Beach Apis	City ZC 878	Aug 22, 2011	ELI to HC	Y	New apartments
3815 Hesper Road	City ZC 907	March 25, 2013	A-1 to CI	Y	New FedEx Ground Terminal
4245,4249 & 4253 King Ave W	City ZC 1030	July 24, 2023	RR1 to NX2	Y	Annexation for city services

After recording, return to:

SCL Health
500 Eldorado Blvd., Suite 4300
Broomfield, CO 80021
Attn: Legal Department

**THIRD AMENDMENT TO PLANNED DEVELOPMENT AGREEMENT FOR THE
ST. VINCENT HEALTHCARE SUBDIVISION**

This Third Amendment to Planned Development Agreement (“Amendment”) for the St. Vincent Healthcare Subdivision is entered into this ____ day of _____, 2023, by and between the Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation, of 500 Eldorado Blvd., Ste. 4300, Broomfield, Colorado 80021 (“SCL Health”) and the City of Billings, a Montana municipality (the “City”) of 210 North 27th Street, Billings, Montana 59101.

WHEREAS, 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, for the development of approximately 113 acres of real property on the west side of Billings, Montana, more commonly known as the St. Vincent Healthcare Subdivision (the “Property”);

WHEREAS, 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”);

WHEREAS, 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”);

WHEREAS, the Original PDA, First Amendment to PDA, and Second Amendment to PDA are collectively referred to herein as the “PDA;”

WHEREAS, until now, there has been not been a great amount of development in the Property, and some terms and requirements of the PDA are no longer relevant and need updating;

AND WHEREAS, the undersigned desires to update the PDA terms pursuant to this Amendment.

NOW, THEREFORE, in consideration of mutual covenants and conditions set forth herein, and for such other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, it is agreed as follows:

(The following sections of the current PDA will remain in full force and effect except as modified below: Article I. Purposes; Article II. Definitions; Article III – Binding Effect; Article IV – Regulation of Uses; Article V – Parks and Green Spaces; Article VI – Site Development, Architecture and Design; Article VII – Signs; Article VIII – Enforcement; Article IX -General Provisions; and Article X - Notice)

1. **General.** This Amendment is intended to be, and shall be construed as, an amendment to the PDA. To the extent that the terms and conditions of this Amendment conflict with the terms and conditions of the PDA, the terms and conditions of this Amendment shall control. Capitalized terms used in this Amendment shall have the meaning ascribed to them in the Lease.

2. **Amended Plat.** The City approved 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 A-1**. Based upon this Amended Plat, the following amendments are necessary to the PDA.

A. **Plat.** All references to the Plat in the PDA are amended and restated as the Amended Plat and all references to Exhibit A in the PDA are amended and restated as **Exhibit A-1**.

B. **Signs Easements.** The Sign Easements shown on Exhibits A & B in the PDA are amended and shown on **Exhibit A-1**.

C. **Campus.** The term “Campus,” as defined in the PDA, shall be amended based on the Amended Plat to mean: *(modifies Article II.E of the current PDA)*

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

iii. Block 4: Lots 2, 3, 2A-2, and 3A.

D. The Commercial Neighborhood. The term “Commercial Neighborhood,” as defined in the PDA, shall be amended based on the Amended Plat to mean: *(modifies Article II. F of the current PDA)*

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

E. 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. *(modifies Article II.J of the current PDA)*

F. Shiloh Overlay District. All references to the Shiloh Corridor Overlay District are replaced with the CMU-2 Zoning District established in Chapter 27 of the City Code of Billings. Notwithstanding the foregoing, and solely as it relates to Block 2, Lots 1, 2, 3, 4, 5, 6, 7, and 8, in addition to CMU-2, the requirements and standards of an NX2 Zoning District shall also apply. *(modifies Article IV.A 2 and 3 of the current PDA as well as other Articles that contain references to the Shiloh Corridor Overlay including Articles VI.A, VI.D, and IX.P)*

3. Prohibited Uses. The following shall be added to the list of prohibited uses in Article IV.C of the PDA:

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.** *(this use is already prohibited by Article IV.C.13 in the current PDA)*

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).

4. Notices. *(modifies Article IV.C of the current PDA)* Any notices or demands required to be given under the PDA, as amended, shall be provided to SCL Health, as provided for in Section IX.E, at the following address:

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

With copy to: St. Vincent Healthcare
Attn: Business Development
1106 North 30th Street
Billings, MT, 59107-5200

5. **Miscellaneous.**

A. (*modifies Article X of the current PDA*) NOTICE. THIS AMENDMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE PROPERTY AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THE PDA AS AMENDED BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

(*all numerical items below modifies existin Article IX of the existing PDA – primarily by updating the name of the Party to SCL Health*)

B. **Neutral Interpretation.** SCL Health and the City hereby stipulate and agree that the PDA, as amended, shall be construed using neutral interpretation and that this Agreement shall not be construed in favor of any party or against any party.

C. **The PDA Governs.** If there is any conflict between the PDA, as amended and other zoning regulations and/or ordinances, the terms and conditions of the PDA, as amended, shall govern.

D. **Amendment, Modification, and Termination.** This Amendment may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of SCL Health and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the Municipal Code of Billings, Montana.

E. **Waiver.** Failure of one party to notify the other party of a default in the manner provided in the PDA, as amended, shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

F. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

G. **Limitation on Enforcement.** The PDA, as amended, is for the benefit of SCL Health, the City, the other owners within Property, and their heirs, devisees, assigns, and trustees, and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

H. **Severability.** Should any provision of this Amendment be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this

Amendment, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.

I. No Partnership. The provisions of the PDA, as amended, are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

J. Captions and Headings. The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Amendment.

K. Entire Agreement. The PDA, as amended, contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. (*this language excluded that exists in the current PDA: "The provisions of this Agreement shall be construed as a whole and not strictly for or against any party."*)

L. Construction. In construing the provisions of the PDA, as amended, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.

M. Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

N. Conflict. It is the intent of the parties to implement Chapter 27 of the City Code of Billings, throughout The Subdivision. In the event of any conflict between the express terms of this PDA and Chapter 27 of the City Code of Billings, the express terms and conditions of the PDA, as amended, shall govern.

O. Run with the Land. The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of SCL Health, the City, the owners of the Lots in the Property, and their heirs, successors, and assigns.

[signature pages follow]

IN WITNESS WHEREOF, the parties executed this Agreement the day and year first written above.

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.,
a Kansas non-profit corporation

By: _____

Name:

Its:

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of ____, 2023, by _____, as _____ of Sisters of Charity of Leavenworth Health System, Inc., a Kansas non-profit corporation.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

CITY OF BILLINGS,
a municipality

By: _____
Name: William A. Cole
Its: Mayor

STATE OF MONTANA)
)
COUNTY OF YELLOWSTONE)

The foregoing instrument was acknowledged before me this ____ day of ____, 2023, by _____, as _____ of the City of Billings, a municipality.

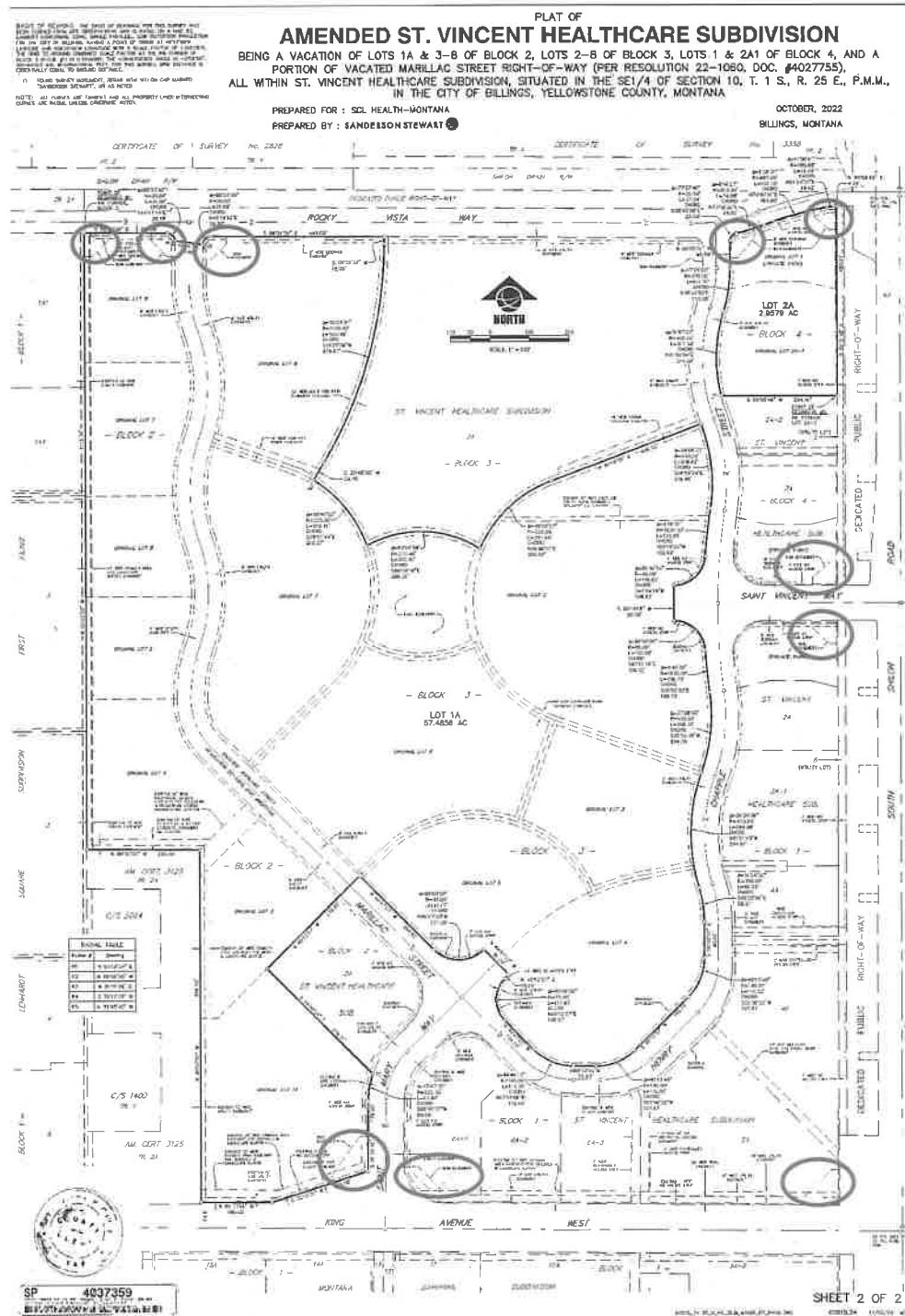
WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

Exhibit A-1

Amended Plat



AG

3732703

02/27/2015 04:20 PM Pages: 1 of 31 Fees: 217.00

Jeff Martin Clerk & Recorder, Yellowstone MT



Return To:
Doug James
Moulton Bellingham PC
P. O. Box 2559
Billings, MT 59103
(406) 238-1565
Doug.James@MoultonBellingham.com

SECOND CONSENT TO MINOR MODIFICATION OF PLANNED DEVELOPMENT AGREEMENT

**FOR
ST. VINCENT HEALTHCARE SUBDIVISION**

By and Between:

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.

and

THE CITY OF BILLINGS, MONTANA

SECOND AMENDED PLANNED DEVELOPMENT AGREEMENT FOR THE ST. VINCENT HEALTHCARE SUBDIVISION

This **SECOND AMENDED PLANNED DEVELOPMENT AGREEMENT** is made and entered into this ____ day of January, 2015, by and between the **SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.**, ("SVH") of 1106 North 30th Street, Billings, Montana 59107-5200 and the **CITY OF BILLINGS**, a Montana municipality ("the City"), of 210 North 27th Street, Billings, Montana 59101.

RECITALS

NOW WHEREAS:

1. In accordance with Unified Zoning Code 27-13-10, the parties to the Planned Development Agreement for St. Vincent Healthcare Subdivision recorded November 21, 2014, as Document No. 3724597 desire to make minor modifications to the Agreement to correct a typographical error in numbering of the Articles. The parties to the Agreement consent to this modification, said parties being the **CITY OF BILLINGS**, a Montana municipality ("The City") of 210 N. 27th Street, Billings, Montana, 59101 and **ST. VINCENT HEALTHCARE FOUNDATION, INC.**, as agent for the **SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.** of 1106 North 30th Street, Billings, Montana 59107-5200.

2. SVH owns approximately 113 acres of real property in Billings, Montana, more particularly described as:

St. Vincent Healthcare Subdivision in the City of Billings, Yellowstone County, Montana, as shown by the records of the Clerk and Recorder of Yellowstone County, Montana under Document No. 3707746.

The foregoing property shall be known as "The St. Vincent Healthcare Subdivision," hereinafter "The Subdivision." SVH intends to develop The Subdivision primarily as a Healthcare Campus. The focus will be healthcare and other uses that are consistent with and not adverse to a healthcare campus including commercial and limited residential uses in a pedestrian-oriented development. The Subdivision will be divided into two separate zones: The Commercial Neighborhood and The Campus.

NOW THEREFORE, the undersigned hereby establish and declare the following plan for The Subdivision, including such restrictions and protective covenants as set forth herein, which shall apply to all of the Subdivision and all Lots therein, shall bind all of the present and future Lot owners, and shall run with the land.

AGREEMENTARTICLE I - PURPOSES

- A. The zoning for The Subdivision shall be Planned Unit Development pursuant to this Planned Development Agreement ("PDA"). This PDA is intended to create a healthcare campus with appropriate associated commercial uses with the possibility of limited residential uses. Well-being and health care will be the essence of The Subdivision's character to provide a healthy work environment to meet the health and medical needs of the community, to assemble affiliated businesses and services complimentary to the activities and mission of health care, and to incorporate a well-landscaped environment throughout The Subdivision. Circulation patterns will encourage easy pedestrian access and limit vehicular congestion and pedestrian/vehicular conflicts. This PDA will promote smart building development in terms of orientation, access, energy consumption and efficiency.
- B. This PDA is designed and intended to afford SVH maximum flexibility for future development within a framework that will ensure sound development.
- C. The parties enter into this Agreement in order to accomplish the purposes set forth herein, and in order to further the following additional objectives:
 - 1. To create a rich architectural arrangement of buildings and spaces through the use of relational massing of materials and forms, generous landscaping elements and contemporary and traditional architectural styles;
 - 2. To create a notable Billings, Montana landmark;
 - 3. To create generous and ample parking, arranged to be hidden or screened from roadways and view corridors;
 - 4. To create well-configured squares, plazas, greens/commons, landscaped streets and parks, woven into the pattern of the entire Development and dedicated to collective social activity, recreation, and visual enjoyment;
 - 5. To provide abundant landscaping requirements;
 - 6. To create a pedestrian-friendly environment and uses;
 - 7. To facilitate and foster complimentary uses serving the health care community, including clinics, medical office buildings, laboratories, hospitals, and related or supporting uses;
 - 8. To promote and assist in the orderly development of The Subdivision;



9. To encourage creativity and continuity in design, quality, and character of new development; and
10. To minimize adverse aesthetic impacts associated with excessive lighting, signage, and other design features.

ARTICLE II - DEFINITIONS

All terms used herein shall have the same definition and meaning as specified in Chapter 27 of the City of Billings Municipal Code, unless otherwise defined herein. The following definitions shall apply to this PDA:

D. **Ann Ross Green Space.** The Ann Ross Green Space is a green space of approximately 10.86 acres located along the Shiloh Drain and Monad Road. The Ann Ross Green Space shall be developed (as the subdivision develops over time) and maintained by SVH at no cost to the City. The Ann Ross Green Space shall include:

- i. Approximately 5.11 acres located in the City of Billings Public Utilities Department Right-of-Way for Shiloh Road, as shown on the Plat, Exhibit "A" hereto;
- ii. Approximately 1.04 acres located upon Lot 8, Block 1 and Lot 5, Block 4, which will be deeded to the City;
- iii. Lot 1, Block 1 of St. Vincent Healthcare Subdivision of approximately .93 acres, which shall be owned by SVH;
- iv. Lot 4, Block 4, of St. Vincent Healthcare Subdivision of approximately .94 acres which shall be owned by SVH;
- v. Lot 1, Block 4 of St. Vincent Healthcare Subdivision of approximately 1.03 acres, which shall be owned by SVH; and
- vi. Dedicated public street right-of-way along Monad Road of approximately 1.81 acres.

Ann Ross Green Space shall be fully developed with trees, irrigated lawn, and other landscaping features which may include shrubs, boulders, flower beds, water retention features, ponds, bike and pedestrian paths, pedestrian bridges, pedestrian overlooks, benches, lighting, and activity areas. The Ann Ross Green Space shall be maintained by the Subdivision Maintenance Director. SVH will enter into a Development and Maintenance Agreement with the City of Billings Public Works Department in order to provide for the development and maintenance of the Ann Ross Green Space. The Ann Ross Green Space shall be developed and maintained at no cost to the City of Billings. The City grants SVH an easement, including for ingress and egress,



over, across, onto, through, and upon those portions of the Ann Ross Green Space owned or controlled by the City in order to allow SVH and its agents the ability to install, maintain, service, use, replace, repair, and enjoy the landscaping and improvements in the Ann Ross Green Space. SVH reserves an easement, including ingress and egress, to access, service, install, repair, replace, and maintain signs within the Sign Easement Areas shown on the Plat attached hereto as Exhibit "A".

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.

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

G. **Conditions, Covenants, and Restrictions of Record.** "The Conditions, Covenants, and Restrictions" (also referred to as the "CCRs") means those conditions, covenants, and restrictions to be recorded against all of the real property in The St. Vincent Healthcare Subdivision by SVH as the Declarant.

H. **Lot.** "Lot" means a piece, parcel, plot, tract, or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required, and having its principal lot frontage on a street.

I. **Medical Uses.** The term "Medical Uses" shall be defined to its broadest extent to include, but not be limited to: hospitals and hospital-related services; medical and dental professional clinics and/or offices; medical laboratories; pharmacies; physical therapy facilities; research and testing facilities related to the practice of health and medicine; health and fitness-related businesses; and ancillary healthcare services.

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.

K. **The Review Committee.** "The Review Committee" (also referred to as "The Committee") shall mean that committee appointed by SVH. The Review



Committee shall have all of the duties and responsibilities identified in this PDA and the CCRs, including but not limited to being responsible for reviewing and approving or denying the design of all projects proposed for any lot within The Subdivision.

L. **The Maintenance Director.** "Maintenance Director" means the person or firm appointed by SVH in accordance with the terms and conditions of this PDA and the CCRs to maintain Ann Ross Green Space and the other Common Areas within The Subdivision.

ARTICLE III - BINDING EFFECT

M. **Persons Bound by this Agreement.** All individuals, corporations, or other entities who presently have or shall hereafter acquire any interest in and to any of the real property within The Subdivision shall be held to agree to all of the terms of this Agreement and all such individuals, corporations, and other entities, their heirs, devisees, successors, assigns, tenants, and trustees shall be bound by this Agreement.

N. **The 2004 Agreement.** The PDA for the Subdivision recorded June 25, 2004 as Document No. 3293717 is replaced by this Agreement. The June 2004 Agreement is hereby terminated and shall be of no force or effect.

ARTICLE IV - REGULATION OF USES

A. **Land Use Classifications and Permitted Uses.**

1. **Classifications of Lots.** Lots in The Subdivision shall be located and classified within either The Commercial Neighborhood or The Campus.

(a) ***The Commercial Neighborhood.*** *The Commercial Neighborhood is* located at the intersection of King Avenue and Shiloh Road, as shown on Exhibit "A" hereto. The Commercial Neighborhood is intended primarily to accommodate retail services and office facilities, but Medical Uses would also be allowed.

(b) ***The Campus.*** The Campus shall be all of the Subdivision, except for the Commercial Neighborhood, as shown on Exhibit "A." The primary use of the lots in The Campus shall be Medical Uses, although other commercial and professional uses and residential uses may also be permitted. The Campus is intended primarily for Medical Uses, but may also be used as a commercial or cultural center with retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population.



2. **The Commercial Neighborhood: Permitted Uses of Lots.** Lots in the Commercial Neighborhood, unless otherwise prohibited herein, may be used for any use permitted in Entryway Light Industrial Zoning pursuant to Chapter 27 of the Billings, Montana City Code in effect on the date of this Agreement.
3. **The Campus – Permitted Uses of Lots.** Lots in The Campus, unless otherwise prohibited herein, may be used for any of the following uses: Medical Uses; any use permitted in the Commercial Neighborhood; administrative and research facilities; open spaces, park areas, gardens, athletic fields, bike trails, playgrounds, and walking paths; public library; office and retail uses. The following additional uses will be permitted in The Campus with the prior express written consent of SVH, which consent may be granted or withheld in the exclusive discretion of SVH:
 - (a) assisted living retirement housing;
 - (b) churches, synagogues, and places of worship (Provide, however, that a chapel or other place of worship that is located within a building used primarily for medical or Healthcare Purposes shall be permitted and shall not require additional consent);
 - (c) helicopter takeoffs and landings for medical and healthcare-related purposes on any lot within Block 3;
 - (d) hotels and motels;
 - (e) multi-family and assisted care housing;
 - (f) residential uses;
 - (g) supportive housing services;
 - (h) veterinary clinic and animal hospitals, (this permits only the indoor treatment and no overnight kennels.
 - (i) Parks.

B. **Continued Farming Operations.** SVH may, in its sole and exclusive discretion, permit farming operations (but not livestock) within The Subdivision. No Lot shall be farmed or flood-irrigated without the prior express written consent of SVH. Written consent to farm and to irrigate must be obtained on an annual basis. SVH may prohibit farming and/or flood irrigation in The Subdivision, in the sole and exclusive discretion of SVH.

C. **Prohibited Uses.** The following operations and uses shall not be permitted on any Lot in The Subdivision, regardless of where the Lot is located:



1. **Alcoholic Beverages.** Any establishment that sells alcoholic beverages or liquor, including liquor stores and bars. Provided, however, that a restaurant shall be allowed limited sales of beer and wine pursuant to a Restaurant Beer and Wine License pursuant to §16-4-420, Montana Code Annotated. Alcoholic Beverages may be sold at special events within the Subdivision with the prior express written consent of SVH, which consent may be withheld or granted in the exclusive discretion of SVH. This restriction shall not restrict or preclude the sale of beer and wine ancillary to the operation of a grocery store or a drug store such as Walgreens or CVS.
2. **Billboard signs;**
3. **Casinos.** Any establishment engaged in gaming or gambling activities, including casinos and bingo parlors;
4. **Clubs & Fraternal Organizations.** Any clubs or fraternal organizations which serve alcoholic beverages or liquor;
5. **Pornographic Materials.** Any establishment selling or exhibiting pornographic materials or drug-related paraphernalia, except that such prohibition shall not limit the sale of books, periodicals, music products, and video products by a bookstore and/or music store carrying a full line of adult and/or children's titles, such as, by way of example, but not limited to, Borders or Barnes and Noble bookstores;
6. **Sexually-Oriented Businesses.** Sexually-oriented businesses as defined by Section 27-611 of the Billings, Montana City Code;
7. **Tobacco Sales.** Sale of cigarettes, cigars, and tobacco products, except incidental to the operation of a general retail store such as a grocery store or supermarket;
8. **Automobile & Truck Repair, Sales & Service Businesses, auto parts supply, auto & truck leasing and rental, RV sales & service, heavy truck/tractor sales & service;**
9. **Brewery** (except as incidental to a restaurant, such as a brew pub. Microbrews shall not be permitted unless incidental to a restaurant);
10. **Gas stations & Service Stations for Automobiles, Trucks, Trailers, or Recreational vehicles.**
11. **Gun and archery ranges and the sale of guns and ammunition,** unless incidental to a general retail store;
12. **Equipment rental shops,** unless related to Medical Uses;



13. Manufactured homes;
14. Pawn shops and Tattoo Parlors;
15. Pool or billiard hall;
16. Propane sales.
17. Industrial Uses that are inconsistent with commercial zoning or a commercial/medical development, including, but not limited to: warehouses, packing plants, grain mills, sawmills, petroleum refining, cement plants, bulk processing or storage of stone, clay, gravel, and/or glass, metal fabrication, recycling center, cemeteries, mining, and general contractor operations;
18. Manufacturing Uses, unless related to Healthcare Purposes;
19. Second Hand Stores, Flea Markets & Junk Shops. This prohibits the sale of used household furniture and clothing, appliances, and equipment.
20. Car & Truck Washes.
21. Fireworks. The sale or manufacture of fireworks.
22. Title Loan Businesses.
23. Commercial Storage Facilities & Mini Storage Facilities. This prohibits all storage rental facilities.
24. Tire Sales, except as incidental to the operation of a general retail store.
25. Animal Kennels or Animal Raising Facility.
26. Building Contractor or Subcontractor Operations.
27. Livestock and Farm Equipment. Any establishment engaged in the sale of livestock, ranch or farm equipment.
28. Massage Parlors (excluding therapeutic massage).
29. Mortuary or funeral home or crematorium.
30. Truck Stops and Truck Terminals as defined by 27-201 of the Billings, Montana City Code.
31. Warehouses (unless incidental to medical, dental, or clinical uses).



32. **Adult Book Store, Adult Video Store, Adult Movie Theater or other establishment selling, renting or exhibiting pornographic materials or drug-related paraphernalia (except that this provision shall not prohibit the operation of a bookstore or video store which carries a broad inventory of books or videos and other materials directed towards the interest of the general public (as opposed to a specific segment thereof).**

33. **Amusement Park or Arcade.**

D. Condition of Lots and Buildings.

1. **Maintenance of Lots.** The owner of any Lot shall at all times keep and maintain the owner's Lot and buildings, improvements, and appurtenances thereon in a safe and clean condition and comply, at the Lot owner's sole expense, with all applicable governmental, health, fire, and safety ordinances, regulations, requirements, directives, and the CCRs. The Lot owner shall at regular and frequent intervals remove, at the Lot owner's sole expense, any garbage or rubbish that may accumulate upon the owner's Lot.
2. **Maintenance of Unimproved Sites.** Any Lot that is not improved or built upon shall be maintained in a good and clean appearance by the Lot owner. Weeds, brush, trash, and rubbish must be removed at least every three (3) months or when directed to do so by the City or SVH. SVH and the Maintenance Director may perform any maintenance and clean-up on any Lot that is not maintained as set forth herein and may charge the Lot owner for all costs incurred in doing so.
3. **Sewer and Water Facilities.** All new development shall be served by public sewer facilities and public water service.
4. **Weed Management.** All noxious weeds on the latest Yellowstone County Noxious Weed List must be controlled on all properties in The St. Vincent Healthcare Subdivision. All costs associated with noxious weed control shall be the responsibility of the Lot owners of record.
5. **Outside Storage.** Outside storage shall not be permitted in The Subdivision except for limited, short-term outside storage during construction. No trailer (horse, boat, snowmobile, etc.), boat, camper, motor home, recreational vehicle, snowmobile, vehicle or other equipment generally associated with recreation and leisure time activity shall be situated or parked on any lot or street in The Subdivision for more than five (5) days in any calendar year, unless it is enclosed by a garage meeting the design requirements of this PDA and, at a minimum, the Shiloh Corridor Overlay District Zoning regulations.



6. **The Shiloh Drain.** Lot owners shall at all times conduct their use and activities in a manner that will preserve the integrity of the Shiloh Drain, including the prevention of any degradation of water quality, any reduction in the flow of water, and any damage to the bed or banks of the Shiloh Drain. The Lot owner shall not conduct or permit the conduct of the following activities:

- (a) The discharge of any liquid (except storm water runoff as directed by the details of an engineered storm drainage management plan), solid, or gas into the Shiloh Drain;
- (b) Planting or dropping any non-native fish, animal, reptile, or plant into the Shiloh Drain area;
- (c) The dumping of grass clippings or landscaping material or debris into the Shiloh Drain;
- (d) Any refuse dumping-encouraging activities;
- (e) The polluting of the water in the Shiloh Drain;
- (f) The discharge of any Hazardous Materials. The term "Hazardous Materials" shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials, and all other dangerous, toxic, or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law. The term "Environmental Law" shall mean all federal, state, county, city, local, and other statutes, laws, ordinances, and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

ARTICLE V - PARKS AND GREEN SPACES

St. Vincent Park and The Ann Ross Green Space shall be developed and landscaped to promote the character of a well-landscaped campus environment and to comply with the requirements of this PDA and the CCRs. St. Vincent Park and Ann Ross Green Space shall be private park spaces and shall not be dedicated as public parks. St. Vincent Park shall be developed and maintained as provided in the CCR's. The Ann Ross Green Space shall be developed and maintained by the Maintenance Director pursuant to an Agreement between SVH and the City of Billings Public Works Department. In the event that a portion of the Subdivision is used for Residential Purposes in the future, the park dedication requirements shall be waived pursuant to Section 23-1009 of the Billings, Montana City Code and shall be met through the provision of private park space, including St. Vincent Park and Ann Ross Park.

ARTICLE VI - SITE DEVELOPMENT, ARCHITECTURE AND DESIGN

A. **Development Design Standards.** These standards are provided to establish minimum guidelines for the development of facilities in The Subdivision, including site work, landscaping, buildings and accessory structures, parking areas, and signage. These guidelines will not define specific styles of architectural character for the various uses possible in The Subdivision. They are intended to establish a level of quality for the physical settings within The Subdivision and for the architectural design of the structures within those settings while allowing the flexibility to adjust and evolve with changes in technology and architectural evolution. These guidelines will specifically control the treatment of the public areas, streetscape, pedestrian areas, landscaping and signage to create a setting in which a wide variety of individual buildings of high quality can exist in harmony. They will provide developers with a guide which will define the aesthetic quality of The Subdivision's architecture yet allow flexibility for a unique but individual expression of the architectural requirements and image of each building development. These standards are in addition to the Shiloh Overlay District Zoning requirements.

1. **General Development.**

- (a) The Shiloh Corridor Overlay District Zoning Section 27-1401, et seq., Billings Montana Municipal Code, shall be the minimum standards for The Subdivision.
- (b) All site development shall be designed to encourage reciprocal access and parking between adjacent properties.
- (c) **Lot Size:** No Lot shall be smaller than one acre unless approved in writing by SVH and the Review Committee as defined herein.
- (d) All utilities shall be underground with any surface elements screened by structural or landforms and landscaping elements.
- (e) All antenna and satellite receiver dishes shall be hidden from street view and otherwise screened from view by structures or landscaping elements.

2. **Lot Coverage.** The total combined lot coverage for all structures on any lot shall not exceed sixty (60) percent of the total square footage of the lot. However, the Owner of a Lot may request a variance for Lot coverage up to eighty percent (80%) with the prior express written consent of SVH. Approval of any Lot coverage variance will be through the City Board of Adjustments.



3. Set-Back Buffers.

Front Yard Setback: Minimum of twenty-five (25) feet from the Lot Line

Side Yard Setback: Minimum of thirty (30) feet from the Property Line.

Rear Yard Setback: Minimum of thirty (30) feet from the Property Line.

The clear vision triangle must be maintained as required by the Billings, Montana City Code Section 27-604, 615, and 618.

Lots 4, 5, 6, 7, & 8, Block 2. There shall be a 15 foot landscaped area within a 20 foot setback along the western edge of the Subdivision for Lots 4 (except for the easement area), 5, 6, 7, & 8, Block 2, west of Marillac Street.

If two or more lots are developed as a single parcel as allowed herein, then the side yard setback requirements shall not apply to the lot lines within the interior of the developed parcel. All arterial setbacks as outlined in Billings, Montana City Code Section 27-602 must also be maintained. Setback areas not occupied by required buffer yards may be used for driveways and non-required parking. However, driveways and non-required parking may not exceed 20% of any setback area, based upon square feet. All developments are required to place landscaped buffer yards adjacent to and along the length of all public rights-of-way and private rights-of-way, excluding driveways. Rights-of-way include the following: ditches adjacent to streets, principal arterial streets, minor arterial streets, collector streets, and local streets. All landscaped buffer yards shall meet or exceed the Shiloh Corridor Overlay District Zoning requirements. A Lot owner may request a variance of up to minus 10% of the set-back requirements specified herein, with the prior express consent of the Review Committee. Approval of any set-back variance shall be by the City Board of Adjustments. In order for a variance to be granted, both the Review Committee and the City Board of Adjustments must give their written approval.

4. Green Belt Buffers Along Perimeter Arterials. All Lots adjoining King Avenue shall maintain a 32' wide landscaped green belt inside the Lot line adjacent to King Avenue (this includes the 12' easement area). The lot owners of all lots along the arterials and other roadways shall maintain



their yards as well as the landscape space in the right-of-way up to the back of the curb or edge of paving of the street.

B. Site Development Standards.

1. **Access.** Access to all Lots within The Subdivision shall be from internal public and private streets and by Multi-Use Paths. Shared accesses are encouraged.
2. **Parking.** Adequate off-street parking shall be provided by each Lot owner for customers, visitors, and employees. Reciprocal parking arrangements between lots and adjacent uses are encouraged. All off-street parking, access drives, and loading areas shall be paved and properly graded to ensure adequate drainage. All parking lots must be developed with proper integration of landscape and screening elements as provided herein and in the CCRs. The parking requirements for each Lot shall meet the standards of the City of Billings for each use proposed for a Lot, but shall not exceed 110% of the City's minimums. Each Lot owner shall install a permanent bike rack for each building constructed on a Lot.
3. **Off-Site Parking:**
 - (a) Parking requirements may be satisfied by on-site parking, approved street parking, and off-site parking facilities, or any combination thereof. All uses must provide the required number of parking spaces designated for the use as defined by the current City of Billings Site Development Ordinance, but not more than the maximum number set forth in this PDA (110% of the City minimums). Required parking for buildings or uses located in The Subdivision shall be located within six hundred (600) feet of the building or use, which distance shall be measured along a straight line between the two (2) nearest points of the lots containing the main use and the accessory parking use.
 - (b) Each off-street parking area shall be accessible by a public right-of-way and/or a private right-of-way and shall be owned or leased by the owner of the building, use, or activity served by such parking area. The term of any such lease shall be for the duration of the time that the building, use, or activity served by such parking area is in existence at such location. Each lease shall be subject to prior review by SVH and the City of Billings, and shall provided that if the right to use the designated off-site parking is for any reason terminated or forfeited prior to cessation of the use of the building, or cessation of the use or activity, SVH and the City shall be immediately advised. In case of such termination or forfeiture, the Lot Owners shall, within ninety (90) days of the termination or forfeiture, present the City and SVH with a plan to cure any parking



shortage within twelve (12) months. All requirements for setbacks, landscaping, signage, and lighting shall apply to off-site parking facilities.

(c) Handicapped accessibility requirements shall be satisfied on site.

4. **Shared Parking:**

(a) SVH and the City of Billings may authorize the joint use of off-street parking areas by nonresidential commercial business, medical-related, and other uses or activities, if the following conditions are met:

- i. No more than fifty percent (50%) of the off-street parking spaces required by this PDA for primarily "nighttime uses" may be provided or supplied by a use in the other category, or of the other type (provided for a nighttime use by daytime use, and vice versa) by means of a joint parking lease or agreement.
- ii. The building or use for which application is being made to utilize the off-street parking facilities of another building or use shall be located within six hundred (600) feet of such parking facilities, which distance shall be measured along a straight line between the two (2) nearest points of the lots containing the building or primary use and the lot containing the accessory parking use. Safe, lighted, and convenient pedestrian access shall connect the two (2) locations.
- iii. The applicant shall show that there is and will be no substantial conflict between the principal operating hours at the two (2) buildings or uses for which joint use of off-street parking facilities is proposed, and shall show that there are and will be no conflicting demands for such parking by the respective employees, customers and clients of the two (2) buildings or uses.
- iv. At the time a building permit is applied for, the applicant shall present to SVH and the City of Billings an appropriate and enforceable lease or reciprocal parking agreement, executed by the parties concerned, for their joint use of off-street parking facilities. The term of the lease or agreement shall be for the duration of the time that each use is in existence at its said location. Each such lease or agreement shall provide that all parties thereto shall notify SVH and the City of Billings prior to its termination or dissolution for any reason, and shall provide for developing additional required



parking at the share lot or at different sites for the users of the shared parking if changes occur to the ownership, types of uses, or parking needs, or if other circumstances require parking be provided at the same time and same location for the businesses served.

- v. No building permit shall be issued by the City of Billings until such lease or reciprocal parking agreement has first been reviewed by the City and found to meet the requirements of this PDA and to be binding and enforceable. A copy of each such agreement shall be filed with the respective building permit.
- vi. Written approval is obtained from SVH.

- (b) In case of termination or dissolution of any such lease or reciprocal parking agreement, the Lot Owner shall, within ninety (90) days of the termination or forfeiture, present the City and SVH with a plan to cure any parking shortage within twelve (12) months.

5. **Loading, Storage and Service Areas.** Loading and service areas shall not be permitted in the front of any Lot within The Subdivision and shall be screened from public view from all streets. Proper integration of landscape and screening elements must be provided between loading and service areas and any street or adjoining Lot. All loading and service areas shall be designed so that vehicles may load and unload without having to back up into any public right-of-way. All loading and service areas shall be carefully planned, positioned, and screened from off-site ground-level view and streets. On-site views of loading and service areas shall be minimized as much as possible. Screening elements shall be of landscape materials and may include a landscaped berm and/or similar materials as the building materials. Storage areas shall comply with all applicable building setbacks.
6. **Garbage Collection Areas.** Garbage Collection Areas shall adhere to the following standards:

- (a) All outdoor garbage containers and collection areas shall be screened visually with at least a six (6) foot tall enclosure so that outdoor garbage containers and collection areas are not visible from adjacent properties or common areas. No garbage containers or collection areas shall be located between a street and the front of a building, unless otherwise approved in writing by SVH;
- (b) Garbage containers and collection areas should be appropriately designed to contain all garbage generated on site and deposited



between collections. Deposited garbage should not be visible from outside the garbage container or collection area;

- (c) Refuse collection areas should be located upon the Lot to provide clear and convenient access to refuse collection vehicles and thereby minimize wear and tear to on-site and off-site developments.

7. **Accessory Structures, Fences, and Walls.** Construction shall be according to the following standards:

- (a) All fences shall comply with the City of Billings, Montana clear vision standards, in compliance with §27-615 of the Billings, Montana City Code;
- (b) No fence or wall shall exceed a height of six (6) feet, except at trash enclosures or as otherwise approved in writing by SVH. Any wall over 6 feet must have a City Building Permit;
- (c) No fence or wall shall be constructed between a street and the front of a building, unless otherwise approved in writing by SVH;
- (d) Accessory structures, fences, and walls shall be of a character, color, and material to match the adjacent buildings and shall coordinate with the overall architectural scheme of the adjacent buildings and shall be integrated into the landscape of the Lot;
- (e) Lot owners within The Subdivision are required to seek SVH's written approval prior to erecting, constructing, or requesting a permit from the City for accessory structures, fences, and walls as set forth herein;
- (f) Chain link fencing, or other wire-type fencing, shall not be permitted in The Subdivision.

8. **Snow Storage.** Areas adjacent to parking lots shall be provided for on-site snow storage. The snow storage area shall not be adjacent to the streets. Common storage areas between adjacent lots are encouraged. Landscaping shall be maintained if the storage is not done in the paved parking area. Minimum parking requirements shall not be reduced for snow storage.

9. **Site Lighting Standards.** All outdoor lighting must comply with the Shiloh Corridor Overlay District Zoning, Section 27-1401, et. seq., Billings, Montana Municipal Code.

10. **Exterior Mechanical and Electrical Equipment and Transformers.** All exterior mechanical and electrical equipment and transformers shall be

screened. Screening may consist of plantings, shrubbery, or durable enclosures. Building parapets shall be designed and built so as to screen roof-mounted mechanical and electrical equipment. If a building parapet does not adequately screen roof-mounted mechanical and electrical equipment, an unobtrusive screening devise shall be used. Such screening devise shall coordinate with the overall architectural scheme or the equipment shall be completely enclosed within the structure of the building. Lot owners within The Subdivision are required to seek SVH's written approval prior to erecting or constructing screening devises as set forth herein.

11. **Utilities.** All exterior utilities, including but not limited to, drainage systems, sewers, gas lines, water lines, electrical, telephone, and communication wires and equipment shall be installed and maintained underground. Lot owners within The Subdivision are not required to seek SVH's written approval prior to installing utilities as set forth herein.

C. **Landscape Design Standards.** Every Lot shall be developed in accordance with the Shiloh Corridor Overlay District Zoning, Section 27-1400, et. seq., Billings, Montana Municipal Code, even if a Lot is more than 500 feet from the centerline of Shiloh Road.

1. **Waiver or Variance (Modification) of Minimum Setbacks.** The minimum setbacks prescribed in A.3 above may be waived or modified after review of the design for the development of the lot or lots. Any Waiver or Variance must be approved, in writing, by the Review Committee before application may be made to the City Board of Adjustments. Any Waiver or Variance approved by the Review Committee and the City Board of Adjustments must be submitted to the City along with any application for a Building Permit. The criteria for waiver, to be weighed and considered are set forth below. Not all of the following criteria must be satisfied, in the discretion of the Review Committee:

- (a) The eight (8) foot utility easement inside the street-side Lot line shall be maintained clear without overhangs, projections, trees, signs, or other improvements obstructing access to it or placed in it;
- (b) The design concept for development of a Lot or Lots is master planned for a streetscape urban style with building facades located close to the streets and pedestrian ways;
- (c) Landscaping required for buffer yards is located elsewhere upon the Lots);
- (d) Pedestrian circulation and access is maintained to interconnect to adjacent properties;



- (e) The sightline to the fronts of existing adjacent buildings is not obstructed;
- (f) A written approval for waiver is issued by SVH, which may be granted or withheld in the sole and exclusive discretion of SVH;
- (g) Written approval from adjacent lot owners or users.
- (h) A demonstration of a hardship.

2. **Irrigation.** All landscaping must be irrigated with an underground sprinkler system, designed and maintained to provide sufficient water for landscaping growth. Water conservation systems are encouraged.
3. **Loading and Service Areas.** Loading and service areas shall be enclosed either with solid screen walls not to exceed six (6) feet, or landscaping elements planted in such a manner to create a visually opaque screen when mature. The plant material screen must develop 75% of its maturity within three (3) years from the time of planting.
4. **Financial Responsibility.** The owner or lessee of any Lot shall have sole financial responsibility for the installation of all landscape improvements within the public right-of-way adjacent to their Lot. The landscaping within the remaining front yard will be installed by each owner or lessee so as to blend with the landscaping installed in the right-of-way.
5. **Damage or Demolition.** Any demolition in the right-of-way of the landscape and irrigation system installed by SVH or The Maintenance Director at vehicular access points or by other construction-related disturbances shall be repaired and restored by the Lot owner as part of the construction efforts in the development of the Lot. The Lot owner shall maintain water flow within any common area irrigation system during construction and re-establish the existing plantings, grading and irrigation system altered during the construction process. Any other existing on-site landscaping disturbed or demolished during repairs, additions, remodels, or other work to a building or site or by disasters must be restored, replanted, or revised to a condition equal to or better than the quality that existed prior to the work or disaster. Like-size trees and shrubs must be used for replacement or existing trees and shrubs shall be relocated.
6. **Landscaping.** Lots shall be landscaped and maintained in a neat, clean, orderly, and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings. Required landscaped areas shall be provided with a permanent watering or sprinkling system which shall consist of underground piped water lines terminating in an appropriate number of



sprinklers to insure a sufficient amount of water for plants within the landscaped area.

D. Flexible Design and Development.

1. **Determining Setbacks.** The Street side of a Lot shall be deemed to be the Front for the purposes of setbacks. If a Lot fronts two streets, the Lot Owner shall select one of the streets as the front for the purpose of determining setbacks.
2. **Building on Lot Lines.** The Review Committee, in its sole and exclusive discretion, may allow construction of buildings on Lot lines. In such event, the affected Lots must be owned by the same person or entity, and may not be separately conveyed so long as the building remains. In the event that the Review Committee allows construction over a Lot line, no setbacks shall apply to the covered Lot line, and the combined Lots shall be treated as one (1) Lot. Upon the approval of the Review Committee, Restrictive Covenants shall be recorded against the affected Lots to provide that they may not be mortgaged or conveyed separately.
3. **Reciprocal Parking and Landscaping Agreements.** The owner of any Lot in The Subdivision may enter into a reciprocal parking and/or landscaping agreement with the owner of any other Lot in The Subdivision. The purpose of any such agreement shall be to ensure that the two Lots combined meet all of the landscaping and parking requirements specified herein, and in the Shiloh Overlay District Zoning Regulations. With respect to parking, no more than fifty (50) percent of the required parking for primarily "night time uses" may be provided or supplied off-site. The off-site parking must be within six hundred (600) feet as provided herein. With respect to reciprocal landscaping, the affected Lots must be contiguous and must be developed to present a uniform appearance.
4. **Multi-Use Path Easements.** SVH hereby reserves an easement for the Multi-Use Paths along the Lot lines of The Subdivision as shown on the Plat, Exhibit "A" hereto. Multi-Use Paths will be developed over time as The Subdivision develops in order to provide pedestrian and bike access throughout The Subdivision and to St. Vincent Park. Each Lot owner shall be responsible for building the ten (10) foot wide Multi-Use Paths (in the Easement Area reflected on the plat) in the Easement Area appurtenant to each owner's Lot as shown on the Plat, Exhibit "A" at the time of initial construction. The Multi-Use Paths shall be maintained as Common Areas by the Maintenance Director. No building shall be constructed within 20 feet of the Multi-Use Easement. Provided, however, that the Multi-Use Easement may be moved in order to facilitate the development of a Lot or Lots, with the express written consent of SVH, which consent may be granted or withheld in the sole discretion of SVH. SVH hereby grants a



non-exclusive easement for ingress and egress for all Lot Owners, tenants, contractors, employees, agents, patients, customers, licensees, invitees, successors and assigns for pedestrian and bicycle traffic over the Multi-Use Paths within The Subdivision.

5. **Campus Development.** Lots may be developed as a "Campus" with 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.

ARTICLE VII - SIGNS

- A. **Signage.** Healthcare Purposes signs, as defined by Section 27-706(d) (2) Billings Montana Municipal Code, shall be allowed in The Subdivision as though The Subdivision were a part of the Medical Corridor. All signs, other than Healthcare Purposes signs, shall comply with the Shiloh Corridor Overlay District Zoning, Section 27-1401, et. seq., Billings, Montana Municipal Code.
- B. **Hospitals.** Nothing in this PDA shall prohibit or restrict a hospital or clinic from using and/or displaying the types of signage required and/or mandated by any state or federal law or regulation with respect to any Hospital Emergency Room and/or Trauma Center.
- C. **Sign Easement Areas.** SVH reserves an easement for Healthcare Purposes Signs, Commercial Signs, Way Finding Signs, and Green Space Signs in the Sign Easement Areas shown on the Plat, Exhibit "A" hereto. SVH reserves an easement, including ingress and egress, to access, service, install, repair, replace, and maintain signs within the Sign Easement Areas shown on the Plat and Exhibit B hereto. Only Healthcare Purposes Signs, Commercial Signs, Way Finding Signs, and Green Space Signs may be placed in the Sign Easement Areas identified Exhibit B hereto. SVH may allow or disallow any sign within the Sign Easement Areas in its sole and exclusive discretion. All allowed signs must comply with the Unified Sign Criteria specified in the CCRs for the Subdivision. All Healthcare Purposes Signs must comply with Section 27-706(d) of the Billings Montana Municipal Code. All Commercial Signs must comply with the Shiloh Corridor Overlay District Zoning, Section 27-1401, et seq. Billings Montana Municipal Code. The Healthcare Purposes Signs, Commercial Signs, Way Finding Signs and Green Space Signs in the Sign Easement Areas may be Off Premises Signs. These signs may also provide public service information and announcements related to the community, The Subdivision, and the medical services community, and giving identity to The Subdivision in general.
- D. **Maintenance of Signs.**
 1. Any sign that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the Lot on which



the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit and this PDA.

2. Any damaged sign base shall be repaired within thirty (30) days.
3. Any signage which has been damaged to such extent that it may pose a hazard to a passerby shall be repaired or removed immediately.

E. **Nonconforming Signs.** Nonconforming signs are not permitted. If any sign is erected or installed without proper permits or approvals, it shall be considered nonconforming and shall be removed. All signs which do not conform to these Subdivision sign standards are nonconforming and shall be removed or changed to conform to these Subdivision standards. Any sign not removed within thirty (30) days of notice of nonconformance may be removed by the Maintenance Director and the costs for removal shall be the responsibility of the owner of the sign.

F. **Landscaping for Monument Signs.** All monument signs shall be located in a landscaped area. Landscaping should be appropriately sited to ensure that signs are not blocked or obscured by trees or bushes.

G. **Sign Illumination.** Externally illuminated signs shall have low intensity lighting, confined to the sign and positioned and shielded to minimize impacts to the surrounding area(s). Internally illuminated signs shall have low intensity lighting.

H. **Sign Approval.** All signage in The Subdivision is subject to approval by the Review Committee. The Review Committee, in its sole and exclusive discretion, may further limit or condition the use of any sign in The Subdivision that it deems to be inconsistent with the objectives for The Subdivision set forth in this PDA. All signs shall require a Sign Permit from the City, except those signs exempt from City permits under Section 27-701, et. seq. of the Billings, Montana City Code.

ARTICLE VIII - ENFORCEMENT

A. **Right to Enforce.** The terms of this Agreement shall be enforced as provided for in Article 27-1100 of the City Code of Billings, Montana.

B. **Enforcement.** The terms of this Agreement shall run with the land and be binding upon and inure to the benefit of the parties hereto and the Lot owners. The terms of this Agreement may be enforced by the parties hereto, as well as Lot owners.

C. **Abatement and Suit.** If, at any time, SVH or any Lot owner within The Subdivision objects ("the objecting party") to any other Lot owner's performance of its obligations under this Agreement ("the defaulting party"), the objecting party shall have all of its rights and remedies at law or in equity, by statute or

otherwise. All such rights and remedies shall be cumulative. The objecting party shall, in addition to and not in contravention of all other rights and remedies it may have as provided hereinabove, have the right to provide the defaulting party with thirty (30) days' written notice of its objection, specifying the particulars of its objection. If, within thirty (30) days of receipt of such notice, the defaulting party fails or refuses to take action to remedy its performance under this Agreement, the objecting party may perform whatever maintenance, repair, or operation, or other curative action, as needed to remedy the default. The defaulting party shall pay upon demand to the objecting party the costs of such maintenance, repair, or operation, or other curative action, together with interest allowed by law, from the date of disbursement of such costs until paid in full. The objecting party is not responsible for the continued maintenance, repair, or operation of the defaulting party's obligations under this Agreement. The objecting party may also prosecute a proceeding at law or in equity against the defaulting party to enjoin a violation of the terms of this Agreement, to cause said violation to be remedied, or to recover damages for said violation.

ARTICLE IX - GENERAL PROVISIONS

- A. **Appointment of Agent.** SVH may, in its sole and exclusive discretion, hire, appoint, or designate an individual or entity to fulfill the duties and obligations of SVH hereunder. Notice of appointment shall be made in writing and shall be recorded in the real estate records of Yellowstone County, Montana, and shall contain the legal description for Subdivision, or any portion thereof, affected by the appointment. Notice of appointment shall also be provided to the City at the address specified herein. Once the notice of appointment has been recorded in the real estate records of Yellowstone County, Montana, SVH shall have no further responsibility or liability for the future performance or non-performance of this Agreement, and the City and all Lot owners shall look exclusively to the appointed person or entity. SVH may, in its sole and exclusive discretion, withdraw an appointment or make an additional appointment by simply recording such notice in the real estate records of Yellowstone County, Montana, and providing a copy of such notice to the City.
- B. **Neutral Interpretation.** SVH and the City hereby stipulate and agree that this PDA shall be construed using neutral interpretation, and that this Agreement shall not be construed in favor of any party or against any party.
- C. **The PDA Governs.** In the event that there is any conflict between this Planned Development Agreement and other zoning regulations and/or ordinances, the terms and conditions of this Planned Development Agreement shall govern.
- D. **Amendment, Modification, and Termination.** This Agreement may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of SVH and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the Municipal Code of Billings, Montana.



E. **Notices.** All notices or demands required to be given hereunder shall be in writing and shall be served upon the other party either personally or by registered or certified mail. Service by registered or certified mail shall be conclusively deemed made three (3) days after deposit thereof in the United States Mail, postage prepaid, addressed to the party to whom service is to be given, as hereinafter provided, and the issuance of the registry or certification receipt therefore. All notices or demands to SVH or the City shall be given at the following addresses or such other addresses as SVH or the City may from time to time designate by written notice given to the other party as hereinabove required.

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

If to the City:

City of Billings
Attn: City Clerk
P.O. Box 1178
Billings, Montana 59103

F. **Waiver.** Failure of one party to notify the other party of a default in the manner provided in this Agreement shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

G. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

H. **Limitation on Enforcement.** This Agreement is for the benefit of SVH, the City, the Lot owners within The Subdivision, and their heirs, devisees, assigns, and trustees, and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

I. **Force Majeure.** Any prevention, delay or stoppage due to strikes, lock outs, labor disputes, Acts of God, inability to obtain labor or materials or reasonable substitute therefor, governmental restrictions, terrorist acts, governmental regulations, inclement weather, governmental controls, enemy or hostile government action, civil commotion, fire or other casualty and other causes



beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage. All parties shall use reasonable efforts to overcome whatever may be impeding their performance of any obligation hereunder.

- J. **Severability.** Should any provision of this Agreement be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this Agreement, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.
- K. **No Partnership.** The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.
- L. **Captions and Headings.** The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Agreement.
- M. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.
- N. **Construction.** In construing the provisions of this Agreement, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.
- O. **Joint and Several Obligations.** In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.
- P. **Conflict.** It is the intent of the parties to implement the Shiloh Overlay Zoning District Regulations throughout The Subdivision. In the event of any conflict between the express terms of this PDA and the Shiloh Overlay Zoning District Regulations, the express terms and conditions of the PDA shall govern.
- Q. **Run with the Land.** The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of SVH, the City, the Lot owners, and their heirs, successors, and assigns.
- R. **Contact Person.** The Declarant shall designate a contact person who may be contacted with respect to any questions, comments, or concerns. The contact person shall be the Executive Director of St. Vincent Healthcare Foundation, Inc., or his/her designee. At the time of recording, the contact person shall be



Dave Irion, Executive Director, St. Vincent Healthcare Foundation, Inc., P.O. Box 35200, Billings, MT 59107-5200 (telephone (406) 237-3601).

ARTICLE X - NOTICE.

THIS AGREEMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY WITHIN THE ST. VINCENT HEALTHCARE SUBDIVISION, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE ST. VINCENT HEALTHCARE SUBDIVISION, AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THIS AGREEMENT BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

**SISTERS OF CHARITY OF LEAVENWORTH
HEALTH CARE SYSTEM, INC.**

By:

Steve Chyung

Title: Senior Vice President – Stewardship and Transformation, Supply Chain and Real Estate

By:

Steve M Loveless

Title: President/CEO of St. Vincent Healthcare, Attorney-in-Fact

AG

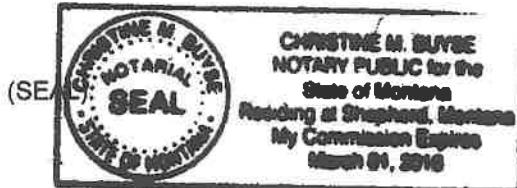
3732703

02/27/2015 04:20 PM Pages: 27 of 31 Fees: 217.00
Jeff Martin Clerk & Recorder, Yellowstone MT

STATE OF MONTANA)
:ss
County of Yellowstone)

On this 12th day of FEBRUARY, 2014, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Steve M Loveless, known to me to be the President/CEO for ST. VINCENT HEALTHCARE and agent of The Sisters of Charity of Leavenworth Health System, Inc., and acknowledged to me that he executed the within instrument on behalf of said corporation, as Attorney-in-Fact for the SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC., having first been authorized so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Christine M. Buysse
Christine M. Buysse
Printed Name
Notary Public, State of Montana
Residing at Shepherd, MT
My Commission Expires: 3/1/2016

CITY OF BILLINGS, a municipality

AG

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02/27/2015 04:20 PM Pages: 28 of 31 Fees: 217.00
Jeff Martin Clerk & Recorder, Yellowstone MT

By:

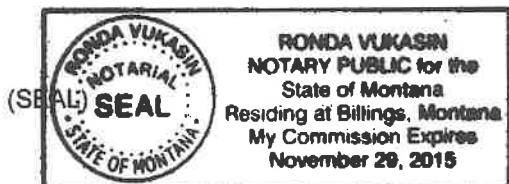
Nicole Cromwell

Nicole Cromwell, AICP,
Title: Zoning Coordinator

STATE OF MONTANA)
:ss
County of Yellowstone)

On this 25th day of February, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Nicole Cromwell, AICP, Zoning Coordinator for the CITY OF BILLINGS, and acknowledged to me that she executed the within instrument on behalf of said municipality, having first been authorized so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Ronda Vukasin

Ronda Vukasin
Printed Name
Notary Public, State of Montana
Residing at Yellowstone, Mt
My Commission Expires: 11/29/15

4843-1983-9265, v. 1

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Jeff Martin Clerk & Recorder, Yellowstone MT

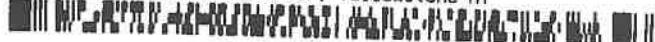
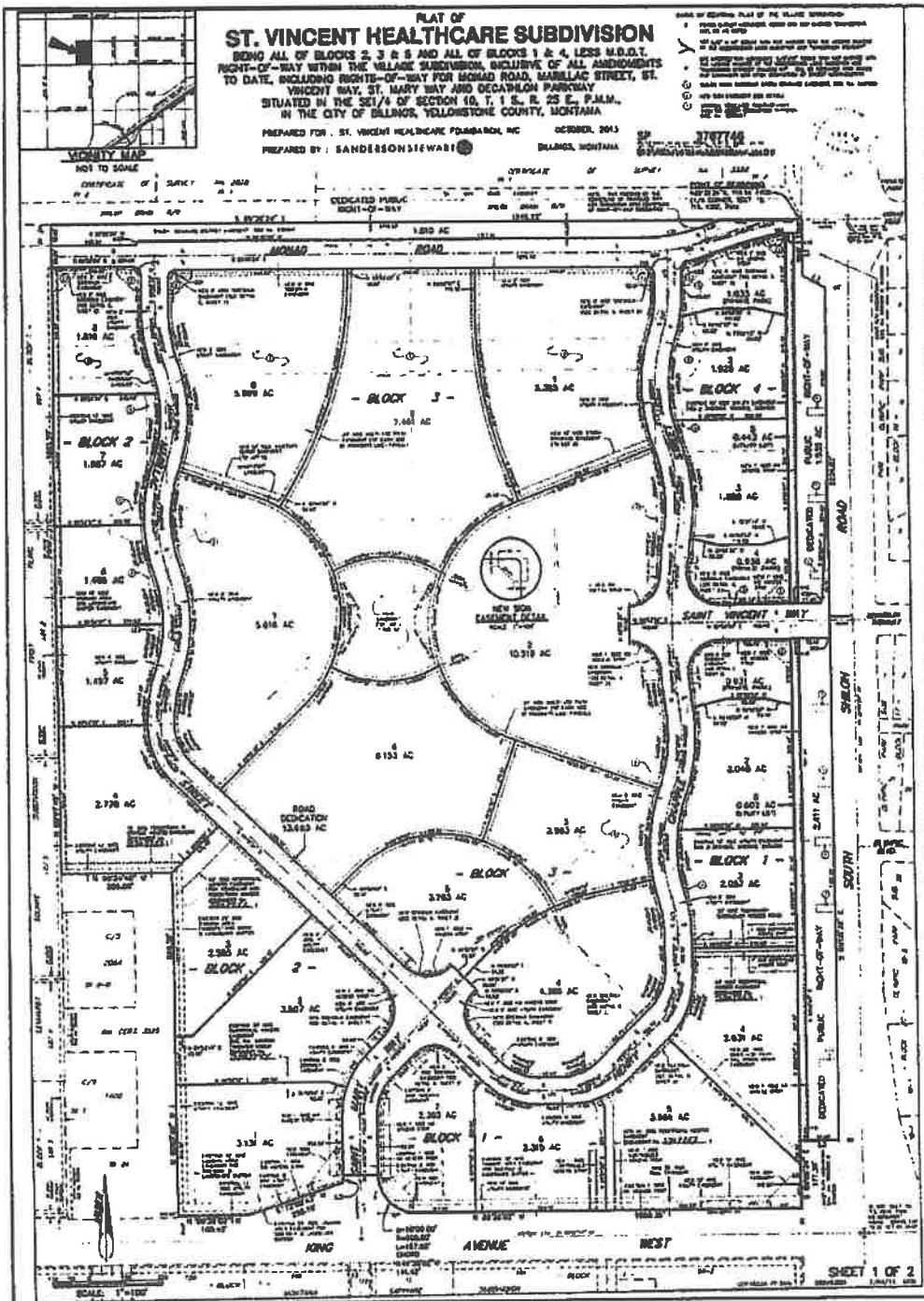


EXHIBIT 'A' - RECORDED PLAT

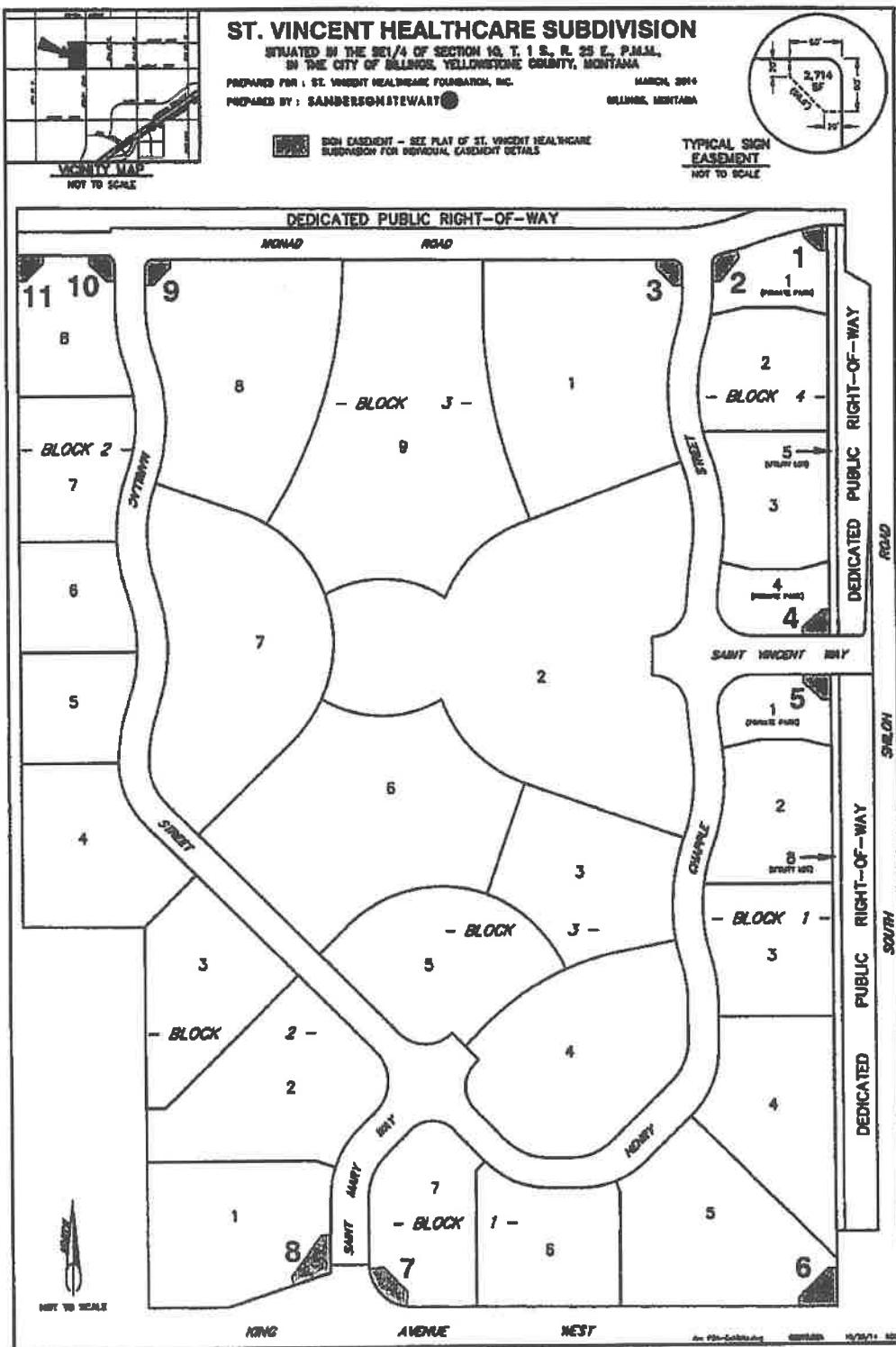


AG

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Jeff Martin Clerk & Recorder, Yellowstone MT

EXHIBIT 'B' - SIGN EXHIBIT



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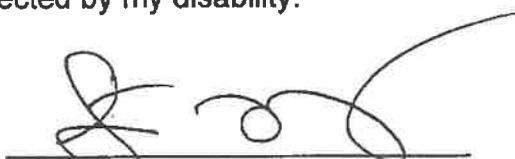
02/27/2015 04:20 PM Pages: 31 of 31 Fees: 217.00
Jeff Martin Clerk & Recorder, Yellowstone MT

POWER OF ATTORNEY

I, the undersigned Steve Chyung, Senior Vice President-Stewardship and Transformation, Supply Chain and Real Estate of the Sisters of Charity of Leavenworth Health System, Inc., a Kansas not-for-profit corporation, hereby makes, constitutes, and appoints **STEVE M LOVELESS**, in his capacity as President of St. Vincent Healthcare, my lawful attorney-in-fact for me and in my name and on my behalf to do, execute, perform, accept, and deliver for me as the Senior Vice President-Stewardship and Transformation, Supply Chain and Real Estate of the Sisters of Charity of Leavenworth Health System, Inc., the following documents related to St. Vincent Healthcare Subdivision, located in the City of Billings, Yellowstone County, Montana:

- Consent to Minor Modification of Planned Development Agreement for St. Vincent Healthcare Subdivision.

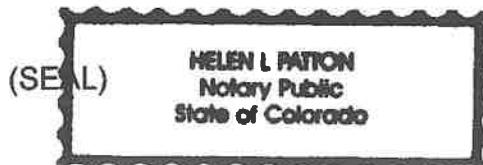
This Power of Attorney shall be effective as of the date hereof and shall continue in full force until terminated and shall not be effected by my disability.

DATED: October 28, 2014.
Steve Chyung

STATE OF COLORADO)
: ss
County of Denver)

On this 28th day of October, 2014, before me, the undersigned, a Notary Public for the State of Colorado, personally appeared Steve Chyung, known to me to be the Senior Vice President-Stewardship and Transformation, Supply Chain and Real Estate of the Sisters of Charity of Leavenworth Health System, Inc., a Kansas not-for-profit corporation, the corporation executing the within instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, having first been authorized so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.


(signature)Print Name: Helen L. Patton

Notary Public for the State of Colorado

Residing at 2400 17th Ave, Longmont 80503My Commission Expires: 9/10/2017

**TIEMEIER &
STICH, P.C.**

1000 East 16th Avenue
Denver, CO 80218
Max S. Stich, Esq.
Direct Dial: 720-473-7524
Email: mstich@tlawpc.com

MEMORANDUM

To: Nicole Cromwell
Zoning Coordinator
2825 3rd Ave. North, 4th Floor
Billings, Montana 57101
Email: CromwellN@billingsmt.gov

From: Max S. Stich, Esq.
Tiemeier & Stich P.C.
1000 East 16th Avenue
Denver, Colorado 80218

cc: John Halverson
Sanderson Stewart
Email: jhalverson@sandersonstewart.com

Kelly Adams, Esq.
Intermountain Health
Email: Kelly.Adams@imail.org

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

June 29, 2023

Page 2 of 10

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

June 29, 2023

Page **10** of **10**

Exhibit 4

Amended Plat Comparison

See attached

St Vincent Healthcare Subdivision St Vincent Healthcare Subdivision 2nd Filing

Planned Development Agreement (PDA) Zone Change Amendment modifying certain Land
Uses, and updating certain development standards to comply with updated and revised
Guidance and Code Documents

Statement of Proposal

Sisters of Charity Leavenworth, in association with St. Vincent Healthcare, as representative of the owners of St Vincent Healthcare Subdivision, are seeking a PDA Zone Change Amendment for the entire St Vincent Healthcare Subdivision, generally located at the northeast corner of King Ave. and Shiloh Rd. The property is approximately 104 acres.

Responses to Questions in Zoning Application

- a. In what ways is your proposal consistent with the statutory criteria, guidelines, and policies of the adopted Growth Policy?**

The Growth Policy states:

In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe and provide a choice of housing and transportation options.

The PDA amendment replaces references to the Shiloh Corridor Overlay with references to the new zoning code, which was written and adopted to be consistent with this growth policy.

The PDA amendment also introduces language stipulating that residential development within the subdivision adhere to the standards of the city's NX2 (Mixed Residential 2) zone, consistent with the character of existing residential development surrounding the St. Vincent Healthcare Subdivision.

Essential Investments (Relating Public and Private Expenditures to Public Values)

- *Neighborhoods that are safe and attractive and provide essential services are much desired.***

Yes. The language of the PDA amendment replaces references to the Shiloh Corridor Overlay with references to the recently-adopted zoning code which will ensure that development and landscaping is attractive, safe, and consistent with the latest code. The

proposed amendment also specifies that residential development within the subdivision will be consistent with the city's NX2 zone, providing the opportunity for further residential development near commercial and other services in the King and Shiloh area.

- ***Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors***

The St Vincent Healthcare Subdivision has developed with high standards for its landscape areas. Updating its references to the Shiloh Corridor Overlay to refer to the updated code for the CMU2 and NX2 zones will ensure that future development is consistent with the high standards set forth in the updated zoning code, that its landscape areas continue to be visually appealing, and that the PDA text is easy to interpret.

Community Fabric (Attractive, Aesthetically Pleasing, Uniquely Billings)

- ***Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.***

Yes. The St Vincent Healthcare Subdivision includes several parks including an approximately 2.7-acre park at its center, and the Ann Ross Green Space, featuring a multi-use trail running along the Shiloh Rd. right of way.

- ***Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.***

Yes. All rights of way within the subdivision have been, and will be developed in accordance with Billings landscaping code, and Billings subdivision regulations.

Strong Neighborhoods (Livable, Safe, Social and Resilient Neighborhoods)

- ***Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels.***

The residential uses allowed on lots 1-8 of Block 2 will develop in conformance with the standards of the CMU2 and NX2 zones, thereby providing the kind of housing that is attainable for Billings' workforce.

- ***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.***

The St Vincent Healthcare Subdivision provides many of the destinations which this statement desires such as Rocky Vista Medical School, and several other employment

and commercial destinations. The residential neighborhoods surrounding the subdivision and the residential uses allowed in the subdivision also contribute to a walkable neighborhood character.

Home Base (healthy, safe and diverse housing options)

- ***A mix of housing types that meet the needs of a diverse population is important.***

By including NX2 and CMU2 zoning standards on Lots 1-8 of Block 2, this amendment allows a range of residential structure types from 2-8-plex residences. The CMU2 zone allows for mixed use structures with commercial on the ground floor and residential uses above. Introducing such uses into the subdivision will contribute to the vitality of the neighborhood and provide housing types which are more naturally affordable to more diverse populations.

- ***Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.***

This PDA amendment updates the plat exhibit to the most recently filed plat, which includes numerous internal multi-use path easements. The subdivision's streets will also be developed to city standards to include boulevard sidewalks throughout.

Mobility and Access (transportation choices in places where goods and services are accessible to all)

- ***Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses, and visitors.***

The subdivision is served by a fixed MET transit route which will provide transportation choice for future residents in the subdivision in accessing their daily transportation needs.

Prosperity (Promoting Equal Opportunity and Economic Advancement)

- ***A diversity of available jobs can ensure a strong Billings economy.***

The St Vincent Healthcare Subdivision continues to host a broad diversity of employment opportunities from medical professional services like dentistry, to banking, to lower-skill forms of employment like retail at REI. The subdivision also contributes to the local employee pool by hosting Rocky Vista Medical School. The proposed amendments will make the PDA easier to interpret and promote further commercial development that will contribute to the diversity of employment opportunities in Billings.

The 10 Zone Change Criteria:

- ***Whether the new zoning is designed in accordance with the Growth Policy.***

Yes, the amendments to the Planned Development Agreement of St Vincent Healthcare Subdivision consistent with the Growth Policy statements and guidelines on previous pages.

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

Yes, The subdivision is serviced by City fire and police services and, if re-developed, will be designed in accordance with City of Billings rules and regulations thus assuring protection from common dangers.

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

Yes. Any uses within the St Vincent Healthcare Subdivision are subject to City of Billings building codes, and the utility and surface infrastructure will be constructed in accordance with City of Billings rules and regulations assuring compliance to this criterion.

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

Yes, the proposed amendments to the PDA will simplify and bring the PDA more in-line with the City of Billings zoning code.

- ***Whether the new zoning will provide adequate light and air.***

Yes. All current and future development in the St Vincent Healthcare Subdivision is constructed in accordance with City of Billings rules and regulations and therefore meets this requirement.

- ***Whether the new zoning will affect motorized and nonmotorized transportation.***

Yes. To the extent that the proposed amendments encourage further development in the subdivision, they will promote development in an area of town that hosts a diversity of land uses within close proximity of one another. This will encourage higher rates of non-motorized transportation.

- **Whether the new zoning will promote compatible urban growth.**

Yes, the proposed amendments to the PDA will bring the text of the PDA more in-line with current zoning regulations. The amendments also call for development consistent with CMU2 and NX2 zones on Block 2 Lots 1-8, which is compatible with existing surrounding uses.

- **Whether the new zoning considers the character of the district and the peculiar suitability of the property for the particular use.**

Yes. The development envisioned in the PDA and encouraged through the proposed amendments is consistent with both residential and commercial uses in the area surrounding the intersection of King Ave. and Shiloh Rd.

- **Whether the new zoning will conserve the value of buildings.**

Yes. The proposed amendments to the PDA will continue the character of development that has already occurred within the subdivision and will facilitate further development under the updated zoning code through compatible uses that will conserve the value of existing buildings.

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

Yes. The proposed amendments will streamline the regulations that apply within the St Vincent Healthcare Subdivision, thus encouraging development on the currently vacant lots within the subdivision. Further development will contribute to the node of development occurring around the intersection of Shiloh Road, and King Avenue.

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 PUD

Proposed Zoning: PUD

TAX ID# Exhibit A CITY ELECTION WARD 5

Legal Description of Property: Exhibit B

Address or General Location (If unknown, contact City Engineering): 715 HENRY CHAPPLE ST

Size of Parcel (Area & Dimensions): **Combined Area: 91.34 Acres Dims:** Approx 2,600' x 1,900'

Present Land-Use: Commercial, Office, Residential

Proposed Land-Use: Commercial, Office, Residential

Covenants or Deed Restrictions on Property: Yes X No _____

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): Sisters of Charity of Leavenworth

(Recorded Owner) Attn Lease Administration, 500 Eldorado Blvd Ste 4300, Broomfield, CO 80021

(Address) 303-813-5454 Kelly Adams <Kelly.Adams@mail.org

(Phone Number) (email)

Agent(s): John Halverson

(Name) 1300 N Transtech Way, Billings, MT 59102

(Address) 406-869-3311 jhalverson@sandersonstewart.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: Mark Korth Date: 6/28/2023

(Recorded Owner)

Mark Korth, President

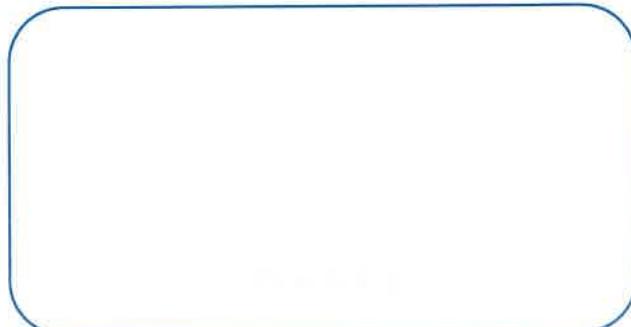


Exhibit A

Block	Lot	TaxID	Acres
1	1	A31914	0.93
1	2A	A31915	1
1	3A-1	A31917	1.99
1	4A	A31917A	1.12
1	4B	A31918	2.83
1	5A	A31919	3.59
1	6A1	A31920	1.32
1	6A2	A31920A	1.41
1	6A3	A31920B	1.89
2	1	A37671	1.17
2	2	A37672	1.05
2	3	A37673	1
2	4	A37674	1
2	5	A37675	1
2	6	A37676	1
2	7	A37677	1
2	8	A37678	2.23
2	9	A37679	2.54
2	10	A37680	2.04
2	11	A37681	1.22
2	12	A37682	1.27
2	2A	A31924	2.11
3	1A	A31930	12.88
3	1	A37683	1.76
3	2	A31931	5.72
3	3	A37684	4.72
3	4	A37685	2.54
3	5	A37686	2.69
3	6	A37687	2.61
3	7	A37688	2.8
3	8	A37689	2.52
3	9	A37690	2.49
3	10	A37691	2.62
3	11	A37692	2.09
3	12	A37693	5.55
4	1	A31945	0.57
4	2	A37694	1.05
4	3	A37695	1.33
4	2A2	A31946	0.95
4	3A	A35421M	0.8
4	4	A35422	0.94

Total	91.34
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Exhibit B

Parcel Description:

Lot 1, Block 1 & Lot 4, Block 4 of St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on June 12, 2014, under Document No. 3707746;

and

Lots 2A, Block 1 of Amended Plat of Lots 2 & 3, Block 1, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on March 23, 2017, under Document No. 3808971;

and

Lots 2A, Block 2 of Amended Plat of Lots 1 & 2, Block 2, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on April 6, 2018, under Document No. 3845745;

and

Lots 3A-1, 4A, 4B, & 5A, Block 1 of Amended Plat of Lots 3A, 4, 5, 6, & 7, Block 1, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on August 2, 2019, under Document No. 3890847;

and

Lot 3A, Block 4 of Amended Plat of Lots 2 & 3, Block 4, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on November 24, 2020, under Document No. 3948936;

and

Lot 1A, Block 3 of Amended Plat of Lots 1 & 9, Block 3, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on September 22, 2021, under Document No. 3990958;

and

Lots 2A-2, Block 4 of Amended Plat of Lot 2A of Amended Plat of Lots 2 & 3, Block 4, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on May 18, 2022, under Document No. 4017536;

and

Lots 6A-1, 6A-2, & 6A-3, Block 1 of Amended Plat of Lot 6A of Amended Plat of Lots 3A, 4, 5, 6, & 7, Block 1, St. Vincent Healthcare Subdivision, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on May 18, 2022, under Document No. 4017538;

Exhibit B cont'd

and

Lots 1-12 of Block 2, Lots 1-12 of Block 3, and Lots 1-3 of Block 4 in St. Vincent Healthcare Subdivision, Second Filing, according to the official plat on file in the office of the clerk & recorder of Yellowstone County, Montana, filed on December 21, 2022, under Document No. 4037363;

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: [PUD](#)
2. Written description of the Zone Change Plan including existing and proposed new zoning:

[This Zone Change includes minor changes to the subdivision's PDA to update, simplify, and make the PDA more consistent with the updated zoning code.](#)

3. Subject Property Map: please attach to this form [Exhibit A](#)
4. Legal Description of Property:

[Exhibit B](#)

5. Neighborhood Task Force Area: Yes // No . If Yes, Name of Task Force and mailing address of Chairperson:
[Steve Zeier, steve@trinityremt.com](#)
6. Roster of persons who attended the pre-application neighborhood meeting: please attach to this form [Exhibit C](#)
7. A copy of the meeting notice. please attach to this form [Exhibit D](#)
8. A brief synopsis of the meeting results including any written minutes or audio recording. please attach to this form [Exhibit E](#)
9. The undersigned affirm the following:
 - 1) The pre-application neighborhood meeting was held on the _____, day of _____, 20____.
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s): [Mark Korth, President](#) **Telephone:** [303-813-5454](#)

Attn: Lease Administration
Address: [500 Eldorado Blvd., Ste 4300](#) **Email:** [Kelly.Adams@imail.org](#)
[Broomfield, CO](#)

Document signed by:

Mark Korth

Agent (s): [John Halverson](#) **Telephone:** [406-869-3311](#)

Address: [1300 N Transtech Way, Billings, MT 59102](#) **Email:** [jhalverson@sandersonstewart.com](#)



EXHIBIT A

ESTABLISHED ZONING

WITHIN

ST. VINCENT HEALTHCARE SUBDIVISION

PREPARED FOR : SCL HEALTH-MONTANA

PREPARED BY : **SANDERSON STEWART**

BILLINGS, MONTANA

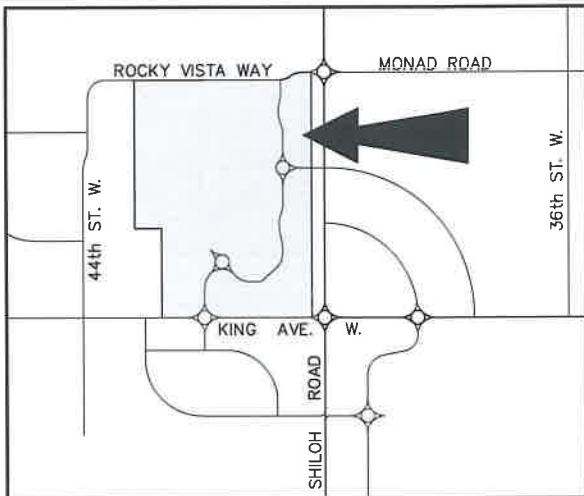
JUNE, 2023



250 0 250 500
SCALE: 1" = 500'

LEGEND

- CAMPUS & CMU2/NX2
- CAMPUS
- COMMERCIAL NEIGHBORHOOD



VICINITY MAP

NOT TO SCALE

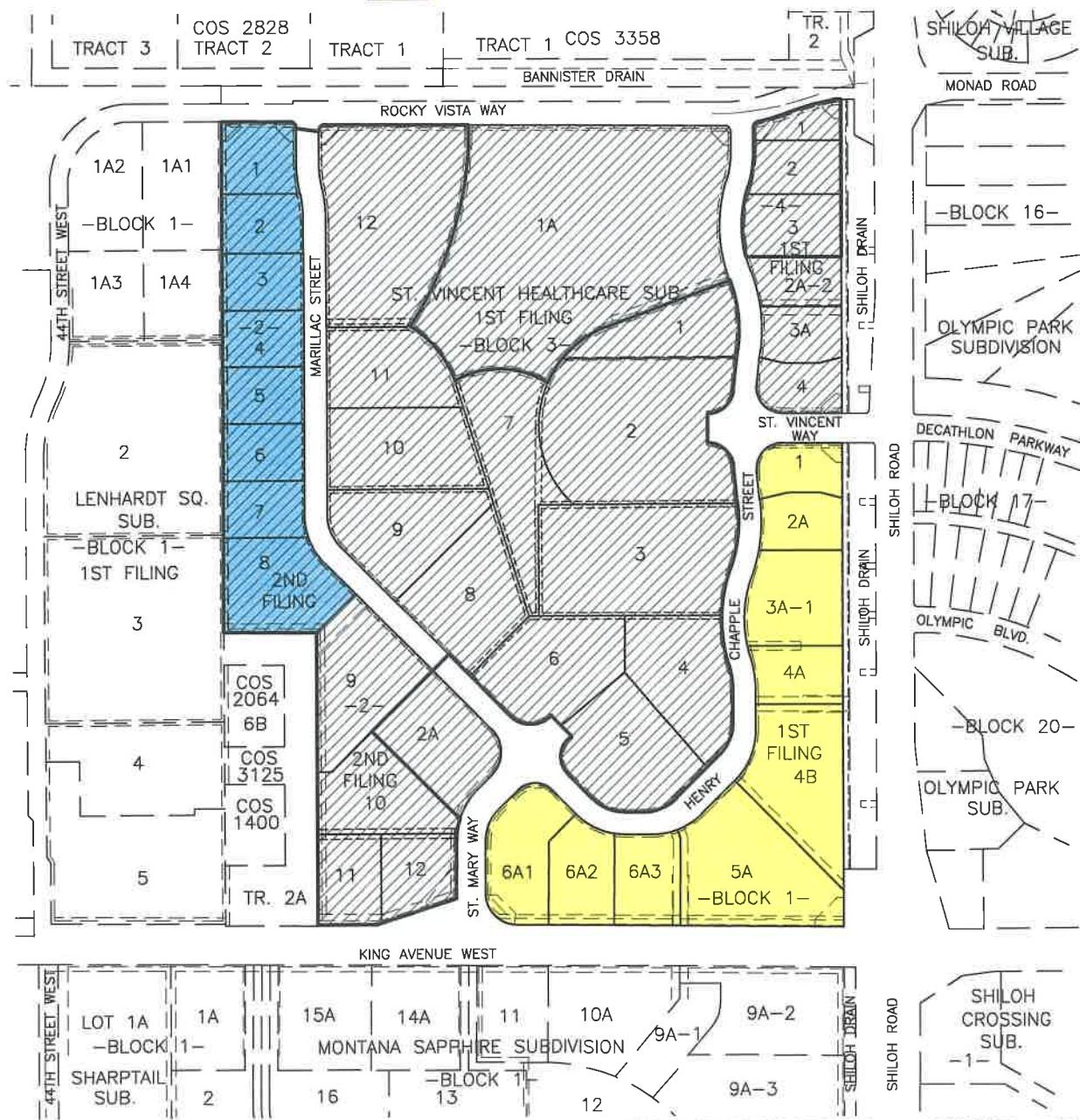


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Exhibit B

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PRE-CONSTRUCTION MEETING ATTENDANCE SIGN-IN SHEET

Date: 06/26/23

Project: St Vincent Healthcare Sub PDA friend

Meeting Location:

Date: 06/26/23

Project: St Vincent Healthcare Sub PDA friend

Meeting Location:

Name and Title:
(Please Print)

Representing:

Email Address

Name and Title: (Please Print)	Representing:	Phone Numbers	Email Address
		Office	Mobile
Terry Reis		406-591-7622	<u>trinot@gmail.com</u>
Gene Cukor		406-698-9346	
Jon Rehberg	Lehman & Sorenson	406-699-7735	<u>jon@lehman-sorenson.com</u>

Name and Title: (Please Print)	Representing:	Phone Numbers	Email Address
Office	Mobile		
Terry Reis	406-591-7622	406-591-7622	<u>trinot@gmail.com</u>
Gene Cukor	406-698-9346		
Jon Rehberg	406-699-7735		<u>jonchesskywriting.com</u>

June 15, 2023

Billings
Bozeman
Fort Collins

Reference: Notice of Pre-Application Neighborhood Meeting for
Zone Change/Planned Development Agreement Amendment
St. Vincent Healthcare Subdivision

Dear Neighbors:

You are receiving this letter because the City of Billings requires a pre-application neighborhood meeting for any zone change request on property located within the City. By City Code, the surrounding property owners within one-quarter mile are notified of this meeting so you can ask questions of the materials described in this letter. This is not your last time to comment on this proposal, as you will be notified of future public hearings by the Zoning Commission and City Council when they are scheduled.

The request for this property involves an amendment to the Planned Development Agreement (PDA) which regulates development within the St Vincent Healthcare Subdivision and all parcels therein. Per city code, amendments to the PDA are processed as a Zone Change. Generally, the amendment will update the plat and Sign Easements exhibits (Exhibits A and B) to reflect recent changes, remove outdated code references, and update the list of prohibited uses to include such uses as marijuana and dry cleaning. The amendment also changes the definition of the terms "campus," and "commercial neighborhood" to apply to certain lots and allow certain residential uses (Exhibit A).

The Neighborhood Pre-Application Meeting will be held on **Monday, June 26, 2023, at 5:30 PM**. This meeting will be held in-person at the office of Sanderson Stewart located at 1300 N Transtech Way, Billings, MT 59102. You may also receive log in credentials so that you can join remotely via Teams. If you plan on attending or would like the log in information, please email John Halverson at jhalverson@sandersonstewart.com so that we can verify accommodations for the in-person meeting and have a list of attendees that will be joining via Teams.

Please plan on attending this Neighborhood Pre-Application meeting if you have comments or questions regarding the proposed Zone Change/PDA Amendment. If you have immediate questions or cannot attend the meeting, please contact me at (406) 869-3311 or via my email at jhalverson@sandersonstewart.com

Respectfully,



John Halverson, LEED AP, Planner

JDH/vp

Enc.

c: Nicole Cromwell, Zoning Coordinator / Code Enforcement Supervisor, City of Billings
Max Stitch

EXHIBIT A

ESTABLISHED ZONING

WITHIN

ST. VINCENT HEALTHCARE SUBDIVISION

PREPARED FOR : SCL HEALTH-MONTANA

PREPARED BY : **SANDERSON STEWART**

BILLINGS, MONTANA

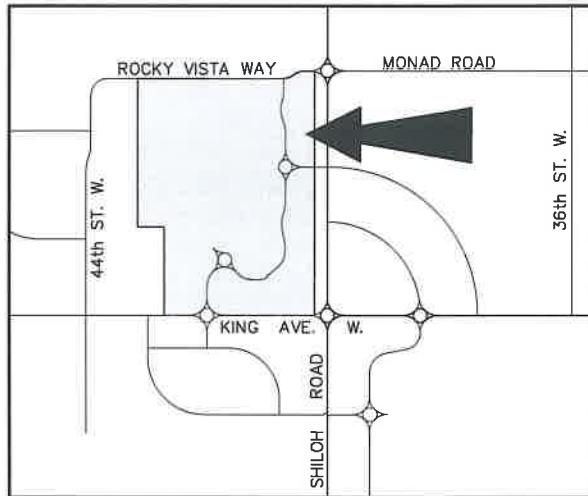
JUNE, 2023



250 0 250 500
SCALE: 1" = 500'

LEGEND

- CAMPUS & CMU2/NX2
- CAMPUS
- COMMERCIAL NEIGHBORHOOD



VICINITY MAP
NOT TO SCALE

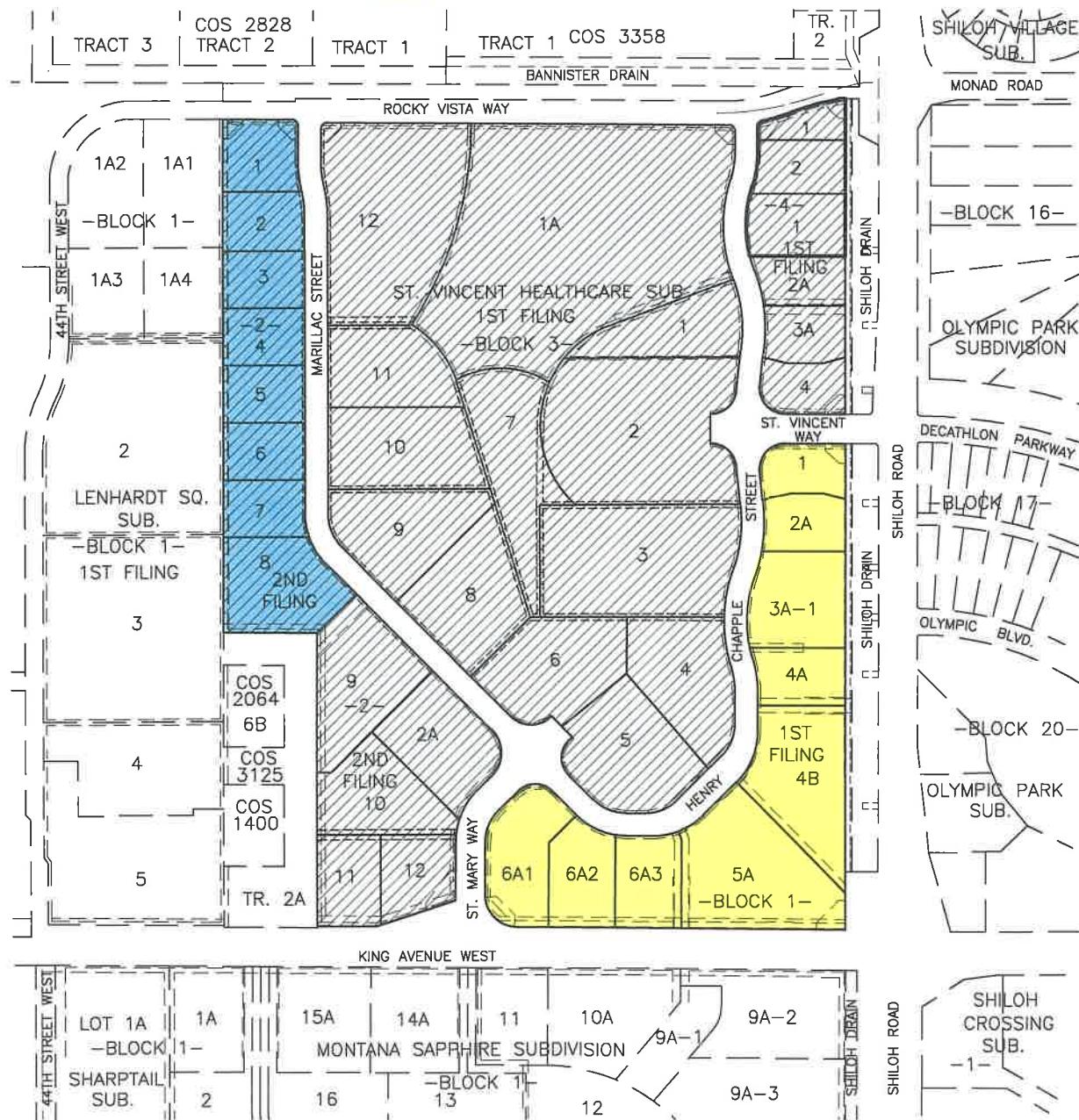


EXHIBIT B

SIGN EASEMENTS

WITHIN

ST. VINCENT HEALTHCARE SUBDIVISION

PREPARED FOR : SCL HEALTH-MONTANA

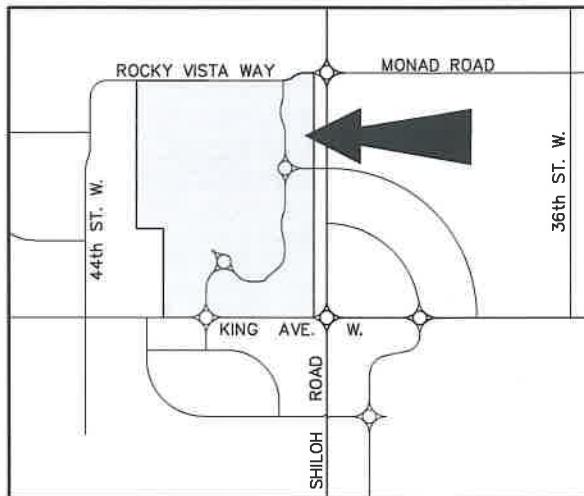
PREPARED BY : **SANDERSON STEWART** 

BILLINGS, MONTANA

JUNE, 2023

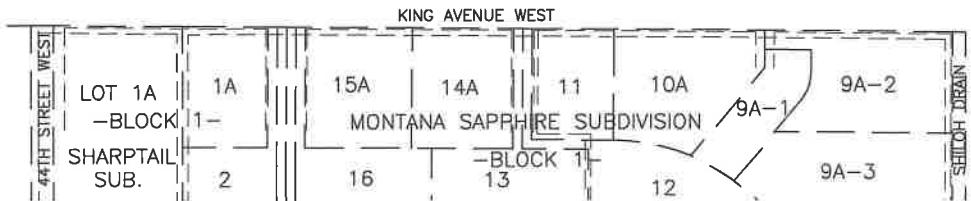
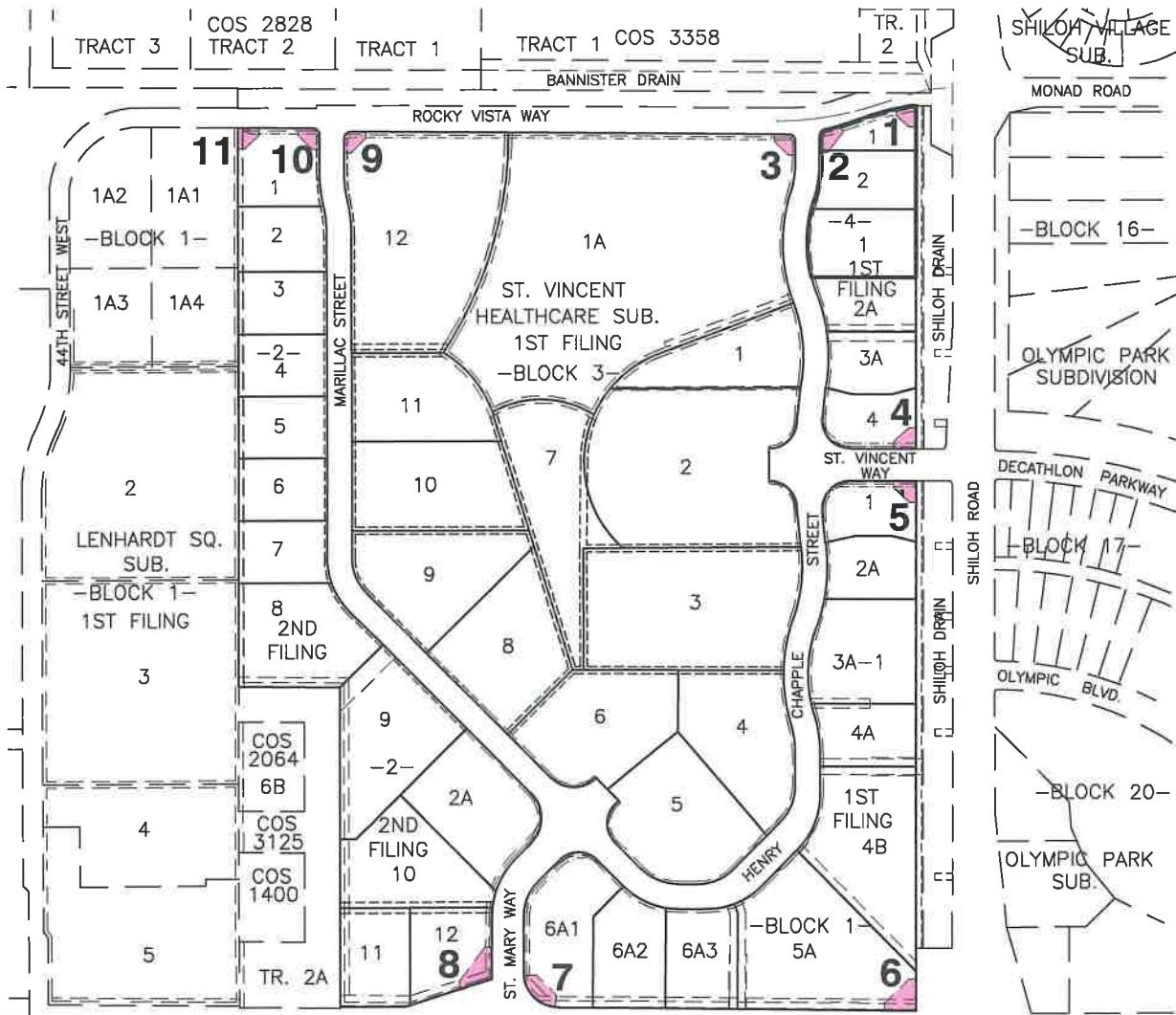


SCALE 1: 500



VICINITY MAP

NOT TO SCALE



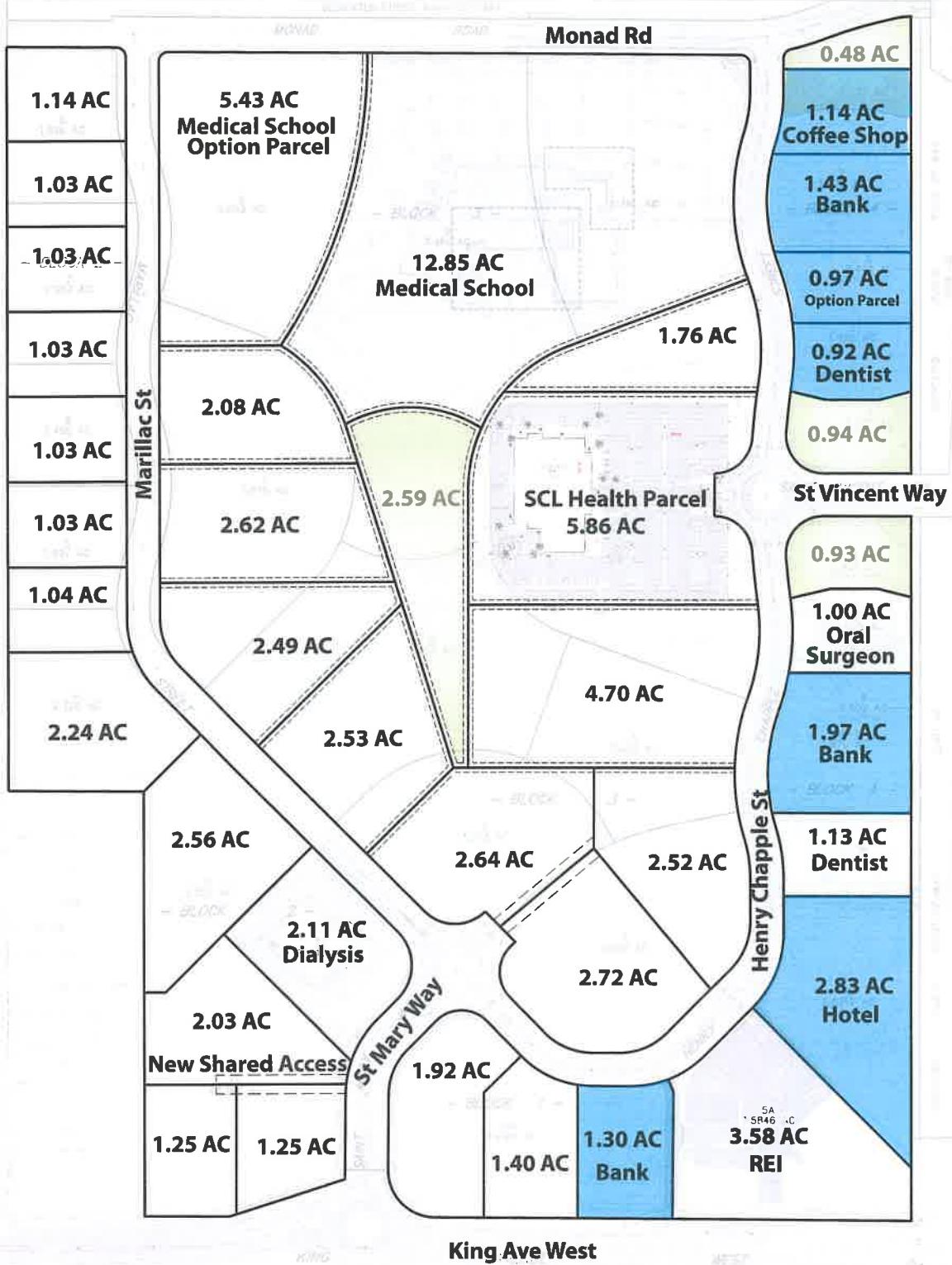
MEETING MINUTES

PROJECT: Mack Annexation & Zone Change	
Project No: 02015.34	
Meeting Location: Sanderson Stewart Offices 1300 N Transtech Way Billings MT 59102	Meeting Date: 06/26/23 5:30 PM
Meeting Subject: Zone Change Neighborhood Pre-Application Meeting	Prepared by: John Halverson
Attending:	(See attached sign-in sheet)
Sanderson Stewart:	John Halverson
	Rick Leuthold
Date of Issue: 06/27/2023	

Minutes:

- Mr. Leuthold began the meeting at 5:35 by introducing himself and Mr. Halverson. He explained that St Vincent is now Intermountain Health under the Sisters of Charity Leavenworth.
- Mr. Halverson explained that the PDA amendment is a change to the Planned Development Agreement, which functions as the applicable zoning in the St Vincent Healthcare Subdivision. He also explained that the City of Billings requires changes to the PDA to be processed as a zone change.
- Mr. Leuthold explained that the subdivision is now over 20 years old, that the intent of the original PDA was to create a high-quality, professional medical campus environment, and that the market and local regulation has changed since the adoption of that original PDA, requiring changes to the PDA. He noted previous amendments to the PDA and the recently-recorded re-platting of the subdivision.
- Ms. Rehberg asked about the pedestrian easement from Lenhardt Square to Marillac.
- Mr. Halverson agreed to look into the existence of such an easement.

- Mr. Leuthold emphasized the importance of interconnectivity in both the pedestrian and vehicular networks in creating good traffic outcomes. He anticipated future improvements to the intersection of King Ave. and 44th St. W. He noted that no increased traffic volumes would result from the proposed PDA amendments. He also noted recent housing development at 48th and King that would contribute to volumes at 44th and King. He noted planned vehicular and pedestrian connections from King Ave. toward the south connecting to Shiloh Rd.
- Ms. Rehberg expressed that it is very difficult and unsafe crossing arterials like King and Shiloh at roundabouts.
- Mr. Leuthold expressed the need to habituate people in cars to the existence of people walking and to educate people in cars on how to share the street with people walking.
- Mr. Culver stated that people driving do not slow to safe speeds while navigating the roundabouts on Shiloh. He stated a desire to lower the landscaped centers of the roundabouts.
- Mr. Leuthold explained the rationale behind the “humped” medians.
- Ms. Rehberg stated a preference for underpasses. She also speculated that, as the area builds out with more dense residential, potential for walking will increase.
- Mr. Leuthold adjourned the meeting at 6:05 PM



Campus Map

BASIS OF BEARING: THE BASIS OF BEARINGS FOR THIS SURVEY HAS BEEN DETERMINED BY THE STATE PLANE COORDINATE SYSTEM, LAMBERT CONFORMAL CONIC, SINGLE PARALLEL, LOW DISTORTION PROJECTION FOR THE CITY OF BILLINGS, HAVING A POINT OF ORIGIN AT 43°17'40" NORTH LATITUDE, 106°45'40" WEST LONGITUDE, AND A GRID SCALE FACTOR OF 0.999975. THE GRID TO GROUND COMBINED SCALE FACTOR AT THE NW CORNER OF SECTION 10 IS 0.999975. ALL DISTANCES ARE IN FEET. ALL RADIAL DISTANCES ARE IN INTERNATIONAL FEET. FOR THIS SURVEY, GRID DISTANCE IS ESSENTIALLY EQUAL TO GROUND DISTANCE.

O PLS SURVEY POINT, OR ROAD WITH YELLOW CAP MARKED
SANDERSON STEWART, OR ROAD WITH YELLOW CAP MARKED
NOTE: ALL CURVES ARE RADIAL AND ALL PROPERTY LINES INTERSECTING
CURVES ARE RADIAL UNLESS OTHERWISE NOTED.

PLAT OF AMENDED ST. VINCENT HEALTHCARE SUBDIVISION

BEING A VACATION OF LOTS 1A & 3-8 OF BLOCK 2, LOTS 2-8 OF BLOCK 3, LOTS 1 & 2A1 OF BLOCK 4, AND A PORTION OF VACATED MARILLAC STREET RIGHT-OF-WAY (PER RESOLUTION 22-1060, DOC. #4027755), ALL WITHIN ST. VINCENT HEALTHCARE SUBDIVISION, SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : SCL HEALTH-MONTANA
PREPARED BY : SANDERSON STEWART

OCTOBER, 2022
BILLINGS, MONTANA

