

PLANNED DEVELOPMENT AGREEMENT

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

THIS AGREEMENT is made and entered into this 11th day of August, 2023, by and between **Development 55, LLC**, whose address for the purpose of this agreement is 2210 N Plaza Drive, Rapid City, SD 57701, hereinafter referred to as "Owner." **Elysian School District #23, Billings, Montana** whose address for the purpose of this agreement is 6416 Elysian Road, Billings Montana 59101 hereinafter referred to as "School." And the **City of Billings, Billings, Montana**, hereinafter referred to as "City."

WITNESSETH:

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

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

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

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

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporation, or other entities, who shall hereafter acquire any interest in and to the above-described property, in whole, or in part, shall be taken and held to agree, to conform to, and observe the following land uses, restrictions, and other stipulations as to the use thereof, and as the construction of improvements thereon.

II. LAND USES AND BUILDING RESTRICTIONS

Unless expressly designated below, all other standards or requirements of the 2019 Yellowstone County's Zoning Ordinance shall be followed for the type of use within each of the areas described herein.

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

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

Division A: Agriculture, Forestry, and Fishing

Group 07 – Agricultural Services

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

Division B: Mining

- Construction sand and gravel mining (SIC 1442)

Division C: Construction

Group 16 – Heavy Construction Other Than Building Construction – Contractors

- Open storage of equipment and supplies

Division D: Manufacturing

Group 20 – Food and Kindred Products

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

Group 21 – Tobacco Products

- Offices only

Group 24 – Lumber and Wood Products, Except Furniture

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

Group 81 – Chemicals and Allied Products

- Growing, harvesting, or selling of Marijuana based products

Group 24 – Leather and Leather Products

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

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

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

Group 42 – Motor Freight Transportation and Warehousing

- Trucking terminal and maintenance facilities (421, 423)

Group 43 – U.S. Postal Service

- With truck terminal

Group 46 – Pipelines, except natural gas

Group 47 – Transportation services

- Warehouses, terminals

Group 48 – Communications

- Amateur Radio Antenna Support Structures

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

Division F: Wholesale Trade

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

Division G: Retail Trade

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

Division I: Services

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

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

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

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

Division A: Agriculture, Forestry, and Fishing

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

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

- Group 21 – Tobacco Products
 - Offices only
- Group 24 – Lumber and Wood Products, Except Furniture
 - Hardwood and special product sawmills (2426, 2429)
 - Millwork, plywood veneer, wood members manufacture (2431, 2435, 2436, 2439)
 - Wood Buildings and Mobile home manufacture (245)
- Group 81 – Chemicals and Allied Products
 - Growing, harvesting, or selling of Marijuana based products
- Group 24 – Leather and Leather Products
 - Offices only

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

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

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

Division D: Manufacturing

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

Division F: Wholesale Trade

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

III. LANDSCAPING REQUIREMENTS

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

A. School Buffer Zone “A”

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

IV. OTHER SPECIAL AGREEMENTS

A. Access

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

[Left intentionally blank, signature pages to follow]

IN THE WITNESS WHEREOF, the SCHOOL have set their hands and official seals on this 26th day of JULY, 2023.

“SCHOOL”

ELYSIAN SCHOOL DISTRICT #23, BILLINGS, MONTANA

[Signature]

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

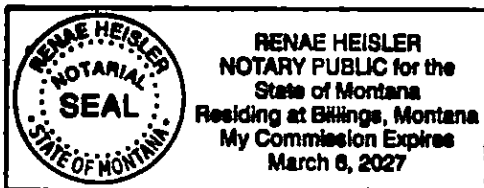
STATE OF Montana)

: ss

County of Yellowstone)

On this 26 day of JULY, 2023, before me, a Notary Public in and for the State of Montana, personally appeared Luke Shelton, known to me to be the Superintendent of ELYSIAN SCHOOL DISTRICT #23, BILLINGS, MONTANA who executed the foregoing instrument and acknowledged to me he executed the same.

ss Renae Heisler



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IN THE WITNESS WHEREOF, the OWNERS have set their hands and official seals on this 26 day of July, 2023.

“OWNER”

DEVELOPMENT 55, LLC

By: [Signature]

Its: Director of Development

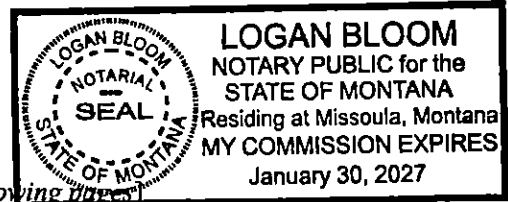
STATE OF Montana)

: ss

County of Missoula)

On this 26 day of July, 2023, before me, a Notary Public in and for the State of Montana, personally appeared Joe Easton, known to me to be the Director of Development of DEVELOPMENT 55, LLC who executed the foregoing instrument and acknowledged to me he/she executed the same.

SS [Signature]



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

I hereby set my hand on this 11th day of August, 2023.

VIKING LAND, LLC

By: [Signature]

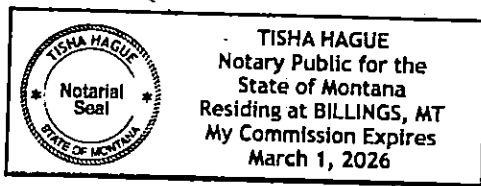
Its: President

STATE OF Montana)

: SS

County of Yellowstone)

On this 11th day of August, 2023, before me, a Notary Public in and for the State of Montana, personally appeared Don Tvetene, known to me to be the President of VIKING LAND, LLC who executed the foregoing instrument and acknowledged to me he/she executed the same.



SS [Signature]

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This agreement is hereby approved and accepted by the City of Billings, this 21st day of August, 2023.

“CITY”

CITY OF BILLINGS, MONTANA

By: William A Cole
Mayor

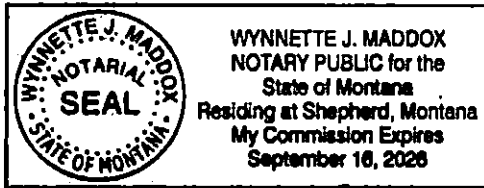
Attest: Denise R. Bohman
City Clerk

STATE OF Montana)

: SS

County of Yellowstone

On this 21st day of August, 2023, before me, a Notary Public in and for the State of Montana, personally appeared William A. Cole and Denise R. Bohman known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.



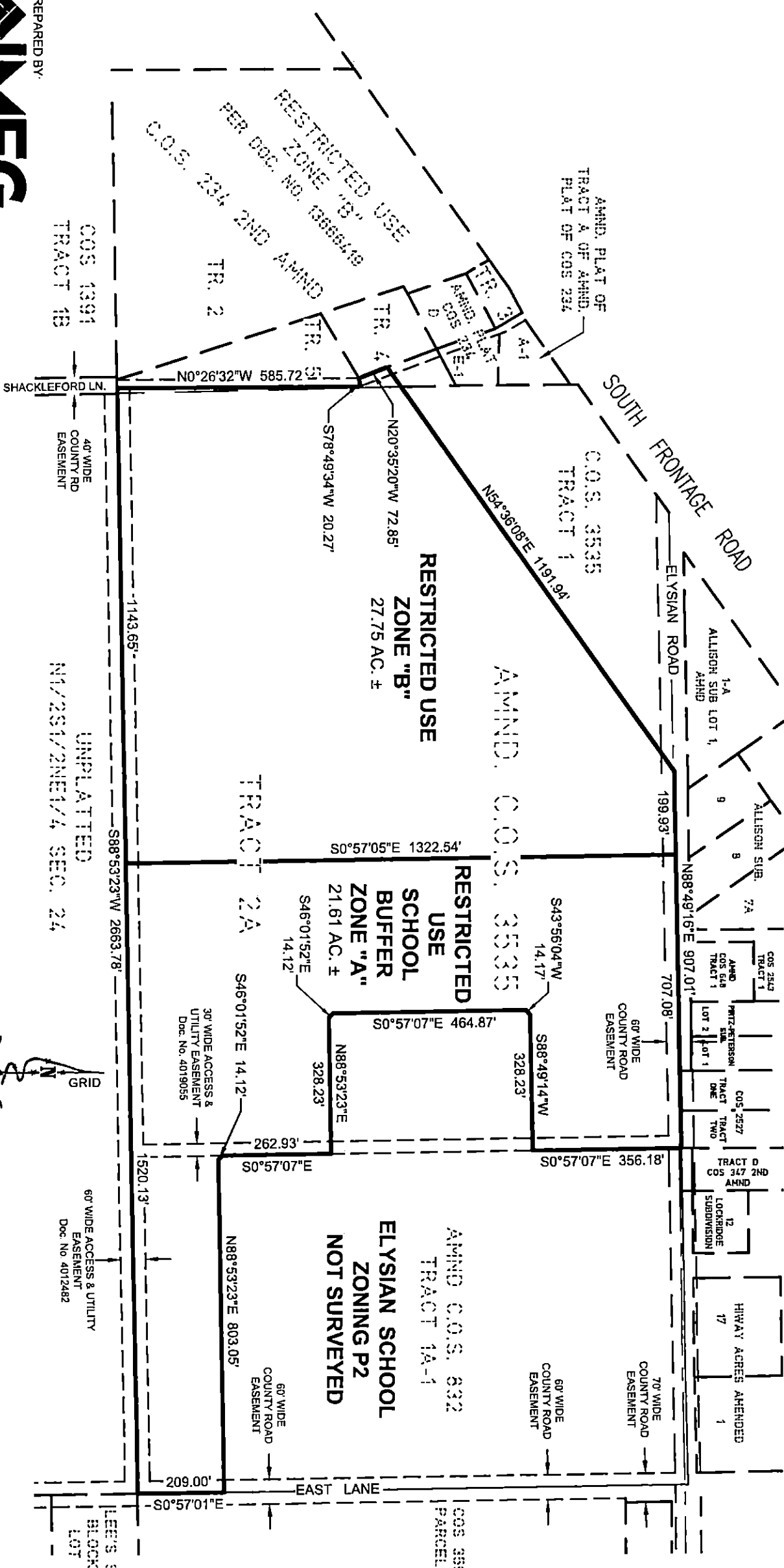
SS Wynnette J Maddox

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EXHIBIT "A"

LOCATED IN THE NE1/4 AND NW1/4 OF SECTION 24, T.1S., R.25E., P.M.M., YELLOWSTONE COUNTY, MONTANA



PREPARED BY:

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BASIS OF BEARING

MONTANA STATE PLANE - ZONE 2500
 GROUND (TRUE) DISTANCES
 GRID NORTH

