

ORDINANCE 20-5745

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE PLANNED DEVELOPMENT
AGREEMENT FOR CARDWELL RANCH SUBDIVISION 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. **LOT 15A OF BLOCK 2 CARDWELL RANCH SUBDIVISION** GENERALLY LOCATED at 1310 30th ST West is presently zoned **Planned Development with underlying zoning of Community Commercial (PD-CC) and in Planning Area 1 of the Master Plan** and **Lot 4A, BLOCK 2 CARDWELL RANCH SUBDIVISION** is presently zoned **Planned Development with underlying zoning of Community Commercial (PD-CC) and in Planning Area 2 of the Master Plan** and are shown on the official zoning map within this zone.

Section 3. PLANNED DEVELOPMENT AMENDMENT. The official **Planned Development** on file in the office of the City Clerk under Ordinance 08-5480 and recorded with the County Clerk and Recorder under Doc. No. 3484266 is hereby amended as shown in **Exhibit A by placing Lot 15A, Block 2 Cardwell Ranch Subdivision in the PD-CC zone, Planning Area 2,** and amending the language in **Article IV to eliminate the additional special review requirements from list of uses** as set out in the Billings, Montana City Code.

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

Section 5. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.
PASSED by the City Council on first reading this 26th day of October, 2020.

PASSED, ADOPTED and APPROVED on second reading this 9th day of
November, 2020.

CITY OF BILLINGS

BY: William A Cole
William A. Cole, Mayor

Attest:

BY: Toni Keehner
Toni Keehner, Deputy City Clerk

Zone Change 986 – Cardwell Ranch PD Amendment



EXHIBIT A

After Recording Return to:
Yegen Grand Avenue Farm, Inc.
Charles G. Yegen
P.O. Box 959
Billings, MT 59103

Planned Development Agreement
Amendment to
The East 80 At Cardwell Ranch (PD)

THIS MODIFIED AGREEMENT is made and entered into this _____ day of _____, 2020, by and between Yegen Grand Avenue Farm, Inc., a Montana limited liability company, of P.O. Box 959 , Billings, MT 59101, hereinafter referred to as the "Owner" and the **City of Billings**, Montana, hereinafter referred to as the "City".

RECITALS:

WHEREAS, the Owner owns the property described as Cardwell Ranch Subdivision, 1st Filing.

WHEREAS, the property is currently zoned Planned Development (PD) with an underlying zone districts of Community Commercial (CC), and Residential Multi-family (RMF).

WHEREAS, the Planned Development agreement places each lot into a Planning Area corresponding to the above underlying zone districts.

WHEREAS, the Owner desires to amend the Planning Area designation of Lot 15A, Block 2

WHEREAS, the owner desires to amend the language of the Agreement to remove certain review requirements for allowed uses.

THEREFORE, the undersigned hereby modify Article IV and the Planning Area Map and incorporate these changes into the existing PD Agreement. All modified requirements set forth in Article IV below and the existing unmodified Articles of the PD Agreement shall apply to all of the real estate described hereinabove, shall bind all of the present and future property owners to such real estate, and shall run with the land.

MODIFIED AGREEMENT

Article IV. REGULATION OF USES ACCORDING TO PLANNING AREA

B. Permitted Uses in Planning Area 1 and Planning Area 2 (Community Commercial). The uses listed below are permitted in Planning Area 1 of The East 80 at Cardwell Ranch. Planning Area 1 shall consist of Lots 1 and 2 of Block 1, and Lots 1, 2, 3A, 7A, 8, 9, 10, 11A, 12A, 13A, and 14A

of Block 2 as amended. These uses, which are generally commercial in nature, are also permitted in Planning Area 2. Planning Area 2 shall consist of Lot 4A and Lot 15A of Block 2. Multi-family uses are only allowed in Planning Area 2. No uses are permitted other than those specifically listed below or that are determined to be analogous in accordance with Article IV.E. Some uses may also be subject to a special level of review by YGAF, Inc. or the Association under private covenants or other agreements, including in particular, but not limited to, those designated with an asterisk (*).

- Accessory detached structures associated with a permitted principal structure *
- Adult foster family care homes (up to four aged or disabled adults) *
- Animal boarding facilities *
- Administrative and research facilities *
- Animal groomers
- Art galleries
- Assisted living facilities *
- Auto parts supply *
- Bakeries
- Banks, credit unions, and savings and loan facilities
- Barber and beauty shops
- Bicycle sales, rental, and repair shops
- Boarding, lodging and bed and breakfast houses
- Bookstores
- Breweries associated with eating establishments *
- Broadcast station offices (but all antennae and satellite dishes must comply with other provisions of this Agreement) *
- Building supply stores and hardware stores (but no lumber yards)
- Bus stops
- Camera, hobby, toy, and gift stores
- Car wash, only if incidental to fuel sales *
- Casinos and gambling activity, as defined in M.C.A. § 23-5-112, if incidental to another permitted use and with written consent of YGAF, Inc. *
- Ceramics and pottery shops
- Charitable, educational or nonprofit institutions
- Child day care centers (up to 13 children)
- Churches, synagogues, and places of worship *
- Clinics, medical, dental, and surgical for the care of human patients
- Clothing and apparel stores
- Community centers
- Convalescent, nursing, and retirement homes
- Convenience and specialty food stores (but no fuel sales except upon Special Review)
- Cultural, educational, and instructional facilities
- Denturists
- Department stores *
- Drive-through facility *

- Drug stores *
- Eating establishments (alcohol served) *
- Eating establishments (no alcohol served) *
- Educational and instructional facilities including public and private elementary and secondary schools, colleges, universities, professional schools, and junior colleges (but not trade schools) *
- Finance and loan companies
- Fire stations *
- Florists
- Flower shops and nurseries (provided that there is no outside storage)
- Food and grocery stores
- Fuel stations – gas or diesel (but not to include truck stops as defined by Section 27-201 of the Unified Zoning Regulations and prohibited below) *
- Furniture – retail only
- Greenhouses for on-site, retail sales if incidental to another permitted use
- Hardware and appliance – retail only
- Health clubs and fitness related businesses
- Hospitals *
- Hotels and motels
- Jewelry stores
- Laundry and/or dry cleaning drop-off and pickup store without drive-through facility
- Laundry and/or dry cleaning drop-off and pickup store with drive-through facility *
- Libraries, museums, and art galleries
- Liquor stores
- Medical clinics
- Membership organization offices
- Minor component assembly incidental to another permitted use
- Multi-family residential (Planning Area 2 only)
- Offices – all, including business professional, medical, and dental
- Office equipment stores – retail only
- Office supply and equipment, copying and mail services stores – retail only
- Open spaces, park areas, water amenities, community gardens, athletic fields, bike trails, playgrounds, and walking paths
- Park Land and Open Space
- Parking facilities, including above or below ground parking garages *
- Pet stores
- Pharmacies
- Photo studios, shops, and processing – retail only
- Physical therapy facilities
- Police stations *
- Postal service facilities without truck terminal facilities
- Public administration facilities, including government facilities, except correctional institutions

- Rehabilitation centers
- Rental car dealerships *
- Retail stores
- Retirement homes *
- Same-day medical care centers
- Sports medicine and rehabilitation facilities
- Surgery centers *
- Theaters
- Veterinary clinics and hospitals *
- Wine stores
- Any additional use permitted in a Community Commercial zoning district upon prior written consent of YGAF, Inc. if consistent with the Unified Zoning Regulations, provided that such use is not otherwise limited or prohibited herein. *

C. Permitted Uses in Planning Area 3 (Residential Multi-family). Residential multi-family use is permitted in Planning Area 3 of The East 80 at Cardwell Ranch. Planning Area 3 shall consist of Lots 5 and 6A of Block 2. This area is intended primarily to accommodate apartments, townhomes, condominiums, multi-plexes, and other multi-family complexes (but not detached single family homes) and uses permitted in the Residential Multi-Family district as defined in the Unified Zoning Regulations. Multi-family residential use may also be permitted in Planning Area 2 (Lot 4A and 15A of Block 2). No uses are permitted in these areas other than those specifically listed below or that are determined to be analogous in accordance with Article IV.E.

- Accessory detached structures associated with a permitted principal structure
- Bus stops
- Community centers
- Home occupations
- Multi-family residential buildings
- Park Land and Open Space

Any additional use permitted in a Residential Multi-Family district upon prior written consent of YGAF, Inc. if consistent with the Unified Zoning Regulations, provided that such use is not limited or prohibited herein.

D. Prohibited Uses in All Areas. The following operations and uses shall not be permitted on any property in The East 80 at Cardwell Ranch, regardless of where the property is located:

- Amusement park services or facilities
- Apparel fabrication and fabrication of products made from fabrics and similar materials
- Arcades, including but not limited to video arcades
- Auction houses or auction yards
- Auto body and collision repair
- Automotive sales, leasing, repair, service, salvage, or storage
- Beverage bottling plant or wholesaling operations

- Billboard signs
- Body alternation salons – any establishment engaged in body painting, body piercing, or tattooing
- Building fabrication except construction of buildings for use on-site
- Building subcontractor operations other than offices only
- Bus terminal and maintenance facilities
- Campground
- Casinos and gambling or gambling activity, as defined in M.C.A. § 23-5-112, unless incidental to another permitted use with written consent of YGAF, Inc.
- Cellular towers not included in building structures
- Crematoriums
- Dry cleaning or laundry plant or public Laundromat, (not applicable to facilities for pickup and delivery by the ultimate consumer)
- Drug paraphernalia – any business engaging in the sale of so-called drug paraphernalia
- Dumping of concrete, cement residue, refuse, dirt, garbage or fill materials without authority of property owner
- Electronic component manufacturing, unless light manufacturing and incidental to a permitted use
- Equipment rental shop
- Excavation – businesses engaged in commercial excavation, providing that this prohibition shall not be construed to prohibit any excavation necessary in the course of approved construction
- Exotic dancing – any establishment permitting exotic dancing, including semi-nude and nude clubs
- Fire sale or bankruptcy sale
- Fireworks – fireworks manufacture and/or sales
- Flea markets
- Food processing or wholesaling, except ancillary services associated with retail, restaurant, and grocery operations
- Foundries and plant operations
- Furniture fabrication
- Garbage – any dumping, disposing, incineration or reduction of garbage provided, however this prohibition shall not be applicable to garbage compactors located near the rear of any building
- Go-cart tracks
- Greenhouses for wholesale purposes
- Gun and archery range
- Guns and ammunition – the sale of firearms and ammunition, unless ancillary to a general retail store or sporting goods store
- Heavy equipment sales, service, and storage
- Ice manufacturing for resale of ice if not intended for use on-site
- Illegal drugs – the sale, manufacture, or possession of illegal drugs
- Industrial production or manufacturing facilities
- Jails, prisons, half-way houses for pre-release inmates, and/or detention

facilities

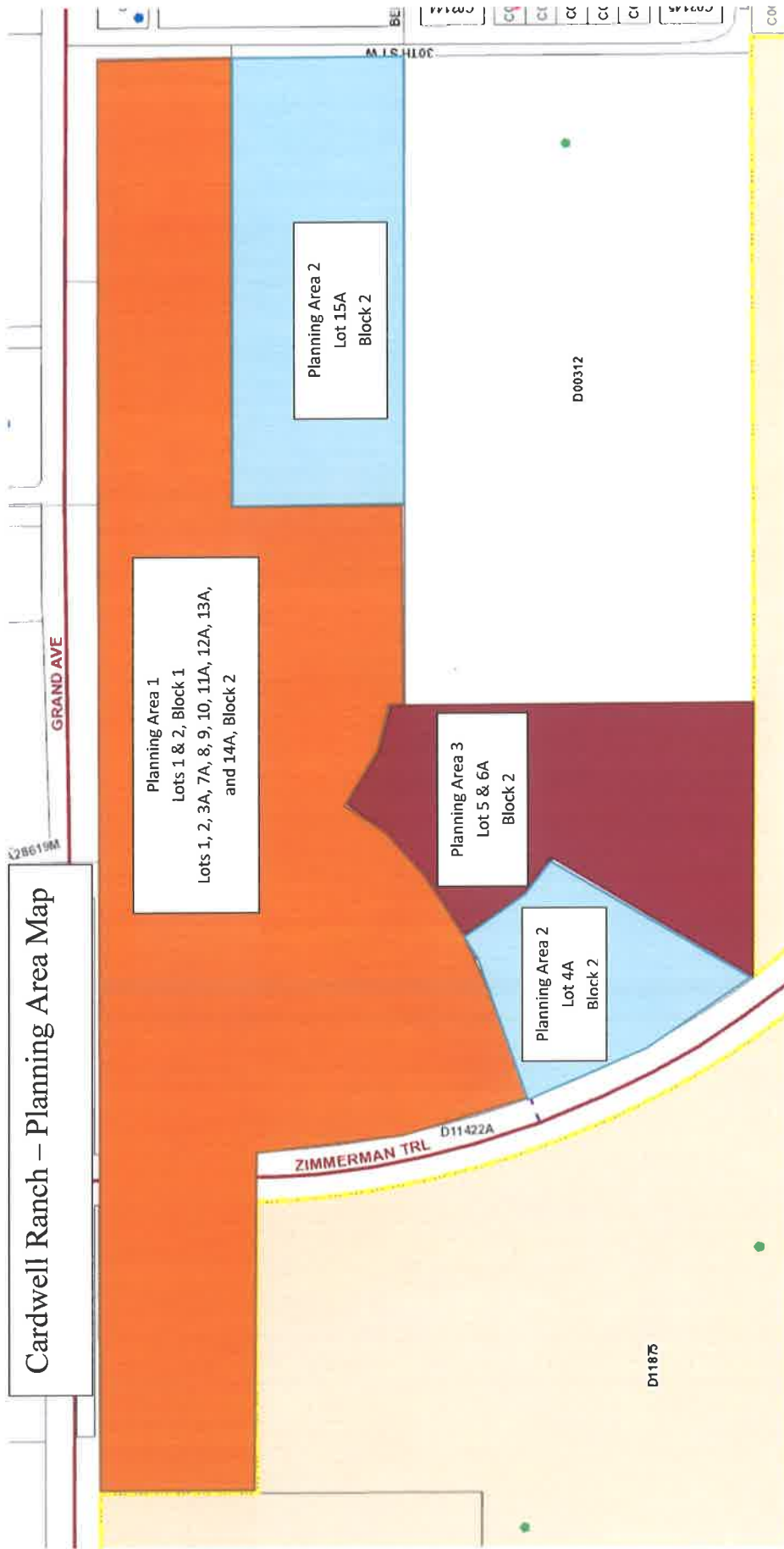
- Junk shops
- Labor or migrant worker camps
- Lumber yards
- Machine and welding shops
- Manufactured housing – the sale, maintenance, and repair and/or storage of manufactured housing, mobile homes, boats, trailers, or recreational vehicles
- Manufacturing
- Massage parlors (excluding therapeutic massage)
- Metal fabrication and manufacturing
- Mill work and cabinet shops
- Mineral extraction – any non-office sale, extraction, or storage of sand, gravel, or minerals
- Mini storage facilities
- Motorized sports vehicle repair, storage, and/or sales (including parts sales)
- Mining and related activities – mining, drilling for, or removing oil, gas, or other hydrocarbon substances
- Motocross tracks
- Motorcycle racing
- Obnoxious odors, etc. – any use which emits an obnoxious odor, noise, or sound which can be heard or smelled outside of any building in The East 80 at Cardwell Ranch
- Paper warehouses
- Pawn shops
- Power poles and overhead power lines – installing new power poles and overhead power and above-ground utility lines as well as upgrading any existing poles to larger structures; provided, however, this shall not prohibit any existing power poles and above-ground lines, and shall not prohibit adding new lines to any existing poles
- Propane sales unless incidental to a fueling station as permitted by special review, or as incidental to hardware sales
- Race tracks
- Recreational vehicles – the commercial sale, maintenance, rental or repair or storage of boats, trailers, motorcycles, ATVs, or other recreational vehicles. The private repair or storage of such vehicles must comply with other provisions of this Agreement.
- Recycling centers
- Repair shops, if the shop facilities include open or visible storage
- Roller skating rinks
- Roping and rodeo arenas
- Sanitary dumps
- Scrap or waste material processing
- Septic systems
- Sexually oriented businesses – sexually oriented businesses as defined by Section 27-611 of the Unified Zoning Regulations

- Stables – not to be construed to exclude existing farming operations or a continuation of existing farming operations
- Storage facilities other than garages associated with residential structures
- Super Stores – defined as any structure over 40,000 square feet in total useable area
- Surplus store
- Taxidermists
- Tire sales, except as incidental to the operation of a general retail store
- Title loan businesses
- Towers and dishes – freestanding communication towers and satellite dishes greater than 98 inches in diameter
- Trailer parks and campgrounds – mobile home parks, trailer parks, or recreational vehicle campgrounds or any commercial establishment that permits overnight parking of recreational vehicles
- Truck stop as defined by Section 27-201 of the Unified Zoning Regulations
- Truck terminals cartage operations, and similar uses
- Truck wash as defined by Section 27-201 of the Unified Zoning Regulations
- Trucks – sale, leasing, manufacture, and repair of trucks
- Trucking operation warehouses
- Utility sub-stations, utility maintenance facilities or buildings, and other utility installations other than utility lines, utility boxes, and other facilities used to serve an individual Lot
- Warehouses
- Wholesale lumber and building materials
- Wholesale distribution and sales

E. Analogous Uses. If a use is not specifically permitted, specifically prohibited, or specifically subject to special review, the zoning coordinator shall determine whether the use is permitted or prohibited or subject to special review by determining whether it is most closely analogous to a use that is specifically permitted, prohibited, or subject to special review. The decision of the zoning coordinator shall not become effective until it has been reviewed and approved by YGAF, Inc.

F. Procedure for Obtaining YGAF, Inc. Approval. Any developer of property in The East 80 at Cardwell Ranch shall obtain the written approval of YGAF, Inc. prior to submitting any application for subdivision, zone change, building permit, or design approval of any kind to the City or any other government authority. The City shall not accept any such application unless the developer first presents written evidence of YGAF, Inc.'s approval. Neither YGAF, Inc. nor the City shall approve the developer's application unless the proposed development complies with the requirements of this Agreement.

Cardwell Ranch – Planning Area Map



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

“OWNER”

Yegen Grand Avenue Farm, Inc.

CHARLES G. YEGEN
For Yegen Grand Avenue Farm, Inc.

STATE OF MONTANA)

County of Yellowstone)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, AND _____ known to me and who executed the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written

Notary Public in and for the State of Montana

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor, William A Cole

Attest: _____
Denise Bohlman, City Clerk

STATE OF MONTANA)

County of Yellowstone)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

Notary Public in and for the State of Montana