

ORDINANCE NO. 11-5532

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lot 4, Block 2 of Rocky Village Subdivision containing approximately 25,600 square feet

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

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 twelve (12) 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 twelve (12) criteria required by state law.

2. DESCRIPTION. A tract of land known as Lot 4, Block 2 of Rocky Village Subdivision, containing approximately 25,600 square feet of and is presently zoned Planned Development and is shown on the official zoning maps within these zones.

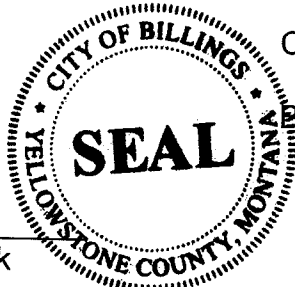
3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Planned Development with underlying zoning of Neighborhood Commercial – restricted** to **Planned Development with underlying zoning of Neighborhood Commercial as described in Exhibit A attached hereto** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Planned Development** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading March 28, 2011.

PASSED, ADOPTED AND APPROVED on second reading April 11, 2011.



CITY OF BILLINGS:

Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

BY: *Cari Martin*
Cari Martin, City Clerk

ZC #873 – Rocky Village Planned Development

PLANNED DEVELOPMENT AGREEMENT

For Lot 4, Block 2, of Rocky Village,
in the City of Billings, Yellowstone County, Montana

THIS AGREEMENT, made and entered into this ___ day of _____, 2011, by and between ROCKY MOUNTAIN COLLEGE, a Montana corporation (hereinafter referred to as "Owner"), and the City of Billings (hereinafter referred to as "City").

WITNESSETH

WHEREAS, the undersigned is the Owner of all of Lot 4, Block 2, of Rocky Village, according to the record thereof on file in the office of the Clerk and Recorder of Yellowstone County, Montana, a Planned Development affected by this Agreement, as outlined within the City Zoning Ordinance;

WHEREAS, the aforesaid Owner applied for a change of zoning for the above-described real property from Planned Development Neighborhood Commercial With Restrictions to Planned Development Neighborhood Commercial;

WHEREAS, the City has approved the change of zoning to Planned Development Neighborhood Commercial after due and proper administrative review, notice and public hearing, all in accordance with City Ordinances and requirements;

NOW, THEREFORE, in consideration of the premises, the Owner and the City hereby establish and declare that Lot 4, Block 2, of Rocky Village, City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County under Document #938344 (commonly referred to as 1648 Poly Drive, Billings, Montana 59102) is hereby zoned Planned Development Neighborhood Commercial effective immediately.

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT.

All persons, corporations or other entities, who now have or shall hereafter acquire any interest in and to the above-described real property shall be taken and held to agree to the zoning of the above-described real property as Planned Development Neighborhood Commercial.

II. BUILDING AND USE RESTRICTIONS.

The Building and Use Restrictions applicable to the above-described real property shall be those set forth and described in the City Code and/or Ordinances for any real property classified or zoned as Neighborhood Commercial in the City of Billings. The following uses will be prohibited: banks, credit unions or other depository institutions; gas stations; convenience food stores with or without gas pumps; pharmacies; drycleaners or drycleaner drop-off; laundries; funeral homes and crematories; any use that requires or uses a back-up power generator.

All site lighting including lighting within the parking area, loading area and on the building shall have full cut-off shielding so no part of any light or lenses projects below or above the light fixture. No internally illuminated signs are allowed including electronic message display signs.

III. PLANNED DEVELOPMENT AGREEMENT AMENDMENTS OR CHANGES.

Any modification of the approved development plan requested by the owner shall be processed using the same procedures for a new application, as set forth in the Billings Montana City Code. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

- (1) No change in the overall character of the development;
- (2) No increase in the number of residential units greater than two (2) percent;
- (3) No additional allowed uses;
- (4) No reduction in open space greater than two (2) percent; and
- (5) No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

IV. RIGHT TO ENFORCE.

The provisions of the Planned Development Agreement shall be enforced as provided for Article 27-1600 of the Billings City Code.

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

“OWNER”

ROCKY MOUNTAIN COLLEGE,
a Montana corporation

BY _____

Michael R. Mace
Its President and duly authorized agent

ATTEST _____
Secretary of Rocky Mountain College

“CITY”

THE CITY OF BILLINGS,

BY _____

Thomas W. Hanel
Its Mayor and duly authorized agent

ATTEST _____
Cari Martin, City Clerk

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this ____ day of _____, 2011, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Michael R. Mace, known to me to be the President and duly authorized agent of Rocky Mountain College, 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.

(Notary Seal)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission Expires: , 20__

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this ____ day of _____, 2011, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Thomas W. Hanel, known to me to be the Mayor and duly authorized agent of the City of Billings, 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.

(Notary Seal)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission Expires: , 20__