



**County of Yellowstone Board of Adjustment**  
**AGENDA-Thursday, January 14, 2016, 4:00 p.m.**  
**Miller Building, 1<sup>st</sup> Floor Conference Room**  
**2825 3<sup>rd</sup> Avenue North, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

**Call the meeting to order.**

**Introduction of the County Board of Adjustment Members and Planning Department Staff.**

**Public Comment**

**Approval of Minutes:**

The minutes of the Board meeting of December 10, 2015.

**Disclosure of any Conflict of Interest-Members of the Commission and Staff**

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff**  
**a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

**Regular Business:**

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

**Public Hearings:**

- a. **Item #1 - County Variance #279 – City of Billings Landfill Expansion – Land Use Contrary to Zoning** - A request to use public land contrary to zoning by a public agency on the following parcels: A - an un-platted parcel of land described as the NENE1/4, Section 29, Township 1 South, Range 26 East, in an Agriculture Open-Space (A-1) zone, a 34-acre parcel of land: B - an un-platted parcel of land described as the N1/2SE1/4, Section 29, Township 1 South, Range 26 East, in a Public zone, an 80-acre parcel of land: C – an un-platted parcel of land described as the N1/2SE1/4 Section 29, Township 1 South, Range 26 East, in an Agriculture-Open Space (A-1) zone, an 80-acre parcel of land: D – an un-platted parcel of land described as the S2SE4, S2SW4 (LESS COS 1130, 1443) Section 29, Township 1 South, Range 26 East, in an Agriculture-Open Space (A-1) zone, a 144.26 acre parcel of land. The City of Billings intends to expand the existing landfill south and east of Hillcrest Road. The County Board of Adjustment has no power to approve, deny or attached conditions to the proposed use. State law (MCA 76-2-402) requires a forum before the Board of Adjustment to receive public comment. The City of Billings is preparing a separate application to the Department of Environmental Quality (DEQ), the regulatory authority for the State of Montana that reviews landfill expansions. Tax IDs: D02012, D02012B, D02007 & D02008. Presented by: Nicole Cromwell, Zoning Coordinator.
- b. **Item #2 - County Variance 280 – 2531 Old Hardin Road – Lamar** – An appeal of an administrative decision to deny an application for a new billboard sign at 2531 Old Hardin Road in a Community Commercial (CC) zone on Lot C1, Dick’s Tracts Subdivision, a .98 acre parcel of land generally located at 2531 Old Hardin Road. Tax ID: C06869. Presented by: Nicole Cromwell, Zoning Coordinator

## **Other Business/Announcements**

### **Adjournment**

The County Board of Adjustment will hear all persons wishing to speak relative to the proposed variance and appeal. Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676. Additional information on any of these items is available in the Planning and Community Services Office. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at [deinest@ci.billings.mt.us](mailto:deinest@ci.billings.mt.us)

**County Board of Adjustment**

**Meeting Date:** 01/14/2016

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**Information**

**Subject**

The minutes of the Board meeting of December 10, 2015.

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**Attachments**

YCBOA\_2015\_12\_10

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# Yellowstone County Board of Adjustment

## Minutes

December 10, 2015

The County Board of Adjustment met on Thursday, December 10, 2015 in the 1<sup>st</sup> Floor Conference Room, of the Miller Building located at 2925 3<sup>rd</sup> Avenue North. Chairperson Hecker called the meeting to order at 4:00 p.m.

Name	Title	02/12/2015	04/09/2015	07/16/2015	09/10/2015	10/01/2015	10/29/2015	12/10/2015						
Bruce Reiersen	Board member	E	1	1	1	E	E	1						
Carlotta Hecker	Chairperson	1	E	E	1	1	1	1						
Delores Terpstra	Board member	1	1	1	E	E	1	1						
Robert Bailey	Vice Chairperson	1	1	1	E	E	1	E						
Blaine Poppler	Board member	-	-	E	1	1	1	1						

**Chairperson Hecker** introduced the County BOA Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; Tammy Deines, Planning Clerk, Robbin Bartley, Administrative Assistant I

**Attending:** Mary Olson, Craig Dalton, City Councilman Mike Yakawich

### Public Comments

Chairperson Hecker opened the public comment portion of the meeting and asked if anyone wished to speak on an item not on today's agenda. There was none. Chairperson Hecker closed the public comment portion of the meeting.

### Approval of Minutes: October 29, 2015

### Motion

**Board member Terpstra** made a motion and it was seconded by **Board member Poppler** to approve the **October 29, 2015** meeting minutes. The motion carried with a unanimous voice vote.

### PUBLIC HEARINGS:

Chairperson Hecker read the determinations for granting a variance and Zoning Coordinator Nicole Cromwell reviewed the rules for the procedure for conducting public hearings

Nicole Cromwell read the legal description and reviewed the staff report with a PowerPoint presentation for the audience.

## **Item #1 County Variance #278**

### **REQUEST**

This is a variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a minimum lot area of 7.62 acres in an Agriculture-Open Space zoning district on the West ½ of the West ½ of Lot 1 in Section 2, Township 1 North, Range 26 East, a 10.13 acre parcel of land. The proposed variance is to adjust the boundary line between 2 parcels of land to allow access to Plateau Road. Tax ID: D04935. Productions Consulting, LLC, owner, Scott Aspenlieder, Agent.

### **RECOMMENDATION**

The Planning Division is recommending Conditional Approval.

Staff is recommending conditions of approval as follows:

1. The variance is to reduce the required lot area from 10 acres to allow a minimum lot area of 7.62 acres in an Agriculture-Open Space zoning district on the West ½ of the West ½ of Lot 1 in Section 2, Township 1 North, Range 26 East, a 10.13 acre parcel of land and no other variance is intended or implied by this approval.
2. The applicant will submit a certificate of survey amendment/lot line relocation within 60 days of Board of Adjustment approval.
3. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

### **Discussion**

Chairperson Hecker asked the Board for questions and discussion. Per request of Board member Popper, Ms. Husman clarified the location of the property lines and the proposed access. She stated that the area that is looking to be relocated appears to be proposed for parkland with the preliminary subdivision proposed subdivision of 160 lots.

### **Craig Dalton, Agent, 2101 Overland Avenue Billings, Montana 59102**

Mr. Aspenlieder represents Productions Consulting, LLC. He said the proposed subdivision is 165 lots and is under preliminary review. A conditional zone change has been approved for R-9600 zoning. He noted other southerly easements that run along the tract line that are proposed to be used for egress for the subdivision. An application has been submitted to gain an access point. They will ensure the setbacks are met for the agricultural buildings. A boundary relocation will follow this request. They are considering an entryway with a park area for the entrance of the subdivision. Discussion followed with questions on water supply and road development.

### **Public Hearing**

Chairperson Hecker opened the Public Hearing and asked if anyone would like to speak in favor or against Yellowstone County Variance #278.

**Mary Olson, PO Box 50660, Billings, Montana, 59105**

Ms. Olson is an adjacent property owner. Ms. Olson stated the applicant has not approached her to discuss obtaining an easement for a subdivision access. Ms. Cromwell clarified and said this will be a separate public hearing heard by the Planning Board for the subdivision application.

Chairperson Hecker asked if anyone else would like to speak in favor or against Yellowstone County Variance #278. There was none. Chairperson Hecker closed the public hearing at 5:27 p.m. and called for a motion.

**Motion**

**Board member Terpstra made a motion and it was seconded by Board member Reiersen to conditionally approve Yellowstone County Variance #278 and adopt the Findings of the 7 criteria in the staff report.**

**Discussion**

Chairperson Hecker called for discussion on the motion. There was none.

The motion carried 4-0

**Adjournment:**

**The meeting adjourned at 5:00 p.m.**

**ATTEST: DRAFT. To be approved on January 14, 2015**



## County Board of Adjustment

**Meeting Date:** 01/14/2016

**SUBJECT:** Variance 279 - Land Use Contrary to Zoning - Expansion of Billings Regional Landfill

**THROUGH:** Candi Millar, Planning & Community Services Department Director

**PRESENTED BY:** Nicole Cromwell

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## Information

### REQUEST

**Item #1 - County Variance #279 – City of Billings Landfill Expansion – Land Use Contrary to Zoning - A** request to use public land contrary to zoning by a public agency on the following parcels: A - an un-platted parcel of land described as the NENE1/4, Section 29, Township 1 South, Range 26 East, in an Agriculture Open-Space (A-1) zone, a 34-acre parcel of land: B - an un-platted parcel of land described as the N1/2SE1/4, Section 29, Township 1 South, Range 26 East, in a Public zone, an 80-acre parcel of land: C – an un-platted parcel of land described as the N1/2SE1/4 Section 29, Township 1 South, Range 26 East, in an Agriculture-Open Space (A-1) zone, an 80-acre parcel of land: D – an un-platted parcel of land described as the S2SE4, S2SW4 (LESS COS 1130, 1443) Section 29, Township 1 South, Range 26 East, in an Agriculture-Open Space (A-1) zone, a 144.26 acre parcel of land. The City of Billings intends to expand the existing landfill south and east of Hillcrest Road. The County Board of Adjustment has no power to approve, deny or attached conditions to the proposed use. State law (MCA 76-2-402) requires a forum before the Board of Adjustment to receive public comment. The City of Billings is preparing a separate application to the Department of Environmental Quality (DEQ), the regulatory authority for the State of Montana that reviews landfill expansions. Tax IDs: D02012, D02012B, D02007 & D02008. Presented by: Nicole Cromwell, Zoning Coordinator.

### RECOMMENDATION

The Planning Division is recommending the Board conduct the public hearing and allow comment on the landfill expansion plans.

### APPLICATION DATA

OWNER: City of Billings - Solid Waste Division of Public Works

AGENT: Robert Church, Great West Engineering and Will Robbins, City of Billings, Staff Engineer

LEGAL DESCRIPTION: NENE1/4, Section 29, Township 1 South, Range 26 East; N1/2SE1/4, Section 29, Township 1 South, Range 26 East; N1/2SE1/4 Section 29, Township 1 South, Range 26 East; S2SE4, S2SW4 (LESS COS 1130, 1443) Section 29, Township 1 South, Range 26 East

ADDRESS: South east of Hillcrest Road south of the existing Billings Regional Landfill

CURRENT ZONING: A-1 and Public

EXISTING LAND USE: Vacant

PROPOSED USE: Expansion of Billings Regional Landfill

SIZE OF PARCEL: Total area is 232.3 acres

### CONCURRENT APPLICATIONS

The City of Billings is preparing a separate application to the Department of Environmental Quality (DEQ), the regulatory authority for the State of Montana that reviews landfill expansions.

## **APPLICABLE ZONING HISTORY**

A zone change from A-1 to Public was approved for 572 acres of land used for the Billings Regional Landfill in December 1985. Since 1985, the City of Billings has acquired additional acreage south of Hillcrest Road for future expansion of the regional landfill. The zoning on these acquired parcels remained in the A-1 district. Public zoning and A-1 zoning allow solid waste facilities by special review approval. Another method of development of public land for public purposes is through the Land Use Contrary to Zoning public hearing process.

## **SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-150; A-1; Public  
Land Use: Yellowstone Valley Electric Substation, Regional Landfill, auto wrecking yard and single family dwellings

SOUTH: Zoning: A-1  
Land Use: Vacant agricultural land - DNRC - State trust land

EAST: Zoning: R-150; A-1  
Land Use: Single family dwellings - vacant agricultural land

WEST: Zoning: Public  
Land Use: Billings Regional Landfill

## **BACKGROUND**

This is a request to use public land for public purposes contrary to zoning. State statute allows public agencies to use land contrary to zoning after a public hearing is held by the local Board of Adjustment. As illustrated in MCA 76-2-402(2), the Board shall have no power to deny the proposed use but shall act only to allow a public hearing for comment on the proposed use.

The Billings Regional Landfill is owned and managed by the City of Billings for the benefit of City and County residents. In addition, surrounding counties have agreements to use the landfill for disposal of residential and commercial solid waste. The proposed expansion of the landfill will require many administrative processes before it is approved and under construction. The hearing before the County Board of Adjustment is the first step in this process. The City purchased additional land south of Hillcrest Road since 1985 when an original zone change for 572 acres of landfill property was approved. This covers some of the land south of Hillcrest Road but the majority of the land is in the A-1 zoning district. The application covers approximately 232 additional acres for the landfill expansion. Draft site plans were included in the application for illustration purposes. These site plans have not yet been approved by the Montana Department of Environmental Quality (DEQ). DEQ has final permitting authority for any expansion of the landfill. Public hearings and opportunity for public comment will be held by DEQ at the time of application.

## **RECOMMENDATION**

The Planning Division recommends the Board conduct the public hearing and allow public comment on the landfill expansion plans.

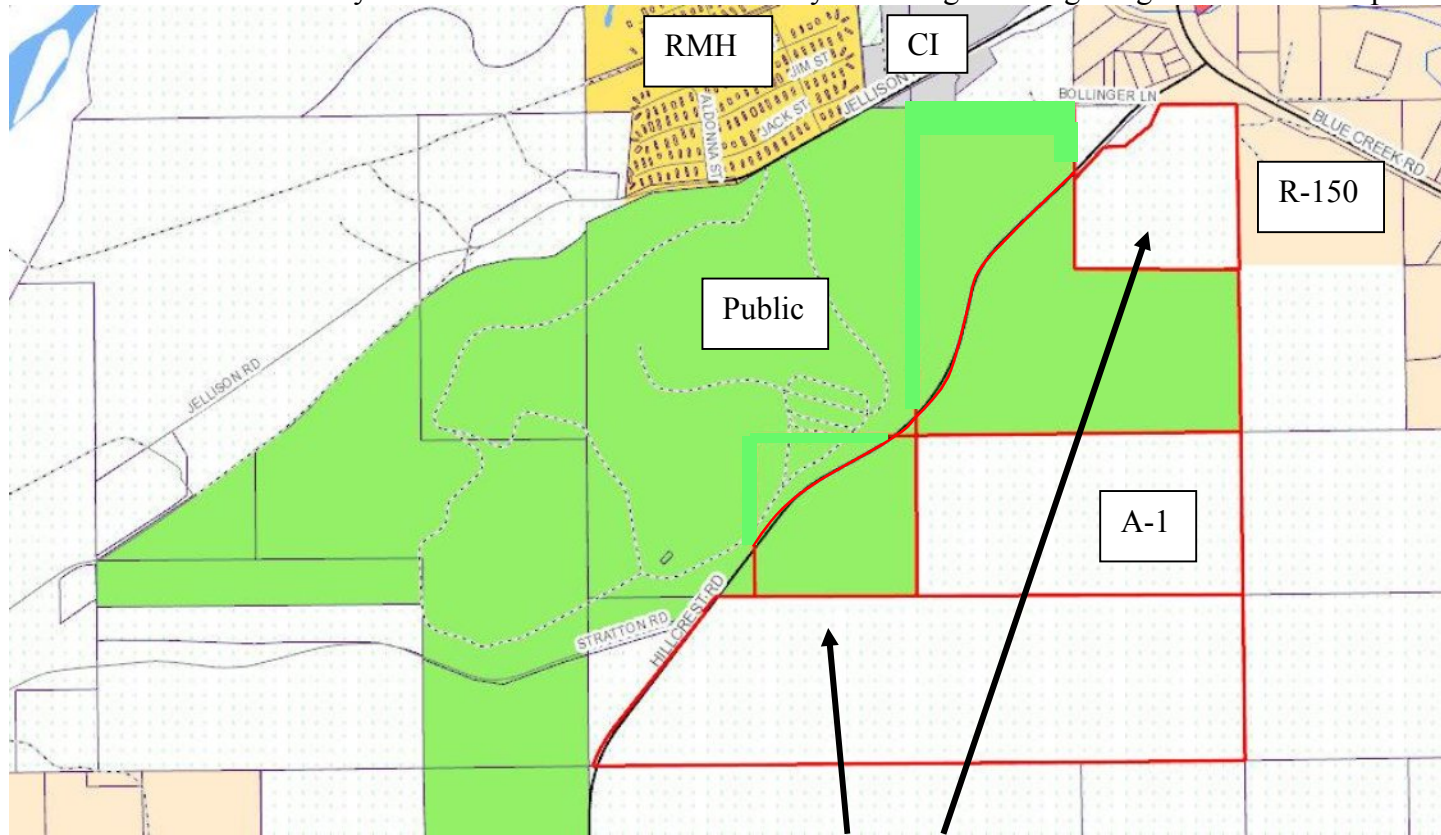
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### **Attachments**

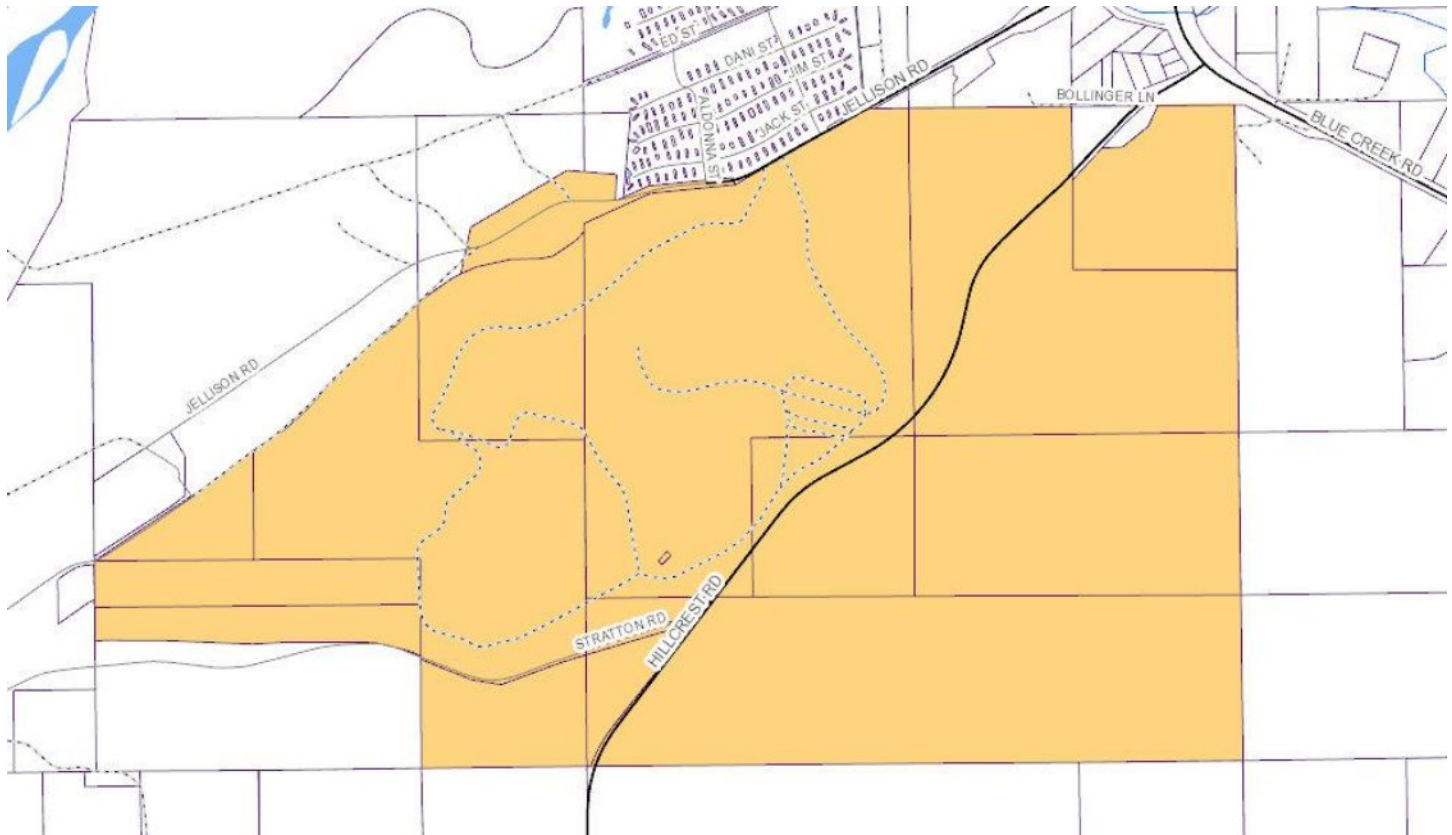
Zoning Map  
Site Plans  
Site Photos

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Zoning Map  
County Variance 279 – Land Use Contrary to Zoning – Billings Regional Landfill Expansion

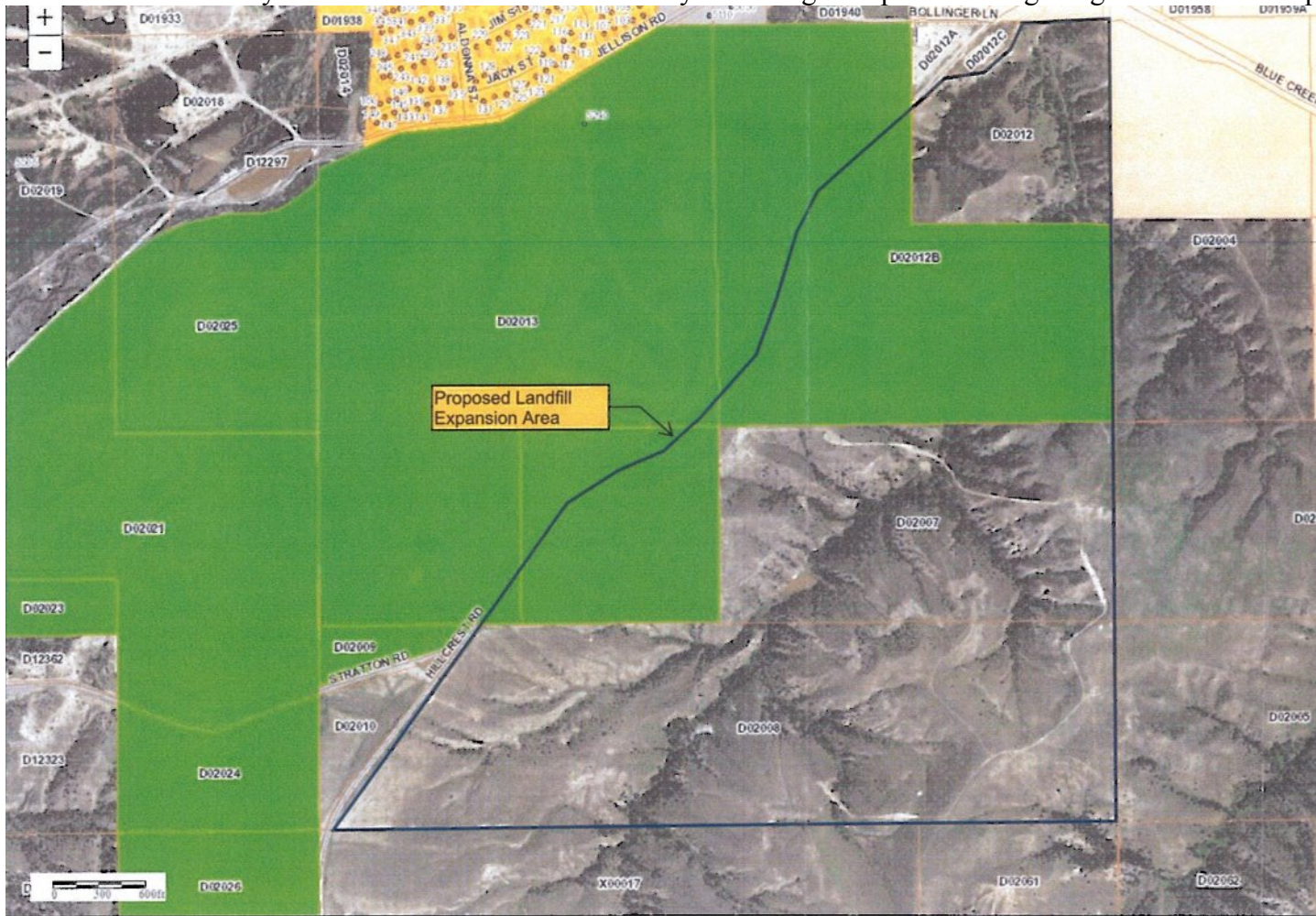


Subject Property

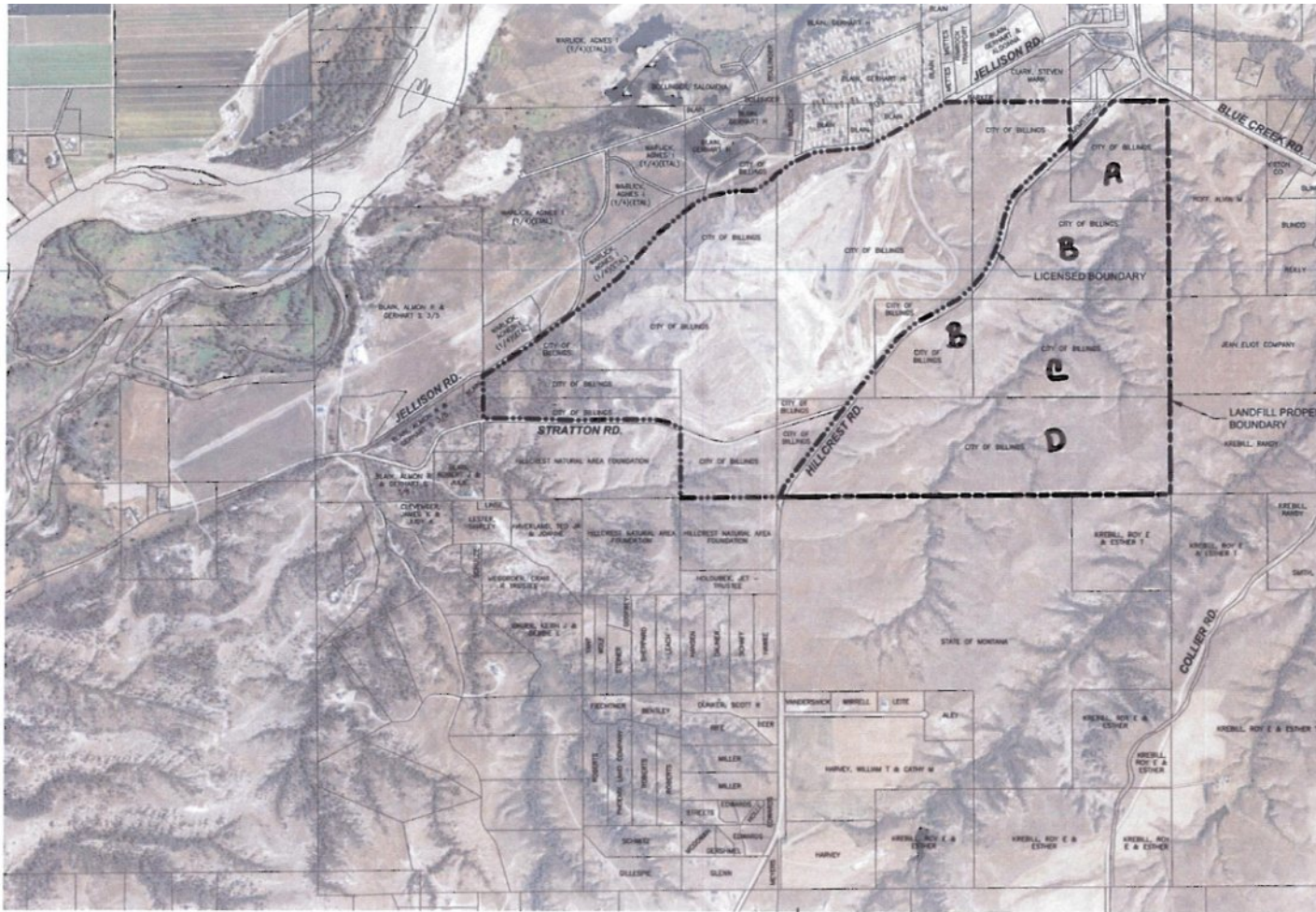


Land owned by the Billings Regional Landfill

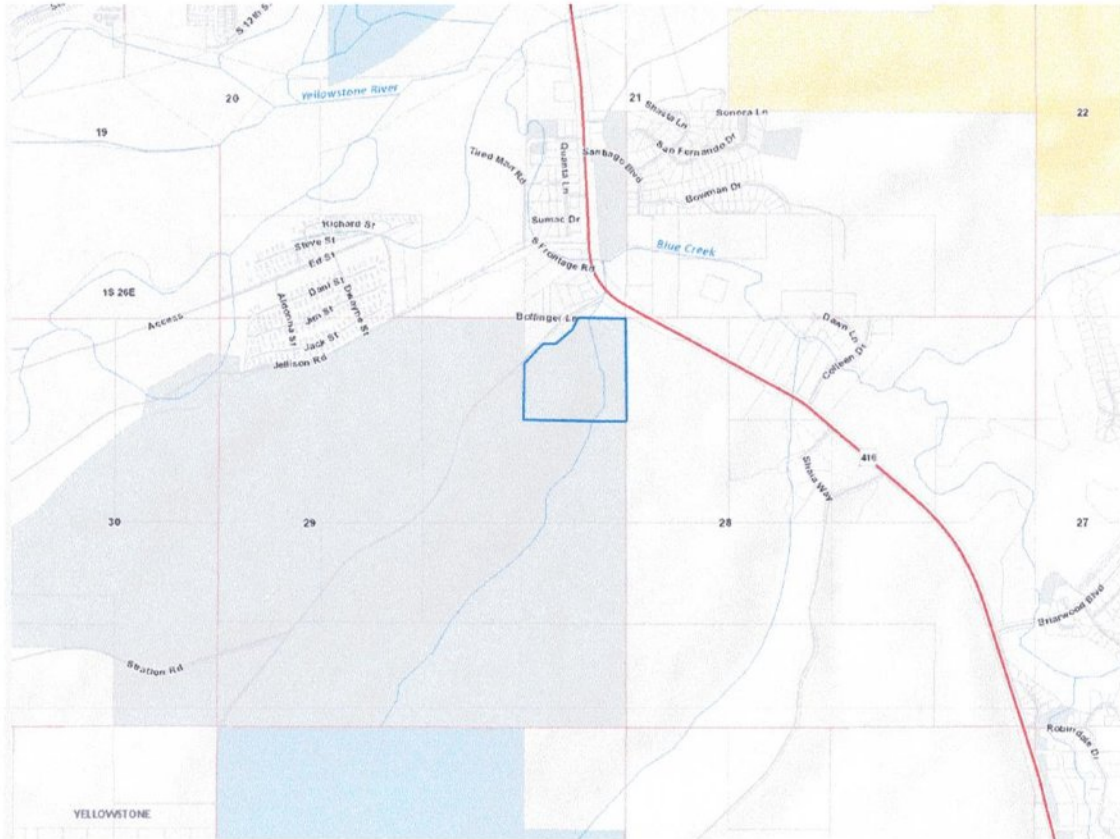
Site Plan  
County Variance 279 – Land Use Contrary to Zoning - Proposed Billings Regional Landfill Exp







LAN  
BI



**Parcel A:**

Property Category:RP

Subcategory:Real Property

Geocode:03-0927-29-1-17-01-0000

Assessment Code:000D020120

Primary Owner:

PropertyAddress:

CITY OF BILLINGS

PO BOX 1178

COS Parcel:

BILLINGS, MT 59103-1178

*NOTE: See the Owner tab for all owner information*

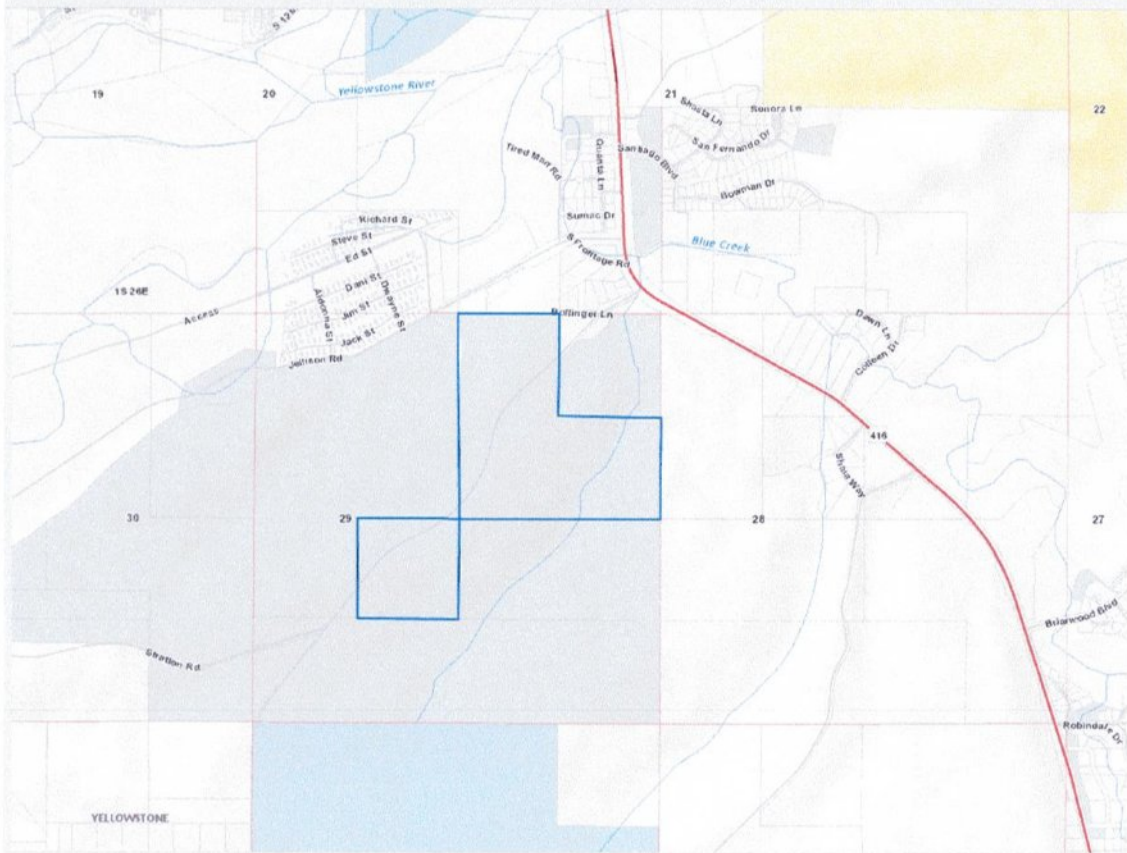
Certificate of Survey:

Subdivision:

Legal Description:

S29, T01 S, R26 E, ACRES 0, NENE4 (LESS RD & COS 2168 & 3388) (10)

Note: the northeastern corner of this parcel has already been approved for use contrary to zoning as a practice shooting range for local law enforcement. The boundaries of that specific area are not delineated on any maps that we can readily locate.



**Parcel B:**

Property Category:RP

Subcategory:Real Property

Geocode:03-0927-29-1-01-01-0000 Assessment Code:000D02012B

Primary Owner:

PropertyAddress:

CITY OF BILLINGS

PO BOX 1178

COS Parcel:

BILLINGS, MT 59103-1178

*NOTE: See the Owner tab for all owner information*

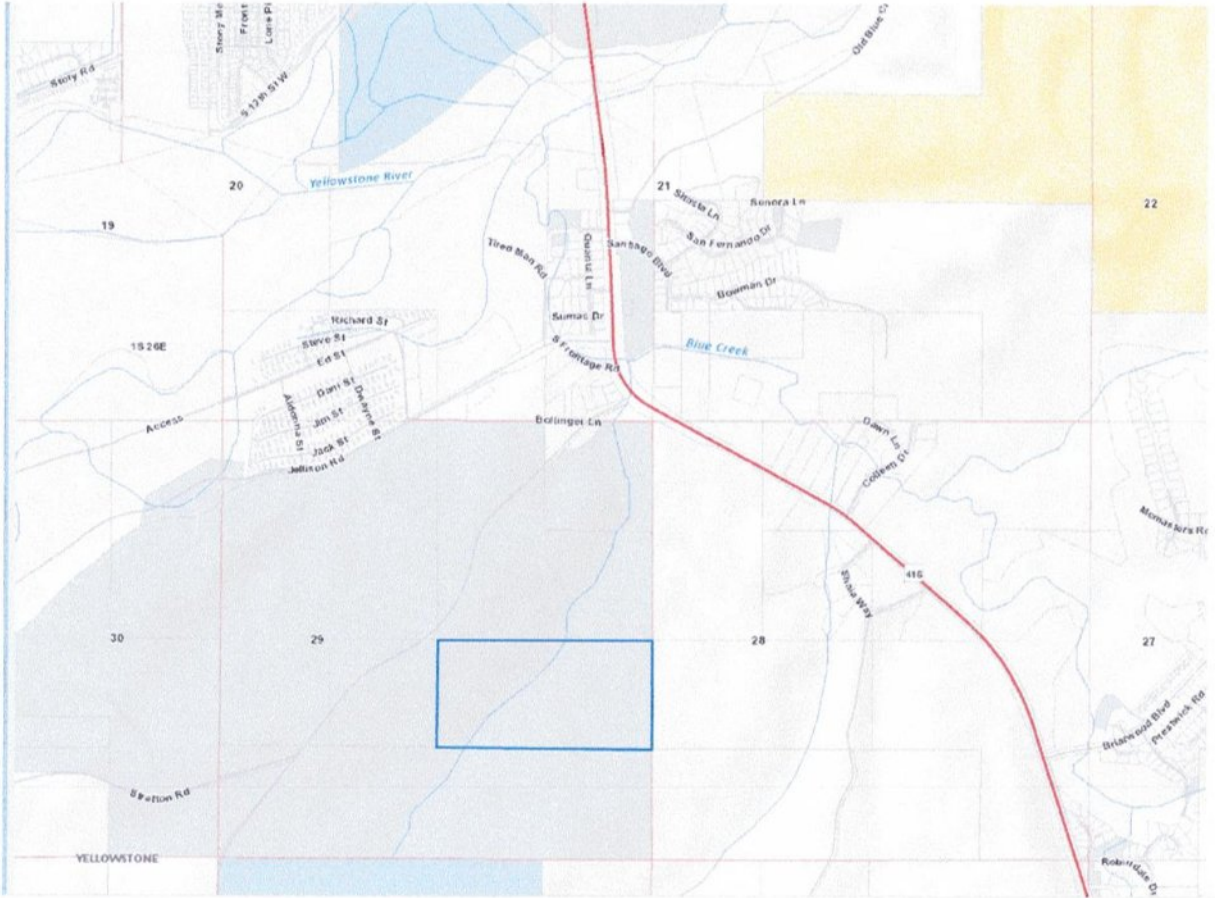
Certificate of Survey:

Subdivision:

Legal Description:

S29, T01 S, R26 E, W2NE4, SE4NE4, NE4SW4

Note the the portions of this parcel northwest of Hillcrest are already part of the licensed landfill.



**Parcel C:**

Property Category:RP

Subcategory:Real Property

Geocode:03-0927-29-4-11-01-0000 Assessment Code:000D020070

Primary Owner:

PropertyAddress:HILLCREST RD

CITY OF BILLINGS

BILLINGS, MT 59101

PO BOX 1178

COS Parcel:

BILLINGS, MT 59103-1178

*NOTE: See the Owner tab for all owner information*

Certificate of Survey:

Subdivision:

Legal Description:

S29, T01 S, R26 E, N2SE4



County Variance 279  
Site Photos



Subject Property from Hillcrest Road



View south and west along Hillcrest Road



View west along Hillcrest Road



View east along Hillcrest Road





## County Board of Adjustment

**Meeting Date:** 01/14/2016

**SUBJECT:** Variance 280 - Appeal of Administrative Decision - Lamar - 2531 Old Hardin Road

**THROUGH:** Candi Millar, Planning & Community Services Department Director

**PRESENTED BY:** Nicole Cromwell

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## Information

### REQUEST

**Item #2 - County Variance 280 – 2531 Old Hardin Road – Lamar** – An appeal of an administrative decision to deny an application for a new billboard sign at 2531 Old Hardin Road in a Community Commercial (CC) zone on Lot C1, Dick's Tracts Subdivision, a .98 acre parcel of land generally located at 2531 Old Hardin Road. Tax ID: C06869. Presented by: Nicole Cromwell, Zoning Coordinator

### RECOMMENDATION

The Zoning Coordinator recommends the decision to deny the billboard sign application by Lamar for a new billboard sign at 2531 Old Hardin be affirmed in whole. The decision was made without error and was the correct decision based on all the facts and within the scope of the County Sign Code as adopted.

### APPLICATION DATA

OWNER: Junior Land and Livestock - GFK Trailer Sales

AGENT: Lamar, Kelly Strobel and Paul Dennehy; Paul Lambert, manager for GFK Trailer Sales

LEGAL DESCRIPTION: Lot C1, Dick's Tracts Subdivision

ADDRESS: 2531 Old Hardin Road

CURRENT ZONING: Community Commercial (CC)

EXISTING LAND USE: GFK Trailer Sales

PROPOSED USE: Same with new Lamar Billboard Sign

SIZE OF PARCEL: 0.98 acres

### CONCURRENT APPLICATIONS

None.

### APPLICABLE ZONING HISTORY

Subject Property - None. The property is zoned CC and this was the original zoning of the property since 1973. There have been no applications for variances, zone changes, or special reviews on the subject property.

Surrounding Property - A sign height variance was approved in June 1990 for the Flying J Truck Plaza from 45 feet to 85 feet. A special exception (now known as a special review) was approved to move a billboard sign on the Billings Livestock Auction Yards property at 2443 North Frontage Road in April 1978. Two additional special exceptions were granted for billboard signs at 2421 Old Hardin Road and 1955 Old Hardin Road in March 1978.

### SURROUNDING LAND USE & ZONING

NORTH: Zoning: CI  
Land Use: I-90 and Billings Livestock Auction Yards

SOUTH: Zoning: R-150  
Land Use: Single family homes

EAST: Zoning: CC  
Land Use: Whalen Tires

WEST: Zoning: CC  
Land Use: Acuren - Materials Testing and Engineering

## **BACKGROUND**

This is an appeal of a final administrative decision regarding a billboard sign proposed for property at 2531 Old Hardin Road in Lockwood. The property is zoned Community Commercial (CC) and is owned by Junior Land and Livestock. The property is currently developed for GFK Trailer Sales. The business property manager is Paul Lambert. The appellant is Lamar, represented by Kelly Strobel, Real Estate Manager and Paul Dennehy, General Manager.

On October 14, 2015, the property owners at 2511 Old Hardin Road submitted a billboard sign permit through their agent, Bella Outdoor (Joe Mancuso, agent), to replace the existing Lamar billboard sign currently on the property. The property owners indicated in writing, and at the Planning Division front counter, that their intent was not to renew an expiring lease with Lamar. The lease would expire at the end of November, 2015. Zoning Coordinator Nicole Cromwell denied this permit application from the property owners of 2511 Old Hardin Road because the property had an existing billboard sign and it was likely the sign would remain in place through the expiration of the lease with Lamar. Ms. Cromwell indicated in the permit denial that a new application for a billboard sign could be submitted after the Lamar billboard was removed. The property owner and their agent indicated they would submit a new sign permit after the expiration of the lease and the removal of the existing sign.

On or about October 20, 2015, Kelly Strobel of Lamar visited the Planning office and spoke with Ms. Cromwell concerning billboard sign matters in general. Ms. Cromwell indicated to Mr. Strobel that she had just received a permit application for 2511 Old Hardin Road, a location where Lamar had a current, but expiring, lease with the property owner. She told Mr. Strobel she was going to deny the application as being premature. She made a copy of the application and gave it to Mr. Strobel.

On October 28, 2015, Lamar submitted a billboard sign permit for property at 2531 Old Hardin Road. The proposed location was not at least 500 feet distant from the current billboard sign location at 2511 Old Hardin Road. On November 9, 2015, Ms. Cromwell informed Mr. Strobel of Lamar by letter of her decision to deny the billboard sign permit at 2531 Old Hardin Road because of non-compliance with the 500-foot separation requirement (Article X, Section 4.06 – County Sign Code) and because the Lamar billboard sign at 2511 Old Hardin Road was still in place. She also stated in the letter of denial the need for Lamar to secure a location at least 500 feet distant from 2511 Old Hardin Road.

Lamar filed this appeal pursuant to the Zoning Coordinator's final administrative decision on November 9, 2015, for the billboard sign at 2531 Old Hardin Road. Subsequently, on December 2, 2015, both Lamar and Bella Outdoor filed billboard sign permit applications. Bella Outdoor filed on behalf of the property owners at 2511 Old Hardin Road, the former location of Lamar's lease. Lamar filed for a permit at 2531 Old Hardin Road, less than 500 feet from the location at 2511 Old Hardin Road.

The property owners of 2511 Old Hardin Road, through filing a permit on October 14, 2015, indicated to this office and the Zoning Coordinator their prior intent to continue using this property for a billboard sign. It is the practice of all planners to apply the doctrine of fairness to all applicants and in particular property owners who have a vested interest in securing land use entitlements for their property. Bella Outdoor on behalf of the property owners at 2511 Old Hardin Road did submit a billboard sign permit as soon as the Lamar billboard sign lease expired and the structure was removed from the property.

Lamar was aware from at least October 20, 2015, until today, that the owners of 2511 Old Hardin Road intended to contract with Bella Outdoor to construct a new billboard sign on their property. Subsequent submittals by Lamar for

a billboard sign permit for property within 500 feet of 2511 Old Hardin Road were not approved because the property owners of 2511 Old Hardin Road stated intent was to place a new billboard sign on their property once the Lamar sign was removed. If the property owners had indicated no intent to replace the billboard with another billboard sign, the Lamar application for 2531 Old Hardin would have been approved.

The Zoning Coordinator recommends the decision to deny the billboard sign application by Lamar for a new billboard sign at 2531 Old Hardin be affirmed in whole. The decision was made without error and was the correct decision based on all the facts and within the scope of the County Sign Code as adopted. The decision was not arbitrary or capricious. The property owners of 2511 Old Hardin Road did not intend to renew a land lease with Lamar but did intend to replace the billboard sign once the Lamar lease expired. The property owners stated this intent by filing a billboard sign permit at least 6 weeks in advance of the land lease expiration. Lamar was aware of these facts. Lamar was aware of the required separation distance of 500 feet between billboard signs. A new billboard sign permit could not be approved for a location within 500 feet of the billboard sign located at 2511 Old Hardin Road.

## **RECOMMENDATION**

The Zoning Coordinator recommends the decision to deny the billboard sign application by Lamar for a new billboard sign at 2531 Old Hardin be affirmed in whole. The decision was made without error and was the correct decision based on all the facts and within the scope of the County Sign Code as adopted.

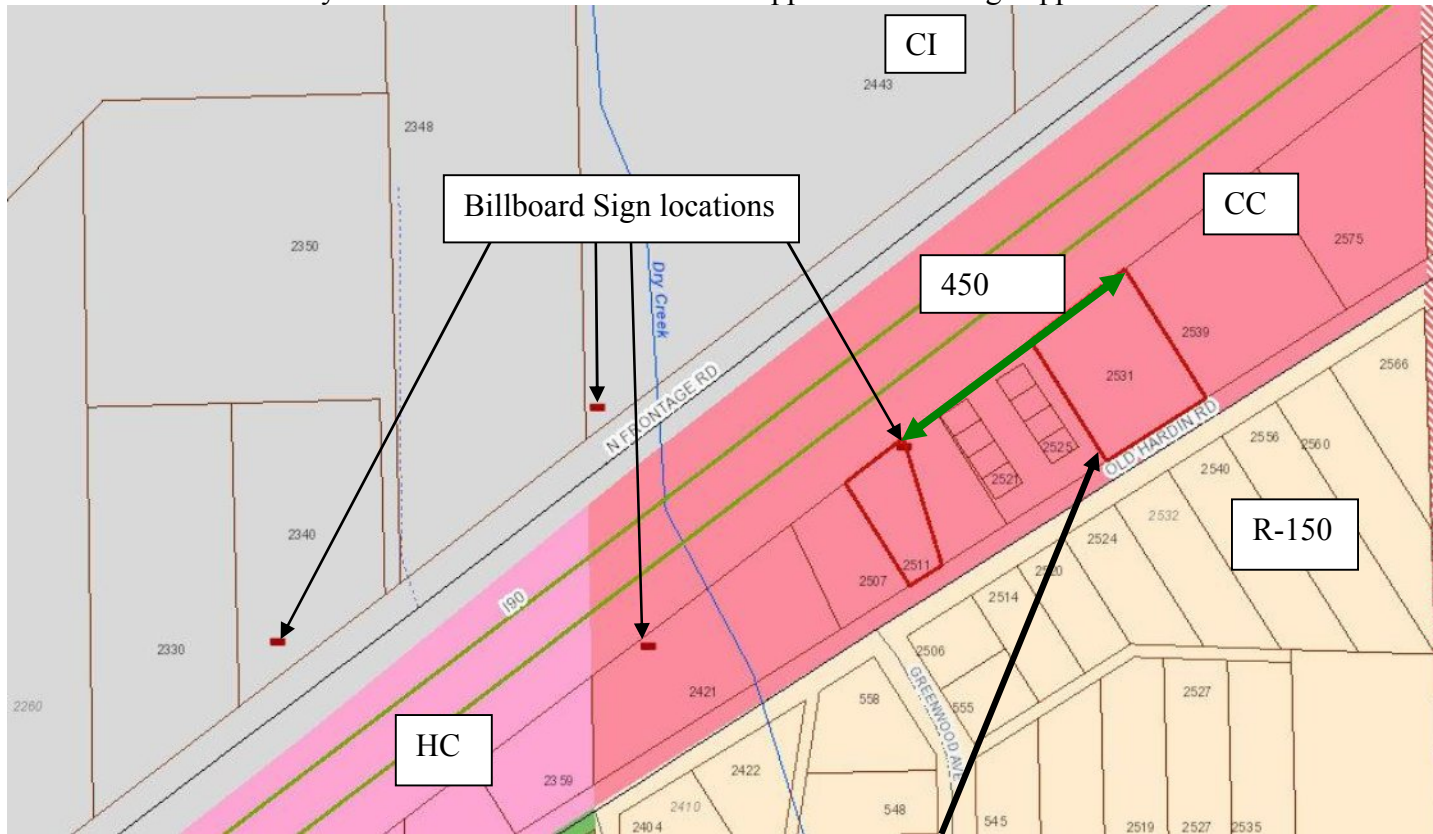
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## **Attachments**

Zoning Map  
Site photos  
Letter of Appeal and other documents  
County Sign Code relevant sections

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Zoning Map  
County Variance 280 – Administrative Appeal – Lamar sign application at 2531 Old Hardin R



Subject Property

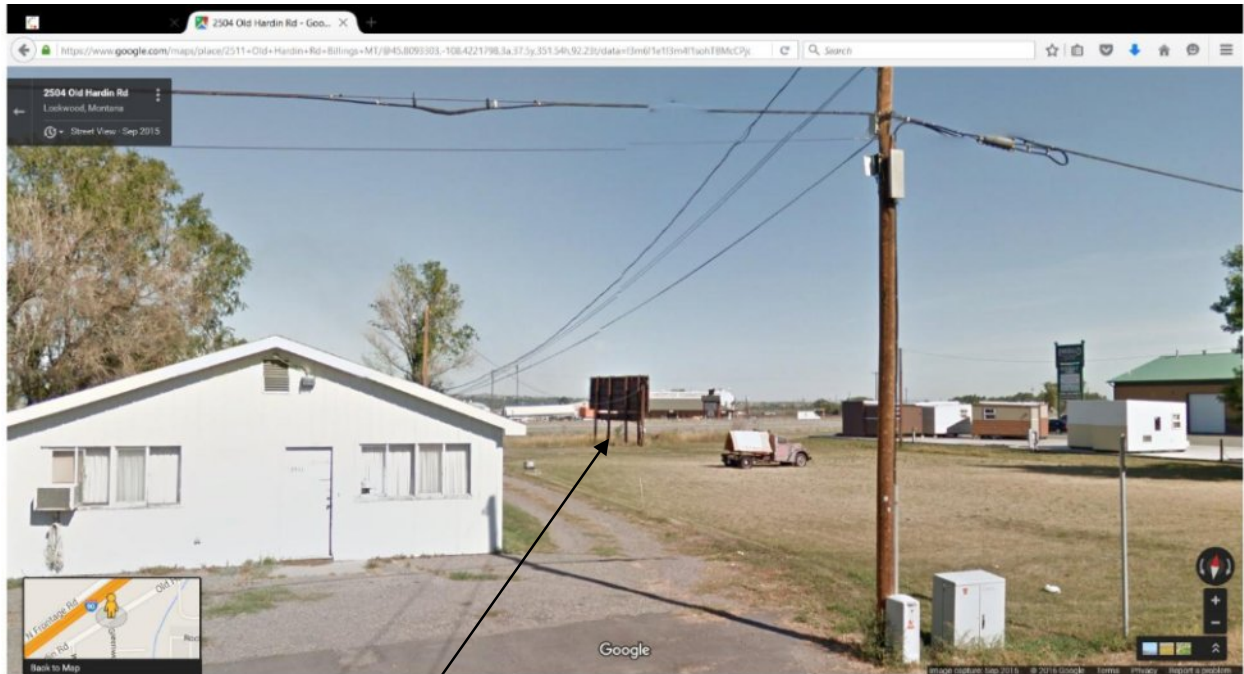
County Variance 280  
Site Photos



Subject Property from Old Hardin Road



View west along Old Hardin Road



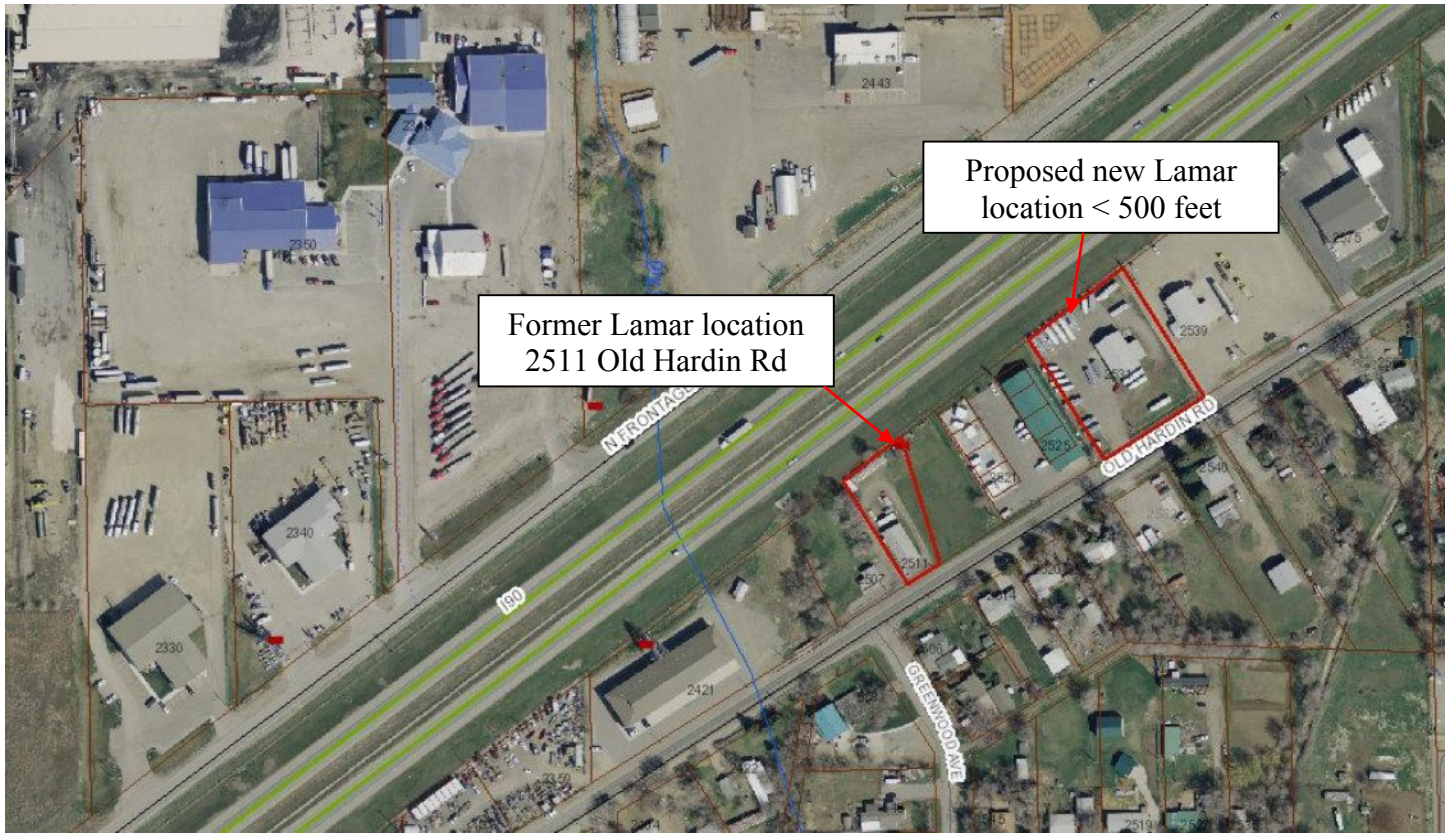
Former Location of Lamar billboard sign – 2511 Old Hardin Road



Lamar sign at 2511 Old Hardin Road as seen from I-90



Proposed new Lamar  
location < 500 feet



Aerial Photo

**Variance 280 – Administrative Appeal – Lamar**  
Applicant Appeal Letter and Relevant Permit Documents



Lamar of Billings, MT



December 7, 2015

Billings City-County Planning Division  
ATTN: Ms. Nicole Cromwell, AICP Zoning Coordinator  
2825 3<sup>rd</sup> Avenue North  
4<sup>th</sup> Floor  
Billings, MT 59102

*via Hand Delivery*

**RE: NOTICE OF APPEAL – Lamar Advertising Permit Application at 2531 Old Hardin Road, Billings, MT**

Dear Nicole:

Lamar submits this appeal pursuant to Sec. 27-1510 of the Unified Zoning Regulations on the following grounds. Lamar as Lessee owns the permit for the referenced location. The Lessor has no interest in the permit. Furthermore, Lamar has met the requirements set forth in your November 9, 2015 email as follows.

You provide that the billboard is still in place as a permitted location, but the landowners have chosen not to renew with Lamar. The County has no standing to consider private contractual negotiations in its issuance of a permit. The County is charged with issuing permits per the Zoning Ordinance. Lamar meets the requirements under the Zoning Ordinance for maintaining its current permit. In an effort to meet the fictional requirements you attempt to impose, Lamar removed its sign. Immediately upon removal, Lamar applied for a new permit that meets Zoning Ordinance requirements. As an officer of the County, you are mandated to issue the permit to Lamar.

You provide in your letter that the Lessor applied for a sign permit at 2511 Old Hardin Rd. during the time Lamar's billboard was on its property. Applying the same standard as you applied to Lamar, the Lessor would have violated spacing requirements as Lamar's sign was within 500 feet of the Lessor's proposed sign.

While we are confident that the County will issue Lamar the permit for 2531 Old Hardin Road in compliance with the Zoning Ordinance, we submit this notice of appeal to dispel any arguments the County may assert for denying the permit and asserting an untimely appeal.

Sincerely,

Kelly Strobel  
Lamar Real Estate Manager

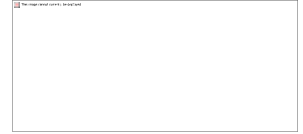
cc: Paul Dennehy, Lamar General Manager  
Wendi B. Loup, Lamar Asst. Gen. Counsel

7505 Entryway Drive • Billings, Montana 59101 | 406.252.7181 • Fax 406.252.7690

**CITY-COUNTY PLANNING DIVISION**  
Planning and Community Services Department



2825, 3<sup>rd</sup> Avenue North  
4<sup>th</sup> Floor  
Billings, MT 59102  
406-247-8676  
[www.ci.billings.mt.us/planning](http://www.ci.billings.mt.us/planning)



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November 9, 2015

Kelly Strobel  
Lamar Outdoor  
7505 Entryway Drive  
Billings, MT 59106

RE: Request for permit – 2531 Old Hardin Road

Dear Mr. Strobel,

On October 28, 2015, Lamar submitted a request to construct a new billboard at 2531 Old Hardin Road. I have denied this request due to the fact the location is not at least 500 feet from an existing location of a billboard sign at 2511 Old Hardin Road. The County Sign Code requires a minimum spacing of 500 feet between billboard signs (Article X, Section 4.06) as does the Montana ARM for permitting new billboard signs on the federal highway system.

The existing billboard sign at 2511 Old Hardin Road is still in place as a permitted location. Lamar owns this sign. The owners of the property at 2511 Old Hardin Road have chosen not to renew a lease with Lamar Outdoor. The owners of the property at 2511 Old Hardin Road intend to engage another billboard (outdoor advertising) company to erect a new sign on the property once the Lamar lease on their property has expired and the sign is removed.

The permit you submitted is for a location that is within 500 feet of the location at 2511 Old Hardin Road. I cannot approve the permit as submitted. You will need to find a location further east. 2539 or 2575 Old Hardin Road are further east and may have locations available that are at least 500 feet from the existing location.

On October 14, 2015, I received a similar application from the owners/agent for a new billboard sign at the existing location at 2511 Old Hardin Road. I did not approve this application as the existing sign is still in place. I instructed the owner/applicant (outdoor advertiser) to re-apply when the existing sign is removed.

If Lamar wants to secure a new location for the sign they will have to remove it from 2511 Old Hardin Road and it will need to be sited in a location at least 500 feet distant from the current location. You may consider this letter the final administrative decision in this matter. Section 27-1510 of the Unified Zoning Regulations allows Lamar to appeal this final administrative decision to the County Board of Adjustment. Any such appeal must be made within 30 days of the date of the decision. The appeal period for this decision runs until December 9, 2015.

Sincerely yours,

Nicole Cromwell, AICP  
Zoning Coordinator

CC: Wyeth Friday, Planning Division Manager  
Patrick Hurley, MDT OAC

**CITY-COUNTY PLANNING DIVISION**



Planning and Community Services Department  
2825, 3<sup>rd</sup> Avenue North  
4<sup>th</sup> Floor  
Billings, MT 59102  
406-247-8676  
[www.ci.billings.mt.us/planning](http://www.ci.billings.mt.us/planning)



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December 9, 2015

Kelly Strobel  
Lamar Outdoor  
7505 Entryway Drive  
Billings, MT 59106

RE: Request for permit – 2531 Old Hardin Road - Permit #PLN-15-07831

Dear Mr. Strobel,

On December 2, 2015, Lamar submitted a request to construct a new billboard at 2531 Old Hardin Road. I have denied this request. Lamar had a billboard sign at 2511 Old Hardin Road. On October 14, 2015, the property owner at 2511 Old Hardin Road submitted an application to construct a new billboard sign provided and owned by another billboard sign company, Bella Outdoor. The property owner indicated in writing their prior intent to 1) not renew the lease with Lamar and 2) to construct another billboard sign on their property through another company. The property owner at 2511 Old Hardin Road has submitted a sign permit to construct this new sign received on the same day as Lamar's permit application for 2531 Old Hardin Road. Given the property owners stated prior intent, a new sign cannot be constructed at 2531 Old Hardin Road. The proposed location at 2531 Old Hardin Road is less than the required 500-foot minimum separation distance to 2511 Old Hardin Road. The County Sign Code requires a minimum spacing of 500 feet between billboard signs (Article X, Section 4.06) as does the Montana ARM for permitting new billboard signs on the federal highway system.

I also received on December 8, 2015, from Lamar, an administrative appeal of my decision to deny this location based on a previous permit submittal in October 2015. A hearing will be held on your appeal on January 14<sup>th</sup>, 2016 before the County Board of Adjustment. The hearing will be held in the 1<sup>st</sup> Floor Conference Room here at the Miller Building, 2825 3<sup>rd</sup> Avenue North beginning at 4 pm. Your appeal is the second item on the agenda for this hearing date. I will notify you in writing about 1 week in advance of the hearing and include the staff report sent to the Board of Adjustment.

Sincerely yours,

Nicole Cromwell, AICP  
Zoning Coordinator

CC: Dan Schwarz, Deputy County Attorney  
Wyeth Friday, Planning Division Manager  
Patrick Hurley, MDT OAC

October 14, 2015

Tom and Katherine Moore, Acknowledge that have consulted with the Montana dept. of Transportation regarding the permit status of the billboard located on 2511 Old Hardin Road

Thomas Moore 10-14-15

Also

Tom and Katherine Moore wish to let the MDOT know that they are canceling their lease with LAMAR and are now in a lease with BELLA OUTDOOR. TM 10-14-15

State permit # 00149



December 17, 2015

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Lamar Outdoor Advertising  
7505 Entryway Drive  
Billings, MT. 59102

Subject: Outdoor Advertising Permit No. 00149

During a recent sign survey, department personnel observed that the sign located on Highway I-90, at or near mileposts 454.8, in Yellowstone County is in a state of disrepair. Department records indicate that you are the sign owner.

Enclosed for your information is a copy of Section 75-15-132 MCA, which states in part: that when the department determines a sign structure is not in a reasonable state of repair or is unsafe, the department shall notify the sign owner of the violation and require remedial action within (60) days and a print out of the sign in question.

***Please bring the signs into compliance by February 15, 2016.*** When repairs have been completed, send a photo of the repaired sign to the OAC office (return envelope enclosed).

Thank you very much for your attention to this matter, we look forward to a positive response.

If you have any questions, I can be reached in Helena at (406) 444-6238 or you can e-mail me at [jschatzka@mt.gov](mailto:jschatzka@mt.gov).

Jim Schatzka  
Outdoor Advertising Control  
Compliance Technician

copies: File  
City County Planning Division (Nicole Cromwell)  
Thomas M. & Katherine E. Moore (Landowner)  
MDT/OAC sign committee

**75-15-132. False application or disrepair of structure -- remedial action.** When the department determines that a willful false or misleading statement has been made in the application for a permit or that the structure for which a permit was issued is not in a reasonable state of repair or is unsafe, the department shall notify the holder of the permit in writing, either by certified mail or by personal service, of the violation and specify that remedial action shall be taken within 60 days or the permit will be revoked and action for removal of the sign commenced as provided in 75-15-131. No notice is required prior to filing a complaint after the notice period has lapsed.

**History:** En. Sec. 7, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 164, Ch. 316, L. 1974; R.C.M. 1947, 32-4721.

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December 17, 2015

**CERTIFIED- RETURN RECEIPT REQUESTED**

Bella Outdoor Advertising  
55 Jonquil Circle  
Billings, MT. 59105

Subject: Denial of Outdoor Advertising Permit Application

On December 14, 2015, the Department received an application for an outdoor advertising permit on I-90, near Milepost 454.8 in Yellowstone County, Montana.

After careful review the Department regrets to inform you that we are unable to issue a permit for your sign.

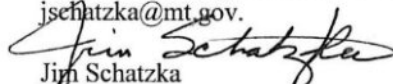
Advertising signs at this location are prohibited because they do not meet the requirements of section 75-15-113 (7) MCA. Currently there is a permitted sign at this location.

If you disagree with this determination, you may request a hearing by notifying the Department in writing within thirty (30) days.

A request for a hearing shall be mailed to:

Patrick J. Hurley  
Outdoor Advertising Control  
Montana Department of Transportation  
P.O. Box 201001  
Helena, MT 59620-1001

If you have any questions, I can be reached in Helena at (406) 444-6238 or via email at: [jschatzka@mt.gov](mailto:jschatzka@mt.gov).

  
Jim Schatzka  
Compliance Technician  
Outdoor Advertising Control

Note: The fees submitted with your application will be refunded once MDT receives a W-9 from you.

cc: file  
City -County Planning Division (Nicole Cromwell)  
MDT/OAC sign committee

# BELLA

## OUTDOOR ADVERTISING, LLC

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December 30, 2015

Pat Hurley

Montana Dept. of Transportation

P.O. box 201001

Helena, Mt 59620-1001

**Subject: Denial of Advertising Permit for Location formerly # 00149.**

Mr. Hurley:

This Letter is to notify the department of my Disagreement with their Determination on the location formerly known as permit #00149. Bella Outdoor Advertising is requesting a hearing regarding that matter.

In the interest of expediting this process, could you please request Jim Schatzka to forward any and all information that is public record regarding this dispute? "I would particularly like to know the dates that the information from Lamar was received by the department."

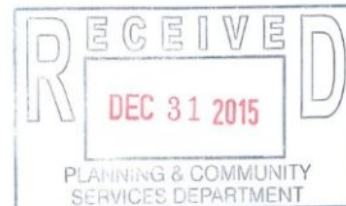
This would greatly expedite the hearing process.

Pat, once Again thank you for your prompt response.

Yours Truly



Joe Mancuso



**County Sign Code**

Article X – Section 4.06 & Section 8.04

Variance 280 – Appeal of Administrative Decision – Lamar – Billboard sign application

**ARTICLE X**

**SIGNS**

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**Sec. 1 INTENT**  
**Sec. 2 DEFINITIONS**  
**Sec. 3 GENERAL PROVISIONS**  
**Sec. 4 REGULATION BY ZONE**  
**Sec. 5 COMMON SIGNAGE PLAN**  
**Sec. 6 NONCONFORMING SIGNS**  
**Sec. 7 CONSTRUCTION SPECIFICATIONS**  
**Sec. 8 ADMINISTRATION AND ENFORCEMENT**

**Sec. 4.06 Billboards**

- (a) Billboards shall be permitted in the Interstate Corridor (660 feet either side of the right-of-way of the Interstate Highway) on properties zoned CC, HC, CI or HI as follows:
1. Billboards located within the Interstate Corridor shall have a maximum size of six hundred (600) square feet in size and shall be no more than forty (40) feet in height.
  2. Minimum distance between billboards shall five hundred (500) feet.
  3. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

**Sec. 8.04 Issuance and Denial**

The Administrator shall issue a permit and permit sticker or tag for the erection, structural alteration or relocation of a sign within ten (10) working days of receipt of a valid application, provided that the sign complies with all applicable laws and regulations of the County. In all applications where a matter of interpretation arises, the more specific definition or higher standard shall prevail.

When a permit is denied, the Administrator shall within ten (10) working days, provide a written notice to the applicant along with a statement of the reasons for denial, citing sections of this Article and interpretation of possible nonconformity. The Administrator may suspend or revoke an issued permit for any false statement or misrepresentation of facts in the application.