



County of Yellowstone Board of Adjustment
AGENDA-Thursday, November 10, 2016, 4:00 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd 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

Motion. Approval of Minutes: October 13, 2016

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 Exparte 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 284 – 3150, 3246 & 3316 King Ave East – Land Use Contrary to Zoning** – A request to conduct a public forum for the proposed future use of these lots for public parking to the benefit of the County Detention Facility on the north side of King Avenue East. This use normally requires an application for special review approval. The County will not be submitting a special review. 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 property is within the Residential 15,000 (R-150) zoning district and is described as C/S 1334, Parcel 1 & Parcel 1A, and Cissel Acreage Tracts Subdivision Tract 2, a 13.047 acre parcel of land. Tax IDs: D01861, A19369 & D01862. Presented by Nicole Cromwell, Zoning Coordinator

Other Business/Announcements

- a. The Planning & Community Services office will be closed on Friday, November 11, 2016 to observe Veterans Day and on Thursday, November 24, 2016 to observe Thanksgiving.

Adjournment

The County Board of Adjustment will hear all persons wishing to speak relative to the proposed variance. Testimony regarding the above mentioned items may also be submitted in writing to the Planning Division, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 657-8246. 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.

County Board of Adjustment

Meeting Date: 11/10/2016

Information

Subject

Motion. Approval of Minutes: October 13, 2016

Attachments

YBOAminutes_16_10_13_DRAFT



Yellowstone County Board of Adjustment

Minutes

October 13, 2016

The County Board of Adjustment met on Thursday, October 13, 2016 in the 1st Floor Conference Room, of the Miller Building located at 2925 3rd Avenue North. Vice Chairman Bailey called the meeting to order at 4:00 p.m.

Name	Title	01/14/2016	02/11/2016	05/12/2016	06/09/2016	10/13/16							
Bruce Reiersen	Board member	E	-	1	1	E							
Board member Poppler	Board member	1	-	E*	1	1							
Carlotta Hecker	Chairperson	1	-	E*	E	1							
Delores Terpstra Miner	Vice Chairperson	1	-	1	* CC	1 CC							
Robert Bailey	Board member	E	-	1	1	E							

Proteome Chairman Poppler introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planning Clerk Tammy Deines, Planning Clerk. **Board member Hecker participated via Conference Call.

Attending: John Thiel, Katheryn Thiel, Ken Peterson

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.

Approval of Minutes: June 9, 2016

Motion

Board member Miner moved and Board member Hecker seconded to approve the June 9, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest: There was none.

Disclosure of Exparte Communication: Zoning Coordinator Nicole Cromwell stated staff has not received any communications following the preparation of the staff report.

PUBLIC HEARINGS: Zoning Coordinator Nicole Cromwell reviewed the procedures for public hearing and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting for reviewing and acting on each variance. She stated three votes in favor of the Board of Adjustment are required to pass a variance. This evening there are 3 Board members attending. A unanimous vote will approve requests.

Vice Chairman Bailey called for the staff presentation by Ms. Cromwell

Item #1 County Variance 283 – S 44th St West – Lot Area – A variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a minimum lot area of 5 acres to accommodate the court order division of property between 2 parties in an Agriculture Open-Space (A-1) zone on Tract 2A2 of C/S 2007. Tax ID: D00350A.

RECOMMENDATION

This is a variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a minimum lot area of 5 acres to accommodate the court order division of property between 2 parties in an Agriculture Open-Space (A-1) zone on Tract 2A2 of C/S 2007. Tax ID: D00350A. The Board of Adjustment determinations for variances are included at the end of the staff report. The Planning Division is forwarding a recommendation of conditional approval.

Staff is recommending conditions of approval as follows:

1. The variance to decrease the required lot area from ten acres to five acres to accommodate a court ordered division of land; Montana Twenty-Second Judicial District Court, Bighorn County, MT No. DR-10-42. No other variance is intended or implied by this approval.
2. The variance is limited to Tract 2A2 of C/S 2007.
3. The applicant must submit the plat for review within 60 days of Board of Adjustment approval.
4. 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

Board member Poppler asked for clarification on the point of division of the parcel and the location of the access easement. It was noted a pre-application review meeting is not required for an exempt survey. The variance will allow the property owner to have 5 acres instead of the 10-acre minimum required by the zoning. Clarification was given by Zoning Coordinator Nicole Cromwell on Ag-Open and Ag-Suburban zoning allowable uses and allowable sizes for accessory building. In response to further question by Board member Poppler, she explained that should the property owner decide to build a structure a zoning compliance permit will be required but not a variance.

Public Hearing

Proteome Chairman Poppler opened the public hearing at 4:19 p.m. and asked if there is anyone present wanting to speak in favor or against County Variance #283.

Kenneth Peterson, 424 8th St West, Billings MT

Mr. Peterson represents Katheryn and John Thiel. He stated the property will be governed by the Agricultural-Open zoning when the property is divided. Should development take place, a zone change will be needed and/or subdivision review. The applicants have no plans for development at this time and this request is due to a divorce. The exempt survey is ready to be filed, and the only review comments received were from the County Attorney stating the variance is needed in order to have the judge's rules enforced and have the plat become of record. This will not change the character of the area. There are no proposed future uses contemplated or decided.

Proteome Chairman Poppler asked if there is anyone present wanting to speak in favor or against County Variance #283. There was none. Proteome Chairman Poppler closed the public hearing at 4:25 pm and called for a motion.

Motion

Board member Hecker made a motion and it was seconded by Board member Terpstra-Miner to conditionally approve Variance #283 with the conditions presented by staff.

Discussion

Board member Poppler said this request is appropriate. He voiced concern a zone change may be more appropriate as the likelihood is high that future development will entail a minor plat. Per Board member Hecker’s request Ms. Husman read the Conditions of Approval aloud. There was no further discussion on the motion.

Board member	Yes	No	Recused	Absent
Blaine Poppler	x			
Carlotta Hecker (Chairman)	x			
Delores Terpstra Miner	x			
Robert Bailey (Vice Chairman)		x		
Bruce Reiersen		x		

The motion carried, 3-0. Yellowstone County Variance #283 is conditionally approved.

Other Business

The County Board of Adjustment will meet on November 10, 2016 to consider a Land Use Contrary to Zoning for a future parking lot at the Yellowstone County Detention Facility.

The meeting was adjourned at 4:30 p.m.

ATTEST: DRAFT TO BE APPROVED BY A MOTION ON NOVEMBER 10, 2016



County Board of Adjustment

Meeting Date: 11/10/2016

SUBJECT: Variance 284 - Land Use Contrary to Zoning - 3150 King Ave East - Future Parking Lot

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Item #1 County Variance 284 – 3150, 3246 & 3316 King Ave East – Land Use Contrary to Zoning – A request to conduct a public forum for the proposed future use of these lots for public parking to the benefit of the County Detention Facility on the north side of King Avenue East. This use normally requires an application for special review approval. The County will not be submitting a special review. 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 property is within the Residential 15,000 (R-150) zoning district and is described as C/S 1334, Parcel 1 & Parcel 1A, and Cissel Acreage Tracts Subdivision Tract 2, a 13.047 acre parcel of land. Tax IDs: D01861, A19369 & D01862. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

The Planning Division is recommending the Board conduct the public hearing and allow comment on the future County parking lot plans.

APPLICATION DATA

OWNER: Yellowstone County, John Ostlund, BOCC Chairman

AGENT: Schutz Foss Architects, Allen Rapacz and Greg Erpenbach, Superintendent of Facilities for Yellowstone County

LEGAL DESCRIPTION: C/S 1334, Parcel 1 & Parcel 1A, and Cissel Acreage Tracts Subdivision Tract 2

ADDRESS: 3150, 3246 & 3316 King Avenue East

CURRENT ZONING: Residential 15,000 (R-150)

EXISTING LAND USE: 3 single family dwellings and agricultural uses

PROPOSED USE: Future parking lots for Yellowstone County

SIZE OF PARCEL: 13.047 acres

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Cissel Acreage Tracts Lots 1 and 2 requested a zone change from R-150 to Controlled Industrial (CI) in 1984. This zone change was denied. The parcels were zoned Residential 15,000 in 1973, when the County first adopted zoning for this area. Agencies from the City, County, school districts and the state have filed various applications over the past 44 years to use land contrary to zoning for remodeling, new construction or expansion of public facilities. State law allows a public agency to use public land contrary to zoning if a public forum is held before the Board of Adjustment. This allows public input on the proposed use. Additional permitting, financing and review processes are in place for most public building and development projects and these also allow public comment and input.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Public
 Land Use: Yellowstone County Detention Facility and County Public Works Shops

SOUTH: Zoning: CI
 Land Use: I-90 and vacant industrial land

EAST: Zoning: HC & CI
 Land Use: Vacant Land and Polson's Tree Service

WEST: Zoning: R-150
 Land Use: Single family dwellings and County materials storage lot

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.

Yellowstone County has purchased these lots on the south side of King Avenue East for potential future use as parking lots for County employees and visitors to the County Detention Facility. There are no plans in place at this time for the development of these parking lots or storage facilities. The zoning regulations would normally require the submission of a special review application for the development of a public parking facility in a residential zone. A special review application will not be submitted in this case.

The state law provision that exempts local agencies from local zoning compliance provides an opportunity for the public to provide comment and eliminates the need for one government authority to approve, deny or place conditions on the necessary public improvements of another public agency. Many public agency projects are subject to other permitting and development permissions ranging from financial authority and building code compliance to state and federal environmental policy conformance. These processes also offer the opportunity to provide public comment.

RECOMMENDATION

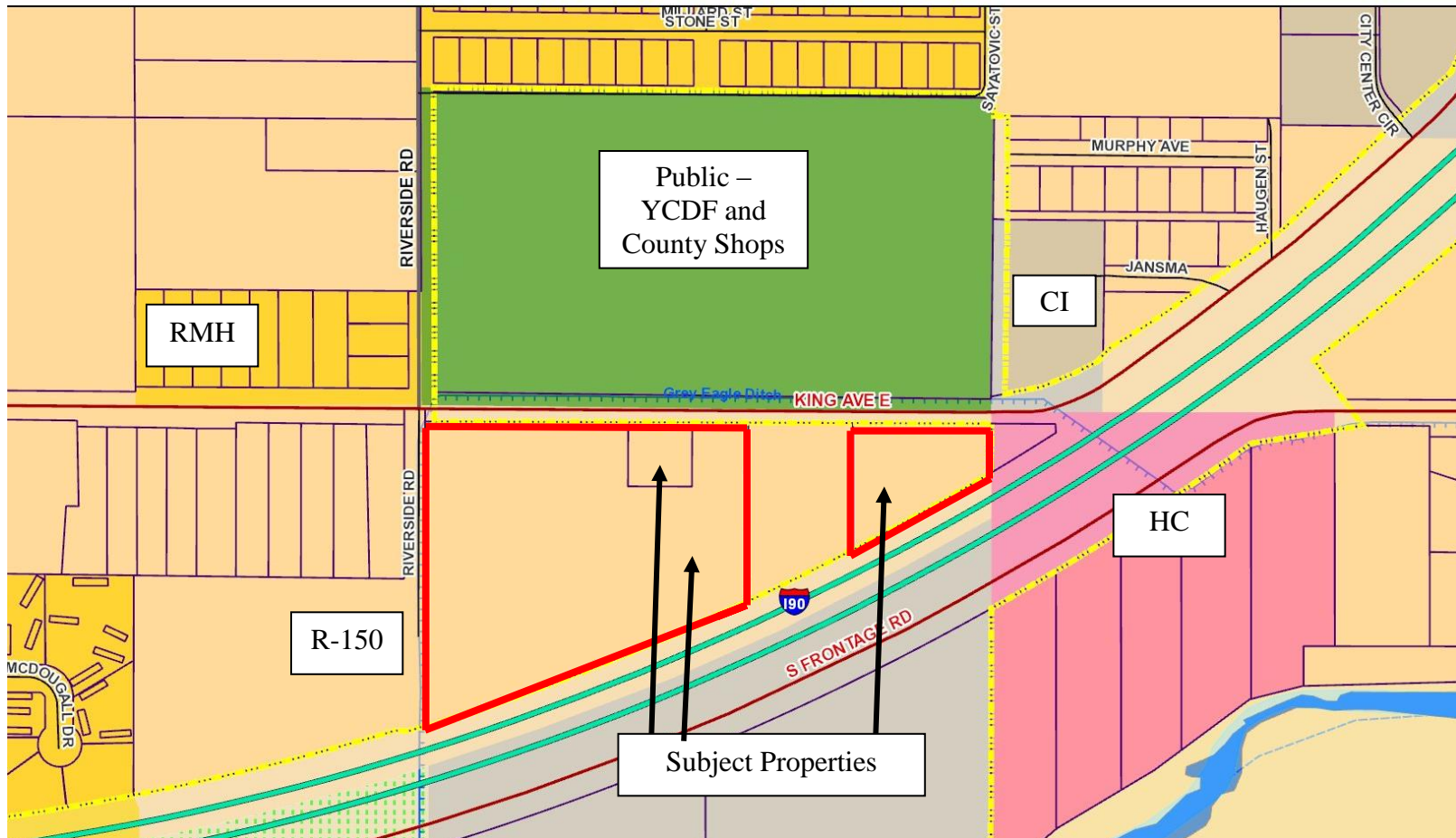
The Planning Division recommends the Board conduct the public hearing and allow public comment on the future parking lots for Yellowstone County.

Attachments

Zoning Map and Site Photos
Additional Photos
Application and Letter

Variance 284 – 3150, 3246 and 3316 King Avenue East - LUCZ
Zoning Map

LUCZ - Var 284



LUCZ - Var 284





Subject Property



View west along King Ave East



View west on King Avenue East



View north across King Avenue East to YCDF



View north east across King Avenue East



View east down King Avenue East

Additional Photos – Variance 284 – LUCZ



View south from King Avenue East across 3150 King Avenue East



View south east across King Avenue East – 3150 King Ave East



3200 King Avenue East – Property NOT included between 3150 and 3246 King Avenue East



View south at 3246 and 3316 King Avenue East

Variance 284 – 3150,3246 and 3316 King Avenue East - LUCZ
Applicant Letter

APPLICATION FORM

COUNTY Land Use Contrary to Zoning ID: County Variance # 284 - Project # P2-16-00181

The undersigned as owner(s) of the following described property hereby request a Public Hearing on a Land Use Contrary to Zoning from the terms of the Yellowstone County Unified Zoning Regulations.

TAX ID # D01861 / A19369 / #D01862 COUNTY COMMISSIONER DISTRICT # 1

Legal Description of Property: (#D01861) S15, T01 S, R26 E. COS 1334 PARCEL 1 (LESS TR 1A COS 1334 1ST AMD) 9.1 ACRES
(#A19369) Cissel Acreage Tracts Subdivision, S15, T01 S., R26 E, Lot TR2 (#D01862) S15, T01S, R26 E. COS 1334, PARCEL 1A, 1ST AMEND .5 ACRES

Address or General Location (If unknown, contact County Public Works): _____
3246 King Ave. E. (#D01861) 3150 King Ave. E. (#A19369) 3316 King Ave. E. (#D01862)

Zoning Classification: RESIDENTIAL 15000

Size of Parcel (Area & Dimensions): #D01861- 9.1 acres / #A19369- 3.447 acres / #D01862- .5 acres

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Brief explanation of the Project:

Yellowstone County would like to use these parcels of land for future parking and storage buildings for the Yellowstone County Detention Facility located across King Ave. E. to the North.

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

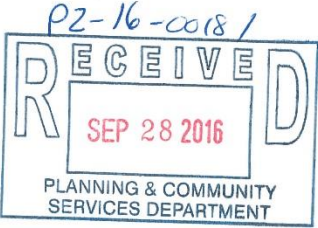
Owner(s): Yellowstone County Board of County Commissioners (John Ostlund- Chairman)
(Recorded Owner) PO BOX 35000, BILLINGS, MT 59107
(Address) 406-256-2703 jostlund@co.yellowstone.mt.gov
(Phone Number) _____ (email) _____

Agent(s): Schutz Foss Architects
(Name) 3030 4th Avenue N., Billings MT 59101
(Address) 406-252-9218 allen@schutzfoss.com / chris@schutzfoss.com
(Phone Number) _____ (email) _____

Greg Erpenbach
Yell Co. Facilities Superintendent
P.O. Box 35005
59107

I attest that all the information presented herein is factual and correct.

Signature: _____ Date: 9-23-16
(Recorded Owner)





September 27, 2016

Carlotta Hecker, Chair
Yellowstone County, Board of Adjustment
2825 3rd Ave. N., 4th Floor
Billings, MT 59101

Re: Yellowstone County Land Use Contrary to Zoning Application
Yellowstone County Detention Facility Addition/Remodel #1629
Parcel ID #: D01861, A19369, D01862

Dear Carlotta,

Yellowstone County owns (3) parcels of properties south of King Avenue East, across the street from the Yellowstone County Detention Facility. The properties are zoned "Residential 15000". Tax identification numbers: #D01861, #A19369, #D01862.

The Yellowstone County Detention Center, located on property within City of Billings jurisdiction, is in the process of adding a 27,324 SF Women's Housing Unit and a 4,474 SF Storage Addition. The housing unit is needed to help alleviate the current population overcrowding at the facility. The storage addition will add general storage that is being absorbed by a Kitchen/Laundry Remodel.

Yellowstone County would like to use the properties within the Yellowstone County Jurisdiction for future parking and/or storage to support the Yellowstone County Detention Facility. The parking will be used for Yellowstone County employees. Storage will utilize existing structures and/or new storage structures could be constructed in future. There is currently no definitive plans for the property, but Yellowstone County is notifying the Board of Adjustments of their intent in the future. Since the properties are zoned "Residential 15000", Yellowstone County is providing application for "County Land Use Contrary to Zoning" for a public hearing and comment at this time.

Sincerely,

By 

Allen Rapacz, President

