

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING VARIANCE REPORT (#FZV-15-06)
WINTER PARK VENTURES, LLC

A report to the Flathead County Board of Adjustment regarding a request by Sand Surveying, Inc. on behalf of Winter Parks Ventures and Majestic Valley, LLC for a variance to Section 5.11.040(1)(A-C) Flathead County Zoning Regulations (FCZR), "Permitted signs in AG-80, AG-40, AG-20, SAG-10, SAG-5, CCC-1, and CCC-2 districts ...". The variance requested would apply to property at 3630 Highway 93 North near Kalispell, MT which is zoned "SAG-5 Suburban Agricultural" and located within the Highway 93 North Zoning District.

The Flathead County Board of Adjustment will hold a public hearing on the variance request on February 2, 2016 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

Update January 20, 2016

The Riverdale Land Use Advisory Committee (LUAC) held a public hearing regarding the proposed land use on January 19, 2016 at 6:30 P.M. at the Majestic Valley Arena. The LUAC voted (4-0) to recommend approval of the Conditional Use Permit to allow for the variance within the Highway 93 North Zoning District.

B. Board of Adjustment

The Flathead County Board of Adjustment will hold a public hearing on February 2, 2014. This section will be updated following the meeting.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicants

Winter Parks Ventures and Majestic Valley, LLC
C/o Bob Parker
PO Box 1028
Winter Park, FL 32790

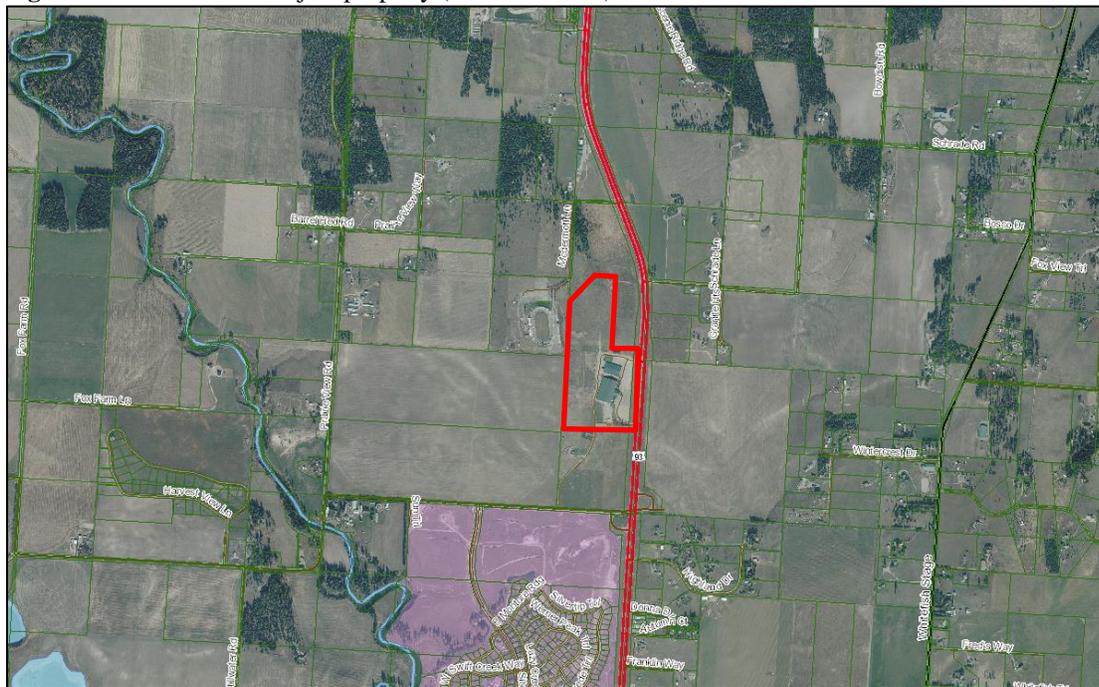
ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Property Location

The subject property is approximately 57.4 acres and is located at 3630 Highway 93 North near Kalispell, MT. The property can be legally described as Lot 1A of the Amended Plat of Lot 1 of Patterson Tracts of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana

Figure 1: Aerial of the subject property (outlined in red)



C. Existing Land Use(s) and Zoning

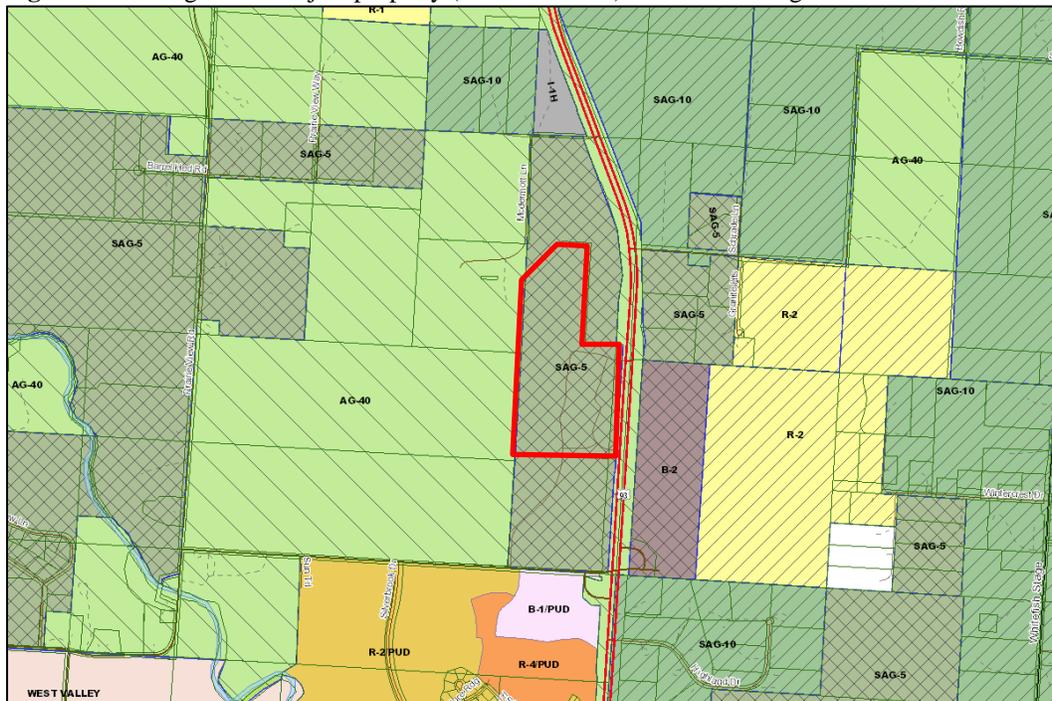
The subject property is located in the Highway 93 North Zoning District and zoned ‘SAG-5 Suburban Agricultural.’ SAG-5 is defined as, “A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development,” per Section 3.08.010 FCZR. The property is located on rolling hills, does not have many trees, contains horse pastures and has various agricultural buildings that are used in association with Majestic Valley Arena which is located in the middle of the lot.

D. Adjacent Land Use(s) and Zoning

The subject property is surrounded by suburban agricultural, agricultural, industrial, business and residential zones (see Figure 2). The subject property is bordered to the north by ‘I-1H Light Industrial Highway’ and ‘SAG-10 Suburban Agricultural,’ the west by ‘AG-40 Agricultural,’ and to the east by ‘SAG-10 Suburban Agricultural,’ ‘SAG-5 Suburban Agricultural’ and ‘B-2 General Business.’ South of the property is the City of Kalispell and the properties are zoned ‘B-1/PUD,’ ‘R-4/PUD’ and ‘R-2/PUD.’

The character of the area surrounding the subject property is a mixture of residential, agricultural, commercial and industrial. Neighboring properties contain Montana Raceway Park and boat storage. South of the property is the Silverbrook Subdivision, a residential and commercial subdivision. Also in the vicinity of the property is the Flathead County Sanitary Landfill.

Figure 2: Zoning of the subject property (outlined in red) and surrounding area



E. Summary of Request

The applicant is requesting a variance to signage so they can construct an entrance/exit sign and wall mounted sign, which are not permitted in the SAG-5 zone. According to Section 5.11.040 FCZR signs permitted in the SAG-5 zone include;

- *Exempt signs listed herein (Section 5.11.010 FCZR);*
- *One freestanding sign plus one wall sign for each place of business; the sign area shall not exceed 40 square feet;*
- *Up to eight rural directional signs per property on a sign post not to exceed 12 feet in height.*

The applicant would like to place a larger more visible sign on the subject property. The application states, “The SAG-5 zone allows for only one freestanding sign, plus one wall sign for each place of business; the sign shall not exceed 40 square feet. The Majestic Valley Arena has operated a small readerboard-type sign (on wheels), at the northern entrance to the facility for ten years. It is small and difficult to read while traveling at 70 mph on Highway 93.”

The applicant has stated that the signage would comply with the signage requirements for a B district (Section 5.11.040(4) FCZR). Therefore the arena would be allowed one wall sign and the square footage of that sign would be based on the building frontage length. The arena could also construct one or a combination of a free-standing sign, ground sign and off-site sign, if they do not exceed the allowed square footage found in Section 5.11.020(11) FCZR. The applicant has stated that they would have one wall mounted side and a free standing sign.

Figure 3: Proposed free standing sign



F. Compliance with Public Notice Requirements

Notification was mailed to adjacent property owners within 150 feet of the subject property on January 15, 2016 pursuant to Section 2.05.030(2) of the Zoning Regulations. Legal notice of the public hearing on this application will be published in the January 17, 2016 edition of the Daily Interlake.

G. Agency Referrals

Agency referrals were sent to agencies listed below regarding the variance request.

- City of Kalispell Planning Department
- Montana Department of Transportation
- Flathead Solid Waste
- Flathead County Road and Bridge Department

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the variance request. It is anticipated any individual wishing to provide public comment on the application will do so during the public hearing at the Board of Adjustment meeting scheduled for February 2, 2016.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Montana Department of Transportation
 - Comment: “We do not have any comments regarding this proposal.”
Email received December 28, 2015
- Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated December 21, 2015.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Section 2.05.030 of the FCZR, what follows are review criteria for consideration of a variance request, as well as suggested findings of fact based on review of each criterion. It should be noted Section 2.05.030 of the FCZR states “No variance shall be granted unless the Board (of Adjustment) finds that all of the following conditions are met or found to be not pertinent to the particular case.”

A. Strict compliance with the provisions of these regulations will:

i. Limit the reasonable use of property;

According to the application, “Majestic Valley Arena has functioned under the SAG-5 signage regulations for the past ten years, however, it is apparent that a public health and safety issues are arising and that is the main reason for the variance request. When fully loaded horse and/or livestock trailers, sometimes carrying more than 50 head of cattle, are traveling from the north down the hill from Whitefish, it can be difficult to locate the turn-off for the entrance, and make a safe turn into the facility. If the truck is traveling at too great a speed to negotiate a turn, you can imagine how difficult it is to by-pass the entrance, and turn around to come back. Short hard stops are taxing on the animals as well as traffic behind large trailer (sic). The property owners have complied with all the terms of the CUP that was granted 10 years previously and this is the only item that is not working well.”

According to Section 5.11.040 FCZR signs permitted in the SAG-5 zone include;

- *Exempt signs listed herein (Section 5.11.010 FCZR);*

- *One freestanding sign plus one wall sign for each place of business; the sign area shall not exceed 40 square feet;*
- *Up to eight rural directional signs per property on a sign post not to exceed 12 feet in height.*

The property is located on Highway 93, a four lane highway with a speed limit of 65 mph. At those speeds it can be difficult for large trucks pulling trailers filled with livestock to see the existing signage for the arena and decelerate in time to make the turn into the facility. The signage requirements within the SAG-5 zone could limit the use of the property.

Finding #1 - Strict compliance with the signage regulations for the SAG-5 zone could limit the reasonable use of the property because the signs permitted within a SAG-5 district are limited to 40 square feet and up to eight rural directional signs which could be difficult to read in time to properly slow down and turn into the facility given the speeds on Highway 93.

ii. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

The property is 57.4 acres, zoned SAG-5 and has a rodeo arena and is located on U.S. Highway 93 in a rural area of the County. There is no other venue similar to the Majestic Valley Arena; the closest type of venue would be the County Fairgrounds which is located within the City of Kalispell. The arena appears to fill a vacuum by allowing major events that might not otherwise come to Flathead Valley. There are not many other properties located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley. This criterion does not appear to be pertinent to the particular case because there does not appear to be a similarly situated in the same district.

Finding #2 - This criterion does not appear to be pertinent to the particular case because no other properties appear to be a similarly situated in the same district, as there are no other venues similar to Majestic Valley within the Highway 93 North Zoning District.

B. The hardship is the result of lot size, shape, topography, or other circumstances over which the applicant has no control.

The applicant states, “The location along Highway 93 and the speed limit at which the motoring public are moving (70 mph) make it difficult to determine where the turn-in to the facility actually is located. The arena can be seen for quite a distance, however, the entrances are difficult to locate and a sign larger than a reader board would indicate exactly the entrance/exists.”

The applicant received the Conditional Use Permit (FCU-02-02) to build the rodeo arena on February 8, 2002. When the permit was issued U.S. Highway 93 was a two lane highway. The Highway 93 expansion to four lanes was completed in 2009, after the arena was constructed in 2002. The speed limit on Highway 93 after the widening was 60 mph and the speed limit has since been raised to 65 mph. According to the applicant, at the time of construction MDT did not require

any mitigation prior to issuance of an approach permit. The applicant did not have control over the widening of the highway or the increase in speed limit which could contribute to public health and safety concerns.

Finding #3 – The alleged hardship appears to be attributable to the widening of Highway 93 and increases to the speed limit which the applicant had no control because the arena was built in 2002, seven years before Highway 93 was widened and prior to the increase in the speed limit.

C. The hardship is peculiar to the property.

According to the application, “When the applicant first ventured into the arena business, they had no idea as to how successful the enterprise would be. At this time, the venue is busy almost every weekend. Competitors in the horse world come from all over the western region and Canada to compete, bringing with them hotel stays, restaurant visits and shopping trips in our community. Trucks and trailers that used to haul 2-4 horses now are bringing in 6-8 or more. At the time of the construction of the arena, traffic on Highway 93 was not the volume or speed as it is today. Fresh Life Church now holds their massive Christmas and Easter Services at the arena, bringing in almost 5,000 worshippers to the facility. There is no other type of venue such as this in the County. ”

As the applicant states there is no other venue similar to the Majestic Valley Arena, the closest type of venue would be the County Fairgrounds which is located within the City of Kalispell. As previously stated, the arena appears to fill a vacuum by allowing major events that might not otherwise come to Flathead Valley. There are not many other properties located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley. It appears that the alleged hardship is peculiar to the property.

Finding #4 – The alleged hardship appears to be peculiar to the subject property because there are no similar facilities located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley.

D. The hardship was not created by the applicant.

The applicant received the Conditional Use Permit (FCU-02-02) to build the rodeo arena on February 8, 2002. When the permit was issued U.S. Highway 93 was a two lane highway. The expansion of Highway 93 to four lanes was completed in 2009, after the arena was constructed in 2002. The speed limit on Highway 93 after the widening was 60 mph and the speed limit has since been raised to 65 mph. According to the applicant at the time of construction MDT did not require any mitigation prior to issuance of an approach permit. The alleged hardship does not appear to have been created by the applicant, as the applicant did not have control over the widening of the highway or the increase in speed limit.

The applicant states, “However, as there is no other facility like this in the Flathead Valley, organizers of large events have turned to the Majestic Valley arena owners to assist in successfully hosting non-horse related activities and the calendar and array of these activities has filled tremendously. These non-horse

related events would also benefit from the addition of signage.” The Majestic Valley Arena allows for other groups to hold events in the arena but this does not seem to properly address the criteria.

Finding #5 – The alleged hardship does not appear to have been created by the applicant because the arena was built in 2002, seven years before Highway 93 was widened and prior to the increase in the speed limit.

E. The hardship is not economic (when a reasonable or viable alternative exists).

According to the application, “The hardship is a public health and safety issue and not economic. The arena does not generate ‘impulse’ or ‘drop in’ type business, so the signage is not to encourage more people to come to the arena. The signage is to indicate where to turn in off the highway, what events are scheduled and indicate that this venue is indeed the Majestic Valley arena.”

The applicant does not appear to be requesting the variance for economic reason but rather for public health and safety concerns as the applicant discusses several times. The property is located on Highway 93, a four lane highway with a speed limit of 65 mph. At those speeds it can be difficult for large trucks pulling trailers filled with livestock to see the existing signage for the arena and decelerate in time to make the turn into the facility.

Finding #6 – The alleged hardship does not appear to be economic because the applicant is proposing the variance due to public health and safety concerns as it would help with traffic safety and traffic flow, alerting drivers when to turn into the arena.

F. Granting the variance will not adversely affect the neighboring properties or the public.

The application states, “The facility is 140 acres of highway frontage. Neighboring properties are buffered by Church Drive to the south, Highway 93 to the east, and McDermott lane/storage buildings to the north. Neighboring properties to the west are buffered by a large hillside that rises along the boundary of the arena parcels.”

The proposed variance to the signage would be located on the center of the tract of the 57.4 acre subject property (the entire property is 140 acres) at the entrance and on the building. The applicant is proposing the variance to signage to improve public health and safety when accessing the property. The proposed signage would also be similar to what is allowed in B and I districts, similar to the B-2 to the east and the I-1H to the north. The proposed variance does not appear to adversely affect the neighboring properties or the public.

Finding #7 – Granting of the variance request would not appear to have a significant impact on neighboring properties or the public because the property is 57.4 acres and buffered by Highway 93, Church Drive, storage facilities and a hill, the proposal is being requested for public health and safety reasons, and the proposed signage would be similar to signage allowed in the neighboring B-2 and I-1H districts.

G. The variance requested is the minimum variance which will alleviate the hardship.

The application states, “The signage wouldn’t exceed that of the business district regulations.”

The applicant’s signage would meet the signage requirements for signs permitted in B and I districts and in compliance with Section 5.11.040(4) and Section 5.11.040(5) FCZR. Therefore the arena would be allowed one wall sign and the square footage of that sign would be based on the building frontage length. The arena could also construct one or a combination of a free-standing sign, ground sign and off-site sign, if they do not exceed the allowed square footage found in Section 5.11.020(11) FCZR. This signage would be in line with the signage permitted in the B-2 located to the east of the property, the I-1H to the north and other commercial and industrial uses within the Highway 93 North Zoning District.

Finding #8 – The variance requested appears to be the minimum variance which would alleviate the alleged hardship because the applicant is proposing signage that would be permitted in B and I districts located along U.S. Highway 93.

H. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

The applicant stated, “[...]. The signage restrictions for the zone in which the arena is located is no longer safe or viable. The property is located on a major highway, it is attracting more and more visitors/competitors to its hosted events and it is becoming hazardous to the public health and safety to have the entrance and exit locations more clearly marked, and to identify the facility. [...].”

There is no other venue similar to the Majestic Valley Arena; the closest type of venue would be the County Fairgrounds which is located within the City of Kalispell. The arena appears to fill a vacuum by allowing major events that might not otherwise come to Flathead Valley. There are not many other properties located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley. It appears that the alleged hardship is peculiar to the property.

Finding #9 – Granting of the variance would likely not confer a special privilege that is denied to other properties in the district because there are no similar facilities located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley, the property is on a major highway and the existing signage could be hazardous to the public health and safety.

V. SUMMARY OF FINDINGS

1. Strict compliance with the signage regulations for the SAG-5 zone could limit the reasonable use of the property because the signs permitted within a SAG-5 district are limited to 40 square feet and up to eight rural directional signs which could be difficult to read in time to properly slow down and turn into the facility given the speeds on Highway 93.

2. This criterion does not appear to be pertinent to the particular case because no other properties appear to be a similarly situated in the same district, as there are no other venues similar to Majestic Valley within the Highway 93 North Zoning District.
3. The alleged hardship appears to be attributable to the widening of Highway 93 and increases to the speed limit which the applicant had no control because the arena was built in 2002, seven years before Highway 93 was widened and prior to the increase in the speed limit.
4. The alleged hardship appears to be peculiar to the subject property because there are no similar facilities located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley.
5. The alleged hardship does not appear to have been created by the applicant because the arena was built in 2002, seven years before Highway 93 was widened and prior to the increase in the speed limit.
6. The alleged hardship does not appear to be economic because the applicant is proposing the variance due to public health and safety concerns as it would help with traffic safety and traffic flow, alerting drivers when to turn into the arena.
7. Granting of the variance request would not appear to have a significant impact on neighboring properties or the public because the property is 57.4 acres and buffered by Highway 93, Church Drive, storage facilities and a hill, the proposal is being requested for public health and safety reasons, and the proposed signage would be similar to signage allowed in the neighboring B-2 and I-1H districts.
8. The variance requested appears to be the minimum variance which would alleviate the alleged hardship because the applicant is proposing signage that would be permitted in B and I districts located along U.S. Highway 93..
9. Granting of the variance would likely not confer a special privilege that is denied to other properties in the district because there are no similar facilities located within the Highway 93 North Zoning District that would allow for commercial events at the scale of Majestic Valley, the property is on a major highway and the existing signage could be hazardous to the public health and safety.

VI. CONCLUSION

Section 2.05.030(3) of the Flathead County Zoning Regulations states a variance shall not be granted unless all of the review criteria have been met or are found not to be pertinent to a particular application. Upon review of this application, the request to allow for a variance to allow for additional signage is supported by the review criteria and the Findings of Fact listed above.

Planner: EKM