**BIGFORK LAND USE ADVISORY COMMITTEE**

**Draft Minutes Thursday December 29, 2022**

**4:00 PM Bethany Lutheran Church – Downstairs Meeting Room**

Chairwoman Susan Johnson called the meeting to order at 4:06 p.m.

**Present:** Committee member attendees: Lou McGuire, Angela DeFries, Susan Johnson, Chany Ockert, Shelley Gonzales and Jerry Sorensen; absent Richard Michaud; Public: 6 members; Flathead Planning and Zoning: Erin Appert.

The agenda was amended to allow Julie Spencer of Bigfork Water and Sewer to speak after Public Comment if she arrived early (m/s, Sorensen/Ockert), vote was unanimous. Ockert moved, Sorensen seconded to approve the amended agenda, vote was unanimous.

Minutes of the December 1, 2022, meeting were amended as follows:

First sentence at top of page 4 shall now read: DeFries stated she drove by the applicant site and there are a variety of home sizes/standards in the area. Knowing the setbacks, it seems the architect could have designed a slightly smaller home that fits into the neighborhood and meets setbacks.

Approval of the amendment was moved by Sorensen and seconded by DeFries; the amendment was approved unanimously. Gonzales moved and Ockert seconded to approve the amended minutes, motion passed unanimously.

**Administrator’s Report and Announcements:**

Sign-in sheet passed around. Approved minutes and documents are posted on the County website: flathead.mt.gov Click on Planning and Zoning/Meetings and Boards/Bigfork Land Use Advisory Committee.

Gonzales presented the status of most recent applications:

* FZV-22-10-Brown was denied by the Board of Adjustment.
* The County Commissioners unanimously denied the request to abandon a portion of Electric Avenue, Bigfork.
* The County Commissioners are sponsoring a Board Leadership Training seminar on January 24th for all members of local boards.
* The Board/Committee Information Handbook will be corrected at its next printing.

**Public Comment:**

None

**Application:**

**FCU-22-14** A request from Charles & Geraldine Sunderlin for a Conditional Use Permit for a ‘Home Occupation’ to allow for a gunsmith business on property located at 181 Black Bear Lane, Bigfork, MT. The property is located within the Echo Lake Zoning District and is zoned SAG-5 (Suburban Agricultural). The total acreage involved in the request is approximately 7.82 acres

**Staff Report:**

Erin Appert provided the committee with two comment letters on the application. The staff report was presented for a home occupation business for gunsmithing. Environmental Health expressed opposition as the septic permit does not allow for a kitchenette. There is a condition of approval that Environmental Health must approve the septic system.

Q. Sorensen: How do you monitor the number of trips allowed per the Conditional Use Permit? A. Appert: They cannot exceed 32 trips per day, but there is no way to monitor. The applicant said that number would be adequate for the business.

Q. Ockert: Does that number include residential use? A. Appert: That is not clear in the staff report.

Q. Ockert: With the COSA rewrite, where does that go? A. Appert: That goes to Environmental Health and the DEQ; it does not come back for BLUAC review.

Q. McGuire: Has there been an on-site inspection and what is the capacity of the classroom? There is a discrepancy of between 5 or 20 people which would affect the daily traffic count? A. Appert: Staff has not done an on-site inspection as we are not allowed to go into the buildings. A condition could be added to limit the classroom size.

Q. Sorensen: Is there any limitation on the sales? Could they sell as many guns as they make? A. Appert: The traffic limitation could limit sales.

Q. Ockert: If there is commercial testing of guns, is that then considered a gun range? A. Appert: The zoning regulations state that a gun range is for public use (FCZR 8.17.120).

Q. Ockert: Condition #7 references Evergreen Water and Sewer, is that a typo? A. Appert: Yes.

Q. Ockert: Home occupation regulations state the home cannot generate hazardous materials/waste; how will you monitor that? A. Appert: Our office would not check that; it would be the responsibility of the applicant.

Q. Ockert: Would the county Environmental Health Department monitor any hazardous materials/waste? A. Appert: I do not know.

Q. Ockert: Normally we receive a list showing the notification of the adjacent property owners, what is the radius for property notifications? A. Appert: 150 feet from all the property lines. Notifications were mailed December 14, 2022.

Q. Johnson: How many notifications were sent? A. Appert: 10 notifications.

Q. Sorensen: The conditional use says they can only sell what they manufacture, they cannot buy/sell guns on the secondary retail market, correct? This is the wrong place for a retail business. A. Appert: Applicant can answer that question.

Q, Gonzales: Is the driveway part of the applicant’s property or is it an easement from another property owner? A. Appert: It is a flag lot.

Q. Ockert: If it is a shared approach, then there is only one entry. A. Appert: It is a flag lot; entry is owned by the applicant.

Q. McGuire: Per the staff report the definition of Home Occupation is that the business must be conducted entirely within the dwelling. The business will be conducted in a separate building with a separate address. A. Appert: The Conditional Use Permit is required because the business is not within the residential dwelling.

Q. Sorensen: The staff report refers to section 5.06, what does that mean? A. Appert: That is Performance Standards of a Home Occupation.

Q. Gonzales: The staff report states that they may have a non-family member live in the commercial structure, is that allowed? A. Appert: Yes, with the CUP.

**Applicant Report:**

Applicants Charles & Geraldine Sunderlin presented. They have previously operated a gunsmithing business in four other states, all of which required a Conditional Use Permit. The business will have little impact on the neighborhood. Past businesses have had 0-12 vehicle trips per day. Gunsmithing is to repair, upgrade or restore firearms. We are not a manufacturer. He has been gunsmithing since 1975. He is confident that the business will comply with the CUP conditions. A separate building address makes for easier compliance inspections with the Bureau of Alcohol, Tobacco, and Firearms (ATF) and insurance. Having a kitchenette in the building adds a convenience for us. The driveway is part of the deeded parcel. If any waste is generated it will be taken to the Flathead County Solid Waste site for disposal. Occasional manufacturing does occur when a replacement part for a firearm is no longer made, and I will make that part.

Q. Ockert: Is it legal in Montana to ship firearms? A. Charles: Yes, there is a legal procedure to ship firearms.

Q. Sorensen: You are not going to be in the business of selling guns? A. Charles: I do not intend to sell guns, just gunsmithing.

Q. DeFries: What might be the types of things you might sell? A. Charles: Accessory parts and ammunition.

He stated that he did not feel his activity would create a fire hazard. He will build an outdoor “crib” to use for test firing the firearms. His neighbors have their own private shooting ranges so there is already a volume of gun fire in the neighborhood.

Q. Ockert: Do you have indoor testing capability? A. Charles: Not at the present, but it is planned for in the future.

Gun safety classes will be for 2-5 people on Sunday and Monday when the shop is not open to limit the traffic count and the wear and tear on Black Bear Lane.

Q. Ockert: Are you aware that vehicles travel on Alpine Drive and across private property to reach Black Bear Lane? A. Charles: No, but our website will give directions via Mud Lake Road. He stated the county limits signage, but we will have a sign board out during business hours to direct the client to the business.

McGuire called Point of Order as a discussion of vehicle use on Alpine is not within the scope of the application.

Q. Gonzales: Are you aware Montana now has a noise ordinance? A. Geraldine: Our building has been designed and constructed so that no noise will exit the building.

Q. McGuire: Who is the person that will be living on the premises? A. Charles: No one else will live on the premises. Perhaps once or twice a year someone might come in to tend the shop if we need help.

Q. Ockert: Have you notified your home insurance provider that you will have this business on your property? A. Charles: When we are ready to begin operations, we will get a commercial insurance policy.

Q. Ockert: Will your business affect the cost of insurance for your neighbors? A. Charles: I do not believe so.

**Public Agency Comments:**

None

**Public Comments:**

Derrel Feiker-179 Black Bear Lane, Bigfork. Feiker stated that he has no problem with the proposed business. He is opposed to them having a separate business address next to his house as it might affect his property value. He is opposed to the business bringing in the public within yards of his home. He feels the business traffic will degrade Black Bear Lane and more vehicles could increase fire danger. He asked if customers could use a drop off location for gun repair rather than individually driving to the business.

John Palacio-109 Upper Pierce Lane, Bigfork. Palacio stated that he is a gun owner and gunsmithing is needed in this county. Traffic could be limited by scheduling appointments.

**Staff Reply:**

None

**Applicant Reply:**

Mr. Sunderlin stated that the staff report indicates that traffic from their business would not create a significant impact on Black Bear Lane. Anticipated traffic will be below what is permitted by the CUP. There are other businesses on Black Bear Lane that contribute to the traffic. The suggestion to have firearms dropped off at a third location would create a significant problem due to ATF regulations.

**Committee Discussion:**

Sorensen stated that the applicants were thorough and answered most of our questions. His concern is transfer of this CUP to a future property owner who might not be as conscientious. He is also worried about sales and if the gunsmith buys firearms at a show and resells them at the business property, which in turn would add to the traffic issue and is unfair competition to the other businesses with retail gun sales. However, this is a pretty reasonable request.

Ockert stated that the definition of a home occupation states that no commodities can be sold from the premises except those produced there. The applicant stated that ammunition would be sold. Further defined were the types of businesses which are allowed which are not retail in nature. She is concerned that additional gun firing is an issue which is why she recommended an indoor testing system. She also would like the applicants to work with the neighbors on Alpine Drive on the illegal trespassing to access Black Bear Lane.

**Findings of Fact:**

McGuire moved and Sorensen seconded the motion to adopt the Findings of Fact (FoF).

Ockert moved to amend FoF #1 to add “subject property may have adequate useable space, however, with possible increased utilities”.

There was no second, motion failed.

Ockert moved to amend FoF #2 to add “the property may have legal and physical access via a shared approach”.

There was no second, motion failed.

Ockert moved to amend FoF #6 to add “the Flathead County Health Department has stated that the septic system is not adequate”.

There was no second, motion failed.

Ockert moved to amend FoF #8 to read “traffic may be limited to 32 trips per day”.

McGuire seconded the motion, motion passed unanimously.

Ockert moved to amend FoF #10 to remove “noise” from the sentence and add “Gunsmithing will create excessive noise”.

There was no second, motion failed.

McGuire moved, Gonzales seconded to adopt the Findings of Fact, as amended.

In favor: Sorensen, Gonzales, Johnson, DeFries and McGuire; opposed: Ockert.

Findings of Fact were approved.

**Conditions:**

Sorensen moved, DeFries seconded to approve the Conditions.

Ockert moved to amend Condition #3 to change from “Home Based” to “Home Occupation”. McGuire seconded; motion passed unanimously.

Ockert moved to amend Condition #7 to remove “Evergreen Water and Sewer District”. DeFries seconded; motion passed unanimously.

Ockert moved to amend Condition #9 to add: “applicants must comply with the applicable standards in the Flathead Zoning Regulations, and work with any private homeowners, as necessary”. McGuire seconded; motion passed unanimously.

Ockert moved to add Condition #15: Applicant will use an indoor test bullet trap during fire season. There was no second, motion failed.

Gonzales moved to add Condition #15: The driveway shall be 30-feet wide and conform with Flathead Zoning Regulations at completion of building construction.

Ockert seconded. In favor: Gonzales, Ockert; opposed: Sorensen, Johnson, DeFries, McGuire. Motion failed

The motion to approve the Conditions, as amended in #3,7,9 passed unanimously.

**Committee Discussion and Vote:**

There was no additional committee discussion. Sorensen moved to approve with amendments, McGuire seconded. In favor: Sorensen, Gonzales, Johnson, DeFries, McGuire; opposed: Ockert.

**Old Business:**

BLUAC By-Laws: Johnson stated that they have been approved by Planning and Zoning without any comment, and they will be forwarded to the county attorney for review. No date was given on when the By-Laws will be considered by the County Commissioners.

Bigfork Outdoor Recreation Alliance: Sorensen reported that the survey has had good response. People like more bike and hiking trails and connectivity. More public meetings will be held in the spring. It was suggested that the survey be posted to the Bigfork Facebook page and to all the local school’s newsletters.

Johnson and Gonzales updated on the Road Abandonment application that was denied by the County Commissioners.

**New Business:**

Julie Spencer of Bigfork Water and Sewer (BWS) spoke regarding capacity issues affecting various sections of the system. The West trunk is the area that includes the treatment plant, Bigfork Harbor, Eagle Bend, Crestview and down to Mayport Harbor near Kehoe’s Agate Shop, basically most of the area west of Highway 35 in Bigfork. BWS cannot annex any more properties in that area as BWS is at capacity. Part of the capacity problem is the number of single-family dwellings that have been converted into multi-plex dwellings which now house multiple families, and which have doubled or tripled the usage at each site which is taxing BWS capacity. The residential conversions are done with no notification to BWS. Various county agencies become aware of these conversions but do not communicate with BWS, thus creating this problem.

The North trunk area is north of Ice Box Canyon and includes the new 79 lot subdivision (The Settlement) on Highway 35, the apartment buildings in Jewel Basin Court, and the14 lot commercial development next to the green cans on Highway 83. The Settlement has 11 lots that face the highway that were approved for commercial use. Spencer stated that each of these 11 lots now are proposed to be constructed as 8-plexes, therefore, the initial 11 hook-ups could consume the capacity of 88 individual hook-ups. Additionally, the building and property at 14 Swan Way is zoned commercial but appears to be used as housing, possibly a boarding house, and is consuming up to 116,000 gallons of water a month (15,000 gallons were used in the month of December).

BWS commissioned an engineering study to assess all trunk line capacity and usage. The data is currently being evaluated and a plan formulated. BWS has applied for more funding and grant money and will go to the legislature for assistance.

Sorensen asked about the status of the short-term rentals under construction on Holt Drive. Spencer stated that there is currently only one meter pit hooked up on the property, and it is not adequate for the entire project. This is an additional service that has not been connected yet. Fixture counts for the building(s) will be evaluated prior to the water being turned on.

Gonzales asked if the will-serve letters issued by BWS have an expiration date. Spencer stated that the will-serve letters now contain multiple conditions intended to protect BWS from over consumption by property owners.

**Adjourn:**

Gonzales moved; Sorensen seconded to adjourn. Motion passed unanimously at 6:55 p.m.

Respectfully submitted,

Shelley Gonzales, member and acting recording secretary