**BIGFORK LAND USE ADVISORY COMMITTEE**

**Draft Minutes Thursday July 27, 2023**

**5:30 PM Bethany Lutheran Church – Sanctuary**

Chairwoman Susan Johnson called the meeting to order at 5:33 p.m.

**Present:** Committee member attendees: Richard Michaud, Jerry Sorensen, Shelley Gonzales, Susan Johnson, Angela DeFries and Chany Ockert; absent Lou McGuire; Public: 150 members; Flathead Planning and Zoning: Zachery Moon and Erin Appert.

The agenda was amended as follows: FPP-22-29 “…to create 51 residential lots on a 43.2-acre portion of the 105.03 acres.” (m/s, Gonzales/Ockert), vote unanimous.

Minutes of the June 29, 2023, meeting were approved (m/s, DeFries/Sorensen), vote unanimous.

**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.

FZC-23-11 Quarter Circle LA Ranch was given a unanimous, favorable recommendation by the Planning Board and forwarded to the County Commissioners for final consideration.

**Public Comment:**

Aman Jabbi spoke regarding the sustainable development goals of the United Nations and land value capture.

**Application:**

**FZC-23-04** A zone change request from WGM Group, on behalf of Longbow Land Partners, LLC, for properties within the Bigfork Zoning District. The proposal would change the zoning on parcels located at 8095 Highway 35, Bigfork, MT from RC-1 (Residential Cluster) and R-1 (Suburban Residential) to R-2 (One-Family Limited Residential). The total acreage involved in the request is approximately 105.03 acres.

**Staff Report:**

Zachery Moon presented the report. He stated there is a discrepancy in the property address from the GIS department. It should be noted that the property is now referred to as off Peaceful Drive via Highway 35. Each of the applications presented are considered as individual requests. County Road Department has concerns regarding the intersection of Peaceful Drive and Highway 35. Bigfork Water and Sewer did submit a Will-Serve letter.

Q. Gonzales: Why is the Commissioners review of this zone change three months after the Planning Board review? A. Moon: To allow for any postponements by the Planning Board and reposting of legal notices by the Commissioners, and dissemination of public comments.

Q. Sorensen: Did you look at the density of all lands that access Peaceful Drive and the average lot size? A. Moon: The R-2 zone has 51 lots and I do not know the average lot size.

Q. Ockert: The Traffic Impact Study was based on the full build out of the property, is there a traffic forecast of only Phase I? A. Moon: We take into consideration only full build out, the maximum impact.

Q. Ockert: Concerning fire, safety, this project will have two ingress/egress sites, will that comply with subdivision regulations? A. Moon: Over 200 houses in a subdivision requires two ingress/egress roads.

**Applicant Report:**

The WGM Group represented the applicant. Representatives of the WGM Group were Michael Brodie, Ryan Salisbury, and Nick Kaufman. It appears that the applicant was in attendance, but he did not speak.

Brodie stated that the reason for the rezoning and PUD is to create 125 lots. The purpose of the two roads is for fire safety and access.

Gonzales stated that the traffic analysis of July 2023, was limited to two hours in the morning and two hours in the afternoon. It does not consider the impact of other developments currently in progress. Traffic on Highway 35 is constant with semi-trucks, tankers, the construction trade, and vacationers.

Q. Sorensen: Traffic study states the increase in traffic does not meet the Level of Service (LOS) at the intersection of Peaceful Drive and Highway 35. Does the developer offer any mitigation for that? A. Brodie: Level of Service is determined by wait time. The major drop in Level of Service is coming out of Peaceful Drive and turning left onto Highway 35. If people want to go south, they could exit onto Bigfork Stage Road. MDT is looking to widen Highway 35 through Ice Box Canyon which would add a left-hand turn lane.

Q. DeFries: Traffic varies depending on the time of year, what was the date of the traffic study? A. Brodie: Study was in July to capture peak traffic volume.

Q. DeFries: Winter traffic on Peaceful Drive and Bigfork Stage Road is problematic. Peaceful Drive is steep and curved as it comes up to the highway and safety is a concern, what is the developer’s proposal to address safety on Peaceful Drive and Bigfork Stage Road where it is icy, and cars go off into the ditches? A. Brodie: I cannot speak to how the county maintains Peaceful Drive, internal subdivision roads will be privately maintained, likely with a homeowner’s association agreement.

Q. Gonzales: A resident of Peaceful Acres said that in winter if you are the third car in line on Peaceful Drive trying to exit onto Highway 35, you will slide back down the road. Also, Bigfork Stage Road needs to be reengineered to improve safety. The staff report states that the developer will pave Bigfork Stage Road, will it be fully paved to Highway 83? A. Brodie: A portion of Bigfork Stage Road will be paved going south.

Q. Sorensen: I do not understand why you want a zone change. Also, the application states that the goal is to provide affordable housing. Can you tell us what you mean by affordability? Do you want the zone to change so the property can be sold to someone else? A. Brodie: The zone change is needed to do the planning for additional lots. The portion of property zoned RC-1 does not allow Planned Unit Development (PUD). There is a housing deficit. This is not an affordable housing project; it is intended to provide housing for all levels. There is a supply and demand problem and we do not want to under develop this property.

Q. Sorensen: What will the PUD give the applicant that they could not get in RC-1 zoning? A. Brodie: It will give the county boards the ability to add conditions that cannot be done on a zone change. It will retain the natural condition of the land and will keep the lots the same size.

Q. Michaud: I have heard that the developer is taking offers on the lots that are being proposed? A. Brodie: I cannot speak to that. Moon stated that Montana state law prohibits selling lots until preliminary plat is approved.

Q. Ockert: If the zone change is approved but not the subdivision, with the topography of the land is it possible to achieve the maximum number of lots? A. Brodie: The master plan is not to maximize density. Roads will follow the contour of the land, so road grades are minimized. Some lots will need excavating to create building pads.

Q. Ockert: To Planning and Zoning, are the number of lots based on a formula? A. Moon: 30% of the land will be for infrastructure, the remainder would create up to 160 lots based on the zoning.

Q. Johnson: It has been said there would be 125 lots, 160 lots and up to 320 lots. Where do those numbers come from? A. Brodie: Even with the PUD the developer is restricted to 125 lots (maximum Bigfork Water and Sewer’s capacity to serve the subdivision), to increase the number of lots they would have to request an amendment to the PUD to increase the number of lots.

There will be public hearings if that request is made.

Q. Sorensen: For staff, the property has two zones on it, what is the amount of land in each existing zone? A. Moon: 95-96 acres are RC-1, and the remainder is zoned R-1.

Q. Sorensen: RC-1 zoning allows for cluster development, why change the zoning? A. Brodie: The difference is with the zone change to R-2 and the PUD it allows for greater density.

Q. Ockert: The current RC-1 zoning allows for more density with 4-plexes and RV parks permitted. A. Brodie: Correct. There are higher density uses for RC-1 that we are not proposing. We are requesting a zone change to R-2.

**Public Agency Comments:**

Jeremy Patton - Bigfork Fire Chief – Speaking on behalf of the Fire Department, I am opposed to the zone change as would be followed by a PUD. The proposed reductions in the setbacks, density and traffic issues are the major concerns. The proposed reduced setbacks in this subdivision create a safety hazard which is unacceptable. You cannot have a separation of only 10 feet between two houses in the Wildlife Urban Interface, you need 30 feet separation due to the combustibles.

Q. Ockert: Would you have a problem if there was an RV park on that property? A. Patton: In the Wildlife Urban Interface the worst thing is density, especially the narrow setbacks.

Q. Gonzales: Are you concerned about fire safety and lives being lost? A. Patton: A conflagration is my greatest concern with the adjoining properties heavily wooded; this summer is a good example.

Q. Ockert: What is the staffing of EMTs and Firefighters in your department? A. Patton: We have a staff of 30-35 full-time, part-time and volunteers. Only 6 are reliable for emergency calls.

Julie Spencer – Bigfork Water and Sewer (BWS) – When the developer advertises these lots, we would like to be sure all water and sewer goes through the water and sewer treatment plant. Any development is limited by our capacity.

Q. DeFries; Doe you have a capacity estimate for the trunk line that will serve the development? A. Spencer: Water is not a problem, but the sewer capacity is the problem. We do not have capacity for 320 lots nor capacity at the treatment plant for 320 lots. Only 125 lots can be served based on the engineering model.

Q. Gonzales: What would it cost and who would pay to increase capacity to serve 320 lots? A. Spencer: As a sewer district BWS cannot charge impact fees to the developer. Costs would be recovered from hook-up fees. Special districts could be created to assess fees on existing residents, and the issuance of bonds.

Q. Ockert: Did you look at the opportunity costs of future development with smaller lots? A. Spenser: We have a model in place that can evaluate the changes in service.

Q. Johnson: In the staff report on page 18 it states Highway 35 is three-lanes. The left turn lane is short, it is not the full length of Highway 35. A. Moon: Yes, it is a very short three-lane section.

Q. Sorensen: The RC-1 zone covers most of the property and the lot size is one acre for a maximum 105 lots on 105 acres, correct? A. Moon: RC-1 has a minimum lot size of 4,500 square feet to encourage clustering, but no more than 105 total lots.

Q. Johnson: What are accessory dwelling units or are they sheds? A. Brodie: There is no intention for accessory dwelling units. A. Moon: That can be a condition of the PUD if it is an issue. Also, RC-1 side and rear setbacks are five feet.

Q: Ockert: With the zone change and PUD, what would the setbacks be? A. Brodie: We requested the deviation in the setbacks to allow flexibility as some of the lots will be a challenge to create. I suppose you could condition the PUD for 20-foot setbacks.

Q. Gonzales: If you increase the lot setbacks then you would reduce the number of lots? A. Brodie: It would reduce the maximum potential lots.

**Public Comments:**

Please note that there are 22 public comments. 21 did not support the zone change and one is unknown.

Ben Woods - Bigfork School Board Trustee. Bigfork is a village, and this is the first step in Bigfork becoming a municipality. Taxes will go up; services might be better. School cannot expand its footprint and classrooms are almost at capacity. As this development builds out it will result in larger classes. Our students will suffer. Traffic from the development on Bigfork Stage Road will only make traffic in front of the school even worse.

Ashley Atkins – Bigfork Stage Rd. Bigfork Stage is already dangerous. The zone change would impact emergency services, medical services, schools, senior services, post office, grocery store, telephone and internet services, green box sites, wildlife impact. Fifty-two houses are too many for Peaceful Drive. We need housing for teachers, bankers, bartenders, and grocery store workers.

Julian Niezewski – I have a problem with the growth and traffic. There is no infrastructure to support the growth of this project. (Refer to his report emailed to Planning and Zoning)

Nick Chapman – Peaceful Acres. I have experience with communities with high density housing and not the infrastructure to support growth. Police and fire were impacted and when you cram people into a small area it is a recipe for disaster. Peaceful Acres has one access. In the summer it can take 5-8 minutes to get on to Highway 35. The entrance has a steep grade that is icy in winter. No one will use the Bigfork Stage access to drive to the hardware store. This project will endanger the lives of anyone trying to go to work. Do not allow this zone change request. Bob Hanggi – Peaceful Drive. We have 1-acre lots in Peaceful Acres. By putting 1/3 acre lots next to us it will devalue our property. It took 12 minutes to get on to Highway 35. You slide down the road in winter due to the ice. The issues are increased traffic and safety in winter.

Bryan Zipp – The MDT website states the construction timeline to widen Ice Box Canyon has not been established. The residents are looking out for the health, safety, and general welfare of the community. From the proposed Bigfork Stage Road access it is 1.6 miles to Highway 83. People will not use that gravel road. The public parks on Peaceful Drive when they go to the businesses north of the road. There is no legal turn lane to access Peaceful Drive. BLUAC is responsible to encourage lot size and configurations in rural areas that promote open space, scenic view while maintaining the character of the area.

Clint Kestler – Peaceful Acres. As resident for 20 years and quality of life is most important. The size of the development cannot be supported by Peaceful Drive. We do not have the infrastructure to support this development.

Marie Kestler – Peaceful Acres. Longbow Land Partner is Teton Land Development, based in Jackson, WY. CEO is Tom Garlock who attracts investors to fund developments in multiple states. She questioned his business practices. I am opposed to this application.

Susan Repa – What is the reason for rezoning…to make everyone’s life better, a prettier area, or is it greed by having more lots? It is not the reason for rezoning. The community should not be forced to pay more taxes.

Charlie Richmond – Bigfork Stage Road. I am concerned about increased traffic on the road. We see cars roll off the road just south of the proposed access road. The road cannot handle the increased traffic from the development. Who will pay for the maintenance of Bigfork Stage Road?

Terry Garber – Moved out of Peaceful Acres due to possible development, the icy road, and late school buses. Bigfork Stage Road is already a traffic problem. The Better Business Bureau has a 1.7 rating for Teton Land Development. We oppose the zone change.

Laura Perry – The 125 lots will generate 1,239 Average Daily Trips (ADT), 85% of the ADT will use Peaceful Drive and 15% will use Bigfork Stage Road. The traffic on Bigfork Stage is expected to increase by 102%. You cannot safely access Bigfork Stage from the proposed location. It is a danger to our population to increase the density.

Darlene Morgan – Peaceful Drive. There are two blind spots on Peaceful Drive that limit the line of sight. The road is inadequate for an increase in lots. Highway 35 is inadequate as it does not accommodate current traffic. We do not have the infrastructure.

Aman Jabbi – The project states that you can walk to town in 15 minutes. This is the UN model for sustainable development of cities. The corporations developing the land will own the land.

Amanda Rehmer – The developer states that the property will connect to a walking trail on Bigfork Stage Road. The road is dangerous and there cannot be any more traffic on it.

Tom Kaye – Peaceful Acres. The Peaceful Drive/Highway 35 intersection is going to get worse. The double yellow/hash mark at that intersection does not protect the driver from fault in an accident. “Hash mark Island” is only two-thirds of a normal left hand turn lane. The alternative is to drive past Peaceful Drive, turn around in the parallel gravel area and get back on Highway 35 going north. Peaceful Drive has sharp drop-offs and a total of 192 houses would be using this road if this zoning is approved. The Traffic Impact Study states there will be a 626% increase in traffic on Peaceful Drive if the zoning change is approved.

Mayre Flowers – Citizens for a Better Flathead, a non-profit organization addressing land use issues in Flathead County. BLUAC can say the Findings of Fact in each application are not accurate as presented by the Planning and Zoning staff. The zone change request is the most important decision to be made. I encourage you to look at Finding #1 and amend it to say the PUD does not comply with the density and spirit of the Bigfork Neighborhood Plan. This zone change will allow anyone who comes after this applicant to move forward with more intense zoning.

Steve Saner – What role or authority does BLUAC have, and who makes the final decision on this application? Chair Johnson explained the role of BLUAC as an advisory committee, and how the public needs to give their input at the Planning Board and Commissioners meetings.

Jim Abney – Peaceful Acres. We should be overly concerned about this application because this will be a full buildout with this zoning change.

Peggy Atchley – Bigfork Stage Road. I live at the top of Bigfork Stage Road where it drops down into Bigfork. If the developer wants to develop this property, they need to stay with the initial plan and not double the number of lots to suit their purposes. In winter, cars go down the road sideways. My fence has been destroyed. Traffic safety is a very valid reason not to change the zoning to allow for twice as many houses. Full buildout is unsustainable.

Mark – Bigfork. What is the number of affordable houses in this project? Developers bait you with affordable housing then upcharge with the larger homes to increase profits. Have the studies been done on infrastructure? The school systems, fire and police systems are not adequate so taxes will be increased. If the studies have not been done, how can you make a rational decision. The Fire Department stated there would be 5-foot setbacks if the zone change was approved. What is the standard set back and why would you deviate from it? The Fire Department knows what is best for this community.

Jessica Fox – I am worried that this meeting is just a formality.

**Staff Reply:**

Sorensen stated that the staff report did not accurately state the acreage in R-C1.

Moon had no reply to Public Comment statements and stated that the subdivision complies with zoning.

**Applicant Reply:**

Brodie stated that 125 lots cannot be created without the zone change.

**Committee Discussion:**

Johnson asked for time for the committee to read the emails that Planning and Zoning had submitted at the beginning of the meeting.

There was no additional committee discussion.

**Findings of Fact:** Please note that changes to Findings of Facts and Conditions are highlighted in red throughout the minutes.

Ockert moved, Johnson seconded the motion to adopt the Findings of Fact (FoF).

FoF #2: DeFries moved, Johnson seconded the motion to amend FoF #2 to add the sentence: “Fire danger is greater with this zone change.” DeFries motioned to amend an additional sentence, then withdrew the motion. Vote in favor: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

FoF #4: Gonzales moved, DeFries seconded to amend FoF #4 to state: “The proposed zoning map amendment would have a significant negative impact on the adequate provision of transportation because primary access to the property currently exists via Highway 35 and Peaceful Drive and given the increase of traffic along Highway 35, would significantly impact the existing LOS at the intersection of Peaceful Drive and Highway 35.” Motion passed unanimously.

FoF #5: Gonzales moved and Ockert seconded to amend FoF #5 and add after the first sentence: “Bigfork Water and Sewer does not have capacity for buildout beyond their Will Serve letter.” Motion passed unanimously.

FoF #7: Sorensen moved, DeFries seconded to amend FoF #7 as follows: “The proposal likely will have a negative impact…” (remainder unchanged). Motion passed unanimously.

FoF #10: Sorensen moved, Gonzales seconded to amend FoF #10 as follows: “The proposed zoning map amendment does not appear suitable…” (remainder unchanged). Ockert commented that this property will be developed. Sorensen stated that increasing the density is not suitable for the character of this area. Vote in favor: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

FoF #11: Sorensen moved, Gonzales seconded to amend FoF #11 as follows: delete “and encourage the most appropriate use of land” FoF #11 will read as follows: “This zoning map amendment appears to conserve the value of buildings in this particular location because the R-2 designation allows for similar uses to the prevailing use in the area.” Motion passed unanimously.

Gonzales moved to accept the Findings of Facts, as amended, with the approved amendments to #2, #4, #5, #7, #10 and #11, Johnson seconded the motion. Vote in favor: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

**Committee Discussion and Vote:**

Gonzales stated that this zone change will degrade public safety by increasing traffic, create degradation and loss of service, increase the strain of infrastructure, and create an environment that is not conducive to a healthy and harmonious living condition in Bigfork. I vote to deny the application.

DeFries concurred with Gonzales.

Ockert stated as a fourth generation Montanan, she has experienced both a village and a bedroom community. We need to keep Bigfork a village, so we do not need to shop in Kalispell. To be a village, the teachers, bank tellers, restaurant staff, EMTs, firefighters need to have a place to live. Businesses have closed due to a lack of staff that can live in Bigfork. We need smaller lots with smaller houses. Traffic is an issue and since 2018, BLUAC has asked MDT to address the traffic in Bigfork. We need to put pressure on MDT, Flathead County Road Department, and the County Commissioners to put into place common sense traffic lights, turn lanes, and speed changes. I recommend approval of the zone change.

De Fries stated she agrees with Ockert to have a community for the people of Bigfork. It sounds like the developer is targeting a higher end market, not affordable housing.

Ockert further stated that small lots for smaller homes could be required in the preliminary plat. We have no inventory of small lots in Bigfork.

Sorensen stated that he respected Ockert’s opinion, however the current zoning of RC-1 would allow for 105 lots. The developer is asking for a zone change to add 20 lots. There will be smaller lots and a potential to cluster the lots. There is a challenge with this property due to topography resulting in steep driveways and the need for lot grading to create building pads to get around the 25% steep slopes. This is poor land use planning. The current RC-1 gives more flexibility, allows for clustering, and eliminates the need to tear into the hillside. I cannot recommend the zone change request.

Gonzales stated she appreciated Ockert’s position, however the cost of smaller homes on smaller lots, even with removing the land from the equation, combined with the current construction costs and current interest rates would put home ownership beyond my current working wage.

Sorensen moved to forward a recommendation for denial as the proposal generally does not comply with the review criteria based on this Committee’s amended and approved Findings of Fact. DeFries seconded the motion to forward a recommendation for denial to the Planning Board on FZC-23-04. Vote for denial: Michaud, Sorensen, Gonzales, Johnson, and DeFries. Opposed: Ockert. Motion passed.

FZC-23-04 will be considered by the Planning Board on August 9th, at 6 pm, in the second-floor conference room of the South Campus Building, 40 11th Street West, Kalispell. At the request of Mayre Flowers, Gonzales asked Planning and Zoning if the meeting could be moved to the Fairgrounds to accommodate the large crowd. Moon indicated that the conference room and overflow room will be adequate.

**Application:**

**FPPUD-22-02** A request from WGM Group, on behalf of Longbow Land Partners, LLC for Preliminary Planned Unit Development (PUD) approval for properties located at 8095 Highway 35, Bigfork MT, within the Bigfork Zoning District. Containing approximately 105.03 acres, the applicant has also requested a zone change from RC-1 (Residential Cluster) and R-1 (Suburban Residential) to R-2 (One-Family Limited Residential) with a PUD overlay to reduce the minimum lot size from 20,000 square feet to 10,000 square feet, reduce the minimum lot width from 100 feet to 60 feet, and reduce the side setback from 10 feet to 5 feet and the side corner setback from 20 feet to 15 feet.

**Staff Report:**

Zachery Moon presented the staff report. The PUD request goes with the zoning request. This file is dependent on approval of the zone change. Departures from the requested R-2 zoning would be from a minimum lot size of 20,000 square feet to 10,000 square feet and minimum lot widths and side lot widths would be reduced. All the agency comments are the same as for the requested zone change.

Q. Ockert: Between preliminary and final plat, would any analysis of traffic upgrades be reported? A. Moon: Any changes or upgrades would be a material change and would require a new hearing process at all levels.

Q. Ockert: If MDT put up lights at Peaceful Drive and Highway 35, while still under preliminary plat, would there be any updates to this analysis? A. Moon: If the preliminary plat was approved, changes would be considered but we do not know what their approach permit may require for ingress/egress to Peaceful Drive from Highway 35.

Q. Ockert: Can we condition the subdivision to prevent Administrative Conditional Use Permits to prohibit Short-Term Rentals? A. Moon: The applicant could request that short-term rentals not be allowed.

Q. Sorensen: Can BLUAC put conditions on the PUD overlay? A. Moon: Yes, on the PUD overlay, not the zone change.

Q. Ockert: Regarding condition #2, what does that mean? It says this preliminary PUD shall only be valid on the map amendment (page 17) A. Moon: That is an error from the AG-20 to SAG- 5, that should read from RC-1 and R-1 to R-2 becomes final. That means the zone change must be approved.

**Applicant Report:**

Michael Brodie clarified that by denying the zone change you already deny the PUD. Regarding short-term rentals, it is only conditionally allowed in both zones and would require a Conditional Use Permit and it is not being requested with the PUD and zone change.

Q. Ockert: In the CC&Rs, would you restrict short-term rentals if there were smaller lots and houses? Smaller lots would not solve the housing issue if they were all short-term rentals. Would you consider any of these lots to be purchased in collaboration with organizations to create affordable housing? A. Brodie: BLUAC can make recommendations. That would be a question for the developer. I cannot give that answer.

Q. Ockert: I hope you will do that to bring a wider housing range. A. Brodie: I am aware of that.

Q. DeFries: Would the parkland be open to the public or just for the residents? A. Brodie: I assume for the residents.

Q. DeFries: Accessing the roads for the public, or is this a gated community? A. Brodie: There is no mention on the application for a gated community.

Q. Gonzales: The documents that were submitted in support of the application stated that Northshore Woods is a gated community, which does not speak to inclusiveness in Bigfork. A. Brodie: I am not aware of that.

Q. Gonzales: With this revised application regarding the amount of parkland, what was the thought process in re-grading the area? The area that was for storm water drainage, is that still part of the designated parkland? Was the soil tested in the area for contamination? A. Brodie: Nothing was tested for storm water contamination, but testing would be done per DEQ regulations. Regarding the parkland designation, we are asking for allowance to use those areas for the re-grading of lots, parkland, cash-in-lieu, and an access road around the pond for residents.

**Public Agency Comments:**

Jeremy Patton – Bigfork Fire Chief. Multiple lots will have 5-foot setbacks, and the PUD would also allow for smaller lots? A. Brodie: The PUD will allow for a small area of smaller lots with the R-2 zone change.

Patton spoke to clarify his opposition to the request; there is still the potential that homes will be built too close to each other, and I am opposed to that.

Q. Ockert: With RC-1 zoning there is only one access, but with the zone change and PUD there would be two access roads. A. Patton: There would be a very small benefit with a second ingress. With the number of homes proposed, if the area needed to be evacuated, the increase in people trying to exit would not benefit by one additional road The threat of a fire likely will put Bigfork Stage Road out of commission.

Q. Ockert: What would you recommend for setbacks with the PUD? A. Patton: Ten-foot setbacks provided there is some type of promoting a fire-wise/fire-safe housing community. Technology has been developed to prevent embers from starting fires in a subdivision. I support 10-foot lot setbacks.

Julie Spencer - Bigfork Water and Sewer. Each subdivision needs to have a fire plan. There is one subdivision in Bigfork that is refusing to hook-up their fire lines for indoor sprinkler systems to mitigate fire danger, since there is no permit or inspection required on individual homes to follow up on installation and hooking up to fire lines. It is impossible to enforce.

Q. Gonzales: Regarding the stormwater runoff, is it captured or does it run down to the pond due to natural gravity. A. Spencer: BWS does not have jurisdiction over stormwater, that is the County Environmental Health Department.

Q. Ockert: How do you expect BWS’s infrastructure to grow over the next 10 to 20 years? A. Spencer: We have a 20-year study period, we are not planning to increase capacity on treatment or water supply.

**Public Comments:**

Breanna Murphy – School resources are needed here so we don’t have to go to Kalispell for emergency services. The increase in density on Bigfork Stage with teenagers speeding in a 15-mph zone is dangerous. The safety of our children and town is not being considered. Approving this would contribute to a tragedy.

Julian Niezewski – Traffic safety will put lives at stake with the approval of 125 homes, and with the PUD it will exacerbate the problem. The staff report states that 42 new students would be added to the school. The average family had 1.92 school age children and the influx in schools would be greater than the report stated.

Ashley Atkins – Lot sizes will be smaller with the PUD. We don’t know what this will look like 10-20 years from now. My concerns are smaller lots and more traffic.

Marye Flowers – Citizens for a Better Flathead. Being able to add conditions to the PUD it is an advantage to the community when forwarding the application to the Planning Board.

Q. Ockert to Planning and Zoning: Are family transfers allowed in subdivisions? If a family transfer occurs, can it occur multiple times? A. Moon: Family Transfers are no longer permitted in subdivisions. Appert added that the law just changed, and we need more guidance on this.

Q. Sorensen: You cannot do family transfers in a platted subdivision. A. Moon: That changed this year, and we need to understand the changes.

Q. Ockert: Can family transfers happen multiple times? A. Moon: Yes, but it does trigger a review.

Q. DeFries: With a one-acre lot a family could do a family transfer and subdivide. and it would not be impacted by that zoning, correct? A. Moon: They could subdivide, but a minimum 5-acre lot size. The new law has not been fully evaluated and understood.

Sorensen added that is how people get around any zoning.

**Staff Reply:**

Moon stated that the average American household has 1.92 children, but not every household has children. In Flathead County the multiplier is .034 children in all household to determine the number of school age children. Not every house in this subdivision will have children. The PUD can be conditioned, and conditions can mitigate concerns.

**Applicant Reply:**

Brodie stated the PUD can be conditioned and be conditioned for 10-foot setbacks.

**Committee Discussion:**

There was no further questions or discussion by the committee.

**Findings of Fact:**

Ockert moved, Gonzales seconded the motion to adopt the Findings of Fact (FoF).

FoF #1: Sorensen moved, Ockert seconded to amend FoF #1 as follows: “While the applicant is amenable to mitigation tactics, a departure from the density requirements of the proposed R-2 zoning may be adverse to the public’s interest because…” (remainder unchanged). Motion passed unanimously.

FoF #3: Sorensen moved, Ockert seconded to amend FoF #2 as follows: “Parkland dedication associated with the proposed PUD does not appear adequate.to meet the spirit of the law.” The remainder of the FoF is deleted. Sorensen stated that the rational for deleting the rest of the sentence that he would rather see land rather than cash-in-lieu.” What is being proposed is the land will be bulldozed to meet the County’s requirements and that is the wrong approach. Motion passed unanimously.

FoF #7: Gonzales moved, Johnson seconded to amend FoF #7 as follows: “The proposed PUD would be detrimental…” ( remainder unchanged). Vote in favor: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

Sorensen moved to accept the Findings of Facts, as amended, with approved amendments to #1, #3 and #7. Johnson seconded the motion. Vote in favor: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

**Conditions:**

Condition #1: Gonzales moved, Ockert seconded to amend Condition #1, second sentence as follows: “Any changes to the PUD plan as reviewed will be required to undergo review by the Flathead County Planning Office, the Bigfork Land Use Advisory Committee, and the Flathead County Planning Board….” (remainder unchanged). Motion passed unanimously.

Ockert moved to approve the Conditions with an amendment to #1. DeFries seconded the motion. Motion passed unanimously.

**Committee Discussion and Vote:**

There was no additional committee discussion.

Sorensen motioned to forward a recommendation of denial to the Planning Board on FPUD-22-02 based on the amended and approved Finding of Facts and Conditions. Gonzales seconded the motion. Vote for denial: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

FZC-23-04 will be considered by the Planning Board on August 9th, at 6 pm, in the second-floor conference room of the South Campus Building, 40 11th Street West, Kalispell. At the request of Mayre Flowers, Gonzales asked Planning and Zoning if the meeting could be moved to the Fairgrounds to accommodate the large crowd. Moon indicated that the conference room and overflow room will be adequate.

**Application:**

**FPP-22-29** A request from WGM Group, on behalf of Longbow Land Partners, LLC, for preliminary plat approval of Northshore Woods-Phase 1 Subdivision, a proposal to create 51 residential lots on 105.03 acres. The proposed lots would be served by Bigfork Water & Sewer. The property is located at 8095 MT Highway 35, Bigfork, MT. (Note that BLUAC amended the wording of the application in its Agenda to read…” to create 51 residential lots on a 43.2-acre portion of the 105.03 acres.”

**Staff Report:**

Zachery Moon presented the staff report. It requests 51 residential lots, any requests for more than 51 lots will require additional public hearings, service will be from Bigfork Water and Sewer, and primary access is from Peaceful Drive and Bigfork Stage Road. The property and subdivision are 105.03 acres. The property is currently zoned RC-1 and R-1. Fish Wildlife and Parks submitted comments regarding the impacts of the subdivision.

Q. Sorensen: If the PUD is not approved, is this a standalone subdivision request with the county? A: Moon: Yes.

Q. Sorensen: So if you go forward with this, will you seek approval under the RC-1 zone? A. Brodie: Yes.

Q. Gonzales: Will BLUAC review each phase of the plat development? A. Moon: Yes, there will be a public hearing on each phase of the development, including if they want more lots.

**Applicant Report:**

Michael Brodie presented the applicant report.

Q. Sorensen: Would the developer want to continue without the PUD? A. Brodie: They will still want to go ahead.

Q. Ockert: If this application were to move forward with the subdivision, would you consider smaller lots with smaller homes? A. Brodie: I believe the subdivision would move forward as currently designed. Moon stated that any change to the lot sizes and configuration would be considered a material change and start at the beginning of the process.

**Public Agency Comments:**

Julie Spencer – Bigfork Water and Sewer. I have a question for Michael Brodie. If the PUD is not approved, are the phasings going to be the same with looping of the water and the sewer? A: Brodie: I believe the first phase would be the first branch that would include that loop. Julie stated that would be a benefit to Bigfork creating better water quality.

**Public Comments:**

Ashley Atkins – Will there be dust abatement on Bigfork Stage Road during construction? This will significantly impact wildlife, the neighborhood, and the residents who live here year-round.

Ray Lawrence – Utilities will be brought in north of Bigfork Stage Road will the people on the road be required to tie into Bigfork Water and Sewer?

Julie Spencer replied: As long as BWS does not annex, you are not required to hook up to BWS. However, if your septic fails and if you live 500 feet from the sewer main, the county may not approve a new septic permit and you would need to connect to BWS.

Lawrence commented that the subject property is a vacant lot, there is no reason to put a subdivision there. Twenty-five acre lots with homes might not be affordable for all of us, but I didn’t come back here to live next door to a subdivision.

Patrick Pacheco – Bigfork. Subdivisions are important to Montana. I understand that you don’t want to live next to a development. This property was for sale and if you didn’t want it developed you should have bought it. Montana is growing and changing and there is nothing you can do to stop it. If you owned this property, would you turn it into a park, no you would sell it.

Julian Niezewski - I am concerned about public utilities, the environment, and traffic. Even 51 homes would increase traffic on Peaceful Drive by 200%

Q. DeFries: To BWS, who will pay for the infrastructure costs? A. Spencer: All the infrastructure is borne by the developer and upon completion it becomes the property of BWS and is maintained by BWS.

**Staff Reply:**

Zachery Moon responded to one comment regarding dust abatement. One-quarter mile of pavement on Bigfork Stage Road will be paved.

Q. Sorensen: The developer would have to upgrade the approach permit for Highway 35 and Peaceful Drive, correct? A. Moon: Yes, they would have to upgrade with MDT.

Q. Sorensen: There is no ownership of the road at that location. A. Moon: MDT can impose conditions at that intersection. I am not sure what they would require.

Q. Sorensen: This is an existing county road approach onto Highway 35, and I am not sure MDT will require an approach permit. Highway Department did not respond, correct? A. Moon: Often they reply just before the Planning Board hearing.

**Applicant Reply:**

Michael Brodie stated that we will defer to MDT, and they are looking at widening the highway as a part of the Ice Box Canyon project.

**Committee Discussion:**

Ockert: This property will not stay vacant. With smaller lots, and if the covenants allow for smaller homes, this subdivision could start to solve the housing needs for middle income households. I do not want to see Bigfork become a bedroom community where workers in Bigfork cannot live. The subdivision will not solve our housing needs for lower and lowest income Bigfork workers. But we must start somewhere with mid-income, full-time Bigfork residents. When we surveyed the largest businesses in Bigfork in 2018, including the school and banks, over 100 employees wanted to live in Bigfork, but had to commute from Kalispell and Columbia Falls. The next subdivision could have large homes and big lots. If we want to keep this a village, we need to start somewhere.

DeFries: I appreciate your comments and my concern is we do not control who buys and develops this and what their goal is or the homes they put up. What is in front of us is what we can control, that is my focus.

Gonzales: I sympathize with Ockert and everyone else in Bigfork trying to find an affordable home for their family. But in this case, the lot is in a basin that has horrible access to a highway or to a gravel road that needs to be fully engineered because it is so dangerous. This is just not the right property. The people have expressed how dangerous these two roads are in the winter, and public safety is paramount.

Sorensen: I would disagree with Gonzales; this property is appropriate for some development, but we know it is a dangerous intersection at Peaceful Drive and Highway 35. I am uncomfortable adding anything to that at this point until we get a legitimate traffic study with design options and see if we can do some mitigation. Driving out onto Bigfork Stage Road is not mitigation. My concern is this project was designed based on the PUD, if this was a stand-alone project, I doubt it would have been designed the same way. Other concerns are the soils which will only be addressed after approval, we approve building sights, but they are not approved by a geo-tech. This is not good land use planning.

Ockert: A group in 2019, looked at all the vacant within 20 minutes of Bigfork to solve the housing issue. Other vacant land where the owner is open to a subdivision does not exist.

**Findings of Fact:**

Ockert moved, DeFries seconded the motion to adopt the Finding of Fact (FoF).

FoF #8: Ockert moved, Gonzales seconded to amend FoF #8 as follows: add to the

sentence beginning “, and the primary access road is paved, a portion of Bigfork Stage Road that will be paved, and the internal subdivision road will require paving.” Motion passed unanimously.

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FoF #9: Gonzales moved, DeFries second to amend FoF #9 as follows: “The proposal would have a significant negative impact on Peaceful Drive…” (remainder unchanged). Motion passed unanimously.

FoF #10: DeFries moved, Gonzales seconded to amend FoF #10 as follows: “The proposal does not mitigate concerns along Bigfork Stage because it would increase traffic along this section of Bigfork Stage by 40%. (end of sentence) The remainder is unchanged. DeFries stated that drivers speed on that road and the proposed trails in the area will create more traffic. Ockert stated that there would be limited traffic turning left onto Bigfork Stage Road. Vote in favor: Michaud, Gonzales, Johnson and DeFries. Opposed: Ockert and Sorensen. Motion passed.

FoF #14: Sorensen moved, Ockert seconded to delete FoF #14 and replace it as follows: “Impacts on parks and recreation facilities do not appear adequate at this time to meet the spirit of the law due to the need for significant grading and landscape alterations.” Motion passed unanimously.

FoF #21: Gonzales moved, Johnson seconded the motion to amend FoF #21 as follows: In the first sentence delete the word three-lane. Gonzales stated that the entirety of Highway 35 is not three-lane. Motion passed unanimously.

Gonzales moved to accept the Findings of Facts, as amended, with the approved amendments to #8, #9, #10, #14, and #21. Johnson seconded the motion. Vote in favor: Michaud, Sorensen, Gonzales, Johnson and DeFries. Opposed: Ockert Motion passed.

**Project-Specific Conditions:**

Condition #21: Sorensen moved, Johnson seconded the motion to delete Condition #21 and replace it as follows: “Prior to final plat approval, the applicant shall provide approach permits or letter from the Montana Department of Transportation to verify the adequacy of the approach on to Peaceful Drive for the proposed use.” Motion passed unanimously.

Condition #23: Ockert moved, DeFries seconded the motion to amend Condition #23 as follows: “The applicant will work with Planning and Zoning within the spirit of the law to negotiate the parkland designation instead of grading and landscape alterations, or cash-in-lieu.” Motion passed unanimously.

Ockert moved to accept the Conditions as amended, with the approved amendments to # 21 and #23. DeFries seconded the motion. Motion passed unanimously.

**Committee Discussion and Vote:**

There was no further committee discussion.

Johnson motioned to forward a recommendation of denial to the Planning Board on FPP-22-29 based on the amended and approved Finding of Facts and Conditions. DeFries seconded the motion. Vote in favor of denial: Michaud, Sorensen, Gonzales, Johnson, DeFries. Opposed: Ockert. Motion passed.

FPP-22-29 will be considered by the Planning Board on August 9th, at 6 pm, in the second-floor conference room of the South Campus Building, 40 11th Street West, Kalispell.

**Old Business:**

Sorensen would like to have on the next BLUAC agenda a presentation by the Bigfork Outdoor Recreation Association.

**New Business:**

None

**Adjourn:**

Ockert moved, DeFries seconded the motion to adjourn the meeting at 10:57 pm. Motion passed unanimously.

Respectfully submitted,

Shelley Gonzales, member, and acting secretary