**BIGFORK LAND USE ADVISORY COMMITTEE**

**Draft Minutes Thursday January 25, 2024**

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

Chairwoman Susan Johnson called the meeting to order at 4:08 p.m.

**Present:** Committee member attendees: Chany Ockert, Angela DeFries, Susan Johnson, Shelley Gonzales, Lou McGuire, Jerry Sorensen, and Richard Michaud; no absentees; Public: Thirteen members; Flathead Planning and Zoning: Zachery Moon and Larissa Van Riet.

The agenda was approved (m/s, Sorensen/DeFries), vote unanimous.

Minutes of the October 26, 2023, meeting were approved (m/s, Sorensen/DeFries), 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.

There will be County sponsored Board Training meetings on February 8, 2024, at 2 p.m. and 5:30 p.m. in the Earl Bennet Building, 1035 1st Ave. W, Kalispell. Should four or more BLUAC members attend any one of the two meetings it will constitute a committee quorum and thus it is hereby noticed as a meeting of BLUAC.

Election for the 2 open positions on BLUAC closes on February 12, 2024. Election forms are available at the Election Department or on the County website. Interested parties must be residents and registered voters within the BLUAC jurisdiction for a minimum of 2 years.

FZV-23-03 Glieden Lodge Trust was approved by the Board of Adjustment on November 7, 2023, by a vote of 4 to 1.

**Public Comment:**

Doug Averill-Flathead Lake Lodge presented a report on the multiple causes of the significant drop in the level of Flathead Lake during the 2023 summer season. There are multiple agencies that manage Flathead Lake. The lack of a full pool caused an economic loss of $660 million in revenue for the area. There is an existing document in place on how the lake will be managed under various conditions. The operators of the SKQ Dam, formerly Kerr Dam, did not properly manage the lake during the recent drought. 2024 looks to be another drought year and the lake could be 10-14 feet below full pool. However, if the drought plan is followed, the lake could be within only 1 foot below full pool. The Secretary of the Interior is not enforcing the rules nor are the tribes following the rules of the existing lake management document.

Averill referenced the weblink https:fillthelake.com for further information and asks the public to contact our representatives to work to remedy this problem.

**Application:**

**FZC-23-18:** A zone change request from Sands Surveying, Inc. on behalf of Dana L. Kuzma, for property within the Bigfork Zoning District. The proposal would change the zoning on a parcel located off Conifer Lane in Bigfork, MT from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural). The total acreage involved in the request is 26.656 acres.

**Staff Report:**

Larissa Van Riet presented the report. Three agency comments were received with no concerns. MDT stated that the development may impact traffic. There were 5 written comments received opposing the request with concerns on adequate highway access, maintenance of Conifer Lane, short-term rentals, absentee homeowners, and water adequacy and availability. The written comments were initially submitted to Planning and Zoning and are a part of the application file.

Q. Sorensen: Is Conifer Lane a private road? A. Van Riet: Yes.

Q. Sorensen: Conifer Lane and this parcel is part of the original plat. Is it covered by the original covenants and road maintenance agreement? A. Van Riet: The road and parcel were created with the original subdivision.

Q. Sorensen: Do the original covenants allow this parcel to be subdivided? A. Van Riet: There were no restrictions. CC&Rs are not part of the county’s review.

Q. McGuire: On the build out analysis, why is the concept of clustering included? A. Van Riet: In the Agricultural designation clustering is allowed so it is included in the analysis.

Q. Sorensen: The property was platted in 1992, was that prior to zoning? A. Van Riet: Yes.

**Applicant Report:**

Applicant Dana Kuzma was represented by Donna Valade of Sands Engineering.

Valade stated that the property has been in the applicant's family for 100 years and existed before zoning was enacted. The zone change will create 5 lots, one to be sold and 4 lots for family members. This is a zone change request to SAG-5 and the public comments submitted were concerns regarding subdivision review. A subdivision review will be required to include Environmental Health assessment on adequacy of water and wells; MDT review for road access; and DEQ approval. Without DEQ approval there will be no final plat. The existing CCRs do not prohibit further subdividing of the subject lot. The applicant does not plan on utilizing clustering to add additional lots. The applicant wants to keep the property within the family.

The applicant, Dana Kuzma stated that 2 lots will be gifted to her children, 2 lots sold to family members, and one sold outright. Kuzma further stated that she has no intention to apply for a PUD overlay to cluster more lots on the parcel. She has no intention of establishing an HOA.

Valade spoke to the benefit of subdivision review as it would require Conifer Lane to be improved to county road standards.

Ockert asked Valade to speak to subdivision versus family transfer given the new family transfer laws. With a family transfer Kuzma would not need to improve Conifer Lane and she could give 2 lots to her children. DEQ approval still would be required. A subdivision would be more beneficial to the neighborhood.

**Public Agency Comments:**

None

**Public Comments:**

Bill McKean – 120 Conifer Lane, Bigfork. Why was clustering brought up? We want it to stay 10-acre parcels.

Carol Hill – 55 Margarita Trail, Bigfork. Questioned the number of lots created. The approach from highway 83 has 5 mailboxes and there is no room for more mailboxes. There needs to be an HOA per the covenants for road maintenance and approach maintenance agreement. Objects to the zone change.

Cecelia Davis – 110 Conifer Lane, Bigfork. If applicant’s property is not part of the CCRs, why do they have access to Conifer Lane? We do not want houses across the road from us or our views obstructed. The road cannot sustain development. Who will upgrade the road and who will pay? Snow limits the road width.

Brianna Rice – 150 Conifer Lane, Bigfork. Opposed to the zone change citing density, overcrowding, impact on infrastructure, property values, resources, wildlife, and plant life.

Q. Ockert: To applicant/representative, will the property be developed by one developer, or lots sold individually? A. Valade: Lots will be given to children and others sold to members of the family. There has been no discussion on building spec homes for sale. Conifer Lane would need to be brought up to county road standards.

Q. Ockert: Why is this not a family transfer? A. Valade: A family transfer would not require improvement to Conifer Lane but would need DEQ approval.

Q. Ockert: What improvements would be required with a subdivision? A. Valade: The applicant would be required to pave Conifer Lane, improve fire emergency access, and obtain approvals for well and septic systems.

**Applicant Rebuttal:**

Valade gave an overview of land development in the county since 1971, including the increase in higher density development. The subdivision was established before zoning regulations were enacted. Five homes are across from the subject parcel. Light industrial zoning is to the east of the parcel which is more detrimental and B-3 zoning is nearby. To deny the owner the zone change would not give the applicant the benefits that the other neighbors have. A subdivision application will address all road, septic and well issues. Valade stated that a dedicated mailbox kiosk will be at the subdivision access road. Valade suggested the residents file for a Homeowners Association to address all the issues.

**Staff Rebuttal:**

Clustering is an available development option in the zoning regulations. Subdivision review will address the limitations of the property.

**Committee Discussion:**

Sorensen stated that this would be a minor subdivision and asked staff what is that approval process. Staff stated that a minor subdivision does not include review by BLUAC or Planning Board, nor does it allow public input. A minor subdivision must follow law including review by MDT, DEQ, road, and fire/emergency plans.

DeFries stated that the family transfer option would speed up the process by limits public input and review.

**Findings of Fact:**

Ockert moved and Gonzales seconded the motion to adopt the Findings of Facts. Motion approved unanimously.

**Committee Discussion and Vote:**

McGuire moved and Sorensen seconded a motion to forward a favorable recommendation to Planning Board on FCZ-23-18.

Ockert stated that the zone change matches that of the surrounding property with 5-acre lots. I understand that the owners need to be able to transfer property to one’s family and the applicant is choosing to subdivide which will improve the road and address some of the neighbors’ issues versus using a family transfer option.

Sorensen concurred with Ockert and added that there is industrial development to the east which is more obtrusive than a view of homes on the east side of Conifer Lane. This is an appropriate place for the zone change, but as a minor subdivision I do not support the lack of BLUAC and public input.

The committee voted unanimously to forward a favorable recommendation to the Planning Board. The Planning Board will hear the application on February 14, 2024, at 6 p.m. in the second-floor conference room of the South Campus Building, 40 11th Street West, Kalispell.

**Old Business:**

The committee discussed how to proceed with the update of the Bigfork Neighborhood Plan. The committee will hold a special meeting on February 6th, at 4 p.m. downstairs at Bethany Lutheran Church to create a scope of work to be submitted to the Planning Board prior to the committee’s March 13th workshop meeting with the Planning Board.

**New Business:**

None

**Adjourn:**

Gonzales moved and DeFries seconded the motion to adjourn. Motion carried; meeting adjourned at 5:52 p.m.

Respectfully submitted,

Shelley Gonzales, member, and acting recording secretary