**BIGFORK LAND USE ADVISORY COMMITTEE**

**Draft Minutes Thursday September 26, 2024**

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

Chairwoman Susan Johnson called the meeting to order at 4:09 p.m.

**Present:** Committee member attendees: Richard Michaud, Jerry Sorensen, Shelley Gonzales, Susan Johnson, and Angela De Fries; absent was Chany Ockert and Laura Perry. Public: 3 members; Flathead Planning and Zoning: Larisa Van Riet

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

Minutes of the September 29, 2024 meeting were amended and approved (m/s, Johnson/Sorensen to amend), vote unanimous. Amended minutes were approved (m/s, Gonzales/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.

Gonzales reported that on Thursday September 19, 2024, the county commissioners held a public hearing on the North Shore Woods proposed 51-lot subdivision. Public comments included increased traffic, public safety and fire danger. The public hearing continues Tuesday October 1, 2024. It is unclear if, at the end of the public hearing, the commissioners will vote on the subdivision application or continue the application to a later date.

**Public Comment:**

None

**Application:**

**FCU-23-13**. A request from Zachary Michnal for an after the fact Conditional Use Permit for a ‘Home Occupation’ to allow for an automobile mechanic shop on property located at 665 Aero Lane near Bigfork, Montana. The property is located within the Bigfork Zoning District and is zoned ‘SAG-5 Suburban Agricultural’. The property totals approximately 3.806 acres.

**Staff Report:**

Larissa Van Riet presented the application and provided to the committee an email

with comments from MDT on the application stating that MDT will work with the applicant on any MDT requirements. There are 11 Findings of Facts in the staff report and 17 Conditions of Approval.

Q. Gonzales: The staff report indicates that the applicant’s shop is under construction, is that correct? A. Van Riet: The building is wrapped but not sided.

Q. Gonzales: Can the applicant continue operating his business while all the Conditions of Approval are being met over the next 12 months? A. Van Riet: Yes.

Q. Johnson: Would you shut down the business if the conditions were not resolved after one year? A. Van Riet: The conditions needed to be met after one year, the business could be shut down, but the applicant could request an extension. If the application is denied, the applicant would have to close the business.

Q. DeFries: Would the oil and fluids from the business be disposed of by Evergreen Disposal? A. Van Riet: There needs to be a plan for the disposal and the applicant can address that requirement (Condition #15).

Q. Michaud: The applicant is considering a new septic system, however, the Environmental Health Department states that this application cannot be recommended for approval without a new septic system. A. Van Riet: The Conditional Use Permit will require an approved septic system by Environmental Health and the DEQ (Condition #7).

Q. Sorensen: The applicant has a business sign on another property owner’s property, is that a violation? A. Van Riet: The property that has that sign is not allowed to have that sign.

**Applicant Report:**

Applicant Zachary Michnal stated that he purchased the property 6-7 years ago and has been improving the property over the years. He started the auto repair business on the property 2 years ago. The building is unfinished. The sign on the neighbor’s property also references 4-5 other businesses in the area. Waste generated by the business, oil and fluids, is stored in separate containers and disposed of at the county landfill. He also stated that he has a very clean shop.

Q. Sorensen: Did you initially intend to build a shop on your property. A. Michnal: No

Q. Gonzales: Can you comply with all the Conditions of Approval. A. Michnal: Yes, but the paving requirement might not be affordable in 12 months.

Q. Gonzales: Can you afford to close your business to correct the septic problem? A. Michnal: The shop is not hooked up to the residential septic system. A new septic system will be installed when a new home is built, but the shop will not be hooked up to the system. There is a Port-a-Potty for the employees to use. There is no need for a septic system for the shop.

Q. Sorensen: Did you obtain a commercial building permit from the State to construct the auto shop building? A. Michnal: My property is not zoned commercial. I do not think the building is commercial.

Sorensen asked Van Riet to investigate the status of the building and if a permit is required from the State.

Q. Sorensen: Is there an electrical permit? A. Michnal: I am working on that now and I will get one if I need to.

Planner Van Riet stated that Environmental Health will address the use of a Port-a-Potty at a permanent business. The applicant needs to discuss with Environmental Health the need for a septic system for the commercial building. She further stated that it is likely there are other similar businesses operating in the county, but the Planning and Zoning Department only investigates them if there is a written complaint. The site plan shows that parking will be behind the shop building and parking in front of the property is not permitted except for the applicant’s personal vehicles. She also asked the applicant to provide photos of the bins that will hold all the oils and fluids that will be disposed of and what they are made of. She stated that the applicant will need to talk to the State regarding the requirement of a building permit.

Q. Sorensen: There are a lot of vehicles seen from Aero Lane and moving them to the rear of the building will help, what plans do you have to screen the property?

A. Michnal: A fence or berm and trees might help screen the property.

Q. Michaud: You did not know you needed a CUP for a home business? A. Michnal: No I did not know I needed a permit until there was a complaint.

Q. Johnson: Who takes the oil and fluids to the landfill? A. Michnal: I do.

Q. Sorensen: The CUP allows for 12 parking spaces, is that enough? A. Michnal: Yes, if that is what is allowed, but the parking area will provide more spaces.

Q. Sorensen: Give serious consideration for screening so your business is invisible to your neighbors. A. Michnal: That is not unreasonable.

**Public Agency Comments:**

None

**Public Comments:**

None

**Applicant Reply:**

None

**Staff Reply:**

None

**Committee Discussion:**

Several committee members agreed that home occupation businesses go unnoticed until a complaint is filed. Businesses need to be permitted to protect the quiet enjoyment of the residential neighborhoods.

**Findings of Fact:**

The committee reviewed the 11 Findings of Fact. Johnson moved and Gonzales seconded the motion to adopt the Findings of Fact. The vote passed unanimously.

**Conditions:**

The committee reviewed the 17 Conditions, and the following were amended with additions highlighted in yellow:

#5 Parking associated with the home occupation shall be moved to the east behind the shop and shielded from adjoining neighbors’ view. The remaining condition is unchanged.

#6 The applicant shall provide a minimum of 12 parking spaces and a maximum of 24 parking spaces for the home occupation and all vehicle parking spaces shall be located outside of the front and side yards, per Section 5.06.020(1)(D) FCZR.

#14 The applicant shall control dust in the driveway and parking areas with an approved dust control method.

Michaud moved and DeFries seconded the motion to approve the Conditions, as amended in #5, 6 and 14. Vote passed unanimously.

**Committee Discussion and Vote:**

Members DeFries, Johnson and Gonzales stated that the Conditions in the staff report provided acceptable risk mitigation in granting the CUP.

Sorensen agreed with the conclusion of the staff report based on the Findings of Fact. He stated that this is an example of the cart before the horse as the issues raised in the Findings of Fact need to be addressed before this CUP is considered by the Board of Adjustment. The ability to monitor the Conditions is questionable.

Michaud stated that there is too much uncertainty in this application to warrant approval.

Gonzales moved and DeFries seconded the motion to forward a recommendation for approval of FCU 23-13 to the Board of Adjustment. Vote in favor was Gonzales, DeFries and Johnson. Vote against was Sorensen and Michaud. Motion passed.

The Board of Adjustment will consider FCU 23-13 on Tuesday October1, 2024, beginning at 6:00 P.M. in the 2nd floor conference room of the Flathead County South Campus Building, 40 11th Street West, Kalispell.

**Unfinished Business:**

Bigfork Neighborhood Plan

Michaud reported that he has information from Bigfork Fire Chief Jeremy Patten. He still needs information from the county Sheriff's Office.

Sorensen and Perry are meeting with Erik Mack on October 2, 2024. to discuss updated land use maps and informational maps for Bigfork from the GIS department and the County. The goal is to determine the size of each zone designation, lots and capacity for residential and commercial growth. He is also requesting all traffic study reports prepared by the county and state, and a list of all CUPs for home occupations for Bigfork.

Johnson is gathering data on short-term rentals and transportation.

DeFrieshas 10-year data on Bigfork Schools, needs data for Swan River School.

**New Business:**

None

**Adjourn:**

Johnson moved and Michaud seconded the motion to adjourn at 6:18 p.m. Motion passed unanimously.

Respectfully submitted,

Shelley Gonzales

Member and acting recording secretary