

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-11-08)
RICK AND PAMELLA TEETS
DECEMBER 20, 2011

This is a report to the Flathead County Board of Adjustment regarding a request from Rick and Pamella Teets for a conditional use permit that would allow operation of an 'automobile repair shop' within outbuilding as a 'home occupation'. The subject property is located within the Evergreen zoning district and is zoned 'R-1 Suburban Residential'.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on January 3, 2012 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 file are available for public inspection in 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

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Council.

B. Board of Adjustment

This space will contain an update regarding the January 3, 2012 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant & Landowner

Rick and Pamela Teets
120 North Springwood Road
Kalispell, Mt. 59901-6659

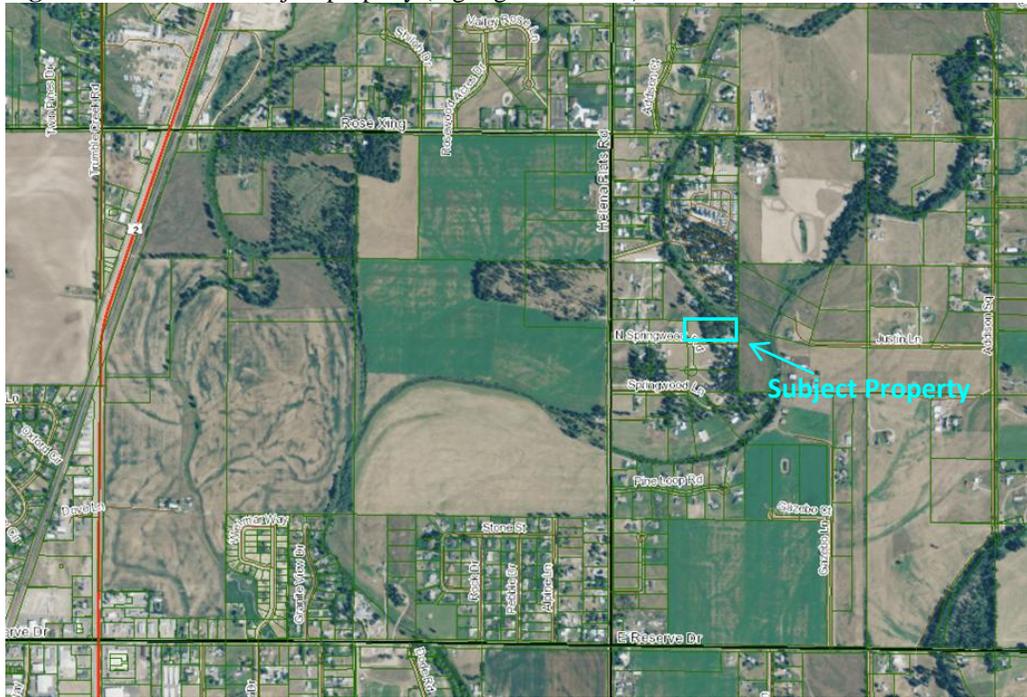
ii. Representative

Sands Surveying - Eric Mulcahey
2 Village Loop
Kalispell, Montana 59901

B. Property Location and Size

Approximately four miles northeast of Kalispell, the subject property is located east of Helena Flats Road at 120 North Springwood Road. The 3.25 acre property can be legally described as Lot 6 of North Springwood Subdivision in Section 27, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana (see Figure 1 below).

Figure 1: Location of subject property (highlighted in blue).



C. Existing Land Use(s) and Zoning

The property is currently developed with a residence and a detached shop/garage structure which has been used as a private automotive repair shop. The property is located within the Evergreen zoning district and is zoned ‘R-1 Suburban Residential’, a classification intended “... to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions)” per Section 3.09 of the Flathead County Zoning Regulations (FCZR).

D. Adjacent Land Use(s) and Zoning

Situated east of Helena Flats Road, adjacent properties and the general area surrounding the subject property are developed with a mix of agricultural and residential uses (see Figures 1 and 2). Directly adjacent properties also accessed from North Springwood Road are zoned ‘R-1 Suburban Residential’, and adjacent properties to the east are zoned ‘SAG-5 and SAG-10 Suburban Agricultural’ an agricultural classification with larger minimum lot sizes and having permitted and conditional uses compatible with a more rural and lower density agricultural setting in comparison with the ‘R-1 Suburban Residential’ classification (see Figure 3 below).

E. Summary of Request

Background

The property is currently developed with a single family residence and an 'automobile repair shop' situated within a detached structure.

- On December 17, 2010, a zoning complaint (FZT-10-29) was submitted to the Flathead County Planning and Zoning Office (FCPZ) alleging use of the subject property for automobile repairs constituted a zoning violation due to the fact 'automobile repair shop' is not included or consistent with the permitted and conditional uses available within an 'R-1 Suburban Residential' zoning use district. The complainant alleges the use of the subject property for commercial automobile repair has an adverse impact on the property value of his residential property located within the same subdivision and also zoned 'R-1 Suburban Residential'.
- In investigating the zoning complaint per FCPZ policies and procedures, communication was established between FCPZ staff and the subject property owner.
- In addressing the zoning complaint the applicant met with FCPZ staff on September 21 and 28, 2011. It was clarified that the operation of the commercial 'automobile repair shop' was not a legal non-conforming use per Section 2.07 FCZR because the use began in 1992 after the currently applicable zoning was adopted in 1990. While it was made clear that continued status-quo operation of the commercial 'automobile repair shop' on the property would not be allowable due to applicable zoning provisions, it was also identified that operation of such a facility may be allowable as a 'Home Occupation' subject to issuance of a conditional use permit by the Board of Adjustment.

Request

In order to remedy the alleged zoning violation and to comply with applicable zoning requirements, the applicant has requested a conditional use permit to permit continued operation of the 'automobile repair shop' as a 'Home Occupation' per Sections 3.09.020(6) and 5.06.020(2)(B) FCZR. The nature of the proposed use would be repair of automobiles by the applicant within the existing shop located on the property. The applicant's proposed business operation uses no employees, and the use would not entail outdoor storage of wrecked vehicles, vehicles under repair, or automobile parts. 'Automobile Repair Shop' is defined in Section 7.02.120 FCZR as "*A facility in which passenger cars and small trucks are serviced and repaired. Such services and repairs may include those offered by an automobile service station, engine removal for repair or replacement, transmission repair, bodywork and painting. Such facility shall not be involved in the dismantling of motor vehicles*".

Section 7.09.020 of the zoning regulations, defines a 'home occupation' as "*any use conducted entirely within the dwelling and carried on by the members of the family which use is clearly incidental and secondary to the dwelling for dwelling purposes and does not change the character thereof and in connection therewith are no commodities sold from the premises except that which is produced thereof, except as provided for in Section 5.06. Such uses may include, but are not limited to, art and/or*

photography studios, computer programming, insurance sales, and handicrafts provided that the use does not involve more than one-third of the total square footage of the dwelling. The conducting of a hospital, barbershop, beauty shop, tearoom, tourist home, animal hospital, or other traffic generating use shall not be deemed to be a home occupation.” Section 5.06 provides further guidance on the performance standards a home occupation should meet. Certain zoning classifications, including ‘R-1 Suburban Residential’, require a conditional use permit be obtained for a home occupation that utilizes an outbuilding or accessory structure. As an accessory structure is used for the operation of the ‘automobile repair shop’, a conditional use permit is required even though a home occupation is listed as permitted in an ‘R-1 Suburban Residential’ zone. Evaluation of the ‘home occupation’ performance standards is included in Section IV.E of this report.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on December 9, 2011, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the November 18, 2011 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on November 1, 2011:

- Flathead City-County Health Department
 - Reason: The Department enforces sanitation related requirements which may have bearing on the for the proposed use.
- Flathead County Road and Bridge Department
 - Reason: The proposed use may directly impact County infrastructure.
- Jim Chilton, Flathead County Solid Waste District
 - Reason: The proposed use disposal needs that may impact County infrastructure if not managed appropriately
- Evergreen Fire District
 - Reason: The subject property is located within the Department’s service area/jurisdiction.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for January 3, 2012. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

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

- Glen Gray, Flathead County Sanitarian, Environmental Health Department
 - The lot is within a subdivision approved in 1983 and the current approved septic system for a 3 bedroom home. As the application

indicates the shop has ‘potable water’ it is required to be equipped with adequate and approved facilities for sanitary disposal of sewage. “A commercial use will require a re-review of this lot by this office and the Subdivision Section of the Department of Environmental Quality. Both water and sewer facilities must be addressed.”

- Dave Prunty, Flathead County Road & Bridge Department
 - At this point the County Road Department does not have any comments on the request.
- James Chilton, Flathead County Solid Waste District
 - The applicant has addressed their disposal method; the District views no negative impact with solid waste issues at this time.
 - The District requests all solid waste generated at the proposed location be hauled by a private contractor. Evergreen Disposal is the licensed (PSC) Public Service Commission Licensed hauler in this area.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080, 2.06.100, and 5.06.020 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of the requested Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate usable space

The subject property is approximately 3.25 acres in size and the ‘automobile repair shop’ is situated within the existing garage/shop structure, which is equipped with car lifts and repair equipment. The existing garage/shop structure is compliant with the R-1 Bulk and Dimensional Requirements applicable to detached accessory structures. Based on the submitted site plan there appears to be adequate space to accommodate vehicular access and parking necessities.

Finding #1 – The subject property is suitable for the proposed use because the proposal complies with the applicable bulk and dimensional requirements of the zoning in place and there is adequate useable space to accommodate the functional needs of the existing ‘automobile repair shop’.

ii. Adequate access

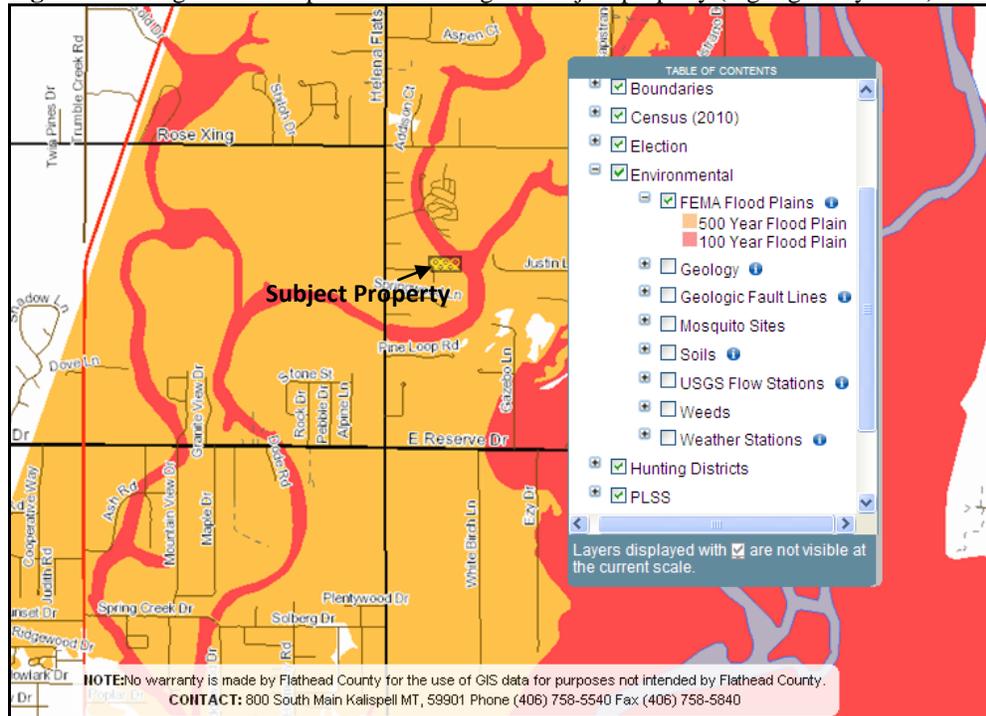
As indicated on Figures 1-3 above and the submitted site plan, the subject property is accessed directly from North Springwood Road, a twenty foot wide gravel road occurring within a 60-foot wide private road and utility easement. North Springwood Road appears well maintained, and continuance of the business would not likely impact the road or create adverse dust because the operation of the business includes a relatively low number of ingress/egress vehicle trips per day as the applicant works independently, advertising via the internet and word-of-mouth as opposed to external commercial advertising to generate random ‘drive-up’ business.

Finding #2 – The site is suitable for the proposed use because the property has adequate direct access onto private North Springwood Road via an existing driveway which appears well constructed and able to accommodate the low level of vehicle traffic associated with the proposed use.

iii. Absence of environmental constraints

The proposal site is situated adjacent to Spring Creek which has perennial surface water and areas of associated riparian/wetland vegetation. As depicted on FIRM Panels 1810 and 1830 and Figure 4 (below), the majority of the property is currently designated as Zone X (500-year floodplain) and the northeast corner of the property is designated as Zone A (approximate 100-year floodplain with no Base Flood Elevations established). The application states the residence sits 11.5 feet above Spring Creek and the applicants have not been required to carry flood insurance. Considering that information in conjunction with the submitted site plan and data on FIRM Panels 1810 and 1830, the existing residence and ‘automobile repair shop’ appear to be situated just outside of the floodplain and drainage easement area. As there are no new structures proposed and the operation would continue in the same manner it has since 1992, no additional impact on the sensitive environmental areas identified on this property are anticipated.

Figure 4: Designated floodplain surrounding the subject property (highlighted yellow).



Finding #3 – The site appears suitable for the proposed use because the areas of the property which are developed and functional for the ‘automobile repair shop’ are located away from surface waters, wetlands, and floodplain, no new structures or impervious surfaces are proposed with the request, and there are no

apparent environmental constraints which would limit the suitability of the property for the proposed use.

B. Appropriateness of design

i. Parking scheme

The 3.25 acre property has ample established areas for parking of the applicant's personal vehicles, and the application indicates vehicles for repair would be parked inside the 'automobile repair shop'. As shown on the site plan, there is a well established parking area approximately 7500 ft² in size located between the residence and the 'automobile repair shop'. Although the applicant has stated all parking of vehicles for repair would occur inside the shop, the parking area on the north side of the building appears to offer a practical location for potential temporary parking of customers vehicles as the area is centrally located on the property and not situated in a front or side yard area, in compliance with Section 5.06.020(1)(D) FCZR.

Finding #4 – While the zoning regulations contain no specific number of parking spaces required for an 'automobile repair shop', the proposal appears adequate because the business operation is relatively low-volume, parking of repair vehicles is proposed to be done inside the shop building, and the 3.25 acre property contains a large central area which could accommodate parking of more vehicles than the operation repairs on a regular daily basis in conformance with Section 5.06.020(1)(D) FCZR.

ii. Traffic circulation

The site is accessed from North Springwood Road via a gravel 12-foot wide driveway. The 'automobile repair shop' has ample cleared areas on all sides which appear able to facilitate safe parking and turning around of vehicles. It is not anticipated that two-way traffic would occur upon the driveway as there have been and will continue to be relatively low vehicle trips per day.

Finding #5 – The proposal appears appropriate in regard to traffic circulation because the property has legal and physical ingress/egress onto adjacent private and public roads, and internal traffic circulation and parking are able to accommodate anticipated traffic associated with the continued operation of the 'automobile repair shop'.

iii. Open space

The 3.25-acre subject property is more than three times the 1-acre minimum lot size required in the 'R-1 Suburban Residential' zoning district. Combined, the existing residence and the accessory structure housing the 'automobile repair shop' cover approximately 5150 ft², which is considerably less than the maximum permitted lot coverage of 40% of the lot area. The 'automobile repair shop' complies with applicable setback requirements applicable to accessory structures and uses because it is located farther than 20-feet from the front lot line and 5-feet from the side and rear lot lines. Currently existing open space would be maintained because the proposal does not entail the construction of new structures or the expansion of the existing building for the proposed use.

iv. Fencing/screening

The property has existing fencing including a cedar privacy fence located along the south property line and pole fencing around the remaining perimeter boundaries. As shown on the site plan, the western portion of the property is cleared land and the central and eastern areas have thick trees and other vegetation serving to visually screen the ‘automobile repair shop’ from adjacent properties. No additional fencing or screening has been proposed by the applicant as part of this conditional use permit.

v. Landscaping

No additional landscaping has been proposed by the applicant as part of this conditional use permit. The subject property shares common boundaries with residentially zoned properties, and the natural foliage currently existing on the property appear to adequately screen and separate visual elements of the commercial use from adjacent residential uses in compliance with Sections 5.04 and 5.05 FCZR.

Finding #6 – Currently existing open space, fencing, screening and landscaping of the subject property appear adequate for the proposed use because they serve to visually screen the commercial use on the property from adjacent roads and residential properties.

vi. Signage

The property currently has no business signage, but does have compliant exempt signage typical of a residence, containing the owners name and address. The submitted application indicates the applicant does not propose to install a business sign.

Finding #7 – Existing signage for the property is compliant with applicable regulations because signs bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations are permitted in all districts pursuant to Section 5.11.010(2) FCZR.

vii. Lighting

The applicant proposes no new lighting, and the application indicates existing lighting is minimal and consistent with residential properties in the neighborhood. Any exterior lighting shall comply with performance standards set forth in FCZR Section 5.12.

Finding #8 – There would be limited visual impacts resulting from lighting of the proposed ‘automobile repair shop’ because minimal lighting currently exists, no new lighting is proposed, and any exterior lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations.

C. Availability of Public Services and Facilities

i. Sewer

The subject property is currently developed with a septic system approved for a three bedroom residence in conjunction with the final plat approval of the North Springwood Subdivision in 1988. Apparently the ‘automobile repair shop’ has been equipped with a bathroom, and comment from Glen Gray of the Flathead County Environmental Health Department indicates the commercial use of the sewer system will require a re-review of the lot by the department and the Subdivision Section of the Department of Environmental Quality, stating that both water and sewer facilities must be addressed. The applicant should be required to satisfy Department requests and obtain all applicable permits.

ii. Water

The subject property is currently developed with an individual well which serves potable water to the house and the ‘automobile repair shop’. Comment from the Flathead County Environmental Health Department indicates the commercial use of the property and water and sanitation systems previously approved for residential use will require a re-review of the lot by the department and the Subdivision Section of the Department of Environmental Quality, stating that both water and sewer facilities must be addressed. The applicant should be required to satisfy Department requests and obtain all applicable permits.

Finding #9 – The proposed use would have no impact on public water and sewer utilities because the subject property currently utilizes individual water and septic systems, and proposed changes to the water and sewer systems would necessitate re-review and permitting as applicable by the Flathead City-County Health Department and the Subdivision Section of the Department of Environmental Quality.

iii. Storm Water Drainage

Stormwater drainage will continue to be managed onsite through absorption into pervious surface areas. As no new construction of impermeable surfaces is proposed, increased stormwater runoff as a result of this proposal is not anticipated. The ‘automobile repair shop’ is adjacent to Spring Creek, and there is a potential for contamination of surface and ground waters if by-products from the proposed use are not managed appropriately. The application indicates oils and coolants are collected in the shop for recycling and re-use, and none of those potential pollutants are directed outside the building and to drainage infiltration areas.

Finding #10 – The proposed method of stormwater management appears adequate because the subject property has pervious area able to absorb and contain runoff onsite, and no increased stormwater runoff is anticipated as the proposed ‘automobile repair shop’ would operate inside an existing structure.

iv. Fire Protection

The subject property is located within the Evergreen Fire District and would be served by the District's main station located 2.5 miles southwest on US Highway 2. Although solicited, no comment has been received from the fire chief.

v. Police Protection

The subject property is within the jurisdiction of and currently served by the Flathead County Sheriff's Department. Delayed response times may be anticipated in the event of an emergency due to the property's location in a rural area of the County.

vi. Streets

The subject property approaches onto North Springwood Road which is privately maintained, and North Springwood Road approaches onto Helena Flats Road, a paved county road. The Flathead County Road and Bridge Department has expressed no concerns regarding potential impacts to the county road system resulting from traffic associated with the proposed use.

Finding #11 – Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the evergreen Fire District and could be served by the Department's main station in the event of an emergency, the property is currently served by the Flathead County Sheriff's Department, and because the property has legal and physical access onto private and public roads in good condition which can adequately accommodate the limited traffic that may be anticipated as a result of the proposed use.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

The application indicates the traffic generated by the 'automobile repair shop' averages 3.6 to 6.8 vehicle trips per day considering trips from vehicles entering/exiting the site for repair and from delivery of parts. The estimated traffic is based upon documented receipts from the months of August and September, and it seems reasonable to presume a similar amount of traffic would be maintained with the continued operation of the 'automobile repair shop'. The average 3.6 to 6.8 vehicle trips per day traffic generated is less than the maximum increase of 8 vehicle trips per day which is the applicable conditional use standard for home occupations pursuant to Section 5.06.020(1)(E) FCZR which states "*the home occupation shall not generate pedestrian or vehicle traffic in excess of that which is characteristic of the neighborhood in which it is located. Vehicle traffic would not be increased by more than one (1) at a given time or by more than eight (8) all day.*"

Finding #12 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood or area roads because additional traffic generated by the business is estimated at 3.6 to 6.8 vehicle trips per day which is less than the

maximum increase of 8 vehicle trips per day allowed for a home occupations pursuant to Section 5.06.020(1)(E) FCZR.

ii. Noise or vibration

Most activity related to the ‘automobile repair shop’ will be conducted indoors and should not result in excessive noise generation outside the building. Although automobile repair equipment and tools will produce audible noise and minimal vibration within the building when in use, it is not anticipated noise and vibration will have an adverse impact on the surrounding neighborhood based on the applicant’s description of the proposed use and comment provided from the nearest residential neighbor who indicated sound from the ‘automobile repair shop’ has not been problematic or irritating during the several years of previous non-compliant use.

iii. Dust, glare or heat

North Springwood Road along with the driveway and parking areas of the proposed use are currently gravel, and therefore do generate dust during periods of dry conditions. Due to minimal additional traffic generated it is not anticipated the amount of dust resulting from operation of the ‘automobile repair shop’ would create adverse amounts of dust beyond which are typically experienced within the subdivision. Inappropriate glare or heat is not anticipated because lighting is required to be compliant with applicable regulations, the ‘automobile repair shop’ is well screened by dense foliage, and the proposed use would be mostly confined to the interior of the building.

iv. Smoke, fumes, gas, or odors

The proposed ‘automobile repair shop’ has the potential to generate smoke, fumes, gas, and odors associated with fuels, solvents, engine exhaust, and automobile repair activities in general. As the applicant works on vehicles by himself, there is not typically more than one engine running at a time and the duration of vehicle operation is limited, therefore adverse amounts of smoke, fumes, gas, and odors are not anticipated as a result of the proposed use.

Finding #13 – The proposed use is anticipated to have a minimal impact on the neighboring properties because the proposed ‘automobile repair shop’ is a relatively low volume business operation whereby noise, vibration, dust, glare, heat, smoke, fumes, and gas or other odors resulting from the use aren’t anticipated to be a nuisance to adjacent property owners as they would not persist for more than brief periods of time.

v. Inappropriate hours of operation

As indicated in submitted application materials, typical business hours for the ‘automobile repair shop’ are from 8:00 am to 5:00 pm Monday through Friday, which is when people are typically at work and not sleeping. There are no specific standards for hours of operation for a home business established in the Flathead County Zoning Regulations, however limiting hours of operation to

those which are proposed may be appropriate considering adjacent residential uses.

Finding #14 – The proposed hours of operation of 8:00 AM to 5:00 PM Monday through Friday would not be detrimental to the surrounding neighborhood because those hours of operation coincide with times of day when people are typically awake and productive in work and other activities.

E. ‘Home Occupation’ Performance Standards

Section 5.06.020 FCZR contains specific performance standards applicable to ‘home occupations’, stating “*home occupations are permitted in any dwelling unit, subject to the following provisions:*

1. *All home occupations shall comply with the following standards:*

A. *No outdoor storage shall be permitted.*

- The application indicates operation of the ‘home occupation’ would not entail the outdoor storage of vehicles, equipment, or automobile parts.

B. *Exterior signs shall be restricted to those permitted in the district in which the home occupation is located.*

- There is signage with the property owners’ names and address located at the entrance to the driveway, which is a permitted variety of exterior signage, and the applicant proposes no additional signs.
- If a conditional use permit for the proposed use is approved and issued, one sign not exceeding six (6) square feet in area, in connection with a non-residential conditionally permitted use is permitted within the ‘R-1 Suburban Residential’ zoning use district pursuant to Section 5.11.040(2)(C) FCZR.

C. *No home occupation shall be conducted in a manner which will be detrimental to the residential use of said residence or cause a nuisance to surrounding residences, because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.*

- The proposed use is anticipated to have a minimal impact on the neighboring properties because the proposed ‘automobile repair shop’ is a relatively low volume business operation from which noise, vibration, dust, glare, heat, smoke, fumes, and gas or other odors resulting from the use aren’t anticipated to be a nuisance to adjacent property owners as they are uniquely mitigated, would occur minimally, and would not likely persist for more than brief periods of time.

D. *Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front or side yard.*

- The 3.25 acre property has ample established areas for parking of vehicles for repair on site, either within the repair shop or at a centrally located parking area on the property which is not situated in a front or side yard area.

- E. *The home occupation shall not generate pedestrian or vehicle traffic in excess of that which is characteristic of the neighborhood in which it is located. Vehicle traffic would not be increased by more than one (1) at a given time or by more than eight (8) all day.*
- The ‘automobile repair shop’ would not likely generate multiple simultaneous vehicle trips, and the estimated average 3.6 to 6.8 vehicle trips per day of traffic generated by the ‘home occupation’ is less than the maximum increase of 8 vehicle trips per day which is the applicable traffic threshold for home occupations.
- F. *No home occupation shall generate as a by-product for disposal or cause to be dumped any hazardous waste including chemicals and cleaners, other than the volume and types that would be normally generated by a typical single-family home.*
- Operation of the ‘automobile repair shop’ would entail the use of typical automobile-related fluids and materials such as oils, lubricants, gasses, solvents, batteries, etc., which may be considered hazardous waste other than the volume and types that would be normally generated by a typical single-family home. According to the application all waste oils or coolants are collected in the repair shop for recycling and none of those pollutants are directed outside the building or to drainage infiltration areas. The application indicates a variety of tools and techniques used by the applicant to responsibly and effectively manage waste oil and coolant in a manner where these substances are not disposed of but are instead either re-used or recycled.
- G. *No home occupation shall cause an increase in any one or more utilities so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.*
- The application states “the existing repair shop does not generate any more utility usage than any of the other shops, farm building or arenas found in the general vicinity of the Helena Flats neighborhood.” Regarding utilities for water and sewer, re-review of both is required from the Subdivision Section of the Department of Environmental Quality due to the change of the existing systems to that of commercial use.
2. *An occupation in an AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, R-1, or R-2 district, which meets one or more of the following criteria, shall be deemed a conditional home occupation and shall be required to obtain a Conditional Use Permit:*
- A. *More than one (1) person other than members of a family residing on the premises shall be engaged in such occupation on the property at any given time.*
- The applicant only employs himself.
- B. *Outbuildings or accessory structures are used for the home occupation.*
- A Conditional Use Permit is required to be obtained because the proposed ‘home occupation’ would occur within an accessory structure.

Finding #15 – The proposed use substantially complies with the ‘home occupation’ performance standards of Section 5.06.020 FCZR because submitted application materials and the evaluation and findings throughout the staff report indicate the specific standards are met or exceeded.

V. SUMMARY OF FINDINGS

1. The subject property is suitable for the proposed use because the proposal complies with the applicable bulk and dimensional requirements of the zoning in place and there is adequate useable space to accommodate the functional needs of the existing ‘automobile repair shop’.
2. The site is suitable for the proposed use because the property has adequate direct access onto private North Springwood Road via an existing driveway which appears well constructed and able to accommodate the low level of vehicle traffic associated with the proposed use.
3. The site appears suitable for the proposed use because the areas of the property which are developed and functional for the ‘automobile repair shop’ are located away from surface waters, wetlands, and floodplain, no new structures or impervious surfaces are proposed with the request, and there are no apparent environmental constraints which would limit the suitability of the property for the proposed use.
4. While the zoning regulations contain no specific number of parking spaces required for an ‘automobile repair shop’, the proposal appears adequate because the business operation is relatively low-volume, parking of repair vehicles is proposed to be done inside the shop building, and the 3.25 acre property contains a large central area which could accommodate parking of more vehicles than the operation repairs on a regular daily basis in conformance with Section 5.06.020(1)(D) FCZR.
5. The proposal appears appropriate in regard to traffic circulation because the property has legal and physical ingress/egress onto adjacent private and public roads, and internal traffic circulation and parking are able to accommodate anticipated traffic associated with the continued operation of the ‘automobile repair shop’.
6. Currently existing open space, fencing, screening and landscaping of the subject property appear adequate for the proposed use because they serve to visually screen the commercial use on the property from adjacent roads and residential properties.
7. Existing signage for the property is compliant with applicable regulations because signs bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations are permitted in all districts pursuant to Section 5.11.010(2) FCZR.
8. There would be limited visual impacts resulting from lighting of the proposed ‘automobile repair shop’ because minimal lighting currently exists, no new lighting is proposed, and any exterior lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations.
9. The proposed use would have no impact on public water and sewer utilities because the subject property currently utilizes individual water and septic systems, and proposed

changes to the water and sewer systems would necessitate re-review and permitting as applicable by the Flathead City-County Health Department and the Subdivision Section of the Department of Environmental Quality.

10. The proposed method of stormwater management appears adequate because the subject property has pervious area able to absorb and contain runoff onsite, and no increased stormwater runoff is anticipated as the proposed 'automobile repair shop' would operate inside an existing structure.
11. Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the evergreen Fire District and could be served by the Department's main station in the event of an emergency, the property is currently served by the Flathead County Sheriff's Department, and because the property has legal and physical access onto private and public roads in good condition which can adequately accommodate the limited traffic that may be anticipated as a result of the proposed use.
12. Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood or area roads because additional traffic generated by the business is estimated at 3.6 to 6.8 vehicle trips per day which is less than the maximum increase of 8 vehicle trips per day allowed for a home occupations pursuant to Section 5.06.020(1)(E) FCZR.
13. The proposed use is anticipated to have a minimal impact on the neighboring properties because the proposed 'automobile repair shop' is a relatively low volume business operation whereby noise, vibration, dust, glare, heat, smoke, fumes, and gas or other odors resulting from the use aren't anticipated to be a nuisance to adjacent property owners as they would not persist for more than brief periods of time.
14. The proposed hours of operation of 8:00 AM to 5:00 PM Monday through Friday would not be detrimental to the surrounding neighborhood because those hours of operation coincide with times of day when people are typically awake and productive in work and other activities.
15. The proposed use substantially complies with the 'home occupation' performance standards of Section 5.06.020 FCZR because submitted application materials and the evaluation and findings throughout the staff report indicate the specific standards are met or exceeded.

VI. CONCLUSION

Upon review of this application, the request to allow for a home occupation ('automobile repair shop') on the subject property is generally supported by the review criteria and the 15 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-11-08 as Findings of Fact and approve the conditional use permit, the following 10 conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts have been met:

VII. CONDITIONS

1. Operation of the home occupation ('automobile repair shop') on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The approved use and the accessory structure housing the 'home occupation' shall continue to conform with all applicable bulk and dimensional requirements of the 'R-1 Suburban Residential' zoning in place, including but not limited to setbacks, building height and lot coverage [FCZR Section 3.09].
4. Parking associated with the home occupation ('automobile repair shop') shall occur on site and not within the required front or side yard of the lot [FCZR Sections 5.06.020(D)].
5. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 5.11 of the Flathead County Zoning Regulations.
6. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations. Existing lighting shall be shielded to prevent the light source from emitting or being seen at or above a plane horizontal to the ground within one year of the date of issuance of this permit.
7. The plan for the water and sewer facilities shall be submitted for re-review and approval by the Flathead County Environmental Health Department and the Subdivision Section of the Department of Environmental Quality as applicable.
8. Hours of operation for the home occupation ('automobile repair shop') shall be permitted from 8:00 AM to 5:00 PM daily.
9. Notarized certification that the home occupation ('automobile repair shop') is operating in conformance with the provisions of Section 5.06 of the Flathead County Zoning Regulations, and is operating as reviewed and approved by the Board of Adjustment, shall be submitted to the Flathead County Zoning Administrator pursuant to Section 5.06.010 FCZR.
10. The operation of the home occupation ('automobile repair shop') shall commence within one year from the date of issuance of the permit. The permit may be extended for one additional year if the permittee requests additional time prior to expiration date.

Planner: AH