

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
CONDITIONAL USE PERMIT REPORT (#FCU-14-13)  
KYJACO PROPERTIES, LLC- c/o BARRY JOHNSTON  
NOVEMBER 18, 2014**

A report to the Flathead County Board of Adjustment regarding a request by Barry Johnston of Glacier Bank on behalf of KYJACO Properties LLC for a conditional use permit to allow an existing building located in the Bigfork zoning district and zoned “RC-1 Residential Cluster” to be utilized for ‘Professional Office’ space, in conformance with the applicable zoning regulations.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on December 2 , 2014 beginning at 6:00 P.M. in the 2<sup>nd</sup> 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 Bigfork Land Use Advisory Committee is scheduled to meet on Thursday, November 20, 2014 beginning at 4:00 P.M. in the community room at Bethany Lutheran Church in Bigfork to review the conditional use permit request and make a recommendation to the Flathead County Board of Adjustment. This section will be updated after the BLUAC meeting occurs.

**B. Board of Adjustment**

This space is reserved for an update regarding the December 2, 2014 Flathead County Board of Adjustment review of the proposal.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant & Landowner**

Kyjaco Properties LLC c/o Barry Johnston/Glacier Bank  
P.O. Box 1576  
Bigfork, MT 59911

**ii. Technical Assistance/Representative**

(representative listed above)

**B. Property Location and Size**

The subject property is situated northwest of the intersection of Eagle Bend Drive and Holt Drive approximately two miles south of Montana Highway 82 (see Figure 1 below), and can be legally described as the Lot 1A of the ‘Amended Plat of Lot 1, Block 4 of the Harbor Village at Eagle Bend - Phase 1’ in Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. While the property is approximately 1.6 gross acres in size, the northern boundary is encumbered with a 60-foot access easement resulting in the parcel having 0.92 net acres of space to

accommodate the existing building, landscaped open space, and parking/access infrastructure.

**Figure 1:** Subject property highlighted yellow



**C. Existing Land Use(s) and Zoning**

The property is currently developed with a 2,990 square foot commercial building which has been used for real estate purposes, and the site is located within the Bigfork zoning district. The property is zoned “RC-1 Residential Cluster”, a classification intended to “provide a residential theme in a rural environment. The district is primarily intended to encourage a master planned community with a central recreational focus. A full range of public services, such as public water supplies and sewage treatment are generally required to serve the district. The gross density for units to be clustered is one (1) unit per acre (i.e., a one acre lot can only have one unit” (Section 3.14.010 FCZR).

**D. Adjacent Land Use(s) and Zoning**

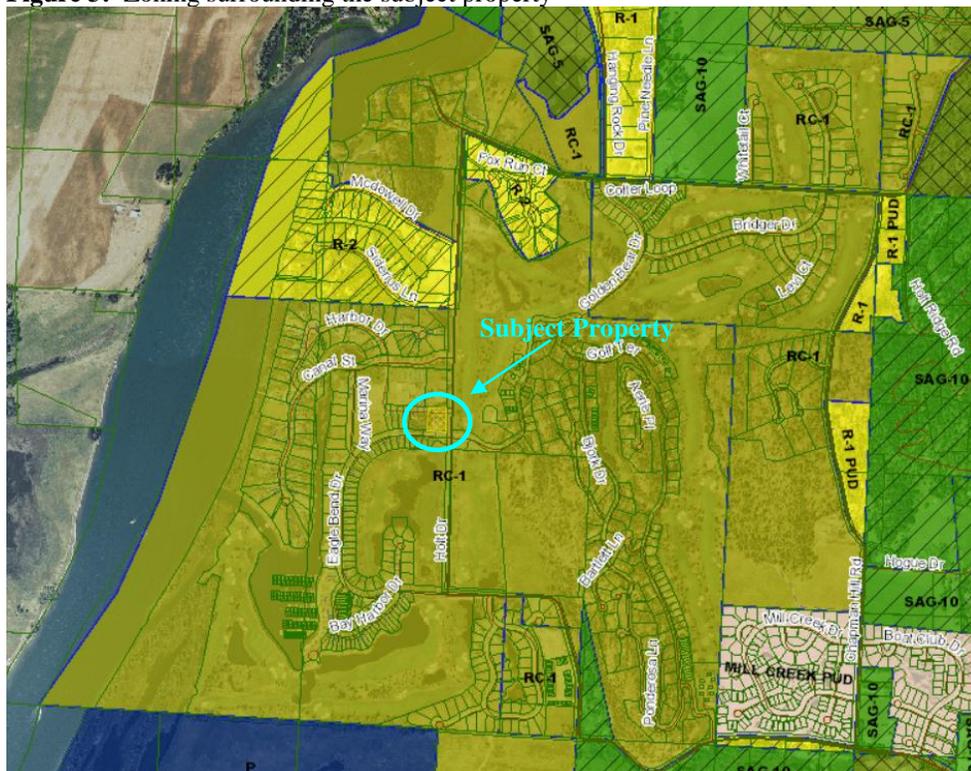
The area surrounding the subject property is largely part of the Harbor Village and Eagle Bend developments, which include residential subdivisions developed in proximity to a golf course and the Flathead River. The subject property and adjacent vicinity are zoned “RC-1 Residential Cluster”. As shown by Figures 2 and 3 below, the subject property is surrounded by land that is similarly zoned, and a mix of residential and suburban agricultural zoning classifications are located in the near vicinity of the property. To the immediate northwest of the subject property is the Bigfork Athletic Club and the Eagle Bend Golf Course is located across Holt Drive to

the east of the subject property. Generally speaking, the area is residential in nature with a variety of residence types including single-family, townhomes, condominiums and a handful of commercial recreational properties interspersed (such as the gym and the golf course).

**Figure 2:** Subject property and surrounding uses



**Figure 3:** Zoning surrounding the subject property



#### **E. Summary of Request**

The existing building located at 301 Eagle Bend Drive was constructed circa 2001 according to the State of Montana's CAMA (Computer Assisted Mass Appraisal) Parcel Data Report. The building has been used for real estate sales purposes and the use appears to have commenced after the adoption of the RC-1 zoning in 1993. The applicant has requested a conditional use permit to allow the existing building to be utilized for professional office space in compliance with the currently applicable zoning.

Pursuant to Section 7.16.090 FCZR 'Professional Offices' is defined as "*Offices maintained and used as a place of business conducted by persons engaged in the healing arts for human beings, such as physicians and dentists but wherein no overnight care for patients is given, and by engineers, attorneys, architects, accountants and by other persons providing services utilizing training in and the knowledge of mental disciplines as distinguished from training in occupations requiring mechanical skill or manual dexterity or the handling of commodities*" At the time of adoption of the RC-1 zoning, 'Professional Offices' were not listed as a permitted or conditionally permitted use within the RC-1 zoning district. However, a zoning text amendment was completed in May 2011 adding 'Professional Offices' to the list of conditional uses in an RC-1 zone (Resolution No. 955HJ).

#### **F. Compliance With Public Notice Requirements**

Notification was mailed to property owners within 150 feet of the subject property on November 14, 2014, 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 16, 2014 edition of the Daily Interlake.

#### **G. Agency Referrals**

Referrals were sent to the following agencies on October 29, 2014:

- Bigfork Water and Sewer District
  - Reason: The property is currently served and will continue to be served by the water and sewer district.
- Flathead County Road and Bridge Department
  - Reason: The subject property has access onto and the proposed uses may directly impact County infrastructure.
- Bigfork Fire Department
  - 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 request. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing and it is anticipated any individual wishing to provide public comment on the proposal will do so prior to or during the public hearing scheduled for December 2, 2014.

## **B. Agency Comments**

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

- Flathead County Road and Bridge Department
  - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated November 6, 2014
- Bigfork Fire Department
  - Comment: “Bigfork Fire Department approves the request for a conditional Use Permit FCU-14-Kyjaco Properties to use the existing building for professional office space.” Email dated November 4, 2014

## **IV. CRITERIA REQUIRED FOR CONSIDERATION**

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations (FCZR), what follows are criteria required for consideration of a 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 1.6 gross acres in size, and the existing office building has a footprint of approximately 2,990 square feet (0.06 acres), covering roughly 3% of the property. The remainder of the property is developed as parking and traffic circulation to serve the professional offices, or has been maintained in open space as a lawn with some trees and landscaping as well as a bicycle/pedestrian path running alongside Holt Drive. The applicant is not proposing to alter or expand the existing structure that has been in place since its construction in 2001. As built, the building currently appears to meet the applicable setback requirements of the RC-1 zoning district, situated over 20 feet from all property boundaries and the easements of Holt Drive to the east, the unnamed private road to the north, and Eagle Bend Drive to the south. The height of the structure appears under the 35 ft. height allowance in an RC-1 zone for principal structures.

**Finding #1** – The subject property is suitable for the proposed use because the applicant is not proposing any changes to or expansion of the existing structure, the subject property is currently large enough to accommodate the necessary parking and circulation for the existing office space, and the building appears to currently comply with the applicable bulk and dimensional requirements of the RC-1 zoning classification.

#### **ii. Adequate access**

The subject property has existing access onto both Eagle Bend Drive and an unnamed private road to the north via two paved, separate approaches. Both roads are paved and in good condition. As proposed, the conditional use permit for professional office space would not alter the current use of the building or the amount of traffic anticipated, as the applicant is not proposing to alter or expand the building in any way.

**Finding #2** - The site appears to be suitable for the proposed use because it is not anticipated the use will alter or increase the amount of traffic accessing the property, and because the property has direct access onto both Eagle Bend Drive and an unnamed private road to the north via two existing, paved approaches that are currently able to safely and effectively direct traffic to and from the subject property.

**iii. Absence of environmental constraints**

The property is currently developed as commercial office space and has been since at least 2001. The property is generally flat with landscaped open space, a handful of trees, shrubs and grass lawn areas. Based on available information the property contains no surface waters, designated wetland or floodplain, and the property is not located within the designated Wildland Urban Interface (WUI).

**Finding #3** – The subject property appears suitable for the use proposed because it is currently developed as commercial office space and is absent of environmental constraints such as steep topography, excess fuels, critical wildlife habitat, riparian areas, floodplain or designated wetland.

**B. Appropriateness of design**

**i. Parking scheme**

One paved parking area measuring approximately 135-feet by 20-feet and containing 19 parking spaces, including a handicapped space has been constructed on the west side of the subject property to accommodate the existing office building. The parking area each space has been demarcated to meet the sizing and layout requirements regarding parking standards found in Chapter 6 FCZR.

Section 6.08.020 FCZR requires one parking space for every four hundred (400) sq. ft. of gross floor area for offices providing customer services, and the zoning regulations do not differentiate between regular office space and professional office space. According to the submitted application and Montana CAMA data, the square footage of the existing office building totals 2,990 square feet. Using the floor area requirements of the zoning regulations, a total of 7 parking spaces would be required to serve offices within the existing structure. Parking currently provided onsite exceeds the minimum requirements of the zoning regulations, totaling 19 spaces. The existing parking area appears to comply with the special conditions for parking areas in RC-1 zones, found in Sections 6.11 and 6.12 of the zoning regulations. These special conditions primarily address the need for a paved or stabilized dust-free surface; landscaped buffers between side and rear-yard parking areas and adjacent property or public rights-of-way; the designation of employee and guest parking as well as width of certain access driveways.

**Finding #4** – The proposed parking location and design is acceptable because the amount of parking currently established onsite exceeds the minimum requirements set forth in the zoning regulations, and because the parking area

appears to comply with the parking and loading requirements as well as the special conditions set forth in Sections 6.11 and 6.12 of the zoning regulations.

**ii. Traffic circulation**

As shown in Figure 2 above, vehicle traffic entering and exiting the subject property can do so by accessing the parking area directly from Eagle Bend Drive or via the private road bordering the property to the north. The two-way paved traffic aisle accessing the parking area is 24 feet wide and appears to have been constructed in accordance with the standards of Section 6.01.030 FCZR.

**Finding #5** – Traffic circulation established on the subject property appears adequate because the existing paved parking area and 24-foot wide two-way traffic aisle provide sufficient space for vehicles to enter and exit the property from the adjacent roads.

**iii. Open space**

As previously discussed, the subject property has a substantial amount of ‘open space’ comprised of a maintained lawn area with some trees, shrubs, landscaping surrounding the existing building and a bicycle/pedestrian path running along the west side of Holt Drive. The existing structure covers approximately 3% of the subject property, well below the permitted lot coverage of 40% allowed in an RC-1 zone.

**Finding #6** – There is adequate open space associated with the proposed use because the property is currently developed, there are no changes proposed to the existing building and the size of the structure currently complies with the zoning requirements for permitted lot coverage in an RC-1 zone.

**iv. Fencing/screening**

No fencing or screening has been proposed by the applicant as part of the conditional use permit request, and there is no fencing or screening currently in place on the subject property. As the surrounding properties are similarly zoned “RC-1 Residential Cluster”, the zoning regulations do not require any fencing or buffering to separate uses. Furthermore, property to the immediate north and east has been developed as an office space and golf course, respectively and the residential uses to the west are naturally screened by existing foliage.

**Finding #7** – No fencing or screening is required of the subject property because the property is currently developed, surrounding properties are similarly zoned RC-1 and there are compatible uses adjacent to the subject property.

**v. Landscaping**

The property has been professionally landscaped and maintained to date, and it is anticipated this level of landscaping and landscaping maintenance will continue as a result of this conditional use permit request. While the proposed business use abuts established residential uses to the west of the subject property, there are no landscaping requirements applicable to the proposed use

as the open air parking area is not located within the 5-foot side setback applicable to properties located in an RC-1 zone.

**Finding #8** – The existing landscaping on the subject property is considered appropriate because the site has existing landscaping which is well maintained, and while there are no specific applicable landscaping requirements there is a well-established vegetative buffer between the proposed business use and the abutting residential use to the west of the subject property.

**vi. Signage**

There one existing ground signs located on the southeast corner of the subject property. Pursuant to Section 5.11.040(3)(C) FCZR, RC-1 zoning allows “*one freestanding or ground sign per developed multi-family or business lot provided the subject matter of such sign shall be limited to the name of the primary business and the business tenants of the building, as appropriate*”. RC-1 zoning also limits sign height to six (6) feet and sign area to sixteen (16) feet per sign face, per Sections 5.11.040(3)(B) and (E) FCZR. The existing ground sign appears compliant with the zoning in place and any changes to the signage on the property would be subject to compliance with the zoning regulations as discussed above.

**Finding #9** – Signage associated with the proposed use would be acceptable because the existing ground sign advertising businesses within the building appears to comply with the applicable RC-1 signage requirements and because no additional signage has been proposed as part of the conditional use permit request.

**vii. Lighting**

The application states there is exterior security lighting on the building, and the lighting appears to comply with the provisions of Section 5.12 FCZR ‘*Yard, Street and Security Lighting*’. No additional exterior lighting has been proposed for the parking area or building on the subject property.

**Finding #10** – Lighting on the subject property is acceptable because the existing security lighting appears to be adequately shielded and located in a manner so as not to impact adjacent properties, and because there is no additional lighting proposed for the exterior or parking area as a result of the conditional use permit application.

**C. Availability of Public Services and Facilities**

**i. Sewer**

The subject property is currently served by the Bigfork Water and Sewer District for wastewater disposal. Although solicited, no comment was received from the Water and Sewer District regarding the conditional use permit request. It is anticipated the property will continue to be served by the public water and sewer district, as the request for a conditional use permit will not alter the type or scale of use of the subject property.

**ii. Water**

The subject property is currently served by the Bigfork Water and Sewer District for water utilities. Although solicited, no comment was received from the Water and Sewer District regarding the conditional use permit request. It is anticipated the property will continue to be served by the public water and sewer district, as the request for a conditional use permit will not alter the type or scale of use of the subject property.

**Finding #11** – The proposed use will have a negligible impact on public water and sewer services because the subject property is currently and will continue to be served by the Bigfork Water and Sewer District, and the proposed use will not alter the type or scale of development on the subject property.

**iii. Storm Water Drainage**

Stormwater drainage on the subject property is currently handled by directing run-off from impervious surfaces toward more pervious areas of the property as well as drainage swales that run along the east side of the property, adjacent to Holt Drive. As the site is currently developed and no additional construction is proposed or paving required as a result of the conditional use permit request, it is anticipated stormwater run-off will continue to be managed in a similar fashion in the future.

**Finding #12** – Stormwater management appears adequate because the subject property currently utilizes onsite absorption techniques and drainage swales to handle run-off from impervious surface areas, and because the amount of impervious surface area will not increase as a result of the conditional use permit request.

**iv. Fire Protection**

The subject property is located within the Bigfork Fire District, with the closest fire station located approximately two miles east at the corner of Montana Highway 35, Holt Drive and Grand Drive in Bigfork. Fire District comment indicates no concern with the requested conditional use permit request.

**v. Police Protection**

The subject property is currently served by the Flathead County Sheriff's Department. Relatively quick response times would be anticipated given the property's location in a developed area close to the town of Bigfork.

**vi. Streets**

As previously discussed, the subject property has direct driveway access onto Eagle Bend Drive and an unnamed private roadway running along the north side of the property, both of which are paved roads in good condition. The applicant has indicated there would be no substantial net increase in the amount of traffic traveling to and from the subject property, as the property is currently developed as a real estate offices and although there would be new office uses there would be no expansion of the existing office building as a result of the conditional use permit request.

**Finding #13** - Impacts to public services and facilities are anticipated to be minimal and acceptable because the subject property is currently developed as office space; the property is located in a relatively urban area of the county and is within the jurisdiction of and able to be served by both the Bigfork Fire District and the Flathead County Sheriff; the property has existing, direct access onto two paved roadways in good condition and able to accommodate the current traffic levels that are not anticipated to change as a result of this proposal.

**D. Immediate Neighborhood Impact**

**i. Excessive traffic generation**

The subject property has been developed as a real estate office since at least 2001, and the application indicates there will be no change to the existing building and the new types of uses would simply be different types of offices as established in the definition of ‘Professional Offices’. As discussed in the sections above, the property has adequate access from two paved roadways that are currently in good condition and able to accommodate the existing traffic levels, and the amount and nature of the traffic currently frequenting the subject property is anticipated to remain the same. Based on these considerations there would be no anticipated substantial change in the amount of traffic generated as a result of this conditional use permit.

**Finding #14** – There would be no net impact to traffic generation as a result of the proposed use because the subject property is currently developed as real estate office space and the applicant is not proposing any change or expansion to the existing structure or the ‘office’ category of use; therefore the traffic levels are anticipated to remain the same as they have been since the building was constructed in 2001.

**ii. Noise or vibration**

No excessive noise or vibration is anticipated as a result of the continuation of this property being utilized as professional office space. The types of uses associated with professional offices are not uses that generate loud noise or vibration beyond what could be expected for a predominantly residential and recreational area.

**iii. Dust, glare or heat**

All internal circulation and parking areas have been paved, and the roads accessing the subject property are paved and in good condition. It is not anticipated the professional office space will result in excessive dust, glare or heat as there is not additional construction or expansion of the existing building proposed as part of this conditional use permit.

**iv. Smoke, fumes, gas, or odors**

The types of uses included in the definition of ‘Professional Offices’ are not anticipated to create adverse smoke, fumes, gas or odors, and would therefore not impact or be out of character with the surrounding neighborhood.

**v. Inappropriate hours of operation**

The types of uses included in the definition of ‘Professional Offices’ maintain typical hours of operation which are generally between 8:00 AM and 5:00 PM Monday through Friday, year-round. All uses allowed as a result of the requested conditional use permit would be conducted on the interior of the building and are generally typified as being low emitters of noise and visual impacts.

**Finding #15** – The proposed use is anticipated to have minimal impact on the surrounding neighborhood because the types of uses included in the definition of ‘Professional Offices’ are not anticipated to create any noise, vibration, dust, glare, heat, smoke, fumes, gas or odors out of character with a mixed-use residential area.

**V. SUMMARY OF FINDINGS**

1. The subject property is suitable for the proposed use because the applicant is not proposing any changes to or expansion of the existing structure, the subject property is currently large enough to accommodate the necessary parking and circulation for the existing office space, and the building appears to currently comply with the applicable bulk and dimensional requirements of the RC-1 zoning classification.
2. The site appears to be suitable for the proposed use because it is not anticipated the use will alter or increase the amount of traffic accessing the property, and because the property has direct access onto both Eagle Bend Drive and an unnamed private road to the north via two existing, paved approaches that are currently able to safely and effectively direct traffic to and from the subject property.
3. The subject property appears suitable for the use proposed because it is currently developed as commercial office space and is absent of environmental constraints such as steep topography, excess fuels, critical wildlife habitat, riparian areas, floodplain or designated wetland.
4. The proposed parking location and design is acceptable because the amount of parking currently established onsite exceeds the minimum requirements set forth in the zoning regulations, and because the parking area appears to comply with the parking and loading requirements as well as the special conditions set forth in Sections 6.11 and 6.12 of the zoning regulations.
5. Traffic circulation established on the subject property appears adequate because the existing paved parking area and 24-foot wide two-way traffic aisle provide sufficient space for vehicles to enter and exit the property from the adjacent roads.
6. There is adequate open space associated with the proposed use because the property is currently developed, there are no changes proposed to the existing building and the size of the structure currently complies with the zoning requirements for permitted lot coverage in an RC-1 zone.

7. No fencing or screening is required of the subject property because the property is currently developed, surrounding properties are similarly zoned RC-1 and there are compatible uses adjacent to the subject property.
8. The existing landscaping on the subject property is considered appropriate because the site has existing landscaping which is well maintained, and while there are no specific applicable landscaping requirements there is a well-established vegetative buffer between the proposed business use and the abutting residential use to the west of the subject property.
9. Signage associated with the proposed use would be acceptable because the existing ground sign advertising businesses within the building appears to comply with the applicable RC-1 signage requirements and because no additional signage has been proposed as part of the conditional use permit request.
10. Lighting on the subject property is acceptable because the existing security lighting appears to be adequately shielded and located in a manner so as not to impact adjacent properties, and because there is no additional lighting proposed for the exterior or parking area as a result of the conditional use permit application.
11. The proposed use will have a negligible impact on public water and sewer services because the subject property is currently and will continue to be served by the Bigfork Water and Sewer District, and the proposed use will not alter the type or scale of development on the subject property.
12. Stormwater management appears adequate because the subject property currently utilizes onsite absorption techniques and drainage swales to handle run-off from impervious surface areas, and because the amount of impervious surface area will not increase as a result of the conditional use permit request.
13. Impacts to public services and facilities are anticipated to be minimal and acceptable because the subject property is currently developed as office space; the property is located in a relatively urban area of the county and is within the jurisdiction of and able to be served by both the Bigfork Fire District and the Flathead County Sheriff; the property has existing, direct access onto two paved roadways in good condition and able to accommodate the current traffic levels that are not anticipated to change as a result of this proposal.
14. There would be no net impact to traffic generation as a result of the proposed use because the subject property is currently developed as real estate office space and the applicant is not proposing any change or expansion to the existing structure or the 'office' category of use; therefore the traffic levels are anticipated to remain the same as they have been since the building was constructed in 2001.
15. The proposed use is anticipated to have minimal impact on the surrounding neighborhood because the types of uses included in the definition of 'Professional Offices' are not anticipated to create any noise, vibration, dust, glare, heat, smoke, fumes, gas or odors out of character with a mixed-use residential area.

## **VI. CONCLUSION**

Upon review of this application, the request to allow the existing building to be utilized for 'Professional Office' space on the subject property is supported by the review criteria and all 15 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-14-13 as Findings of Fact and approve the conditional use permit, the following 7 conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts have been met:

## **VII. CONDITIONS**

1. The professional offices proposed on the subject property shall be in substantial conformance with the application and site plan submitted and approved by the Board of Adjustment [FCZR Section 2.06.010].
2. Changes or modifications to the approved use(s) and/or site plan shall not be affected unless specifically reviewed and approved by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The professional office building shall conform with all applicable bulk and dimensional requirements of the 'RC-1 Residential Cluster' zoning in place, including but not limited to setbacks, building height and lot coverage [FCZR Section 3.14.040].
4. A minimum of 7 parking spaces shall be maintained on the subject property to accommodate all traffic generated by the professional office building with its current 2990 square feet of gross floor area, in accordance with the applicable zoning regulations [FCZR Section 6.08.020].
5. All required off-street parking and internal circulation roads associated with the professional office building shall meet the applicable design guidelines and special conditions set forth in the Flathead County Zoning Regulations [FCZR Section(s) 6.11, 6.12, 6.14 and 6.16].
6. Existing and future signage on the subject property shall comply with the applicable provisions found in Section 5.11 of the Flathead County Zoning Regulations. The subject property is permitted one freestanding sign *or* ground sign not to exceed 6 ft. in height or 16 ft. in sign face area [Section 5.11.040(3)(A thru E) FCZR].
7. All exterior lighting on the subject property shall adhere to the performance standards set forth in the Flathead County Zoning Regulations [FCZR Section 5.12].