

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
OCTOBER 1, 2013**

**CALL TO
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present was Scott Hollinger, Cal Dyck and Charles Lapp. Gina Klempel and Mark Hash had excused absences. Alex Hogle and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 9 people in the audience.

**APPROVAL OF
MINUTES**

Dyck motioned and Hollinger seconded to approve the September 3, 2013 minutes. The motion passed unanimously.

**PUBLIC
COMMENT
*(not related to
agenda items)***

None.

**SCORE
MANAGEMENT,
LLC
*(FCU-13-08)***

A request by Bill Tanner of Score Management LLC, for a Conditional Use Permit for the proposed waterskiing use of a 27 acre lake planned to be built within the recently approved Rosewater SAG-5 Planned Unit Development (PUD) and the preliminarily approved Rosewater Subdivision. Based on substantial public comment regarding potential nuisance impacts associated with the proposed waterskiing use, 'Waterski/wakeboard/paddling Lake' was placed by the Flathead County Board of Commissioners as a Conditional Use in the Rosewater PUD. Therefore the current proposal will entail review of potential nuisance impacts by the Flathead County Board of Adjustment prior to use of the proposed lake for waterskiing purposes. The proposed waterski lake would be built on subject property located at 1535 Rose Crossing in the Highway 93 North Zoning District.

STAFF REPORT

Hogle reviewed Staff Report FCU 13-08 for the Board.

**BOARD
QUESTIONS**

None.

**APPLICANT
PRESENTATION**

Bill Tanner, who represented Rosewater LLC, said they were excited to provide something which they felt was needed in the county; a recreational water skiing lake. He summarized where

other lakes similar to the proposed lake were located in the United States. He said the land was unique because it was close to other recreational facilities. An extension to Evergreen Water was available and water rights were included with the property when purchased. It was an opportunity to provide something unique and needed to the Flathead Valley. He summarized what had been done concerning the involvement of the public and the difficulty of having no frame of reference to a similar development so the public would understand the project better. He went through the findings of fact and addressed each one individually. He passed out to the board a map which detailed the cross section of the water skiing lakes and continued to explain the information. He reiterated the public did not have a frame of reference concerning the noise level of the water skiing boats. He described what would happen during a water skiing event. There would be one boat on the lake at a time. The attendance of the events was usually 30 to 50. He talked about the hours of operation and what they proposed was 7 am to 10 pm. He was comfortable with the proposed application and there was no reason why they could not get along with the neighbors. He thanked the board and said he was available for questions.

**BOARD
QUESTIONS**

Hollinger and Tanner discussed what would be done with the common area and the hours of operation.

**PUBLIC
COMMENT**

Eric Bergman, 180 Stillwood Drive was able to verify how loud the boats were on a waterskiing lake. He was impressed with the quietness. He proposed restricted hours the first season until the loudness could be heard by the neighbors.

Ralph Hemp said only one boat should be allowed to run at a time. His concern was noise and traffic.

Greg Alsbury, 147 Taelor Road, was for the application.

Lori Alsbury, 147 Taelor Road, was for the application.

Don Burton, 2223 Whitefish Stage, was for the application.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

Tanner addressed the concern for safety of children. He reiterated the quietness of the boats in operation and reassured the board they had taken every effort to mitigate the possible

noise. They also had additional room for parking if needed in the subdivision and had no need to park on county roads.

**BOARD
DISCUSSION**

The board briefly discussed process.

**MAIN MOTION
TO ADOPT
F.O.F.
(FCU-13-08)**

Lapp made a motion seconded by Hollinger to adopt staff report FCU 13-08 as findings-of-fact.

**BOARD
DISCUSSION**

Dyck and Tanner discussed when the lakes would be used and what was allowed to operate on the lakes.

Grieve reminded the board the correlation between the findings of fact and conditions especially concerning the hours of operation.

The board and staff discussed at length the finding of fact concerning hours of operation and the corresponding condition.

Hollinger recounted his experience with noise heard living on a lake, possible noise levels on the lake, the drawback of conditioning hours for the first year to assess the noise level and that the property was under the flight path for Glacier International Airport. He recognized Ralph Hemp who had his hand raised.

Hemp said he understood when he purchased the land there would be air traffic noise, but did not think he would be dealing with water skiing noise as well.

Hollinger said he understood, however it was not a neighborhood without existing noise.

The board discussed when they should contemplate the hours of operation.

**ROLL CALL TO
ADOPT F.O.F.
(FCU-13-08)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The board and staff discussed process.

**MAIN MOTION
TO APPROVE
(FCU-13-08)**

Lapp made a motion seconded by Dyck to approve FCU 13-08 with conditions.

**BOARD
DISCUSSION**

Dyck said he would like to allow the applicant to use more time for hours of operation considering the decibel level.

Grieve reminded the board of process.

Lapp's concern was the seasonality of the area. He felt the expanded hours would allow people to ski before work.

Hollinger and Tanner discussed the option of having different hours of operation on the weekends as opposed to the weekdays.

**SECONDARY
MOTION TO
(Amend
Condition #10)**

Dyck made a motion seconded by Lapp to amend Condition # 10 to read:

10. Hours of operation shall be from 7:00 AM to 10:00 PM or from sunrise to sunset whichever is the lesser.

**BOARD
DISCUSSION**

The board discussed the hours of operation from 7 am to 10 pm or the lesser of sunrise to sunset.

Staff and the board discussed at length what was meant by 'the lesser' in the hours and the challenges in enforcing the hours as stated.

Burton asked if it was possible to include in the motion if there was not a noise issue then the neighbors did not have a problem with the hours of operation.

Hollinger said if a neighbor wanted to make an issue about the noise, they could make sure they heard the boat.

Dyck suggested they make the hours simple to enforce at 7 am to 10 am.

Grieve said the office could enforce something as concrete as hours.

Dyck withdrew his motion.

**SECONDARY
MOTION TO**

Dyck made a motion seconded by Lapp to amend Condition # 10 to read:

**(Amend
Condition #10)**

#10: Hours of operation shall be from ~~7:00 AM to 10:00 PM~~ ~~8:30 AM to 9:30 PM~~.

**BOARD
DISCUSSION**

A member of the public wanted to know why the board disregarded the compromised hours of operation in the staff report. The board had heard from one or two people who wanted to water ski before work and they disregarded 29 or so people who wanted to sleep.

Hollinger and the member of the public debated why the board was entertaining the motion to change hours of operation to 7 am to 10 pm.

The member of the public excused himself from the meeting.

**ROLL CALL
VOTE TO
(Amend
Condition #10)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The board and Grieve discussed at length condition #12 and what would happen if no progress was made in a year as far as being able to use the lake for water skiing and what options for wording were.

Tanner said condition #6 would be a problem and asked if the CUP could be dovetailed with the subdivision application.

The board, staff and Tanner discussed condition #6 with the use of the water from the Whitefish River to fill the lakes or if that prohibited the ability of the applicant to use their own well to fill the lakes and if it was appropriate to include the use of a well to fill the lakes. The use of a well for a source for water for the lake had not been reviewed during the subdivision process. They also discussed the timeline for construction and the DNRC approval for the water source.

Hollinger offered alternate wording for the condition.

The board, Tanner and staff discussed the agency comment from the DNRC.

Hollinger and a member of the public briefly discussed the conditions and what conditions the board had dealt with so far.

The board, Tanner and Grieve discussed Hollinger's alternate wording and the findings of fact concerning the timeline with construction.

Grieve said they were getting off track. The application before the board was for the use of the lake. The other specifics had been reviewed by the commissioners. To change specifics of the lakes now would be counterproductive.

Lapp and Hogle discussed what the commissioners had sent to the board to decide which was the noise, impacts and use of the lake.

The board and staff discussed finding #13 which related to condition #6 concerning the source of the water and what the options were concerning alternate wording. They continued to discuss what needed to be in place for the CUP.

**ROLL CALL TO
APPROVE
(FCU-13-08)**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

The board and staff discussed if there were any agenda items for the November meeting. They also discussed wedding events facilities in general, what progress was being made concerning the use as a conditional use, what high impact recreation facilities were and what were considered high impact recreation facilities. They discussed why people would need a conditional use permit and where they were appropriate given the conditions of the property. They also talked about what constituted a conflict of interest for board members.

ADJOURNMENT

The meeting was adjourned at approximately 8:05 pm. on a motion by Lapp. The next meeting will be held at 6:00 p.m. on November 5, 2013.

Scott Hollinger, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 1 / 7 / 14*