

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-11-10)
JOHN LEDYARD – COOKING CLASSES
JANUARY 24, 2012**

A report to the Flathead County Board of Adjustment regarding a request by John Ledyard for the expansion of an existing conditional use permit (#FCU-11-06) to allow cooking classes be held twice-monthly as a component of the existing catering business, permitted as a home occupation and operating in an outbuilding with non-familial employees. The subject property is located within the Blanchard Lake zoning district and is zoned “AG-40 Agricultural”.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on February 7th, 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 within the advisory jurisdiction of a specific local land use advisory committee.

B. Board of Adjustment

The Board of Adjustment will hold a public hearing on the proposed conditional use on February 7th, 2012 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. This space is reserved for a summary of the Board’s discussion and decision.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant & Landowner

John Ledyard
220 Twin Bridges Road
Whitefish, MT 59937
johnsangels@centurytel.net

ii. Technical Assistance/Representative

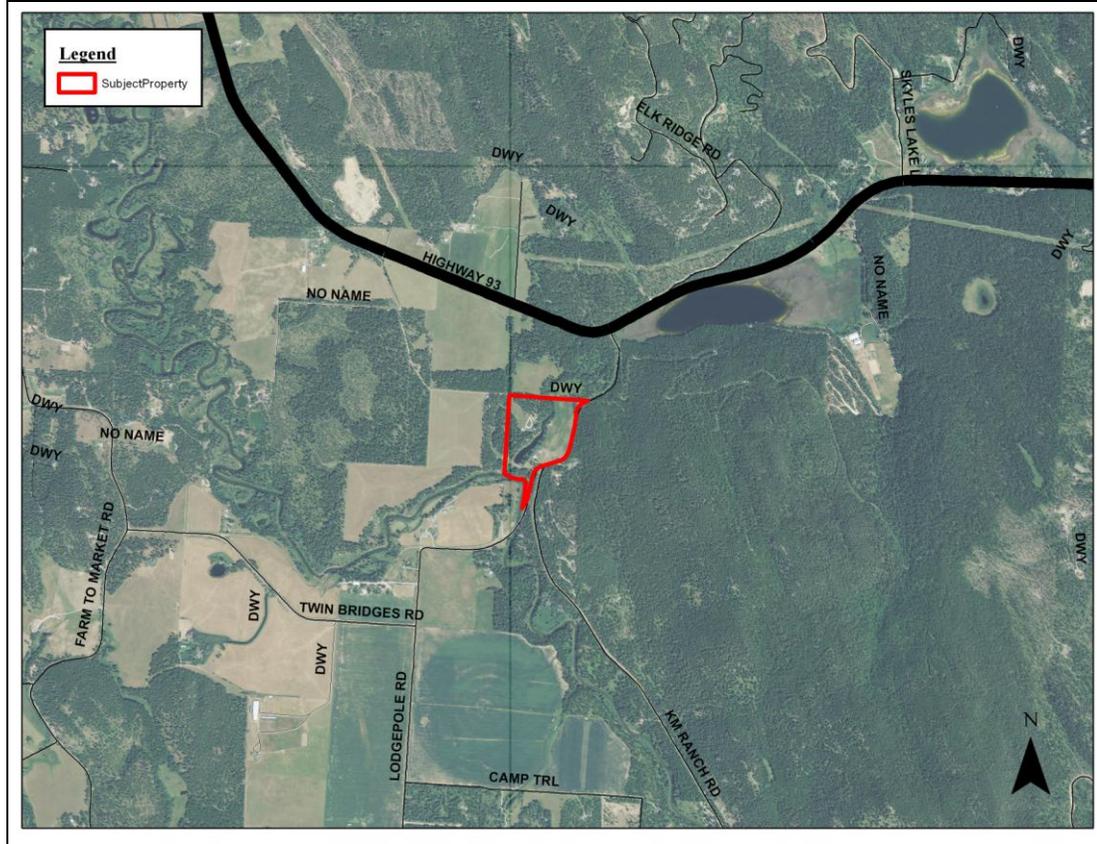
Sands Surveying, Inc.
c/o Erica Wirtala, AICP
2 Village Loop
Kalispell, MT 59901
erica@sandssurveying.com

B. Property Location and Size

The subject property sits just north of the intersection of KM Ranch and Twin Bridges Road and south of U.S. Highway 93 (see Figure 1 below). The property can

be legally described as Tract 3BH in Section 5, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana. The property is approximately 32 acres in size.

Figure 1: Subject property outlined in red.



C. Existing Land Use(s) and Zoning

The property is currently developed with a single family residential dwelling (constructed in 2004), as well as a variety of accessory structures including two garages (1978 and 2004), three pole-frame lean-tos (two in 1993 and one in 1995), and a standard barn (2004). The outbuilding currently utilized as a commercial catering kitchen (per #FCU-11-06) was recently constructed and does not appear on the most recent Computer Assisted Mass Appraisal (CAMA) report provided by the State of Montana Department of Revenue. However, the structure was built to commercial specifications, per the applicant's statements during the Board of Adjustment hearing November 1st, 2011, and is located on the southern portion of the property along Twin Bridges Road (see Figure 2 below). The property is located within the Blanchard Lake zoning district and is zoned "AG-40 Agricultural", a classification intended to "protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development" (Section 3.05.010 FCZR).

Figure 2: General site plan of subject property.



D. Adjacent Land Use(s) and Zoning

The area surrounding the subject property is predominantly agricultural, as shown by Figure 3 below. Property to the immediate north, south and east of the subject parcel is similarly zoned “AG-40 Agricultural”, the same classification as the subject property. Property to the immediate west is zoned “SAG-10 Suburban Agricultural”, an agricultural classification allowing a smaller minimum lot size per parcel. Generally speaking, large tract rural residential and agricultural uses dominate the landscape surrounding the subject property. A couple of home occupations operating in the immediate vicinity were observed by staff on a site visit October 5th, 2011, including a woodworking shop directly east and a pottery studio to the south and east along Twin Bridges Road.

Figure 3: Zoning surrounding the subject property (outlined in red).



E. Summary of Request

On July 22nd, 2011 a zoning violation complaint was submitted to the Flathead County Planning and Zoning Office alleging a non-compliant use operating on the subject property. The complaint alleged the property owners were operating a commercial catering kitchen and event center, hosting weddings as well as holding cooking classes onsite. After investigating the complaint, a letter was sent to the property owner regarding the non-conforming use(s) alleged, and requested the property adhere to the zoning regulations in place, limiting uses on the property to those listed under the AG-40 zoning classification. An application for a conditional use permit was submitted to the Planning and Zoning Office shortly thereafter,

requesting to continue the catering business as a home occupation in an accessory structure, a permitted use following review and approval of a conditional use permit [per Sections 3.05.020(10) and 5.06.020(2) FCZR].

During a public hearing held on November 1st, 2011, the Board of Adjustments considered and approved a permit request for a catering business home occupation on the subject property (#FCU-11-06), housed in an ancillary structure and having non-familial employees (per Section 5.06.020(2)(A) and (B), FCZR). Following receipt of this permit, the applicant submitted a subsequent application requesting the scope of the permit be expanded to include cooking classes. Pursuant to Section 2.06.020 of the zoning regulations, any structure or building *“devoted to any use which is permitted under the terms of these regulations, subject to the securing of a Conditional Use Permit, may be altered, added to, enlarged, expanded or moved from one location to another on the lot **only** after securing a new Conditional Use Permit.”* The request to add twice-monthly cooking classes as a component of the catering business home occupation that was permitted this past November constitutes an expansion of the scope of the original permit issued. The request will be reviewed for cumulative impacts related to the addition of cooking classes to the operation of a catering business “home occupation” on the subject property, and a new Conditional Use Permit must be secured prior to the holding of cooking classes onsite.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on January 17th, 2012 pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the January 22nd, 2012 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on December 21st, 2011:

- Glen Gray & Joe Russell, Flathead City-County Health Department
 - Reason: The property is currently served by an individual well and septic system that was reviewed and approved by the Environmental Health Department.
- James Freyholtz, Montana Department of Transportation
 - Reason: Twin Bridges Road is a state secondary highway, and traffic resulting from the proposed use may have an impact on the existing infrastructure.
- Jim Chilton, Flathead County Solid Waste District
 - Reason: A catering kitchen that provides cooking classes has waste disposal needs and quantities that may exceed what is typically expected of a single family residence.
- Whitefish Rural 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 conditional use permit request. A neighboring property owner visited the Flathead County Planning & Zoning Office on Wednesday, January 18th, 2012 to obtain more information on the requested expansion, but did not submit any comments in writing at that time. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for February 7th, 2012. Any 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:

- James Chilton, Flathead County Solid Waste District
 - 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. North Valley Refuse is the licensed (PSC) Public Service Commission Licensed hauler in this area.
- Glen Gray, R.S., Flathead City-County Health Department
 - The existing water and sewage treatment systems are adequate to serve the number of people in the proposed cooking classes.
 - The facility is licensed through the Food & Consumer Section of the Department of Public Health and Human Services.
 - This office has no objection to this proposal.
- James Freyholtz, Kalispell Area Traffic Engineer, MDT
 - No comments regarding the proposal.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, 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 roughly 32 acres in size, slightly below the minimum lot size required in an AG-40 zone; however, the parcel is considered legally non-conforming as it was created prior to the establishment of the Blanchard Lake zoning district November 15th, 1993. The existing single family residence is located toward on the west side of the property, along with many of the accessory structures listed previously in this report. The accessory structure housing the commercial catering kitchen sits on the south/southeast portion of the property, set back nearly 100 ft. from the Twin Bridges Road right-of-way. As previously reviewed, all structures on the property appear to meet the

applicable setback requirements for both principal and accessory structures in an AG-40 district, including the increased setback requirement for a County Road as well as the 20 ft. required setback from streams, rivers and unprotected lakes.

The combined square footage of all structures on the subject property totals approximately 8,200 sq. ft., or 0.2 acres. Lot coverage in an AG-40 zone is limited to 20% of the total area which, given the property's size would be approximately 28,000 sq. ft. As currently developed, the subject property is well under the maximum lot coverage restrictions imposed by the zoning. The addition of cooking classes as a component of the catering business home occupation would be accommodated within the previously approved accessory structure which currently houses the commercial kitchen; the application states one 'wing' of the building was constructed with a formal dining area, presumably where the cooking classes would take place. There would be no additional construction onsite as a result of the requested CUP expansion.

The site plan submitted by the applicant references the previously approved parking area as able to accommodate the additional number of cars resulting from the proposed cooking classes. As currently permitted, the parking area identified on the site plan is able to accommodate up to ten (10) cars at once; enough for the eight (8) employees expected to be working at maximum shift, as well as two additional cars. Based on the information submitted by the applicant, cooking class events could result in an additional 5-20 cars on the subject property. The designated parking area is not large enough to handle this number of vehicles, and the application states overflow parking will be available in the pasture adjacent to the barn (reference Figure 5 below). This parking scenario may not be feasible given weather conditions anticipated year-round (i.e. significant rain, snow, ice, mud, etc.). Such conditions could significantly limit the use of the unimproved pasture area for parking on a twice-monthly basis; relying on this over-flow parking scenario could prove difficult and unpredictable in the long term. Parking and circulation will be discussed in greater detail in the following sections –specifically Section B(i) - of this report.

Finding #1 – The subject property appears to have adequate space to accommodate the proposed expansion of use because the cooking classes would be conducted within the existing commercial kitchen structure and would not result in additional construction or alteration of the building that would affect the bulk and dimensional requirements of the district.

Finding #2 – The subject property may not have adequate space to accommodate the proposed expansion of use because the existing parking area is not large enough to accommodate the maximum number of employees at any given time, in addition to the maximum number of guests anticipated as a result

of the proposed cooking classes, and because overflow parking may be limited in certain months/seasons of the year due to snow, ice, rain, mud, etc.

ii. Adequate access

The subject property has existing access onto Twin Bridges Road, a state secondary highway, at two established locations. The single family residence is accessed using a private driveway on the very north end of the property, while the outbuilding housing the catering kitchen and proposed cooking classes may be accessed via a separate driveway on the southeast corner of the property, almost directly across from the intersection of KM Ranch Road (shown by Figure 2 above). As a state secondary highway, Twin Bridges Road is maintained by the Montana Department of Transportation and was recently repaved, greatly improving the travel surface along this portion of the roadway. The road is located within a 60 ft. right-of-way and has generally good site distances between the Stillwater River and the road's intersection with U.S. Highway 93 to the north.

When MDT originally reviewed the request for a catering business onsite, input received indicated traffic resulting from a catering business would not significantly impact the existing approach permits and was not anticipated to trigger re-review through that department. Comment received from MDT regarding the proposed expansion to the catering business indicates traffic impacts associated with twice-monthly cooking classes would not trigger a re-review of the existing approach permit for the property.

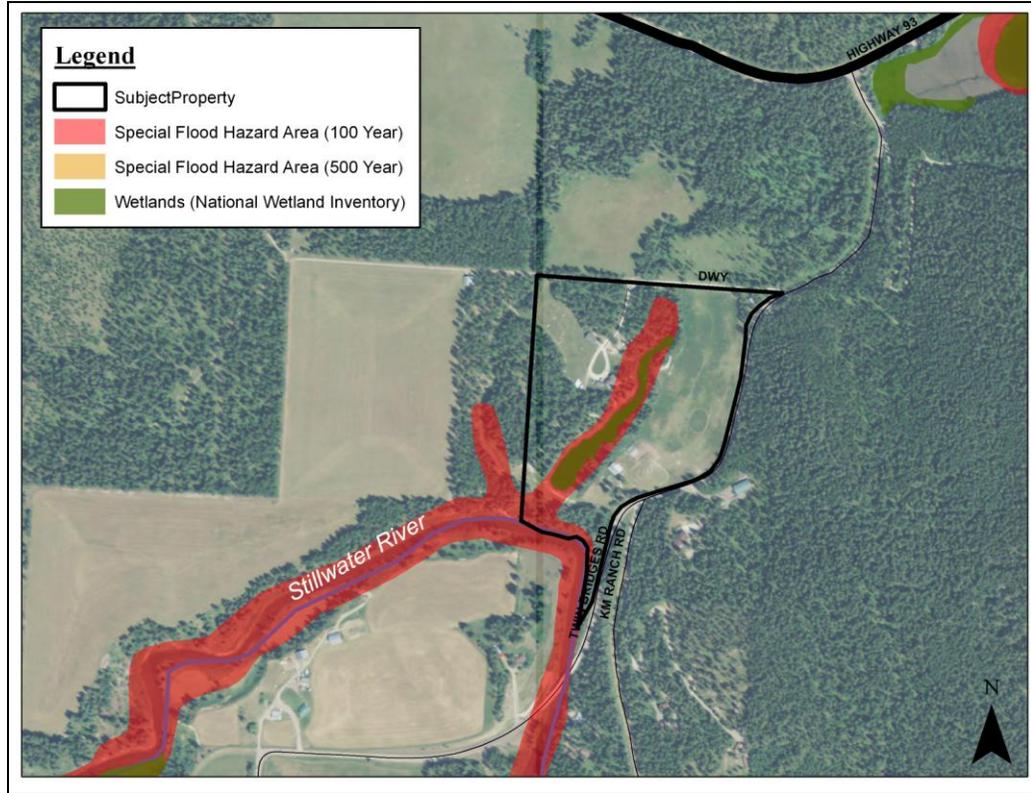
Finding #3 – There appears to be adequate access to and from the subject parcel onto Twin Bridges Road because the property has two existing driveways that separate the single family residential home from the commercial catering kitchen and proposed cooking class operation on the subject property, and because comment provided by the Montana Department of Transportation indicate the existing approaches are able to serve and will not require re-review as a result of the twice-monthly cooking classes.

iii. Absence of environmental constraints

The property is developed in a rural residential setting, evenly divided between open pasture and moderately forested areas. A small lake runs north-south through the property and has been mapped as a wetland area (according to the National Wetlands Inventory), and the Stillwater River forms the southernmost boundary of the tract. There is mapped 100-year floodplain associated with the lake and river, in addition to the wetland riparian areas shown in Figure 4 below. Based upon the site plan submitted by the applicant, it does not appear the existing outbuilding housing the commercial kitchen and proposed cooking classes is located within the special flood hazard or designated wetland areas. The overflow parking proposed by the applicant also appears to be located outside of designated floodplain and/or wetland areas onsite. As there are no new structures proposed as part of this conditional use permit request, it is

anticipated the addition of cooking classes will not have a significant impact on the sensitive environmental areas identified on this property.

Figure 4: Environmental constraints affecting the subject property.



Finding #4 – As proposed, the addition of cooking classes to the existing catering business home occupation would not have any additional impact on designated floodplain, wetland and riparian habitat because there are no new structures proposed as part of the request, and because current development and proposed overflow parking appears to be located beyond the environmentally constrained areas identified onsite.

B. Appropriateness of design

i. Parking scheme

Chapter 6 of the Flathead County Zoning Regulations does not address minimum parking requirements for a catering business that offers cooking classes, nor are there comparable uses within the regulations that could provide guidance on parking requirements for this type of combined use. Additionally, there are no performance standards or special conditions identified for parking located within an AG-40 district. Parking standards for restaurants, cafeterias and food and beverage establishments [Section 6.07.020 FCZR] require one parking space for each employee on maximum shift (as well as one space for every four seats serving customers); in reviewing the zoning regulations, no uses require *more* than one parking space per employee, therefore it is reasonable to assume this is an acceptable standard by which to review the

application for employee parking only. As the incorporation of twice-monthly cooking classes is not the same as the daily operation of a restaurant, it would be inappropriate to utilize the 'one space per four seats' calculation for parking associated with the use. The applicant has provided an honest assessment of the number of guests – and cars – anticipated as a result of the expansion; therefore all calculations will be based on the maximum number of vehicles that may be expected as a result of the incorporation of cooking classes onsite.

The site plan shown by Figure 5 below delineates the location of the outbuilding which would house both the catering kitchen as well as the proposed cooking classes, and the existing parking area previously reviewed for employee parking only. The current employee parking area is large enough to accommodate between 8 and 10 cars at one time; the parking area was previously reviewed as part of conditional use permit #FCU-11-06 and was determined to be acceptable based on the number of employees anticipated at peak shift and the lack of visitors/guests traveling to the property.

The current application states that the addition of twice-monthly cooking classes (on Sunday afternoons between the hours of 3:00 and 6:00 PM) has the potential to add anywhere from five (5) to twenty (20) guest vehicles traveling to the subject property, as well as one or two additional vehicles resulting from the presence of Tamarack's (or Short Branch's) bartender/wait staff. Given the existing parking area would only be able to hold an additional two (2) cars (if all 8 employees are working for a catering event and/or leading the cooking class), anywhere from 60-90% of the vehicle traffic created as a result of the cooking classes would have to be accommodated in the overflow parking area shown in Figure 5 below. This overflow parking area is a field adjacent to the existing barn, and while large enough to accommodate many more vehicles than the maximum 20 proposed, relying on an undeveloped field to accommodate a significant portion of parking onsite poses some unique problems. For instance, the application states cooking classes will be held two Sundays a month year-round. During winter months the field is likely to be snow-covered, occasionally to depths that may not be able to accommodate up to 20 vehicles at one time. During the spring and early summer, wet ground and standing water may further limit the field's use for parking. Should either of these scenarios occur – even on an infrequent basis – parking would require accommodation elsewhere for events. Section 5.06.020(1)(D) FCZR stipulates that any parking generated as a result of a home occupation shall be met off-street and should not be accommodated in the front or side yard. Even if the regulations allowed cars to be parked along the driveway entrance or in the turn-around area, this scenario could create a safety hazard should an emergency vehicle need to access the building. Additionally, catering staff may be preparing for (or cleaning up after) an off-site event during the same time cooking classes are being held; allowing the circulation and entrance areas to be overrun by parked vehicles could impede staff's ability to enter and exit the property safely and effectively.

Although the likelihood that *every* cooking class will occur on a Sunday afternoon when the catering kitchen is also at full staff is unlikely, preparing for this scenario is practical and should be addressed. Furthermore, although the application states cooking classes will only be held two Sundays each month, the Planning and Zoning Office does not have the ability to patrol and/or enforce this limited time period unless a potential violation is reported. Therefore, to mitigate the potential impacts related to the addition of cooking classes as an expansion of the home occupation, the parking area should be increased in size to accommodate the maximum potential number of vehicles onsite at any given time. Based upon the previously approved parking area (per #FCU-11-06), and the potential for up to 22 additional cars at any given catering class, a parking area able to accommodate up to 30 cars should be available to serve the both the catering business and associated cooking classes to be held on premise.

Figure 5: Existing parking area and proposed overflow parking.



Figure 6: Existing parking area (originally reviewed for employees only).



Finding #5 – The existing parking layout is not adequate in size to serve the proposed expansion of use because the parking area can only accommodate up to ten (10) cars at any given time, and the cumulative impacts resulting from vehicle traffic created by the existing catering business and proposed cooking classes could require parking for up to twenty (20) additional vehicles given full catering staffing, the presence of a bartender and additional wait staff from Tamarack Brewing Co., and the maximum number of guests anticipated at an event.

Finding #6 – Relying on an undeveloped, overflow parking area to accommodate the additional vehicle traffic created by the expansion of the existing conditional use permit for a home occupation could negatively impact public health and safety because this undeveloped field may not be able to adequately handle the vehicle traffic anticipated twelve months out of the year, because the zoning regulations limit on-street parking for home occupations and because alternative parking arrangements on premise may violate the zoning regulations in place.

ii. Traffic circulation

Vehicle traffic traveling to and from the subject property, for the purposes of accessing the catering business and/or attending cooking classes, will typically utilize the south driveway entrance. This driveway directs traffic toward the outbuilding housing the catering kitchen and cooking class venue, or toward two existing barns; the existing parking area is located between these two areas

(refer to Figures 2 and 5). The parking area is wide enough to accommodate up to ten (10) vehicles per the previous review; vehicles pull into and out of parking spaces arranged at a 90 degree angle based upon the minimum lot dimensions identified in Appendix A of the zoning regulations. A small cul-de-sac located just north of the parking area, adjacent to the barns, is able to facilitate easy circulation and turnaround for larger vehicles such as horse trailers or a fire truck. The driveway also provides direct access to a two-car garage at the front of the outbuilding, for the easy loading and unloading of food and catering equipment.

As previously discussed, the addition of cooking classes, however infrequent, would result in additional traffic to and from the subject property on a semi-regular basis (on average every two weeks, as currently proposed). This additional traffic results in additional parking needs, as reviewed in Section B(i) above. The current application states food delivery trucks and large vehicles prefer to use a private roadway that connects to the entrance drive just south of the existing catering kitchen; the roadway then traverses the property to the west and north, exiting onto Twin Bridges Road at the north property boundary. This eliminates the need for these larger trucks to back up, and may eliminate the need for the circular turnaround area entirely. It should be noted, however, that the private driveway/access road to the north runs along the property boundary and appears to provide shared access to the neighboring lot to the north, as well as one or more lots to the west. Expanding the circulation through the subject property in the manner discussed expands the area of impact resulting from the home occupation (as previously reviewed); this may result in negative impacts to neighboring property owners as a result of large delivery truck traffic utilizing this shared access point. Impacts relating to this issue will be discussed further in Section D(i) below.

Figure 7: Driveway/turnaround area (north of parking).



Finding #7 – Vehicle circulation on the subject property appears to adequately accommodate existing traffic needs resulting from the catering business, and could similarly accommodate future traffic needs resulting from the proposed expansion to include cooking classes, because the southern-most entrance will continue to provide adequate access to the catering business and cooking class venue and because a private roadway traversing the site would allow larger delivery trucks and emergency vehicles to travel one-way through the property, eliminating the need to back up or utilize the turn-around area.

iii. Open space

As previously discussed, structure development on the subject property is currently well below the maximum lot coverage restriction of 20%, leaving ample open space available onsite. Over 30 acres of the subject property remain undeveloped and in a relatively open and natural state, with a small lake and wetland area as well as open pasture and forested areas throughout. Additional parking requirements may impact the existing pasture and/or circulation areas; however, the overall impact to open space onsite would be negligible.

iv. Fencing/screening

Traditional post and rail fencing runs along the eastern boundary of the subject property fronting Twin Bridges Road, while natural vegetation provides occasional screening along this same stretch of roadway. No additional fencing or screening has been proposed by the applicant as part of this conditional use

permit. There are no fencing or screening requirements specific to AG-40 zones found in the Flathead County Zoning Regulations. As the adjacent properties are similarly zoned for rural residential and agricultural uses, the zoning regulations do not require any fencing or screening to separate parcels (or uses) from one another [pursuant to Section 5.04 and 5.05 FCZR].

v. Landscaping

There are no landscaping or buffering requirements identified in the Flathead County Zoning Regulations for properties located in an AG-40 zone. The applicant is not proposing any landscaping on the subject property beyond what would be expected for a typical residential yard; some decorative landscaping has already been completed around the commercial catering kitchen structure itself, and the property has been seeded and will undergo general lawn maintenance annually. As the proposed cooking classes will not alter the structure itself, the existing landscaping would appear to be acceptable given the circumstances.

Finding #8 – Open space, fencing, screening and landscaping on the subject property appears adequate as it currently exists because there are no minimum requirements for fencing, screening or landscaping elements for properties zoned AG-40 and surrounded by similar zoning; and because the majority of the property remains undeveloped and in a relatively natural state.

vi. Signage

Pursuant to Section 5.11.040(1) of the Flathead County Zoning Regulations, properties zoned AG-40 Agricultural are permitted “*one (1) freestanding sign plus one (1) wall sign for each place of business; the sign area shall not exceed 40 sq. ft.*”, in addition to all exempt signage listed for all districts as well as eight (8) rural directional signs [located off-premise and meeting the definition and size requirements outlined in Section 7.18.060(16) FCZR]. Based on the previous review of the request for a home occupation by planning staff, and subsequent approval by the Board of Adjustment on November 1st, 2011, the catering business was permitted one (1) wall sign (to be located on the fence adjacent to the driveway entrance) and one freestanding sign, not to exceed a total combined area of 40 sq. ft.

Figure 8: Fence sign located on the subject property.



The current application states that one wall sign and one freestanding sign are currently located on the subject property, in compliance with the zoning regulations previously discussed as well as the conditions of approval pursuant to #FCU-11-06. Neither sign has associated lighting. No additional signage has been proposed as part of the request to add cooking classes to the existing catering business.

Finding #9– Signage associated with the proposed use is appropriate because the two (2) existing signs located on the subject property currently comply with the zoning regulations with regard to number, type and square footage; and because no additional signage has been proposed as part of the request to add cooking classes to the existing catering business home occupation.

vii. Lighting

No additional lighting – beyond what was originally reviewed and approved – is being proposed as part of this application to add cooking classes to the existing catering business home occupation. The applicant has stated there are two entry lights on either side of the front door as well as a motion sensor light over the garage (see Figure 9 below). There are no exterior lights proposed for the driveway or parking area, nor is there lighting proposed for the signage.

The existing lighting does not appear to comply with Section 5.12 of the Flathead County Zoning Regulations requiring the hooding, screening or

shielding of exterior lights and porch lamps to ensure the light will not be deleterious to adjoining properties. Pursuant to conditions approved as part of the original #FCU-11-06 application, exterior lighting must be hooded or shielded to prevent the light source from emitting or being seen at or above a plane horizontal to the ground [reference diagram of horizontal cut-off found in Section 3.44 of the zoning regulations]. The applicant has one (1) year from the date of approval of this condition (November 1st, 2011) to bring the lighting into compliance with the zoning regulations. As of the date of this report, the Planning and Zoning Office has received no indication the lighting has been adjusted pursuant to the initial review.

Figure 9: Exterior lighting associated with outbuilding.



Finding #10– Lighting associated with the proposed expansion of use would be acceptable because there will be no additional lighting other than what was reviewed and approved as part of the original #FCU-11-06 permit; and because the existing exterior lighting will be required to comply with the lighting standards found in the zoning regulations, conditioned upon prior review and approval, within one year of the issuance of the original conditional use permit #FCU-11-06.

C. Availability of Public Services and Facilities

i. Sewer

The subject property is currently served by an individual onsite septic system. Public sewer facilities are not currently available in this area, nor are they

anticipated to be available in the near future. Comment received from Flathead City-County Environmental Health Department indicates the existing sewage treatment system is adequate to serve the number of people anticipated with the addition of bi-monthly cooking classes, as proposed by the applicant.

The property was previously reviewed and received approval from the City-County Health Department for a commercial kitchen facility and one bedroom apartment, as evidenced by septic permit #10-5599-N issued on June 21st, 2011. All septic permits require the Planning and Zoning Office to sign off on zoning compliance prior to issuance; it should be noted that the septic permit reviewed and approved by Planning and Zoning staff indicated this outbuilding was to be utilized as a “guest house” only and gave no indication a commercial catering kitchen was being constructed, or that a catering home occupation providing cooking classes to the public was anticipated.

ii. Water

The subject property currently utilizes an existing private well located onsite, as there are no public water utilities available to serve the property in the immediate area. Comment from the Flathead City-County Environmental Health Department indicates the existing water system is adequate to serve the number of people anticipated with the addition of cooking classes onsite, based on the existing water right document #30013977 issued on April 16th, 2008.

Finding #11 – The proposed use would have no impact on public water and sewer utilities at this time because the subject property currently utilizes a private well and individual septic system which has been reviewed and received approval from the Flathead City-County Health Department.

iii. Storm Water Drainage

Stormwater drainage will continue to be managed onsite through absorption. Aside from the existing structures, there are no paved or otherwise impermeable surfaces that will increase the amount of stormwater runoff as a result of this proposal. The property is large enough, with a significant amount of open area remaining, that stormwater can be reasonably managed onsite.

Finding #12– The proposed method of stormwater management appears adequate because the subject property is large enough and remains predominantly undeveloped so as to direct, contain and absorb all runoff onsite.

iv. Fire Protection

The subject property is located within the Whitefish Rural Fire District and would be primarily served by the Whitefish Fire Department’s main station located 5.5 miles east in the City of Whitefish. Additionally, the West Valley Volunteer Fire Department maintains a substation approximately 3 miles south on Farm-to-Market Road, and could respond in the event of an emergency. Although solicited, no comment was received from the fire chief regarding the

addition of cooking classes as an expansion of the catering business home occupation previously reviewed and approved.

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

As previously discussed, the subject property has two existing approaches onto Twin Bridges Road, a paved public state secondary highway owned and maintained by the Montana Department of Transportation. Although the catering business and cooking classes will primarily use the southern-most approach, delivery trucks and larger vehicles may opt to circulate west and north through the property, exiting back onto Twin Bridges Road via the northern driveway so as not to have to back up and turn around onsite. Twin Bridges Road was recently resurfaced, significantly improving the condition of the roadway. Comment received from MDT regarding the expansion of use indicated there would be no significant impact on the existing road and/or driveway approaches as a result of this proposal.

Finding #13 – Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the Whitefish Rural Fire District and could be served by the Whitefish Department's main station or the West Valley Department's substation in the event of an emergency; and because the property is currently served by the Flathead County Sheriff's Department and has direct access onto a state secondary highway in good condition and able to accommodate the additional traffic anticipated as a result of the proposed twice-monthly cooking classes.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

Conditional use permit #FCU-11-06 was originally reviewed for impacts related to traffic generation for a catering business only – no visitor traffic to and from the subject property beyond delivery trucks and catering staff/employees. Vehicle traffic generated by the catering business was therefore limited, estimating no more than eight (8) employees working in the catering kitchen at any given time and an additional twenty (20) trips per day (on average) to and from the site as a result of catering jobs and deliveries. This amount of traffic generation was still in excess of what is technically allowable for a home occupation. Section 5.06.020(1)(E) specifically states a home occupation shall not *“generate pedestrian or vehicle traffic in excess of what 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.”* However, traffic counts recorded for Twin Bridges Road south of U.S. Highway

93 averaged 1380 trips per day in 2010 [Montana Department of Transportation Traffic Data Collection and Analysis, Site ID# 15-4-5]. The additional traffic anticipated as a result of the catering business was therefore not seen as excessive based on the traffic counts for Twin Bridges Road and the nature of the traffic expected (no visitors, only employees).

By expanding the approved home occupation to also include cooking classes, the nature and amount of traffic generated will change from what was originally considered. In addition to the traffic generated by the catering business, cooking class attendees will generate up to forty (40) one-way trips traveling to and from the property [calculations: twenty (20) vehicles x amount of one-way trips (2) = 40 total trips]. An additional 2 - 4 one-way trips may be anticipated as a result of Tamarack Brewing Company or the Short Branch providing alcohol and a bartender/wait staff. Assuming all eight (8) catering employees are working on a particular Sunday afternoon, and the catering business has generated the maximum number of trips anticipated per day [twenty (20) trips as previously reviewed], the cumulative number of vehicle trips per day could reach 78 trips or more to and from the subject property.¹ This figure is nearly ten times the maximum amount of traffic anticipated as a result of a home occupation, and eight times the amount of traffic deemed 'typical' of a single family residence.

Although Twin Bridges Road may be able to handle this amount of traffic, the traffic generated as a result of the cumulative uses on premise (catering business home occupation plus cooking classes) exceeds the performance standards outlined in the regulations. While cooking classes are proposed only for two Sundays a month between 3:00 and 6:00 PM, the catering business' generous hours of operation, combined with the Planning and Zoning Office's inability to patrol the subject property for compliance, leaves open the possibility that catering classes *may* be held more frequently, thus increasing the potential impacts related to traffic.

An important – and somewhat unique – factor in this request is the applicant's proposal to serve beer and wine as part of the cooking class experience. Not only does this factor increase the likelihood that cooking classes may run later than proposed or anticipated, the provision of alcoholic beverages changes the nature of the traffic impacts related to the proposed expansion of use. At fairly regular intervals throughout the year, the catering business 'home occupation' will be serving alcohol to upwards of 20 guests on premise, for 3+ hours at a time. Guests then leave the subject property - presumably all at once – which

¹ Calculations: Traffic resulting from catering employees: # of employees (8) x # of trips per day (2) = **16 TPD**; Anticipated trips per day resulting from deliveries (as previously reviewed) = **20 TPD**; Maximum # of trips resulting from cooking class guests: # of guest vehicles (20) x # of trips per class (2) = **40 TPD**; Maximum number of trips resulting from Tamarack/Short Branch: Max. # of bartenders/wait staff (2) x # of trips per event (2) = 4 TPD; **totals (14 + 20 + 40 + 4 = 78 TPD).**

has the potential not only to impact on the area's transportation system, but also presents a potential public health and safety risk that should not be overlooked.

Finding #14 – Cumulative traffic impacts resulting from the catering business and proposed cooking classes will exceed the amount of traffic permitted for a home occupation and could be considered out of character with the rural area in question because the combined uses could result in ten times the amount of traffic anticipated for a home occupation and eight times the amount of daily traffic typical of a residence, and because beer and wine would be served as a component of the cooking classes which alters the character of vehicle traffic exiting the subject property and has the potential to impact public health and safety.

ii. Noise or vibration

Nearly all activity related to the proposed cooking classes will be conducted indoors, similar to the catering kitchen, and should not result in excessive noise generation. The anticipated increase in traffic may result in more noise than is typical of a rural residential land use. As proposed, traffic noise would be most impactful two Sundays out of the month, between the hours of 3:00 and 6:00 PM; however, these limited hours would be impossible to enforce with any consistency, leading to the possibility that noise related to traffic generated by the proposed use may occur more frequently over time.

iii. Dust, glare or heat

Excessive dust, glare or heat is not anticipated as a result of the home occupation proposed. Although the parking and driveway areas will remain gravel, traffic will not be traveling at speeds likely to create dusty conditions, and irrigation is available onsite to abate infrequent dust as necessary. As discussed in the previous conditional use application, heat is often a byproduct of cooking activities, but as these activities are conducted entirely inside a structure, no impacts to the surrounding areas are anticipated.

iv. Smoke, fumes, gas, or odors

The proposed use will not create adverse smoke, fumes or gas. Food odors can be anticipated when the catering kitchen is in operation, and may be expelled through the exhaust fans serving the kitchen; however, these types of odors should not have a significant or negative impact on the adjoining landowners. No additional smoke, fumes, or odors would be created by the proposed expansion in use.

Finding #15 – The addition of cooking classes to the existing catering business home occupation may result in noise (related to vehicle traffic) beyond that which is typical for the area because the relatively unrestricted hours of operation prevent the reasonable limitation of use and, therefore, noise associated with that use.

Finding #16 – The addition of cooking classes to the existing catering business home occupation would not result in additional vibration, dust, glare, heat, smoke, fumes, gas or other odors that would have a negative impact on adjoining landowners.

v. Inappropriate hours of operation

The applicant has stated that cooking classes will only be offered two Sundays a month, between the hours of 3:00 and 6:00 PM. The original conditional use permit for the catering business home occupation was approved with unlimited hours of operation for catering functions occurring within the kitchen facility (and generating no deleterious impacts to neighboring properties), and operating hours for activities occurring outside the structure (such as deliveries, garbage removal and employee traffic) limited between 6:00 AM and 10:00 PM. As previously discussed, cooking class activities will occur mainly inside the structure, with the exception of vehicle traffic coming and going for the individual events. Although hours proposed for the cooking classes are fairly limited, the operating hours granted by the Board of Adjustment during the November 1st, 2011 public hearing make it difficult to ensure cooking classes will *only* occur within the 3:00 to 6:00 PM timeframe allotted. Lacking the ability to enforce such limited operating hours, staff must assume that cooking classes *may* be held at any point in time during any day of the week; as classes will occur inside the building, unlimited hours of operation would apply. Given the amount of traffic possible as a direct result of the expansion of use, it is likely the addition of cooking classes may have a negative impact on the neighboring properties and surrounding area as a whole, based on the unlimited hours of operation imposed.

It should be noted the property is located in an agricultural district, and one may argue agricultural operations (such as plowing, harvesting, haying, etc.) begin at all hours of the day and often continue well into the night. Unlimited hours of operation related to agricultural and/or silvicultural activities in an AG-40 district should be expected of its residents, and are inherent to the character of the area. Unlimited hours of operation related to a commercial catering kitchen as a home occupation are somewhat atypical for an agricultural district, but deemed acceptable when limits have been placed on the scope of the use (employee and delivery traffic only). The possibility of unlimited hours becomes even more abnormal, given the character of the area, when regularly-scheduled cooking classes are offered with few enforceable sidebars on the length and frequency of their occurrence.

Finding #17 – The hours of operation proposed for the twice-monthly cooking classes could be acceptable if the County had a reliable mechanism to strictly enforce them; however, the relatively unrestricted operating hours previously approved as part of conditional use permit #FCU-11-06 make strict enforcement of the proposed length (3:00-6:00 PM) and frequency (two Sundays a month) of

cooking classes nearly impossible without a substantial amount of oversight atypical of zoning administration in rural Flathead County.

V. SUMMARY OF FINDINGS

1. The subject property appears to have adequate space to accommodate the proposed expansion of use because the cooking classes would be conducted within the existing commercial kitchen structure and would not result in additional construction or alteration of the building that would affect the bulk and dimensional requirements of the district.
2. The subject property may not have adequate space to accommodate the proposed expansion of use because the existing parking area is not large enough to accommodate the maximum number of employees at any given time, in addition to the maximum number of guests anticipated as a result of the proposed cooking classes, and because overflow parking may be limited in certain months/seasons of the year due to snow, ice, rain, mud, etc.
3. There appears to be adequate access to and from the subject parcel onto Twin Bridges Road because the property has two existing driveways that separate the single family residential home from the commercial catering kitchen and proposed cooking class operation on the subject property, and because comment provided by the Montana Department of Transportation indicate the existing approaches are able to serve and will not require re-review as a result of the twice-monthly cooking classes.
4. As proposed, the addition of cooking classes to the existing catering business home occupation would not have any additional impact on designated floodplain, wetland and riparian habitat because there are no new structures proposed as part of the request, and because current development and proposed overflow parking appears to be located beyond the environmentally constrained areas identified onsite.
5. The existing parking layout is not adequate in size to serve the proposed expansion of use because the parking area can only accommodate up to ten (10) cars at any given time, and the cumulative impacts resulting from vehicle traffic created by the existing catering business and proposed cooking classes could require parking for up to twenty (20) additional vehicles given full catering staffing, the presence of a bartender and additional wait staff from Tamarack Brewing Co., and the maximum number of guests anticipated at an event.
6. Relying on an undeveloped, overflow parking area to accommodate the additional vehicle traffic created by the expansion of the existing conditional use permit for a home occupation could negatively impact public health and safety because this undeveloped field may not be able to adequately handle the vehicle traffic anticipated twelve months out of the year, because the zoning regulations limit

on-street parking for home occupations and because alternative parking arrangements on premise may violate the zoning regulations in place.

7. Vehicle circulation on the subject property appears to adequately accommodate existing traffic needs resulting from the catering business, and could similarly accommodate future traffic needs resulting from the proposed expansion to include cooking classes, because the southern-most entrance will continue to provide adequate access to the catering business and cooking class venue and because a private roadway traversing the site would allow larger delivery trucks and emergency vehicles to travel one-way through the property, eliminating the need to back up or utilize the turn-around area.
8. Open space, fencing, screening and landscaping on the subject property appears adequate as it currently exists because there are no minimum requirements for fencing, screening or landscaping elements for properties zoned AG-40 and surrounded by similar zoning; and because the majority of the property remains undeveloped and in a relatively natural state.
9. Signage associated with the proposed use is appropriate because the two (2) existing signs located on the subject property currently comply with the zoning regulations with regard to number, type and square footage; and because no additional signage has been proposed as part of the request to add cooking classes to the existing catering business home occupation.
10. Lighting associated with the proposed expansion of use would be acceptable because there will be no additional lighting other than what was reviewed and approved as part of the original #FCU-11-06 permit; and because the existing exterior lighting will be required to comply with the lighting standards found in the zoning regulations, conditioned upon prior review and approval, within one year of the issuance of the original conditional use permit #FCU-11-06.
11. The proposed use would have no impact on public water and sewer utilities because the subject property currently utilizes a private well and individual septic system which has been reviewed and received approval from the Flathead City-County Health Department.
12. The proposed method of stormwater management appears adequate because the subject property is large enough and remains predominantly undeveloped so as to direct, contain and absorb all runoff onsite.
13. Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the Whitefish Rural Fire District and could be served by the Whitefish Department's main station or the West Valley Department's substation in the event of an emergency; and because the property is currently served by the Flathead County Sheriff's Department and has direct access onto a state secondary highway in good condition and able to

accommodate the additional traffic anticipated as a result of the proposed twice-monthly cooking classes.

14. Cumulative traffic impacts resulting from the catering business and proposed cooking classes will exceed the amount of traffic permitted for a home occupation and could be considered out of character with the rural area in question because the combined uses could result in ten times the amount of traffic anticipated for a home occupation and eight times the amount of daily traffic typical of a residence, and because beer and wine would be served as a component of the cooking classes which alters the character of vehicle traffic exiting the subject property and has the potential to impact public health and safety.
15. The addition of cooking classes to the existing catering business home occupation may result in noise (related to vehicle traffic) beyond that which is typical for the area because the relatively unrestricted hours of operation prevent the reasonable limitation of use and, therefore, noise associated with that use.
16. The addition of cooking classes to the existing catering business home occupation would not result in additional vibration, dust, glare, heat, smoke, fumes, gas or other odors that would have a negative impact on adjoining landowners.
17. The hours of operation proposed for the twice-monthly cooking classes could be acceptable if the County had a reliable mechanism to strictly enforce them; however, the relatively unrestricted operating hours previously approved as part of conditional use permit #FCU-11-06 make strict enforcement of the proposed length (3:00-6:00 PM) and frequency (two Sundays a month) of cooking classes nearly impossible without a substantial amount of oversight atypical of zoning administration in rural Flathead County.

VI. CONCLUSION

Upon review of this application, the request to expand the existing conditional use permit (#FCU-11-06) to allow cooking classes as a component of the existing catering business home occupation is generally supported by 11 Findings and *not* supported by 6 of the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-11-10 as Findings of Fact and approve; or amend the draft Findings of Fact included herein after the hearing and adopt revised Findings of Fact and approve the conditional use permit request; the following 8 conditions are suggested by staff for the Board to consider, to aide in mitigation:

VII. CONDITIONS

1. The cooking classes proposed as an expansion to the existing catering business home occupation operating on the subject property (pursuant to #FCU-11-06) 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.
2. Changes or modifications to the approved expansion of use 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 existing parking area shall be expanded to accommodate the maximum number of vehicles anticipated as a result of both employee parking (for the catering business) and guest parking (for the cooking classes); permanent parking for up to 30 vehicles shall be made available on premise, in conformance with Section 5.06.020(1)(D) and Appendix A, FCZR.
4. Solid waste resulting from the catering business home occupation and the holding of cooking classes shall be removed from the subject property using a PSC licensed contract hauler in the area, as requested by the Flathead County Solid Waste District.
5. 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]. Existing lighting shall be shielded to prevent the light source from emitting or being seen at or above a plane horizontal to the ground, in conformance with the Zoning Administrator's interpretation of these regulations, within one year of the date of issuance of original conditional use permit #FCU-11-06.
6. Notarized certification addressing the expansion of the home occupation to include bi-monthly Sunday cooking classes occurring between 3:00 and 6:00 PM, ensuring the home occupation will continue to operate in conformance with the provisions of Section 5.06 of the Flathead County Zoning Regulations and 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.
7. Signage on the subject property shall be limited to one (1) freestanding sign plus one (1) wall sign, the combined area of which shall not exceed 40 sq. ft.; in addition to exempt signage [pursuant to Section 5.11.010 FCZR] as well as eight (8) rural directional signs [located off-premise and meeting the definition and size requirements outlines in Section 7.18.060(16) FCZR], in conformance with Section 5.11.040(1) of the Flathead County Zoning Regulations.
8. Catering functions and cooking classes occurring within the existing building and generating no deleterious impacts to neighbors are not restricted in hours of operation. Catering functions occurring outside the structure, on the subject property that may have a deleterious impact on neighbors – such as deliveries, garbage removal, excessive guest and employee traffic, etc. – are limited to 6:00 AM to 10:00 PM seven (7) days a week.

Planner: AM