

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-13-03)
E.S. OF BIGFORK LLC
JUNE 14, 2013

This is a report to the Flathead County Board of Adjustment regarding a request from Mark T. Johnson on behalf of the E.S. of Bigfork LLC, for a conditional use permit to allow for a wind turbine on the subject property. The subject property is located within the Bigfork Zoning District and is zoned 'CVR Commercial Village Resort.'

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on July 2, 2013 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

This space is reserved for an update regarding the June 27, 2013 Bigfork Land Use Advisory Committee review of the proposal.

B. Board of Adjustment

This space is reserved for an update regarding the July 2, 2013 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

E.S. of Bigfork LLC
157 Crestview Drive
Bigfork, MT 59911

ii. Landowner

Mark T. Johnson
680 Stone Street
Kalispell, MT 59901

B. Property Location and Size

The subject property is located at 116 Holt Drive, at the corner of Harbor Heights Boulevard/Montana Highway 35 and Holt Drive and approximately 1.45 acres in size. The property can legally described as Lot 1 of North Shore Heights No. 2 in Section 36, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in yellow)



C. Existing Land Use(s) and Zoning

The property is currently developed, located within the Bigfork Zoning District and zoned ‘CVR Commercial Village Residential.’ CVR is a district intended to, *“provide for several categories of commercial and residential uses within the same development, constrained by the need to maintain intimacy and human scale in a village setting. The overall goal is to preserve the renewable resources and enhance the unique qualities and characteristics of rural communities.”*

D. Adjacent Land Use(s) and Zoning

Properties to the south and west are zoned ‘R-3 One Family Residential,’ properties to the east are zoned ‘B-3 Community Business’ and the property to the north is zoned ‘P Public.’ To the south of the subject property are single family homes and the Bigfork Water and Sewer District plant. To the west are single family houses, to the north is a U.S. Forest Service Ranger Station and east of the subject property on the opposite side of Montana Highway 35 are lots that are currently vacant.

- Reason: The property is located on a state maintained highway, and has the potential to impact MDT facilities.
- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact county facilities.
- Bigfork Fire Department
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact Bigfork Fire Department response.
- Bigfork Water and Sewer District
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact Bigfork Water and Sewer District facilities.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department’s jurisdiction.
- Flathead County Weeds and Parks Department
 - Reason: The property is located within the department’ jurisdiction and new construction could lead to the development of weeds of the subject property.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.
- Bigfork Elementary School District
 - Reason: Property is located within school district boundaries and has potential to impact Bigfork Elementary School District facilities.
- Bigfork High School District
 - Reason: Property is located within school district boundaries and has potential to impact Bigfork High School District facilities.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for July 2, 2013. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

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

- Bigfork Fire Department
 - Comment: The Bigfork Fire Department gives approval for the request of a conditional use permit to build a 77’ 9” monopole wind turbine on the subject property located at 116 Holt Drive.
- Bonneville Power Administration
 - Comment: In reviewing the proposed plan, it appears this petition will not impact any BPA transmission line corridors located within this area. BPA does not have any objections to the approval of this request at this time.

- Flathead City-County Health Department
 - Comment: This office has reviewed the information provided and has no comment regarding the addition of a monopole and wind turbine to the property located at Lot North Shore Heights No. 2.
- Flathead County Road and Bridge Department
 - Comment: At this point the County Road Department does not have any comments on this request.
- Montana Department of Transportation
 - Comment: Do not have any comment at this time.

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 currently has a building and parking lot. Based on the site plan the parking lot is approximately 63,162 square feet in size and the existing building is approximately 17,770 square foot. Staff calculated the area of monopole wind turbine, based on the site plan, to be 9.86 square feet. The permitted lot coverage in a CVR designation is 80% and no setbacks. The proposed building would cover 28.1% of the lot. There appears to be adequate usable space to accommodate the existing parking lot, building and the proposed wind turbine.

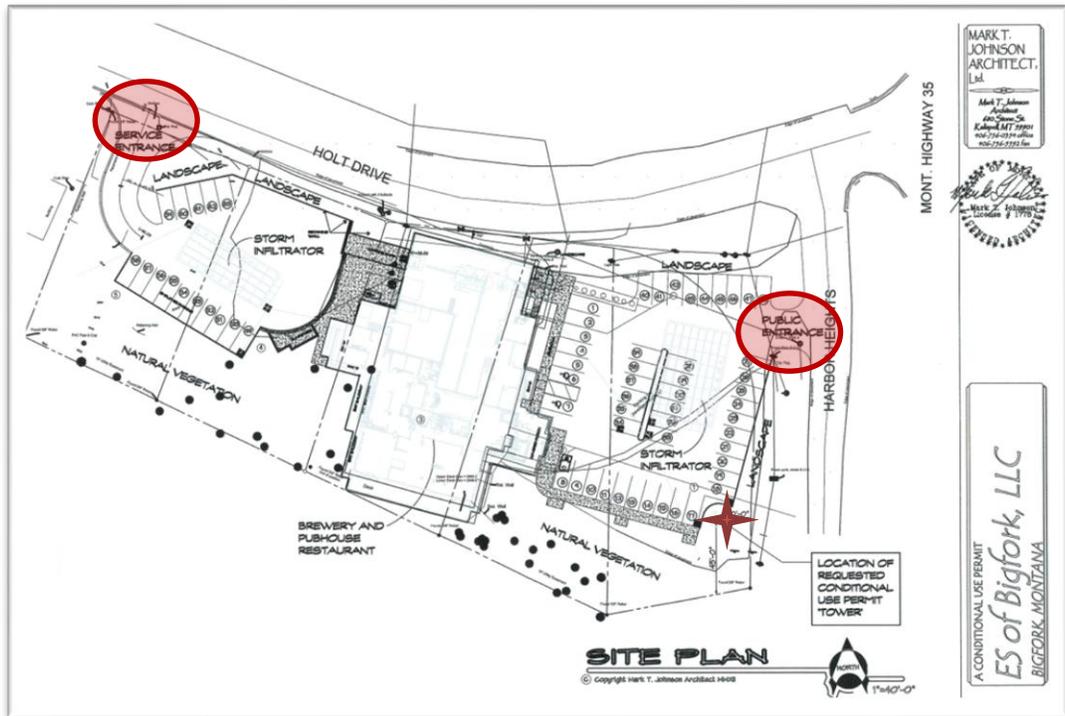
Figure 3: Current building on subject property



ii. Adequate Access

The subject property is accessed via Harbor Heights Boulevard and Holt Drive. Harbor Heights Boulevard is a paved, two lane local county road. Holt Drive is paved two lane county collector. The site plan shows the public entrance off Harbor Heights Boulevard and the service entrance off Holt Drive. It appears that access for the principal uses would not be affected by the placement of the wind turbine, which will be located at the southeast corner of the property adjacent to the parking lot. Access for the wind turbine appears adequate because the wind turbine would be un-manned and would only be accessed minimally for routine maintenance. All access onto county roads shall be approved by the County Road and Bridge Department with the issuance of an approach permit, per Section 6.16.020(4) [FCZR].

Figure 4: Site plan (access highlighted in red)



iii. Absence of Environmental Constraints

The subject property is located on a topographic bench with drop in elevation between Holt Drive to the existing building and parking lot. On the south side of the property is a steep slope to the properties below. The wind turbine will be located in the southeast corner of the property adjacent to the parking lot and set back from the slope.

Figure 5: Subject property above neighboring residents



The subject property is located on FEMA FIRM panel 30029C 2305G, the lot is located in an un-shaded Zone X, which is classified as an area outside the 500-year floodplain. Additionally, there are no wetlands, streams, or creeks located on the parcel, and there appears to be no other environmental constraints.

Finding #1 – The proposed site appears suitable for the proposed use because the proposed and current uses will meet lot coverage requirements, there are no setbacks, there appears to be adequate access via a paved county road which may require a revised approach permit, and there are currently no environmental impacts present that would affect the placement of the wind turbine.

B. Appropriateness of Design

i. Parking Scheme

To determine the total parking requirements for a property in the CVR designation, “*divide the average of the front and rear of the lot by nine. The whole number quotient equals the number of parking spaces provided on the property for a commercial use.*” The property is located at the corner of Holt Drive and Harbor Heights Boulevard/Montana Highway 35. Based on the definition of lot front for a corner lot, “The front property line of a corner lot shall be the shorter of the two lines adjacent to the streets as platted, subdivided or laid out.” The shorter of the two lines adjacent to the street on the subject property is Harbor Heights Boulevard/Montana Highway 35, thus it would be considered the front of the lot, and used to determine the parking requirements.

The front of the lot was calculated to be 191.79 feet and the rear of the lot is 153.08 feet, for an average of 172.435 feet. Divide 172.435 by 9 to get 19.16; therefore 19 parking spaces are required for the subject property. The site plan shows a total of 63 parking spaces well above the required number of parking spaces. The Flathead County Zoning Regulations do not impose any parking

requirements for monopole facilities. There appears to be adequate parking to accommodate building and the proposed wind turbine.

ii. Traffic Circulation

The sites main access is via Harbor Heights Boulevard and employee access is via Holt Drive. The site plan shows traffic aisles with a width of 24 feet or more. The required width for a traffic aisle with two-way traffic and 90 degree parking is 24 feet, per Appendix A [FCZR]. Both driveways are 24 feet wide and would provide for adequate travel circulation. The proposed parking areas appear large enough to accommodate the number of proposed spaces, while affording adequate and compliant internal traffic circulation. The wind turbine would be accessed very rarely and the tower would be located adjacent to the parking lot and not impact traffic circulation in the vicinity of or on the subject property.

Finding #2 – There appears to be adequate and compliant parking and traffic circulation for the proposed use because the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR], the wind turbine would not interfere with traffic circulation, CVR parking requirements are met and there are no parking requirements for monopole facilities.

iii. Open Space

The subject property is approximately 1.45 acres in size and the existing building would cover about 28.1% of the total lot. According to the applicant approximately 40% of the property will remain undeveloped open space. The permitted lot coverage within the CVR designation is 80% and there are no setback requirements. The CVR designation is intended for compact development in a village setting and open space is not a requirement. The proposed size of the building, parking lot and wind turbine shown on the site plan would allow for adequate open space on the subject property.

iv. Fencing/Screening

According to the application, “The wind turbine will be secured by a self-contained facility making fencing unnecessary. No ground based facilities exists that would require screening.” There are no fencing or screening requirements for the CVR designation, nor are there fencing or screening requirements for aerials and masts. Any fencing constructed on the property in the future would be required to comply with Section 5.04 [FCZR].

v. Landscaping

The application states, “The overall project is approximately 40% natural vegetation or landscaping. Acceptance of the proposed use will not negatively affect the landscaping quantity or quality overall.” There are no landscaping requirements for the CVR designation, nor are there landscaping requirements for aerials and masts.

vi. Signage

The applicant is not proposing any signs as part of this request for a conditional use permit. Any signs installed on the property in the future, would require compliance with Section 5.03 FCZR.

vii. Lighting

The applicant is not proposing any lighting for the proposed wind turbine. Any exterior lighting installed on the subject property as part of the renovation of the building it would be required to comply with the performance standards set forth in [FCZR] Section 5.12.

Finding #3 - The open space, fencing/screening, landscaping, signage and lighting on the subject property appear adequate because open space is not a requirements for the CVR designation and there are no landscaping, lighting, signage, or fencing/screening requirements for aeriels and masts.

C. Availability of Public Services and Facilities

i. Sewer

The subject property is located within the Bigfork Water and Sewer District. It is anticipated the property will be served by the public sewer. However, sewer services are not necessary for the un-manned operation of the wind turbine, and no impact on sewer services is anticipated as a result of the proposed use.

ii. Water

The subject property is located within the Bigfork Water and Sewer District. It is anticipated the property will be served by the public water. However, water services are not necessary for the un-manned operation of the wind turbine, and no impact on water services is anticipated as a result of the proposed use.

iii. Storm Water Drainage

The applicant has stated, “An engineered storm water management system that contains storm water in approved below grade storm water infiltrators. The parking lot and building cover a majority of the lot.” The wind turbine will add only 9.8 square feet of impervious surface, it is reasonable to expect that storm water run-off from the wind turbine would be adequately absorbed into the proposed storm drainage system for the parking lot and existing building.

Finding #4 – There appears to be adequate availability of sewer, water and storm drainage for the proposed use because sewer and water are not necessary for an un-manned wind turbine and storm water run-off will be managed on-site through an engineered storm water management system.

iv. Fire Protection

The subject property is currently served by the Bigfork Fire Department, and is located approximately 1/10 of a mile southwest of an existing fire station. Due to the close proximity to the fire station, it is anticipated response times in the event of an emergency would not be unreasonable.

v. Police Protection

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

vi. Streets

The subject property is accessed via Harbor Heights Boulevard and Holt Drive; both paved two lane county roads and maintained by the Flathead County Road

and Bridge Department. Holt Drive is classified as a collector and Harbor Heights Boulevard a local road. It appears that both roads are adequate to serve the proposed use.

Finding #5 – The proposed use appears to have acceptable impacts on public services and facilities because the Bigfork Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by Holt Drive and Harbor Heights Boulevard both paved county roads.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

The wind turbine will be an un-manned structure and would generate minimal traffic during construction and during routine maintenance.

ii. Noise or Vibration

According to the application vibrations are harmful for wind turbines, and therefore do not create any vibrations. The applicant states, “Noise generated by the proposed wind turbine is 35 dB or the equivalent to a quiet room or library.” Normal conversations are about 60 dB, city traffic is approximately 85 dB and the threshold for pain is about 125 dB. Therefore, it is not anticipated that the noise generated by the wind turbine would have a significant impact on the neighborhood.

iii. Dust, Glare or Heat

The tower will be painted a dull grey, and the generator is finished in a non-reflective paint thus minimizing glare. Additionally, the wind turbine is not anticipated to produce dust or heat that would adversely impact the neighborhood.

iv. Smoke, Fumes, Gas, or Odors

The wind turbine produces clean energy using wind power to create electricity and therefore does not generate any smoke, fumes, gas, or odors.

v. Inappropriate Hours of Operation

According to the application, the proposed wind turbine will operate whenever wind is present. The wind turbine is un-manned and fully automated to operate constantly. Maintenance personnel would have the ability to access the site at any time.

Finding #6 – The immediate neighborhood impact from the proposed use is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors and hours of operation are not an important consideration for an un-manned wind turbine.

V. SUMMARY OF FINDINGS

1. The proposed site appears suitable for the proposed use because the proposed and current uses will meet lot coverage requirements, there are no setbacks, there appears to be adequate access via a paved county road which may require a revised approach permit, and there are currently no environmental impacts present that would affect the placement of the wind turbine.

2. There appears to be adequate and compliant parking and traffic circulation for the proposed use because the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR], the wind turbine would not interfere with traffic circulation, CVR parking requirements are met and there are no parking requirements for monopole facilities.
3. The open space, fencing/screening, landscaping, signage and lighting on the subject property appear adequate because open space is not a requirements for the CVR designation and there are no landscaping, lighting, signage, or fencing/screening requirements for aeriels and masts.
4. There appears to be adequate availability of sewer, water and storm drainage for the proposed use because sewer and water are not necessary for an un-manned wind turbine and storm water run-off will be managed on-site through an engineered storm water management system.
5. The proposed use appears to have acceptable impacts on public services and facilities because the Bigfork Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by Holt Drive and Harbor Heights Boulevard paved county roads.
6. The immediate neighborhood impact from the proposed use is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors and hours of operation are not an important consideration for an un-manned wind turbine.

VI. CONCLUSION

Upon review of this application, the request to allow for a monopole wind turbine on the subject property is generally supported by the review criteria and the 6 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-13-03 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:

VII. CONDITIONS

1. Construction of the monopole wind turbine on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The applicant shall adhere to all applicable Federal Aviation Administration requirements.
4. The 77 foot 9 inch tower shall not be lit at night unless specifically required by a federal or state agency.
5. Any fencing installed on the property shall be in compliance with Section 3.26.040(6) and Section 5.04 of the Flathead County Zoning Regulations.

6. Current and future lighting installed on the property shall be in compliance with Section 5.12 of the Flathead County Zoning Regulations.
7. An emergency contact sign which includes a 24 hour phone number shall be installed on the monopole wind turbine, and remain visible at all times to ensure public health and safety. Any additional signage must comply with Section 5.11 of the Flathead County Zoning Regulations.
8. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
9. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: EKM