

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JANUARY 14, 2009**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, George Culpepper, Frank DeKort, Marc Pitman, Mike Mower, Jim Heim and Randy Toavs. Rita Hall had an excused absence. Alex Hogle, Drew Hagemeyer and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 7 people in the audience.

**APPROVAL OF
MINUTES**

Toavs motioned to approve November 19, 2009 minutes, AuClaire seconded. Motion carried by quorum.

**ELECTION OF
NEW OFFICERS**

Heim nominated Cross for Chairman and Toavs seconded. Passed by quorum. Pitman nominated Toavs and DeKort seconded for Vice chairman. Passed by quorum.

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

Cross presented a plaque to Dziza and thanked him for his time on the board.

**ZONE CHANGE
EVERGREEN
FIRE
DEPARTMENT
(FZC 08-12)**

A Zone Change request in the Evergreen Zoning District by Evergreen Fire District from R-3 (One-Family Limited Residential) to B-2 (General Business). The property is located at 2236 Highway 2 East and contains 1.665 acres.

STAFF REPORT

Alex Hogel reviewed Staff Report FZC 08-12 for the Board.

**BOARD
QUESTIONS**

Heim asked if the fire department ownership had been long term.

Hogel said the ownership was long term. The station has been on the property for 50 years. There are two parcels which function as a single parcel. He went over the layout of the property and the intended uses.

**APPLICANT
PRESENTATION**

David Mitchell, 249 Sherry Lane, wants to clean up zoning for the property. They were worried about moving through a building permit process without current zoning on the property. He had a site plan if the board wanted to see it.

Cross asked if funding was already in place.

Mitchell said funding was in place, bonding had passed, and they were going to bid. Construction would start in mid March and be completed in December.

**BOARD
QUESTIONS**

None

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC 08-12)**

DeKort made a motion seconded by Pitman to adopt staff report FZC 08-12 as findings-of-fact.

**BOARD
DISCUSSION**

Culpepper said he lives close to the firehouse and felt the firehouse needed to be revamped and would revitalize the area.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 08-12)**

On a roll call vote the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL
(FZC 08-12)**

DeKort motioned and was seconded by AuClaire to recommend approval of FZC 08-12 to the board of commissioners.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC 08-12)**

On a roll call vote the motion passed unanimously.

**ZONE CHANGE
DALE
McGARVEY
(FZC 08-11)**

A Zone Change request in the Willow Glen Zoning District by Dale McGarvey from R-2 (One-Family Limited Residential) to B-2 (General Business). The property is located at 1278 Highway 2 East and contains 1.36 acres.

STAFF REPORT

Andrew Hagemeyer reviewed FZC 08-11 for the board.

**BOARD
QUESTIONS**

Cross did not understand when he read the staff report that the property was going to be split as far as zoning. He asked where the boundary between the two lots would be.

Hagemeyer said there were two parcels proposed for rezoning. He showed on a map where the split would be.

Cross asked where the RSID for the sewer was.

Hagemeyer did not know the answer. The agency comment from Evergreen Sewer and Water stated the front portion of the properties were in the Evergreen Sewer District, the back portion was not. They would need to contact the city of Kalispell regarding sewer hookup once the parcel was developed.

**APPLICANT
PRESENTATION**

Dawn Marquardt, Marquardt & Marquardt Surveying, 201 3rd Ave W, Kalispell, represented the applicant, Dale McGarvey. They requested a zone change for everything on the property that was not zoned B-2 already and that was not in the floodplain. She explained the layout of the property and where the sewer lines ran. They have spoken to the city of Kalispell and have gone through the procedure to get sewer if the back parcel were ever to be developed. The owner of the property was present and able to answer questions.

Dale McGarvey, applicant, 405 3rd street Kalispell, wanted to make it clear he could hook on to Kalispell sewer. He had a letter which stated he did have approval. He had to sign a waiver not to protest annexation into the city when that time comes.

**BOARD
QUESTIONS**

Mower asked if the county had the letter on file.

Hagemeyer said no.

Heim suggested McGarvey give a copy of the letter to staff to enter into the record.

McGarvey gave staff a copy of the letter.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Hans Smithlin 1282 Hwy 2 E, Kalispell, asked to step to the map. His property borders the property being proposed for a zone change and owned by Skyline Enterprises of which he is president. He explained the position of the property and the surrounding area which is also owned by Smithlin, Macintire and Young. He was not opposed to the zone change but will not allow any use of the road on his property to access the back part of the property.

Cross asked if the road was public.

Smithlin said no.

Cross said they will make sure his objection to the use of the road on his property was part of the record.

**APPLICANT
REBUTTAL**

McGarvey said they have a prescriptive easement to use part of the road to exit the Holiday. It was a matter of history for twenty years. He did not dispute the fact Smithlin is the owner of the road.

Cross asked if the easement was part of B-2 zoning.

Smithlin said they did not dispute the prescriptive easement; the access he spoke about would affect the property on the second parcel.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC 08-11)**

AuClaire made a motion seconded by Heim to adopt staff report FZC 08-11 as findings-of-fact.

**BOARD
DISCUSSION**

DeKort asked if there was any reference in the staff report to the bottom part (floodplain) of the property being excluded from B-2 zoning.

AuClaire pointed out in the report where the zoning reference was mentioned.

Hagemeier said it would have been more appropriate if he had explained the description of the proposal better in the report. He suggested it would be a good finding to add.

DeKort asked if there shouldn't be a line where the flood plain was on the map.

Hagemeier said it was in the file on a survey of the proposed zoning. The applicant also has it documented in the legal boundary and in the application.

Cross said he found it misleading.

Hagemeier was hesitant to try to illustrate the boundary because it would be an estimate of where the boundary existed.

**SECONDARY
MOTION**
(ADD F.O.F. #4)

Toavs motioned to add finding of fact #4, seconded by AuClaire to say: *Any portion of the property designated as 100 year flood plain is not included in the zone change.*

**BOARD
DISCUSSION**

Pitman asked for clarification as to why an R-2 and not a B-2 zoning designation had been recommended for a flood plain.

Hagemeier said the uses are less intensive in an R-2 than a B-2. Staff would rather the property remain residential instead of business which would allow such uses as gas stations, etc. close to the floodplain.

The board discussed the differences between R-2 and B-2 zoning.

Cross asked what the remaining acreage was of the property that was not going to be zoned in the flood plain.

Marquardt estimated about eight acres.

**ROLL CALL
VOTE**
(ADD F.O.F. #4)

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION**

Heim brought up the complications of sewer and water between Kalispell and Evergreen. He was not sure if it had anything to do with a zone change.

Cross said he did not think it would.

Mower said it would come into play if someone wanted to develop the property.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 08-11)**

On a roll call vote, the motion passed unanimously

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC 08-11)**

Pitman made a motion seconded by AuClaire to adopt Staff Report FZC 08-11 and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

None

**ROLL CALL
TO
RECOMMEND
APPROVAL
(FZC 08-11)**

On a roll call vote the motion passed unanimously.

**COMMITTEE
REPORTS**

Cross suggested Culpepper take the place of Dziza on Committee A. Committee A meets again on January 29, 2009.

Committee B has not had any meetings since the last planning meeting on December 17, 2008.

OLD BUSINESS

Cross asked Grieve the status of the Whitefish donut area.

Grieve said staff was waiting to see if there was an injunction and if so, what the effective date might be. Until staff knows that information, everything is on hold. Staff had processed two lakeshore permits and accepted a subdivision within the jurisdiction, but they are on hold until staff knows the effective date of the injunction.

There was discussion on the supreme court decision and the possible ramifications.

Cross said Bigfork had made changes to their neighborhood plan.

Grieve said yes they had and it will be on the February 11, 2009 meeting agenda.

Cross asked if they had addressed everything which was brought up in the planning boards' workshop with Bigfork Land Use Advisory Committee (BLUAC).

Grieve said yes, they had and staff could use the plan as a template for other situations since it was well thought out and very useful.

There was discussion of the details of possible changes which have been made to BLUAC's plan.

Cross said at this time it looked like there will be one meeting in February.

NEW BUSINESS None.

ADJOURNMENT The meeting was adjourned at approximately 6:50 pm. on a motion by Pitman, seconded by AuClaire. The next meeting will be held at 6:00 p.m. on January 21, 2009.

Gordon Cross, President

Donna Valade, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 2/11/09