

**October 28, 2010 Minutes of
Bigfork Land Use Advisory Committee
Bethany Lutheran Church**

Committee members present: John Bourquin, Paul Guerrant, John Righetti, Peter Strelinger, Shelley Gonzales, Sue Hanson and 8 members of the public.

Chairman Guerrant called the meeting to order at 4: 03 pm. The Chairman reviewed meeting rules which included following Robert's Rules of Order, Public Comment only taken when called, please address questions to BLUAC, comments may be either in favor or opposed with a 5 minute time limit per person. Public may speak only once but if further comment is needed may comment in writing. Please turn off cell phones

The Agenda was adopted as presented (m/sc Bourquin/Gonzales – unanimous.

Minutes of the July 29, 2010 meeting were approved as presented- unanimous. (m/sc Bourquin/Righetti).

ADMINISTRATOR'S REPORT:

A. Sign-in Sheet: Reminder to the public of the availability of BLUAC minutes through email and BSC website bigforksteering.org/. Agendas are posted on the Flathead County Planning Office website flathead.mt.gov/

B. Application status: County status on previous pending applications: Whistling Andy, Inc. Conditional Use Permit and Robert Krause Conditional Use Permit were both approved by the Flathead County Board of Adjustment.

C. 30-Day Notice for Appointment to BLUAC: Members requested Secretary Hanson to post 30-day notice for appointment of the member seat vacated by Charles Gough.

D. Sign Violation, Echo Lake Marina: Sign has been removed without report of violation to Flathead County Planning and Zoning.

E. November & December meeting dates: Committee agreed to change the November meeting date to December 2, 2010 and the December meeting date will remain December 30, 2010.

F: Website: bigforksteering.org: Pat Wagner presented statement for Domain fees from Bigfork Web Development offered discounts for 3 and 5 years paid in advance. After discussion, Bourquin moved to split with BSAC three years of domain fee (\$90) plus three years of Administrative Fee (\$360). Gonzales seconded the motion. Under motion discussion, Hanson reminded the committee that BSAC would not be allowed to pay three years in advance with current grant funding. Bourquin moved to amend the motion to split with BSAC the yearly Domain fee (\$35) plus a year Administrative Fee (\$120). Righetti seconded the motion. Committee voted on the original motion and it was defeated unanimously. The committee passed the amended motion unanimously. Hanson and Wagner will sit down with Bigfork Web Development to work out the billing process.

G: Support Letter for BSAC DEQ 319 2011 grant application: Hanson presented a draft letter as support for grant funding. Gonzales moved to sign the letter as written. Guerrant seconded the motion. Motion passed unanimously.

H. Peter Strelinger Resignation: Strelinger informed the Committee he had sold his house and was moving in December from the Bigfork Zoning District. Member expressed disappointment that he would be leaving and wished him well. Hanson was directed to post Public Notice of the position opening for Member at Large through June 2011.

APPLICATIONS:

A. Wink, Clausen & Anderson Variance to Section 3.26.040 (4): A request by Wink Clausen and Anderson Trust for a Zoning Variance to property within the Bigfork CVR (Commercial Village Resort) Zoning District. The applicants are requesting a variance to Section 3.26.40 (4), Bulk and Dimensional Requirements, of the Flathead County Zoning Regulations, which states the maximum building height cannot exceed 35 feet.

Staff: Andrew Hagemeyer reported the request was for a Bulk and Dimensional Requirement variance, specifically the 35' height limit. He noted the Planning staff struggled with it because it is not easy to define reasonable use. There is a 4-plex unit just to the north and the use is permitted under the 36 uses in the zoning classification CRV under multi-family dwellings. The staff sought outside advice through a service provided by lawyers and planners in Helena.

The elevation is steeper due to fill at the Electric Avenue elevation behind the lot. At the bottom of the slope is a sewer line built in the 1960's. Constraints of elevation and proximity to the sewer line create a hardship. Staff feels the variance is justified since this structure is similar to adjacent and near properties.

Guerrant: I'm having trouble getting my hands around the "hardship" question. Did they not know what they bought? Isn't it true the similar properties have larger lots?

Hagemeyer: The Flathead County Attorney noted a legal case where this type of situation constituted a hardship. Also, the building design is at 7.5 feet from the sewer line. The Bigfork Sewer District does not want to give a variance from the 10-foot requirement, so they will have to move the whole building back.

Applicant: Michael Frazer spoke for the applicant stating the difficulty with the site is one issue, the slope. This site is not as steep as the property to the North, which causes the problem with height. The applicant chose to go with a 4-plex because it is a permitted use and reasonable because there are other 4-plexes in the area. The floor plan is smaller than the adjacent building. An elevator is an ADA requirement. Elevation on the West is 4-6 feet above the 35-foot limit. Eastern elevation is 25 feet.

BLUAC:

Gonzales: You referenced the other property. Did they apply for any variances? A. Yes. They received a variance from BS&W from 10 feet to 7.5 feet.

Strelinger: The north building is really two duplexes? A. Yes, joined by a common roof.

Guerrant: We have dealt with previous variances including Marina Cay where they were asking for only inches over the limit and a home, which the Fire Department signed off on. This elevation variance looks like a lot more than 4-6 feet.

Frazer: You have three letters from neighbors (Rob Wink, Barbara Nelson and Gretchen Gates) indicating they approve of the variance.

Guerrant: Do you have comment from the Bigfork Fire Department? A. No Guerrant: I think it is imperative the Fire Department looks at this before the Board of Adjustment meeting. This is not a view scape issue, it's a public safety issue.

Strelinger: How much higher than the 35 foot limit? A. 4.5 to 6 feet. Strelinger: The shaded line in the drawings indicates the Bay Landing roofline is level with the proposed building. What this looks like from the Bay is important. It can't be seen from Electric Avenue but my concerns are if it is compatible with the surroundings from the Bay. A. Roofline is lower than the Bay Landing building. Strelinger: the Villas look like they protrude more toward the Bay than Bay Landing. A. Yes.

Bourquin: The drawing looks like the height is more like 10 to 12 feet over the 35-foot limit. A. You do not have the updated drawing. It's more like 8 feet.

Guerrant: Is the fill compacted? A. The former building and driveway have been there since the 1980's. It should be well compacted. It's all gravel, boulders and sand.

Public Agencies: Julie Spencer spoke on behalf of Bigfork Water & Sewer District. She noted that originally there was a road along the bay in this area connected to Lake Avenue access. The County abandoned the road to allow properties closer to the bay. A sewer manhole is located on the north end of this property.

Strelinger: It is not uncommon for sewer lines to run along a lakeshore due to the need for gravity feeds.

Spencer: We propose they do not put any part of the building within the 10-foot sewer setback. We gave the building to the north a variance and then they built over the setback. We have no access through there. Our attorney will have a written agreement prepared before the Board of Adjustment meeting next week.

Hagemeier: The Planning Department did not realize the encroachment to the sewer line. We assumed it was within the 10-foot setback.

Righetti: I just don't see a hardship. They made a choice to design a 4-Plex and they could see what they were buying. We need to have access to the sewer manhole and for repair and maintenance for the sewer line.

PUBLIC COMMENT: None

BLUAC:

Bourquin: First, I don't want to be over critical of the Planning Department but I'm disappointed in the Summary of Findings in the Staff Report. It almost looks like a word for word transfer from the application. As to reasonable use, I have a different interpretation of reasonable use and hardship. It appears they have created their own hardship by the choice of the size of the structure on this size lot. As to Finding #1, a multi-family dwelling does not have to be a 4-plex. A reasonable use would be a smaller dwelling on the smaller lot. Same comment to Finding #2. As to Finding #6, the hardship is definitely economic. They need a smaller building. I do not want to move an inch over the 35-foot limit. It sets a precedent. I also disagree with Finding #7. This may well have adverse affects on the surrounding properties because it juts out further than other properties.

Guerrant: I echo John's comments. I don't see a hardship. No one is being denied reasonable use.

Strelinger: I'm concerned about bulk and mass of the building since north and South views could be impacted by the building jutting further into the Bay. I do think the design is compatible to the building to the north. If the sewer issue can be resolved, I don't have any objections to the variance.

Gonzales: I'm concerned about access to the sewer line and water quality issues. If there were a problem with the sewer line there I would think adjacent property owners and members of the community would be very upset to see sewage empty into the Bay. This project needs to be scrapped, go back to the drawing board and comply with bulk and dimension regulations. This is a public health and safety issue.

Righetti: Is Nelson from the north? A. Yes Righetti: We don't have any comments from properties to the south? A. No

Strelinger: We need proper drawings to make decisions.

Gonzales: Couldn't the updated drawings have been included in the Staff Report? A. Yes

Bourquin: If we set a precedent here, we can't say no to another application. Your plans are too big for the size of the lot. I move to recommend denial of the application. Gonzales seconded the motion. Motion passed with one opposed (Strelinger).

Guerrant: Will you please try again to contact the Fire Department? A. Yes

The application will be heard by the Flathead County Board of Adjustment, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on November 9, 2010, at 6:00 p.m.

OLD BUSINESS:

A. Status on new Sub-Committees per Neighborhood Plan: Craig Wagner reported the Bigfork Steering Committee had amended the Bylaws as follows:

ARTICLE 2

MEMBERSHIP MEETINGS QUORUM

SECTION 2 Meetings

Shall be held annually during the last two weeks in June, or on an as needed basis.

**ARTICLE 3
VOTING**

SECTION 1 A BSC member must meet the membership requirements as listed in Article 2, Section 1 to vote at the annual meeting or a called meeting.

EXECUTIVE COMMITTEE

SECTION 2 Officers

The Executive Committee of the BSC shall include a Chairperson, Vice-Chairperson, Secretary/Treasurer, immediate past chairperson and two (2) Members at Large who shall be elected by the BSC.

SECTION 3 Election and Term of Office

Officers of the BSC shall be elected annually in June. The current officers will remain in office Until June 2011.

NEW BUSINESS: Andrew Hagemeyer asked if there were any questions for the Planning Office.

Craig Wagner: I don't think your new phone system is working. I've been calling 752-8200 and can't reach Mary or Donna. Andrew: Both Mary and Donna have been out of the office. Mary will be back tomorrow.

Guerrant: Any new construction going on in the county? Andrew: Things might be slowing down even more. We're down in applications from last year. Staff includes myself, Bailey, Allison and Alex.

PUBLIC COMMENT: None

Meeting was adjourned at 6:00 p.m.

Sue Hanson
BLUAC Secretary