

Flathead County sued over denial of Bigfork subdivision

By JEREMY WEBER

Bigfork Eagle

The saga surrounding a controversial subdivision proposed for Bigfork has moved into the courts.

Denied by a unanimous vote of the Flathead County commissioners Oct. 31, the proposed North Shore Woods subdivision is now the focus of a lawsuit filed Nov. 27 in District Court by developers Longbow Land Partners, which alleges that the commissioners' decision was unlawful.

"The cacophony of confusion that permeated the Oct. 31, 2023, meeting of the county commissioners culminated in the arbitrary, capricious, and unlawful denial of Longbow's preliminary plat," the complaint reads. "The

See **FLATHEAD**, [A7](#)

FLATHEAD

from A1

county's decision to deny Longbow's subdivision application cannot be sustained and, therefore, must be reversed back to the county commissioners with instructions to conditionally approve the application as recommended by planning staff in the staff report."

Located between Peaceful Drive and Bigfork Stage Road, the proposed development would have filled the currently vacant area with houses and connected the two roads, while also providing for the paving of a section of Bigfork Stage Road.

Longbow Land Partners filed three separate applications, one for the initial plat, a request to change the zoning of the area and a request for a planned unit development, but it was the initial plat that was denied by the county at the Oct. 31 meeting.

Longbow Land Partners alleges in its lawsuit that the county commissioners were confused by lengthy and complicated planning and zoning staff reports, which led to the illegal denial of a proposed subdivision that was in compliance with currently existing zoning for the land.

“Longbow’s subdivision application and the additional information submitted clearly demonstrate that development of the proposed subdivision meets the requirements of the Montana Subdivision and Platting Act, including compliance with currently existing zoning,” the lawsuit states. “This is true irrespective of whether Longbow’s separate PUD and zoning map amendment applications are approved, conditionally approved, or denied by the county commissioners in the future.”

The lawsuit claims the staff report prepared for the commissioners took three separate issues — initial platting, zoning and a PUD — and combined them into a document that was both hard to follow and unlawfully conflated.

“The staff report is very poorly drafted and replete with factual inaccuracies and other irrelevant information regarding the separate PUD and zoning map amendment applications and processes. This created significant confusion amongst the intended audience, including the county commissioners,” the lawsuit contends. “The staff report contains references throughout to Longbow’s separate applications for a PUD and zoning map amendment despite those issues not being before the county commissioners as part of Longbow’s subdivision application. Each application is subjected to a unique set of review criteria. Longbow’s three applications were procedurally segregated and have been processed on their own merits from the inception, but the Staff Report suddenly and improperly conflated them.”

Commissioners’ stated during the Oct. 31 meeting that the staff reports caused confusion.

“We have a packet that is mostly about a 125-lot proposal and we have to figure out what that means for a 51-lot subdivision. It has been very difficult for me to put this into a packet that makes sense to read from one end to the other,” commissioner Randy Brodehl said at the meeting. “I think it would have been better to have pulled this off the planning board’s agenda and had

them start from scratch with a packet for just a 51-lot subdivision, period.”

The lawsuit points out that the 51-lot subdivision was the only item that was supposed to be under consideration at the Oct. 31 meeting.

“Longbow’s intent for future development, via PUD, zoning map amendment, or otherwise, should have no bearing whatsoever on the county commissioners’ decision on the subdivision application before them on Oct. 31, 2023 as only a 51-lot subdivision was being reviewed at that time,” the lawsuit states.

In addition to the confusion caused by the staff report, the lawsuit also accuses Flathead County of violating Longbow Land Partners’ right to due process by not holding the Oct. 31 meeting as a public hearing, therefore not allowing the group to respond to questions from the commissioners.

“Longbow was denied the opportunity to respond to questions from the county commissioners or to rebut incorrect information that was presented about the project. Neither Longbow nor its representative, WGM Group, was allowed to speak and responses from planning staff and the county attorney to questions from the county commissioners only created more confusion. The county commissioners did not receive complete or accurate information,” the lawsuit contends.

“The county commissioners proposed and made various amendments to the planning staff’s findings based largely on uninformed and unsubstantiated personal FIELD FENCE CHAIN LINK FENCING

concerns and other criteria not relevant to the decision actually before them.”

The majority of questions were centered around a pair of traffic studies conducted, one paid for by Longbow Land Partners and one funded by Citizens for a Better Flathead.

“The county attorney counseled the county commissioners to play ‘judge’ and decide which traffic impact study was more credible, the one commissioned by Longbow or the one commissioned by a member of the public opposed to the development and which contains important factual inaccuracies. Longbow and WGM Group were not allowed to weigh in, answer questions, or quell unfounded concerns as the county attorney advised that no public comment was allowed,” the lawsuit states.

The lawsuit goes on to state that, “By the end of the meeting, the county commissioners had completely lost sight of what was even properly before them for a decision” and asserts the county’s denial letter “did not identify the regulations and statutes that were used in reaching the decision or how they apply to the basis for the decision.”

The lawsuit contends that Longbow Land Partners is entitled to recover its costs of suit and supplemental relief, including reasonable attorney’s fees in addition to any actual damages in amounts to be proven at trial.

When reached for comment, Flathead County Public Information Officer Kim Grieser said the county does not issue statements about pending lawsuits.

Blow Out Prices

\$ 4.39

\$ 4.75

Three styles to choose from. Beautiful and maintenance free.

4’x8’ Panels 5’x8’ Panels 6’x8’ Panels

10% OFF

PREMIUM HEAVY DUTY T-POSTS

Premium 5 1/2’ 1.33#@

Premium 6’ 1.33#@

AMERISTAR ORNAMENTAL IRON 10% OFF!

32”x330’ @.....\$ 150.00

39”x330’ @.....\$ 200.00 47”x330’ @.....\$
225.00

