

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
MINOR LAKESHORE VARIANCE (#FLV-25-08)
FLATHEAD LAKE LAND PARTNERS
JANUARY 16, 2026

I. GENERAL INFORMATION

A report regarding a request by Flathead Lake Land Partners LLC, with technical assistance from nuWest Builders Inc for a minor variance to the Flathead County Lake and Lakeshore Protection Regulations (FCLR) to allow a dock length in excess of 100 feet. The variance is requested to accommodate adequate water depth for safe navigation and moorage due to shallow lakebed conditions at the site. The proposed variance is located within the Lake and Lakeshore Protection Zone (LPZ) on Flathead Lake.

A. Application Personnel

i. Owner

Flathead Lake Land Partners, LLC
Attn: Kevin Lange
109 W 7th St, Suite 200
Georgetown, TX 78626

ii. Applicant/Contractor

nuWest Builders Inc
100 Central Ave
Whitefish, MT 59937

B. Property Location and Size

The subject property is located at 688 Lakeside Boulevard, Lakeside, Montana (Figure 1). The property contains approximately 372 linear feet of shoreline along Flathead Lake and is zoned Lakeside – Special Commercial (Spec_Com). It can be legally described as Parcel A of COS 9268, located in Government Lot 1 in Section 18, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (location of project in red)



C. Section of the Regulations the Variance Request Applies to:

With this minor variance, the applicant is requesting a variance to the following section of the Flathead County Lake & Lakeshore Protection Regulations:

1. *4.3(B)(2)(c)(2) design standards for docks, the maximum length of that portion of any dock extending over water shall be 100 feet.*

D. Summary of Request

The applicant, Flathead Lake Land Partners LLC, is requesting a Minor Variance from the Flathead County Lake and Lakeshore Protection Regulations, specifically Section 4.3(B) – Commercial/Public Marina Standards, to allow a dock length exceeding the 100-foot maximum. The variance is requested to accommodate adequate water depth for safe navigation and moorage due to shallow lakebed conditions at the site.

Existing development within the Lake and Lakeshore Protection Zone (LPZ) includes an existing dock structure and associated marina facilities. No additional shoreline structures beyond the dock system are proposed.

The variance request is limited to dock length and does not seek relief from impervious surface limits, marina density standards, or minimum lakeshore frontage requirements applicable to commercial marinas.

1. The proposal includes a dock system extending approximately 159 feet from shore, exceeding the 100-foot maximum dock length standard for commercial marinas. The applicant argues that the dock length extension is necessary to reach adequate water depth for safe vessel maneuvering and moorage.
2. The proposed over-water impervious surface area is within the allowable limit of 12 square feet per linear foot of lakeshore frontage, as established under Section 4.3(B) for commercial/public marinas. With approximately 372 linear feet of shoreline, the site is permitted up to 4,464 square feet of impervious surface below the mean annual high water line.
3. The proposed marina provides 17 boat slips, which is less than the maximum allowed under the commercial marina density standard of one slip per 10 linear feet of shoreline frontage. The proposed density equates to approximately one slip per 23 linear feet, reducing the overall intensity of use.
4. The subject property exceeds the minimum 300 feet of lakeshore frontage required for a commercial/public marina.
5. All required setbacks from side riparian boundaries and travel lane widths between dock structures are maintained or improved relative to existing conditions.

In summary, the applicant seeks a narrowly tailored variance to the dock length standard only. The proposed design complies with commercial marina impervious surface limits, density standards, and frontage requirements, and represents the minimum relief necessary to address site-specific shallow water conditions while improving safety and functionality of the marina.

II. EVALUATION OF REQUEST

The criteria set forth in the Flathead County Lake & Lakeshore Protection Regulations Section 5.1(A) regarding variances were used to determine findings of fact and to evaluate the variance request as outlined below:

A. Due to unusual circumstances a strict enforcement of such requirements and standards would result in undue hardship.

The subject property is characterized by naturally shallow and gradually sloping lakebed conditions extending lakeward from the ordinary high-water mark. Bathymetric information and dock cross-sections submitted with the application demonstrate that adequate navigational depth for safe moorage and maneuvering is not consistently achieved within the first 100 feet of shoreline, even at full pool.

Strict enforcement of the 100-foot maximum dock length standard for commercial/public marinas would result in:

- Boat slips located in water depths insufficient for safe backing and maneuvering;
- Increased risk of vessel grounding and propeller damage; and
- Unsafe operational conditions for a public marina use that is otherwise allowed and anticipated under the property's zoning designation.

These conditions are site-specific, naturally occurring, and not self-created. The hardship is physical in nature and directly related to the lakebed profile at this location.

Finding #1	The subject property is characterized by naturally shallow and gradually sloping lakebed conditions extending lakeward from the ordinary high-water mark. Bathymetric information and dock cross-sections submitted with the application demonstrate that adequate navigational depth for safe moorage and maneuvering is not consistently achieved within the first 100 feet of shoreline, even at full pool. Strict enforcement of the 100-foot maximum dock length standard for commercial/public marinas would result in boat slips located in water depths insufficient for safe backing and maneuvering, increased risk of vessel grounding and propeller damage, and unsafe operational conditions for a public marina use that is otherwise allowed under the property's zoning designation. These conditions are site-specific, naturally occurring, not self-created, and constitute a physical hardship directly related to the lakebed profile at this location.
References	Section 4.3(2)(a)(2), Section 4.3(E)(2)(a)

B. No reasonable alternatives exist which do meet the standards herein.

The applicant evaluated alternative dock configurations constrained to the 100-foot length limit, including shore-facing and lake-facing slip layouts. The record demonstrates that these alternatives would either:

- Place slips in water too shallow for safe use; or
- Create unsafe exposure to wind and wave action; or
- Result in impractical maneuvering geometry for public users.

The only alternative that would fully comply with the dock length standard would be elimination of the proposed slips, which would not allow the marina to function safely or reasonably for its intended public use.

This claim is in accordance with staff findings. Because of the lake levels and topography of the lakebed, much of the high-water area is too shallow to safely maneuver any boats through. All other alternatives were considered by staff and staff found the applicant was correct in their assessment that the docks which meet the 100' maximum would create an unsafe navigation environment.

Finding #2	The applicant evaluated multiple alternative dock configurations that would comply with the 100-foot maximum dock length standard, including shore-facing and lake-facing slip layouts. Based on site-specific lake levels and the shallow, gradually sloping lakebed topography, staff concurs that these alternatives would place boat slips in water depths insufficient for safe maneuvering, expose vessels to unsafe wind and wave conditions, or result in impractical navigation geometry for public users. Staff independently reviewed the alternatives and finds that dock configurations constrained to the 100-foot length limit would create unsafe navigation conditions. The only configuration that would fully comply with the length standard would require elimination of the proposed slips, which would not allow the marina to function safely or reasonably for its intended public use.
References	Section 4.3(2)(a)(2)

C. Granting of the variance will not have adverse impacts on the lake or lakeshore in terms of the Section 4.1, "Policy Criteria for Issuance of a Permit".

The proposed action shall not, during either its construction or its utilization:

i. Materially diminish water quality;

The variance does not authorize dredging, shoreline alteration, or increased impervious surface beyond what is allowed under the commercial marina standards. Impervious surface below the mean annual high-water line remains within the allowable limit of 12 square feet per linear foot of shoreline frontage.

The proposed marina design does not increase overall boat density beyond that permitted under commercial marina standards. The number of boat slips remains substantially below the maximum density of one slip per ten (10) linear feet of shoreline frontage, thereby limiting vessel concentration and associated pollutant loading such as fuel residues, oils, and sediments.

The dock extension is a structure that does not introduce pollutant-generating uses. Standard construction best management practices (BMPs) will be required to ensure no discharge of sediments or contaminants into the lake.

Finding #3	Granting the requested variance will not materially diminish water quality. The variance does not authorize dredging, shoreline alteration, or impervious surface in excess of the limits established for commercial marinas. Impervious surface located
-------------------	--

	below the mean annual high-water line remains within the allowable limit of 12 square feet per linear foot of lakeshore frontage. The proposed dock extension does not introduce pollutant-generating uses, and construction activities will be subject to standard best management practices to prevent the discharge of sediments or contaminants into Flathead Lake.
References	Section 4.3(2)(a)(2)

ii. Materially diminish habitat for fish or wildlife;

The proposed dock extension relocates moorage into deeper water, reducing disturbance in near-shore shallow habitat areas. The dock system remains an open-pile design and does not increase shoreline armoring.

No new shoreline armoring, fill, or removal of native lakeshore vegetation is proposed, and construction activities will avoid sensitive vegetation to the extent practicable. In-water work will be subject to applicable seasonal timing restrictions to avoid fish spawning and rearing periods. In addition, the marina design and compliance with existing slip density standards limit vessel concentration and associated prop-wash impacts, thereby reducing disturbance to lakebed substrates and aquatic habitat.

Based on the limited scope of the variance, avoidance of sensitive habitat areas, adherence to seasonal work windows, and maintenance of allowable boat density, the proposed project will not materially diminish habitat for fish or wildlife.

Finding #4	Granting the requested variance will not materially diminish habitat for fish or wildlife. The proposed dock extension relocates moorage into deeper water, reducing disturbance within near-shore shallow habitat areas. The dock system utilizes an open-pile design and does not increase shoreline armoring. No new shoreline armoring, fill, or vegetation removal is proposed, and the project footprint remains within an existing developed marina basin.
References	Section 4.3(2)(a)(2)

iii. Interfere with navigation or other lawful recreation;

The proposed dock extension is located within an established marina basin and maintains required travel lanes and setbacks, preserving navigational access for lake users and adjacent properties. The project does not encroach upon designated or commonly used swimming areas, and the shoreline in the vicinity of the marina is not typically used for swimming due to existing marina activity.

The proposed marina provides fewer boat slips than would otherwise be permitted under the commercial marina density standards. As a result, vessel concentration within the marina basin and adjacent navigable waters is limited, reducing the potential for congestion and conflicts with other lawful recreational uses. Relocating moorage into deeper water further improves navigational safety by reducing grounding risks and erratic maneuvering in shallow near-shore areas.

Finding #5	Granting the variance will not interfere with navigation or other lawful recreation. The proposed dock extension is located within an established marina basin, maintains required travel lanes, and does not encroach into designated or commonly used swimming areas. The marina provides fewer boat slips than would otherwise be permitted under the applicable density standards, which limits vessel concentration and reduces the potential for congestion or conflicts with other lake users.
References	Section 4.3(2)(a)(2)

iv. Create a public nuisance;

The proposal consolidates boat activity within a defined marina footprint and does not introduce new shoreline access points or additional ramps beyond what is allowed. No evidence has been presented demonstrating that the dock extension would create a public nuisance.

Finding #6	Granting the variance will not create a public nuisance beyond what has historically existed in this area. The proposed marina improvements occur within an established marina setting where boating activity, vessel moorage, and associated use patterns are already present. The project does not introduce new shoreline access points or additional boat ramps and provides fewer boat slips than would otherwise be permitted under the commercial marina density standards, thereby limiting increases in boat traffic. As a result, the proposed dock extension is not expected to generate nuisance conditions related to congestion, noise, or conflicts with adjacent properties beyond those historically associated with marina use at this location.
References	Section 4.3(2)(a)(2)

v. Create a visual impact discordant with natural scenic values, as determined by the governing body, where such values form the predominant landscape elements,

The dock extension is an expansion of an existing marina facility within a shoreline area already characterized by marina and dock development. The extension does not alter the natural shoreline and is consistent with surrounding uses.

Finding #7	Granting the variance will not create a public nuisance beyond what has historically existed in this area. The proposed marina improvements occur within an established marina setting where boating activity, vessel moorage, and associated use patterns are already present. The project does not introduce new shoreline access points or additional boat ramps and provides fewer boat slips than would otherwise be permitted under the commercial marina density standards, thereby limiting increases in boat traffic. As a result, the proposed dock extension is not expected to generate nuisance conditions related to congestion, noise, or
-------------------	--

	conflicts with adjacent properties beyond those historically associated with marina use at this location.
References	Section 4.3(2)(a)(2)

vi. Alter the characteristic of the shoreline.

No shoreline grading, excavation, fill, or structural alteration of the natural shoreline is proposed. The dock extension is a water-dependent structure and does not modify the physical shoreline. Existing shoreline vegetation will remain in place, and no removal or disturbance of native vegetation is proposed as part of this project. All construction activity will occur waterward of the shoreline, and the project footprint remains within an existing developed marina basin.

Finding #8	Granting the variance will not alter the characteristic of the shoreline beyond what has historically existed in this area, as the project is located within an established marina corridor where similar marina development is already present. The absence of shoreline excavation, fill, or vegetation removal ensures that shoreline impacts are minimal and consistent with existing conditions.
References	Section 4.3(2)(a)(2)

III. CONCLUSION

Pursuant to **Section 5.1 of the Flathead County Lake and Lakeshore Protection Regulations**, staff has reviewed and evaluated the proposed dock length variance request against the applicable criteria for a Minor Variance. Based on the findings of fact presented above, the proposal meets the variance criteria due to site-specific physical constraints related to shallow water depth that are not self-created and that prevent safe and functional marina use under strict application of the dock length standard.

The request is limited in scope, represents the minimum relief necessary to address the documented hardship, and does not result in adverse impacts to water quality, fish and wildlife habitat, navigation, public safety, or shoreline character. The proposed marina complies with commercial/public marina standards for impervious surface limits, density, and frontage, with the sole deviation being dock length.

IV. CONDITIONS OF APPROVAL

Standard Conditions of Approval:

1. No other activities are permitted within the Lakeshore Protection Zone other than those listed and/or conditioned by this permit.
2. Mechanized vehicles shall be allowed on the lakeshore only in connection with this project. Should any vehicle slice, gouge, or rut the beach, become stuck or expose clay, silts, and fine sands, said vehicle shall be immediately removed from the Lakeshore Protection Zone, and an alternative procedure shall follow [Section 4.2(D)(2)(e)].
3. No vehicle shall come in contact with the lake water.
4. All construction debris shall be disposed of outside the Lake and Lakeshore Protection Zone in such a manner and in such a location so as to prohibit its reentry into the lake, per Section 4.2(F)(2).

5. Temporary stockpiling of materials is prohibited in the Lakeshore Protection Zone [Section 4.2(C)(2)(b)].
6. This permit must follow the dimensions and project description as submitted, unless amended by the Flathead County Lake and Lakeshore Protection Regulations.
7. The proposed activity shall not, during either its construction or utilization, alter the existing grade of the shoreline.
8. All rock or stone which will come into contact with the lake shall be free of silts, sands or fines [Section 4.2(B)(2)(f)(2)].
9. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible [Section 4.2(D)(2)(c)].

Project-Specific Conditions of Approval:

10. A minimum of 100 feet shall remain open between any dock structure and the side riparian boundary.
11. Minimum 25 foot travel lanes shall be provided between dock structures for boats to travel. Each marina shall have a minimum of 300 feet of lake frontage.
12. In addition to Section 4.3 A design standards for docks, the maximum length of that portion of any dock extending over water shall be 100 feet.
13. The length of the wing docks forming the individual boat slips shall be sized according to need.
14. The amount of impervious (constructed) surface in the lakeshore protection zone per property shall not exceed 15 square feet for each lineal foot of lakeshore frontage.
15. The amount of impervious (constructed) surface located below the mean annual high water line shall not exceed 12 square feet for each lineal foot of lakeshore frontage.
16. The overall density of boats or boat slips provided shall not exceed one boat or boat slip per ten (10) lineal feet of lakeshore frontage.
17. One boat ramp per commercial marina may be constructed.
18. One shoreside sewage facility and one shoreside fuel station per marina may be constructed.
19. Lake related rental services and retail sales of water use related merchandise such as boat fuel, oil and lubricants, fishing equipment and personal items are typically associated with the marina.

Planner: KM