

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
VLACHOS ZONE CHANGE REQUEST  
ZONING MAP AMENDMENT REPORT (#FZC-13-02)  
AUGUST 22, 2013**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by William and Caroline Vlachos for a zoning map amendment in the Highway 93 North Zoning District. The proposed amendment would change the zoning of the subject property from 'AG-40 Agricultural' to 'I-1H Light Industrial - Highway'.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on September 11, 2013 in the 2<sup>nd</sup> Floor Conference Room of the Earl Bennett Building located at 1035 1<sup>st</sup> Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment on October 7, 2013. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Planning Board**

This space will contain an update regarding the September 11, 2013 Flathead County Planning Board review of the proposal.

Update September 12, 2013

On September 11, 2013 the Flathead County Planning Board held a public meeting on the proposal and the Board voted 8-0 to adopt the Findings of Fact and forward a recommendation for approval to the Board of County Commissioners. Details of the Board's actions and the recommended Findings of Fact are included on the attached Planning Board Addendum to this report.

**B. Commission**

This space will contain an update regarding the Flathead County Commission review of the proposal.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicants**

William and Caroline Vlachos  
325 Monegan Road  
Whitefish, MT 59937

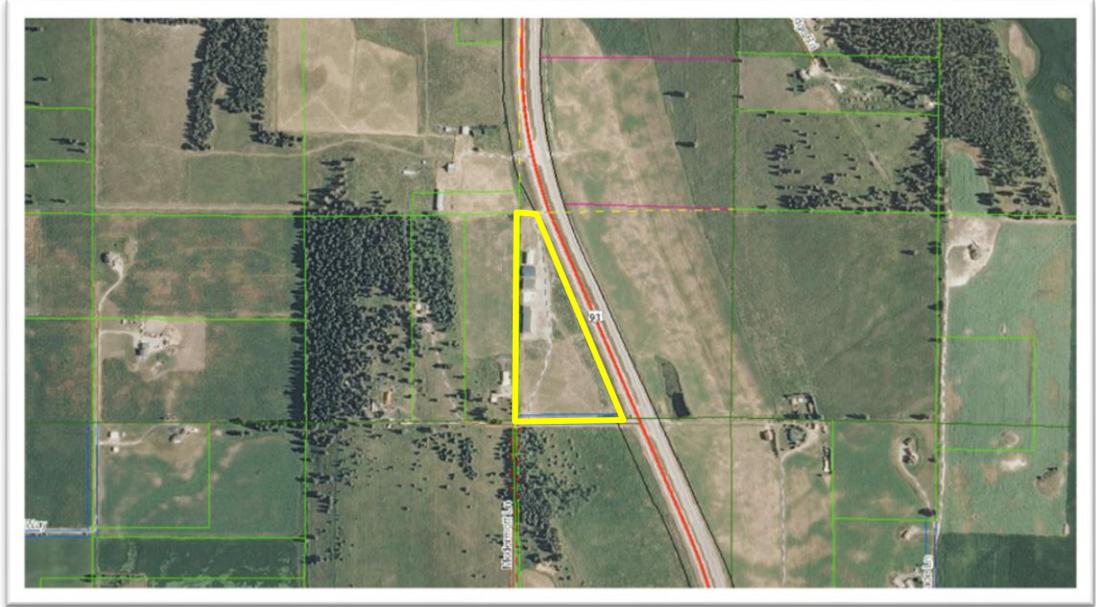
**ii. Technical Assistance**

Andy Hyde  
P.E. Carver Engineering  
1995 3<sup>rd</sup> Ave E  
Kalispell, MT 59901

## B. Subject Property Location and Legal Description

The subject property consists of one tract totaling 10.80 acres in size and is located about a mile south of KM Ranch Road and approximately one mile north of Church Drive, on the west side of U.S. Highway 93. The property can legally be described as Tract 2G in Section 01, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

**Figure 1:** Subject property highlighted in yellow.

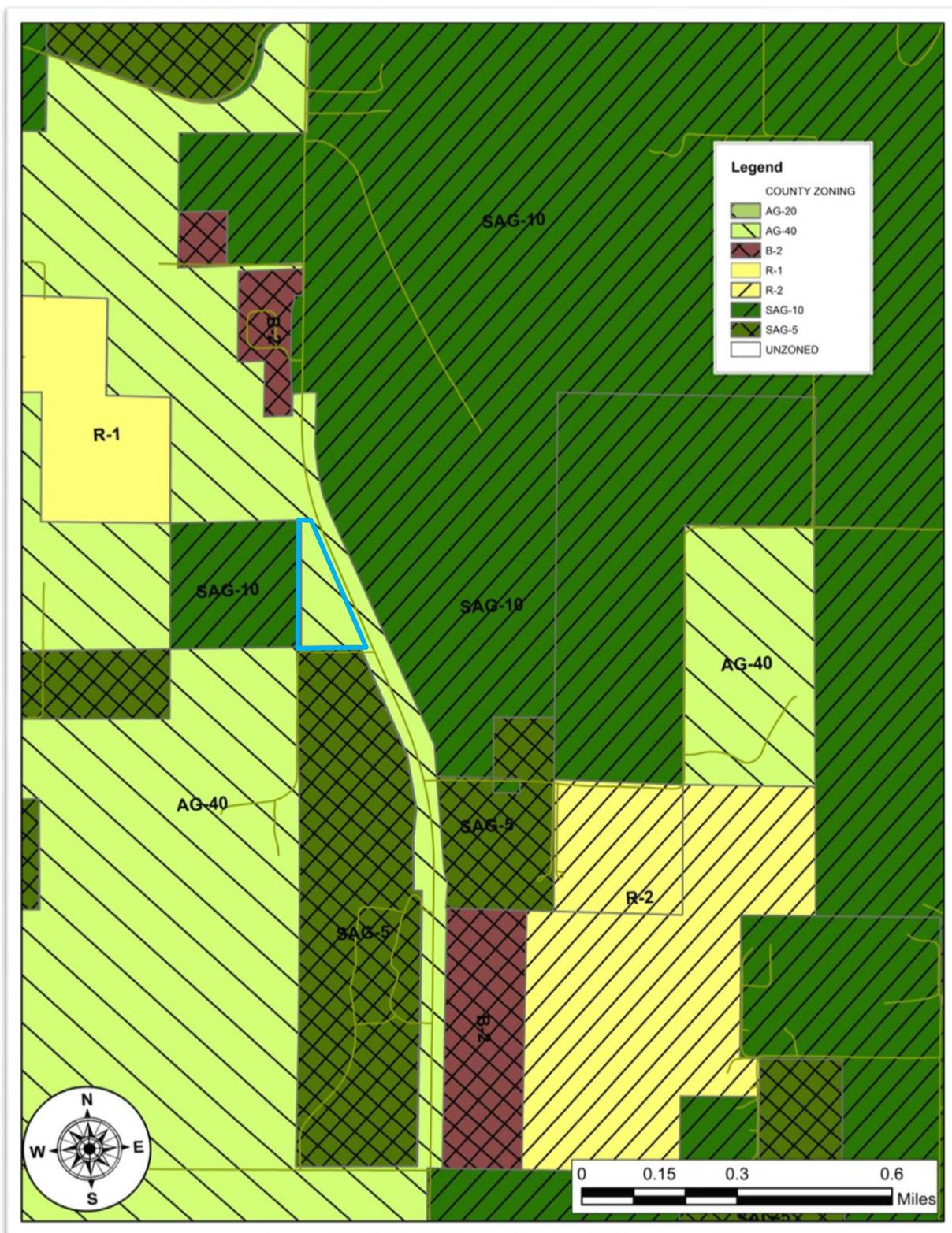


## C. Proposed Zoning Map Amendment

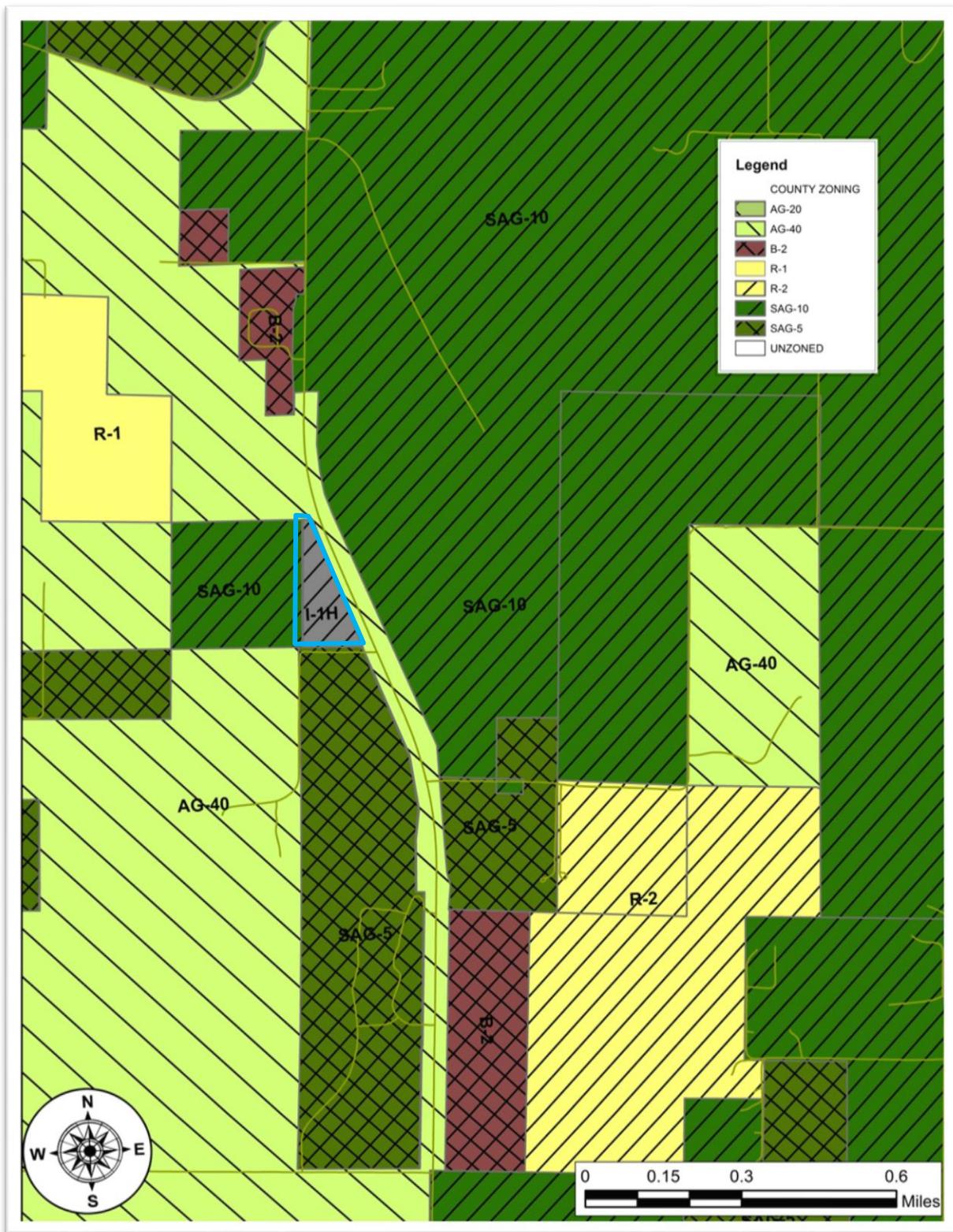
The subject property is located within the Highway 93 North Zoning District and is currently zoned 'AG-40 Agricultural' (see Figure 2 below). The AG-40 designation is defined in Section 3.05 of the Flathead County Zoning Regulations (FCZR) as a *“District to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to, residential development.”*

As depicted in Figure 3 below, the applicant has requested the zoning map amendment for the property to be zoned 'I-1H Light Industrial - Highway,' defined in Section 3.28 FCZR as a *“District to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial and non-specified commercial uses within the district be prevented other than those listed herein. The district is intended for industrial areas which are located along state and federal highways and contain greater levels of performance and mitigation utilizing increased setbacks, landscape buffering, access control and signage restriction for the purpose of protecting the County’s major travel ways from unnecessary encroachments, limiting access points to encourage improved traffic flows and to preserve scenic corridors and entrance ways to major communities.”*

**Figure 2:** Current zoning applicable to subject property (highlighted in blue).



**Figure 3:** Proposed zoning applicable to subject property (highlighted in blue).



**D. General Character of and Reason for Amendment**

The property is relatively flat, partially located within the 100 year floodplain and adjacent to the Flathead County Landfill. The Flathead County Landfill recently informed the applicant that the expansion plans for the landfill do not include their property but is part of the ‘Landfill Transition Area’ of the applicable neighborhood plan. The applicant would like to move forward with a legal boat storage facility on the property. This request for a zoning map amendment is a result of a pending floodplain violation file. The applicant was constructing buildings for commercial boat storage in a floodplain without a permit. During the investigation staff determined that there was both a floodplain and zoning violation on the property as the commercial boat storage is not a permitted or conditional use in the current AG-40 designation. The proposed zone change would bring the existing use into compliance as it is a permitted use within the I-1H designation.

**Figure 4:** Aerial view of subject property (highlighted in yellow)



**E. Adjacent Zoning and Character of the Overall Zoning District**

The subject property is located within the Highway 93 North Zoning District and surrounded by suburban agricultural, and agricultural zones (see Figure 2), also in the immediate vicinity of the proposal is residential and business designations. The subject property is bordered to the north and southwest by ‘AG-40 Agricultural,’ to the east and west by ‘SAG-10 Suburban Agricultural’ and to the south by ‘SAG-5 Suburban Agricultural.’

The character of the area surrounding the subject property is a mixture of residential, agricultural commercial and industrial. A ¼ mile to south of the subject property is



**i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.**

The intent of the currently existing ‘AG-40 Agricultural’ zone is to protect and preserve agricultural land for the performance of a wide range of agricultural functions. The proposed ‘I-1H Light Industrial - Highway’ zone is intended to provide areas for light industrial uses and service that typically do not create objectionable by-products which extend beyond the lot lines. A substantial difference between the existing and proposed zoning regards the applicable bulk and dimensional requirements, minimum lot size in the proposed I-1H zoning is 1 acre in comparison to the 40 acre minimum lot size of the current zoning.

The subject property is bordered to the north and southwest by ‘AG-40 Agricultural,’ to the east and west by ‘SAG-10 Suburban Agricultural’ and the south by ‘SAG-5 Suburban Agricultural.’ The character of the area surrounding the subject property is a mixture of residential, agricultural commercial and industrial. A ¼ mile to south of the subject property is Montana Raceway Park and Majestic Valley Arena and to the north is the county landfill and B-2 zoning that includes a restaurant, offices and a yoga studio. The scale of the area appears to be larger because of the high speeds on the highway and the neighboring uses generally require large tracts of land.

The Flathead County Landfill is located adjacent to the subject property in the AG-40 zone. Comment received from the Flathead County Solid Waste states, “Minimizing residential development immediately adjacent to the facility was and still is a very important desire to the District.” Storage of boats and other allowed uses within the I-1H designation appears to be a compatible and complementary to the continued operation of the landfill as it will not move new residents into the area.

**ii. The Zoning Applies To A Small Area Or Benefits A Small Number Of Separate Landowners.**

The zoning map amendment would apply to one tract of land owned by one landowner. Using standard ArcGIS software the subject property is located within an approximately 3,386.4 acre AG-40 district of which approximately 10.8 acres (0.3%) of the AG-40 district is being proposed for a zoning map amendment. To the south of the subject property is a SAG-5 district of approximately 139.5 acres, to the east of the subject property is SAG-10 district approximately 3562.6 acres in size and to the west of the subject property is a SAG-10 district approximately 39.4 acres in size. Less than a quarter mile to the north of the subject property are two B-2 districts 6.5 and 16.1 acres in size. The new I-1H zoning district would apply to a one landowner and be dissimilar in size to the existing AG-40 and SAG-10 district, however it would be similar in size to the SAG-10 to the west and B-2 districts to the north.

**iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.**

The subject property is located within the Riverdale Neighborhood Plan and is designated as ‘Landfill Transition’ on the Future Land Use Map. The Riverdale

Neighborhood Plan states, “Uses in the Landfill Transitional area category include uses compatible with and/or complementary to the continued operation and future expansion of the Flathead County Landfill. These uses include light industrial type development including warehouses, light assembly and manufacturing, high tech industrial businesses, and recycling plants and residential lots not less than 20 acres.” The plan goes on to say that, “The zoning which are consistent with the Landfill Transition include agricultural (SAG-5, SAG-10, AG-40) districts, Light Industrial (I-1H (except accessory apartments), and I-2).”

The applicant is proposing a zone change from AG-40 to I-1H, a zoning designation that is specifically contemplated by the Riverdale Neighborhood Plan for the Landfill Transition area. The Riverdale Neighborhood Plan is the result of a comprehensive planning effort of the Riverdale residents to plan for future growth to promote efficient and coordinated development in their neighborhood plan area. Therefore, the proposed zone change cannot be special legislation designed to benefit only one landowner at the expense of the surrounding landowners or general public.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

**Finding #1:** The proposed zoning map amendment to I-1H from AG-40 does not appear to be at risk of spot zoning because the Riverdale Neighborhood Plan supports the zoning map amendment, the proposed district would be comparable in size to other zoning districts, and the use does not significantly differ from prevailing uses in the area.

#### **F. Public Services and Facilities**

Sewer:	Individual septic system
Water:	Individual septic system
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Whitefish School District (K-12)
Fire:	West Valley Fire District
Police:	Flathead County Sheriff’s Office

#### **G. Criteria Used for Evaluation of Proposed Amendment**

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

#### **H. Compliance With Public Notice Requirements**

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on August 19, 2013. Legal notice of the Planning Board public hearing on this application was published in the August 25, 2013 edition of the Daily Interlake.

Public notice of the October 7, 2013 Board of County Commissioners public hearing regarding the zoning map amendment was physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A] on August 14, 2013. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

## **I. Agency Referrals**

Referrals were sent to the following agencies on July 22, 2013:

- Bonneville Power Administration
  - Reason: BPA has requested that anytime agency referrals are sent they receive a copy.
- City of Whitefish Planning Department
  - Reason: The subject property is located near the City of Whitefish.
- City of Kalispell Planning Department
  - Reason: The subject property is located one mile north of the City of Kalispell.
- Montana Fish, Wildlife, and Parks
  - Reason: Increased development as a result of the zoning map amendment may impact wildlife in the area.
- Flathead City-County Health Department; Environmental Health Services
  - Reason: Increased development as a result of the zoning map amendment may necessitate review by the Department.
- Flathead County Public Works/Flathead County Road Department
  - Reason: The zone change request has the potential to impact County infrastructure.
- Flathead County Sheriff
  - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing public services.
- Flathead County Solid Waste
  - Reason: The type and amount of solid waste resulting from uses permitted within the requested the zoning classification could have an impact on existing public services, and the property is located adjacent to the county landfill.
- Flathead County Weeds and Parks Department
  - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing public services.
- Montana Department of Transportation (MDT)
  - Reason: The zone change request has the potential to impact MDT infrastructure.
- West Valley Fire District

- Reason: The subject property is located within the jurisdiction of the local fire district and increased development as a result of the zoning map amendment could impact the level of service available.

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for September 11, 2013 and/or the Commissioner's Public Hearing scheduled October 7, 2013. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

#### **B. Agency Comments**

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

- Bonneville Power Administration
  - Comment: "BPA has no objection to the proposed change to the approval of this request at this time." Letter dated 07/30/13.
- Flathead City-County Health Department
  - Comment: "The proposed development may require further review depending on the proposed property use. A portion of the property lies within the Regulated Flood Hazard Area (previously referred to as the 100 year floodplain) limiting onsite wastewater disposal placement. Should development require onsite wastewater disposal, Environmental Health must be contacted for onsite evaluation." Letter dated 08/09/13.
- Flathead County Solid Waste
  - Comment: "Your Property is included in the Landfill Transition Area of the Riverdale Neighborhood Plan. That area calls for uses that are compatible with future expansion of the landfill such as light industrial type development. It is my understanding that you desire to expand your storage facility business. The Flathead County Solid Waste District is currently working on an expansion project to secure disposal capacity for up to 100 years of our residents and businesses. The two expansion areas we are investigating are the 14 properties in our southwest corner and the agricultural property immediately west of the landfill, west of Prairie View Road. We do not intend on expanding the landfill on our southern boundary where your property is located. The Landfill Transition Area is important to the District. When the neighborhood plan was created we provided input when requested and worked with the County Planning Department. Minimizing residential development immediately adjacent to the facility was and still is a very important desire to the District." Letter to applicant dated 04/16/13, submitted with the application.

- Flathead County Road & Bridge Department
  - Comment: “The County Road Department does not have any comments regarding this request.” Letter dated 07/25/13.
- Montana Fish, Wildlife and Parks
  - Fisheries Comment: “No comment on proposed zone change request.” Letter received 07/23/13.
  - Wildlife Comment: “No comment on proposed zone change request.” Letter received 07/23/13.
- Montana Department of Transportation
  - Comment: “I do not have any comment regarding this proposal.” Email dated 08/08/13.

#### IV. EVALUATION OF PROPOSED AMENDMENT

##### A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have certain land uses that are allowed “by-right.” A build-out analysis is performed to examine the maximum potential impacts of full build-out of those “by-right” uses. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not “best-case” or “worst case” scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

##### i. Current Zoning

As previously stated, the subject property is currently zoned ‘AG-40 Agricultural’ district is defined in Section 3.05.010 of the Flathead County Zoning Regulations (FCZR) as a, “*District to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to, residential development.*” The following is a list of permitted uses in an ‘AG-40’ zone:

1. Agricultural/horticultural/silvicultural use.
2. Cellular Tower.
3. Class A and Class B manufactured home.
4. Cluster housing.
5. Dairy products processing, bottling, and distribution.
6. Day care home.
7. Dwelling, single-family.
8. Guest house.
9. Fish hatchery.
10. Home occupation.
11. Homeowners park and beaches.
12. Kennel.
13. Nursery, landscaping materials.
14. Park.

15. Produce stand.
16. Public transportation shelter station.
17. Public utility service installation.
18. Ranch employee housing.
19. Stable, riding academy, rodeo arena.

The following uses are listed as conditional uses in an 'AG-40' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airport.
2. Animal farm.
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker's facility.\*
7. Cemetery, mausoleum, columbarium, crematorium.
8. Church and other place of worship.
9. Communication tower/mast.
10. Community center building operated by a non-profit agency.
11. Contractor's storage yard (See Chapter IV – Conditional Use Standards).\*
12. Dwelling, family hardship.\*
13. Electrical distribution station.
14. Extractive industry.
15. Feed and seed processing and cleaning.
16. Feed lot: cattle, swine, poultry
17. Landfill, sanitary for disposal of garbage and trash.
18. Radio and television broadcast studio.
19. Recreational facility, low-impact.
20. Rifle range.
21. School, primary and secondary.
22. Temporary building or structure.\*
23. Water and sewage treatment plant.
24. Water storage facility.

Bulk and dimensional standards under AG-40 zoning require minimum setbacks of 20 feet from the front, side, rear and side-corner property boundaries for all principal structures, while setbacks for accessory structures require 20 foot setbacks from front and side-corner property boundaries and 5 foot setbacks from side and rear property boundaries. Additionally there are provisions for lesser setbacks for non-conforming lots when the width of the lot is less than 200 feet and 150 feet. Setbacks of 20 feet are required from streams, rivers and unprotected lakes that do not serve as property boundaries, and an additional 20 feet from county roads classified as collector or major/minor arterials. The maximum allowable building height is 35 feet for all structures, and the permitted lot coverage is 20%.

Due to size of the existing 10.80 acre lot and the 40 acres minimum lot size, the properties could not be divided further. Currently the property contains five

storage buildings which the applicant is currently using for commercial boat storage, a zoning violation.

**ii. Proposed Zoning**

The proposed zoning map amendment would change the zoning designation on the subject property from ‘AG-40 Agricultural’ to ‘I-1H Light Industrial-Highway.’ I-1H is defined in Section 3.27 FCZR as a, “*District to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial and non-specified commercial uses within the district be prevented other than those listed herein. The district is intended for industrial areas which are located along state and federal highways and contain greater levels of performance and mitigation utilizing increased setbacks, landscape buffering, access control and signage restriction for the purpose of protecting the County’s major travel ways from unnecessary encroachments, limiting access points to encourage improved traffic flows and to preserve scenic corridors and entrance ways to major communities.*” The following is a list of permitted uses in an ‘I-1H Light Industrial - Highway’ zone:

1. Accessory apartments.
2. Animal related services such as pet grooming and training, veterinary clinic and animal hospital, taxidermy, aviary and farrier services.
3. Art foundry.
4. Auction yard, without livestock.
5. Automobile, RV, watercraft (new and used) and accessory sales.
6. Automobile service station.
7. Boat sales, new and used.
8. Bus station.
9. Car wash.
10. Cellular tower.
11. Church and other place of worship.
12. Contractors’ storage yard and building supply outlets.
13. Day care center.
14. Direct mailing and telemarketing.
15. Farm equipment sales.
16. Feed, seed and farm supply, including grain elevators.
17. Financial institution.
18. Food store, supermarket, and delicatessen.
19. Health club.
20. Heating, ventilation, air conditioning and plumbing sales, service and repair.
21. Heavy equipment sales, rental and service.
22. High tech industrial business.
23. Hotel, motel.
24. Janitorial service.
25. Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts

beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:

- A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.
  - B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment; and boat building.
  - C. Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.
  - D. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.
  - E. Storage and warehousing such as mini-storage, boat and vehicle storage.
26. Lodge and fraternal and social organization, provided that any such establishments shall not be conducted primarily for gain.
  27. Lumber yard, building materials; storage and sales.
  28. Manufactured home sales and storage.
  29. Nursery and landscape materials, wholesale and retail.
  30. Office.
  31. Parcel delivery services.
  32. Parks and publicly owned recreational facility.
  33. Public transportation shelter station.
  34. Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)
  35. Quasi-public building (fire station, government office, etc.)
  36. Radio and television broadcast station.
  37. Recreational facility, high-impact.
  38. Recreational facility, low-impact.
  39. Recreational vehicle park.
  40. Recycling drop-off station.
  41. Rental store and yard.
  42. Research laboratory and institutions.
  43. Retail sales and services.
  44. Restaurant.
  45. Security guard services.
  46. Theater, housed in permanent indoor structure.
  47. Tire recapping and retreading.
  48. Truck terminal.
  49. Wholesale trade and warehousing.

The following uses are listed as conditional uses in an 'I-1H Light Industrial-Highway' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Auction yard, livestock.
2. College, business school, trade school, music conservatory, dance school.

3. Commercial caretaker's facility in a detached accessory building in conjunction with a business.\*
4. Commercial recreation areas.
5. Communication tower/mast.
6. Convention hall facility.
7. Electrical distribution station.
8. Golf driving range and putting courses.
9. Landfill, sanitary for disposal of garbage and trash.
10. Mini-storage, RV storage.
11. Mortuary.
12. Radio and television broadcast station.
13. Recycling processing plant.
14. Tavern.
15. Temporary building or structure.\*
16. Water storage facility.

The bulk and dimensional standards under I-1H zoning require a minimum yard requirement of 20 feet from the front, rear and side-corner yards, and 10 feet from the side. When a property abuts the following features, the abutting setback shall be increased to the following: direct highway access is 100 feet, highway with no access 35 feet, direct access on county road 50 feet and 50 feet from the high water mark of a stream. The property is located adjacent to the highway but the applicant has stated the primary access will be off McDermott Lane and access off U.S. Highway 93 will be for emergencies. Therefore the setback from the highway would be 35 feet. The current buildings on the property appear to meet the setback requirements of I-1H.

The maximum allowable building height is 40 feet for all structures and there is no restricted lot coverage in I-1H. The minimum lot size in an I-1H zone is 1 acre. Development standards anticipate approximately 30% of the total land area being allocated to infrastructure. Thus under the proposed zoning the subject property could potentially be divided in a manner resulting in a total of 7 individual industrial lots; however environmental constraints may preclude that number of units from actually being able to be developed. The development of 7 lots on the subject property seems unlikely as the applicant is using the property for boat storage. Further, the subject property could potentially be independently divided, through various means including subdivision process and multiple principal uses may be allowed on a single lot in an I-1H zoning district upon the issuance of a Conditional Use Permit, per Section 3.03.020(3).

In summary, the requested zone change from AG-40 to I-1H has the potential to increase density through subsequent division in the future. The bulk and dimensional requirements vary from AG-40 to I-1H and the zoning map amendment would introduce uses to the subject property and general area that are typical of industrial zoning districts and which are not similar to uses that are allowed under the existing agricultural zoning on the property and zoning designations of the surrounding areas. However, infrastructure exists to handle traffic and current and future expansion of

the landfill make uses other than commercial and industrial on the subject property undesirable.

**B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

**i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally, the property is located within the Riverdale Neighborhood Plan, adopted on November 28, 2007 by the Flathead County Commissioners (Resolution #2015 D).

**1. Flathead County Growth Policy**

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Agricultural.’ The proposed Light Industrial Highway zoning classification would appear to contrast with the current Agricultural designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

- ❖ G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.
- ❖ G.5 – Adequate industrial land in area that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.
  - The applicant is proposing an industrial zone adjacent to the Flathead County Landfill on Highway 93 between the cities of Whitefish and Kalispell.

- P.5.2 – Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent land uses.
  - The applicant is proposing an industrial zone adjacent to the Flathead County Landfill on Highway 93. Furthermore, the property owner was issued a Floodplain Development Permit on August 27, 2013, allowing for the placement of fill for future building construction, and excavation to create a pond that equals or exceeds the volume of water displaced by the placement of the fill material and a base flood elevation (BFE) was established. Additionally the existing buildings are located above the BFE.
- P.5.5 – Restrict industrial uses that cannot be mitigated near incompatible uses such as residential, schools, environmentally sensitive areas such as wetlands, floodplains, riparian areas, areas of shallow groundwater, etc.
  - The applicant is proposing an industrial zone adjacent to the Flathead County Landfill on Highway 93. A portion of the property is located within the 100 year floodplain; however the property owner was issued a Floodplain Development Permit on August 27, 2013, allowing for the placement of fill for future building construction, and excavation to create a pond that equals or exceeds the volume of water displaced by the placement of the fill material and a base flood elevation (BFE) was established. Additionally the existing buildings are located above the BFE.
- P.10.2 – Discourage development within the 100-year floodplain that displaces floodwaters to neighboring properties.
  - A portion of the property is located within the 100 year floodplain; however the property owner was issued a Floodplain Development Permit on August 27, 2013, allowing for the placement of fill for future building construction, and excavation to create a pond that equals or exceeds the volume of water displaced by the placement of the fill material and a base flood elevation (BFE) was established. Additionally the existing buildings are located above the BFE.
- ❖ G.14 – Solid Waste collection facility operation and landfill expansion free from land use conflicts with adjacent property owners.
  - P.14.1 – Identify a 1,320 foot buffer surrounding the landfill and designate this area only for those land uses compatible with current and future landfill activities. Compatible uses types such as industrial should be encouraged in this buffer.
    - The property is located adjacent to the landfill and the proposed light industrial - highway use is a compatible zone. According to the applicant, “Tract 2 G measures 1312.52 feet north to south, and consequently the entire tract is within the recommended ¼ mile landfill buffer area.”

- ❖ G.21 – A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector investments.
  - P.21.1 – Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.
    - The proposed zone change will allow for entrepreneurialism.
  - P.23.2 – Limit private driveways from directly accessing arterials and collector roads to safe separation distances.
    - Even though the property is located on Highway 93, the property’s primary access will be via McDermott Lane a paved public road classified as local not via U.S. Highway 93.
- ❖ G.32 – Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.
- ❖ G.33 – Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.
- ❖ G.38 – Preserve and protect floodplains to ensure the safety of residents from flood hazards and to prevent the degradation of water quality and critical wildlife habitat.
  - P.38.3 – Discourage development in floodway and floodway fringe that may result in a net increase in the floodplain area.
  - P.38.5 – Discourage development that displaces floodwaters within the 100-year floodplain.
    - A portion of the property is located within the 100 year floodplain; however the property owner was issued a Floodplain Development Permit on August 27, 2013, allowing for the placement of fill for future building construction, and excavation to create a pond that equals or exceeds the volume of water displaced by the placement of the fill material and a base flood elevation (BFE) was established. Additionally the existing buildings are located above the BFE.
- ❖ G.46 – Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.
  - The Riverdale Neighborhood Plan identifies the subject property as ‘Landfill Transition’ on the Future Land Use Map. The ‘Landfill Transition’ specifically contemplates I-1H. This report contains further discussion on the Riverdale Neighborhood Plan below.

The proposed zoning amendment is located adjacent to the landfill and will reduce the chances of incompatible uses being located next to the landfill. The applicant has recently obtained a floodplain permit because the property is located within a designated as Floodplain Zone A. The request would allow for light industrial – highway uses and services that typically do not create

objectionable by-products such as dirt, noise, glare, heat, odor and smoke. The proposed map amendment would not create an unreasonable burden on the ability of the school district to provide quality education, would likely allow for emergency service to maintain a consistently high level of fire, ambulance and police services.

**Finding #2:** The proposed zoning map amendment to I-1H from AG-40 complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the ‘Agriculture’ land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.

## **2. Riverdale Neighborhood Plan**

The subject property is located within the Riverdale Neighborhood Plan (Neighborhood Plan) which is primarily composed of the text, goals & policies and map. The Neighborhood Plan serves as a localized planning tool for the Riverdale area, and the Neighborhood Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level.

The Riverdale Neighborhood Plan Map identifies the subject property as ‘Landfill Transition’ on the Future Land Use Map. The Riverdale Neighborhood Plan states, “Uses in the Landfill Transitional area category include uses compatible with and/or complementary to the continued operation and future expansion of the Flathead County Landfill. These uses include light industrial type development including warehouses, light assembly and manufacturing, high tech industrial businesses, and recycling plants and residential lots not less than 20 acres.” The plan goes on to say that, “The zoning which are consistent with the Landfill Transition include agricultural (SAG-5, SAG-10, AG-40) districts, Light Industrial (I-1H (except accessory apartments), and I-2).” The applicant is proposing a zone change from AG-40 to I-1H, a zoning designation that is specifically contemplated by the Riverdale Neighborhood Plan for the Landfill Transition area, and would therefore comply with both the texts and future land use map.

A variety of goals and policies within the text of the Neighborhood Plan have been found to generally support the requested zoning map amendment.

- ❖ Goal 8 – Provide opportunities for commercial and light industrial development in the designated Landfill Transition area.
  - The applicant is proposing a light industrial - highway zoning on the subject property.
- Policy 8.2 – Encourage light industrial, commercial, and warehousing developments which are visually screened with landscaping adjacent to U.S. 93 and buffered from surrounding community.
  - The applicant is proposing a light industrial – highway zoning on the subject property, in order to provide storage for boats. The I-1H zone requires landscaping and screening along the Highway.

- Policy 8.3 – All development in the Landfill Transition Area should limit points of ingress and egress onto U.S. 93
  - The subject property currently has two access points on the north via U.S. Highway 93 and on the south via McDermott Lane. The applicant has stated that the primary access will be from McDermott Lane. The access via U.S. Highway 93 will remain but function as an emergency access.
- ❖ Goal 11 – Safe and clean sanitary and water supply for all residents free from threats and degradation and depletion.
  - The commercial boat storage on the property will not require any water or wastewater services and therefore will likely not impact the water supply for all residents and other types of development in I-1H will require DEQ review. The definition of I-1H states, “A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines.”
- ❖ Goal 12 – Safe and efficient traffic circulation on roads serving the neighborhood.
  - Policy 12.1 – Direct accesses of private driveways onto U.S. Highway 93 or arterial roads are prohibited.
    - The subject property currently has two access points on the north via U.S. Highway 93 and on the south via McDermott Lane. The applicant has stated that the primary access will be from McDermott Lane. The access via U.S. Highway 93 will remain but function as an emergency access.

The proposed zoning map amendment from AG-40 to I-1H appears to comply with the future land use map, texts and goals and policies of the Riverdale Neighborhood Plan.

**Finding #3:** The proposed zoning map amendment to I-1H from AG-40 appears to comply with the Riverdale Neighborhood Plan because the proposed industrial development is compatible with the future land use map designation of ‘Landfill Transition’, texts and goals and policies.

**ii. Whether the proposed map amendment is designed to:**

**1. Secure safety from fire and other dangers;**

The subject property is located within the West Valley Fire District and the nearest fire and emergency response center is located approximately 3.3 miles southeast of the property on Whitefish Stage Road halfway between Rose Xing and Tronstad Road. The West Valley Fire Department would respond in the event of a fire or medical emergency.

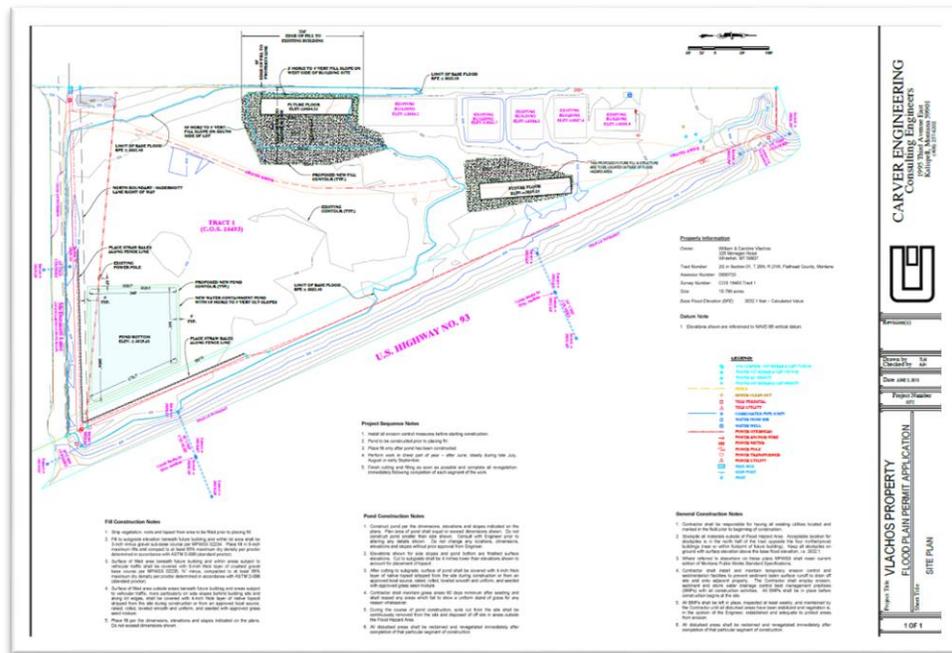
The north half of the subject property is located in the Wildland Urban Interface (WUI). According to the Flathead County Growth Policy, “the WUI is commonly described as the zone where structures and other human development meet and intermingle with undeveloped forests. This WUI zone

is comprised of private and public lands and can pose risks to life, property, and infrastructure in associated communities if not mitigated.” The subject property is devoid of forested area and is open space. The applicant has planted a few trees adjacent to the highway but those are a couple hundred feet from the structures, in an otherwise vacant area.

Primary access to the property is via McDermott Lane and emergency access is via Highway 93. U.S. Highway 93 is a paved four lane divided highway, and McDermott Lane is a paved county road classified as local by the Flathead County Functional Road Classification Map adopted on March 14, 2013.

The subject property appears to be mapped as both Zone X, areas determined to be outside the 0.2% annual chance floodplain and Zone A, areas subject to inundation by the 1% annual chance flood, with no base flood elevation determined on FEMA FIRM Panel 30029C 1415G. The property owner was issued a Floodplain Development Permit on August 27, 2013, allowing for the placement of fill for future building construction, and excavation to create a pond that equals or exceeds the volume of water displaced by the placement of the fill material and has established a BFE for the floodplain. The existing buildings are located above the BFE and the pond was designed by an engineer.

**Figure 6:** Site Plan



**Finding #4:** The proposed map amendment would secure safety from fire and other dangers because the properties are located within the West Valley Fire District and is just about 3.3 road miles from the nearest fire station, the subject property would provide access for emergency vehicles via a public road and a secondary emergency access via Highway 93, the property owner

has obtain a Floodplain Development Permit, a base flood elevation has been established, the existing buildings are outside the floodplain and even though the property is located in the WUI the property is devoid of forest.

**2. Promote public health, public safety, and general welfare;**

The property is located within the West Valley Fire District which provides fire and emergency medical services and the Flathead County Sheriff's Department provides police services to the subject property. I-1H designation is defined as, "A district to provide areas for light industrial uses and service uses the typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors some etc.) which extend beyond the lot lines," per Section 3.28.010 FCZR. The applicant has stated the property is used for boat storage, and as such it is not anticipated to adversely impact public health, safety or general welfare. If the applicant does not use the property for commercial boat storage, permitted and conditional uses in I-1H and the Flathead County Floodplain and Floodway Management Regulations would serve to protect and promote public health, safety and general welfare.

**Finding #5:** The proposed zoning map amendment from 'AG-40 Agricultural' to 'I-1H Light Industrial - Highway' appears to not have a negative impact on public health, safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and future development would comply with the permitted and conditional uses in an impact mitigating I-1H zone and the floodplain regulations.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

While potential additional industrial development on the subject property may be accomplished through a subsequent process, it is anticipated substantial future development would require additional review, at which time specific impacts to transportation, water and sewer services, would be considered and mitigated as determined to be appropriate. However, this zone change request is also an opportunity to assess if the property could handle impacts associated with the proposed zone change.

Primary access to the property is via McDermott Lane and emergency access is via Highway 93. U.S. Highway 93 is a paved four lane divided highway, and McDermott Lane is a paved county road classified as local. However, McDermott Lane is a short dead end road and only intersects U.S. Highway 93. It is anticipated that all traffic generated by the zoning map amendment would eventually end up on U.S. Highway 93.

The 2011 Montana Traffic Flow Map indicates an average annual daily traffic to be 15,623 vehicle trips per day on U.S. Highway 93 between Kalispell and Whitefish. The use of the property is commercial boat storage and will remain boat storage after the zone change. Staff utilized the Institute of Transportation Engineers 5<sup>th</sup> Edition of Trip Generation to determine the average daily trip (ADT) generation for a mini-warehouse. Mini-warehouse is described as a, "Building in which a storage unit or vault is rented for the

storage of goods.” Mini-warehouse is the most similar use listed to commercial boat storage. According to the Trip Manual the average trip generation rate on a weekday for mini-warehouse is 39.97 per acre. The subject property is approximately 10.8 acres in size; therefore the use could potentially generate an additional 432 ADT, which would contribute to an increase of 2.8% ADT on U.S. Highway 93. However, about half the property is located within the floodplain, therefore about only half the property could be utilized for boat storage. The proposed use would likely generate 216 ADT or an increase of 1.4% ADT

If the property were to be sold and the zone change is approved other potential uses on the property would be permitted. A fraternal lodge could generate 0.29 ADT per member, assuming 250 members the use would generate 73 ADT. A light industrial uses would generate 51.80 ADT per acre, so the subject property using half of the lot outside the floodplain would generate 280 ADT. A truck terminal would generate 81.86 ADT per acre, so the subject property using the entire tract would generate 844 ADT. Manufacturing would generate 38.88 ADT per acre, so the subject property using half of the lot outside the floodplain would generate 210 ADT. A lodge could potential increase traffic on Highway 93 by 0.5% and a truck terminal has the potential to increase traffic on Highway 93 by 5.4%. All these uses would likely trigger a review by MDT as it would be a change in use.

It is anticipated that because U.S. Highway 93 is paved four-lane highway it would be capable of handling the increased traffic from the proposed zone change. Comment received from the Montana Department of Transportation states, “I do not have any comment regarding this proposal,” which usually means MDT has no issue with the proposal.

The application states, “The proposed use on the subject tract – boat storage – does not require water supply or sewage treatment and disposal except for possibly the caretaker’s abode, which would utilize the existing well and septic system that previously served a mobile home located at the north end of the parcel and presently serves the northerly-most building on the property.” According to the Flathead City-County Health Department, “The proposed development may require further review depending on the proposed property use. A portion of the property lies within the Regulated Flood Hazard Area (previously referred to as the 100 year floodplain) limiting onsite wastewater disposal placement. Should development require onsite wastewater disposal, Environmental Health must be contacted for onsite evaluation.”

While the subject property is located within the Whitefish School District, the proposed industrial use would not generate any school children. The zoning map amendment from ‘AG-40 Agricultural’ to ‘I-1H Light Industrial - Highway’ would not impact the existing park system because no demand on existing parks would be created.

**Finding #6:** The subject property appears to facilitate the adequate provision of transportation because the proposal would include two separate approaches,

the primary access is via local county road and emergency access is via U.S. Highway 93 and no comment from MDT indicates MDT has no problems with the proposal.

**Finding #7:** The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools and parks and other public requirements by utilizing existing septic systems, and the existing well for a caretaker's abode, further review may be required by Flathead City-County Environmental Health for a change in use and the proposal would not generate school children or impact parks.

**iii. In evaluating the proposed map amendment, consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

Currently the property within the proposed zoning map amendment is developed with five buildings all currently used for commercial boat storage and the rest of the property is open space. While the proposed zoning map amendment has the potential to increase development density on the subject property, any additional lots created would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot size requirements of the I-1H zoning classification. The bulk and dimensional requirements for I-1H designation are different to those of the existing AG-40 designation.

All buildings will be under the maximum building height requirement of 40 feet for I-1H. Permitted lot coverage within the I-1H designation is not applicable and the minimum lot area is 1 acre. The bulk and dimensional standards under I-1H require a minimum yard requirement of 20 feet from the front, rear and side-corner yards, and 10 feet from the side. The property is located adjacent to the highway but the applicant has stated primary access will be off McDermott Lane and not U.S. Highway 93. Therefore the setback from the highway for the subject property would be 35 feet and the setback from McDermott Lane is 50 feet. Setbacks within the I-1H designation from roadways are generally greater than the AG-40, which would provide for reasonable provision of light and air.

**Finding #8:** The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the I-1H designation, and setbacks within the I-1H designation from roadways are generally greater than the existing AG-40.

**2. The effect on motorized and non-motorized transportation systems;**

The subject property has two existing approaches one is via U.S. Highway 93 and the other is via McDermott Lane. U.S. Highway 93 is a paved four lane divided highway, and McDermott Lane is a paved county road classified as local by the Flathead County Functional Road Classification Map adopted on March 14, 2013. The applicant has stated that the primary access will be off McDermott Lane and not U.S. Highway 93. However, McDermott Lane is a short dead end road with the only access via U.S. Highway 93. It is

anticipated that all traffic generated by the zoning map amendment would flow onto U.S. Highway 93.

The 2011 Montana Traffic Flow Map indicates an average annual daily traffic to be 15,623 vehicle trips per day on U.S. Highway 93 between Kalispell and Whitefish. The use of the property is commercial boat storage and will remain boat storage after the zone change. Staff utilized the Institute of Transportation Engineers 5<sup>th</sup> Edition of Trip Generation to determine the average daily trip (ADT) generation for a mini-warehouse. Mini-warehouse is described as a, "Building in which a storage unit or vault is rented for the storage of goods." Mini-warehouse is the most similar use listed to commercial boat storage. According to the Trip Manual the average trip generation rate on a weekday for mini-warehouse is 39.97 per acre. The subject property is approximately 10.8 acres in size; therefore the use could potentially generate an additional 432 ADT, which would contribute to an increase of 2.8% ADT on U.S. Highway 93. However, about half the property is located within the floodplain, and therefore it anticipated that about only half the property could be utilized for boat storage. The proposed use would likely generate 216 ADT or an increase of 1.4% ADT

Other potential uses on the property such as a fraternal lodge could generate 0.29 ADT per member, assuming 250 members the use would generate 73 ADT. A light industrial use would generate 51.80 ADT per acre, so the subject property using half of the lot outside the floodplain would generate 280 ADT. A truck terminal would generate 81.86 ADT per acre, so the subject property using the entire tract would generate 844 ADT. Manufacturing would generate 38.88 ADT per acre, so the subject property using half of the lot outside the floodplain would generate 210 ADT. A lodge could potential increase traffic on Highway 93 by 0.5% and a truck terminal has the potential to increase traffic on Highway 93 by 5.4%. All these uses would likely trigger a review by MDT as it would be a change in use.

It is anticipated that because U.S. Highway 93 is paved four-lane highway it would be capable of handling the increased traffic from the proposed zone change. Comment received from the Montana Department of Transportation states, "I do not have any comment regarding this proposal," which usually means MDT has no issue with the proposal.

While there are no existing bike/pedestrian facilities currently located along U.S. Highway 93 in the vicinity of the subject property, potential future development may result in development of a bike/pedestrian trail along the highway as the highway is identified in the Flathead County Trails Plan as part of a proposed connector. There appears to be adequate space for a future bicycle and pedestrian trail on the subject property.

**Finding #9:** Effects on motorized and non-motorized transportation systems appears acceptable because the traffic generated by the zoning map amendment would flow onto U.S, Highway 93 a four lane highway able to accommodate the increase of traffic, no comment from MDT indicates MDT

has no problems with the proposal and adequate spaces appears available for a future proposed bike/pedestrian facility on Highway 93.

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

The location of the proposed zoning map amendment is not directly adjacent to any city, and is located outside of any city neighborhood plan and growth policy areas. The nearest municipality is the City of Kalispell which is located approximately 1.0 mile from the property. The Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009, does not extend north of Church Drive on U.S. Highway 93. The subject property is located approximately 1.0 mile north of Church Drive and not included on the future land use map.

The City of Whitefish is located about 5.25 miles to the north and the Whitefish downtown area is approximately 7.0 miles away. The Whitefish Growth Policy Future Land Use Map, adopted by the City of Whitefish in 2007 extends about 1.5 miles south of the U.S. Highway 93 and Montana Highway 40 intersection. The subject property is located approximately 3.76 miles south of the southern boundary of the future land use map.

**Finding #10:** Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's urban growth and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on their own Kalispell Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible.

**Finding #11:** Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Whitefish's urban growth and it has been determined the map amendment is located beyond the southern extent of Whitefish's urban growth, as shown on their own Whitefish Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible.

**The character of the district(s) and its peculiar suitability for particular uses;**

The property is currently being used for commercial boat storage which is not a permitted use in the current AG-40 designation; the proposed zone change would bring the use into compliance as it is a permitted use within the I-1H designation.

The permitted and conditional uses found under the proposed 'I-1H Light Industrial - Highway' designation differ to those listed under the existing 'AG-40 Agricultural' designation. The proposed zoning map amendment would allow for the future division of the subject property, with the potential to create lots with a minimum size of 1 acre. The smaller lots would not be consistent with the character of the current zoning designation or in the immediate vicinity of the subject property.

However, the property is located adjacent to the Flathead County Landfill and the Riverdale Neighborhood Plan Map identifies the subject property as 'Landfill Transition' on the Future Land Use Map. As previously discussed, the Riverdale Neighborhood Plan states, "Uses in the Landfill Transitional area category include uses compatible with and/or complementary to the continued operation and future expansion of the Flathead County Landfill. These uses include light industrial type development including warehouses, light assembly and manufacturing, high tech industrial businesses, and recycling plants and residential lots not less than 20 acres." The plan goes on to say that, "The zoning which are consistent with the Landfill Transition include agricultural (SAG-5, SAG-10, AG-40) districts, Light Industrial (I-1H (except accessory apartments), and I-2)." The applicant is proposing a zone change from AG-40 to I-1H, a zoning designation that is specifically contemplated and determined to be desirable by the Riverdale Neighborhood Plan for the Landfill Transition area.

North of the subject property is a B-2 zone which currently contains various commercial uses. South of the property is the Majestic Valley Arena and Montana Raceway Park. Additionally many of the neighboring properties are agricultural. Even though the uses allowed in light industrial and adjacent agricultural differ they are generally not entirely incompatible in this location due to the highway character.

According to the definition of Light-Industrial Highway, "The district is intended for industrial areas which are located along state and federal highways and contain greater levels of performance and mitigation utilizing increased setbacks, landscape buffering, access control and signage restriction for the purpose of protecting the County's major travel ways from unnecessary encroachments, limiting access points to encourage improved traffic flows and to preserve scenic corridors and entrance ways to major communities." The greater levels of performance and mitigation required in the I-1H zone include several additional design standards. These design standards include; overhead doors and loading bays not placed facing the highway, a landscape buffer of 25 feet required for properties abutting a highway and 15 feet for properties abutting county roads, etc. The design standards in the I-1H zone would help to preserve the character of the district.

**Finding #12:** The character of the district where the proposed zone change will occur appears suitable for the uses in an I-1H zone because the property is located adjacent to the landfill, is compatible with the future land use designation 'Landfill Transition,' the industrial uses are generally compatible with agriculture in this particular area and the additional design standards required in an I-1H zone help preserve the character of the district.

**4. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

As previously stated, the property is located adjacent to the Flathead County Landfill and the Riverdale Neighborhood Plan Map identifies the subject property as 'Landfill Transition' on the Future Land Use Map. The applicant

is proposing a zone change from AG-40 to I-1H, a zoning designation that is specifically contemplated by the Riverdale Neighborhood Plan for the 'Landfill Transition' area, and the commercial boat storage achieves the desired use of warehousing, in the 'Landfill Transition.' According to the applicant, "The proposed zoning map amendment will encourage precisely the type of development that has been identified as the most appropriate for the area." The proposed zoning is compatible with the existing county landfill located directly to the north of the subject property.

The proposed 'I-1H Light Industrial - Highway' zone is intended for light industrial uses and services that typically does not create objectionable by-products which extend beyond the lot lines. As previously stated the definition of Light-Industrial Highway, "The district is intended for industrial areas which are located along state and federal highways and contain greater levels of performance and mitigation utilizing increased setbacks, landscape buffering, access control and signage restriction for the purpose of protecting the County's major travel ways from unnecessary encroachments, limiting access points to encourage improved traffic flows and to preserve scenic corridors and entrance ways to major communities." The levels of performance and mitigation required in the I-1H zone and the light industrial uses allowed on the property would not diminish the value of buildings and this proposed designation would seem to be an appropriate use of land in this location.

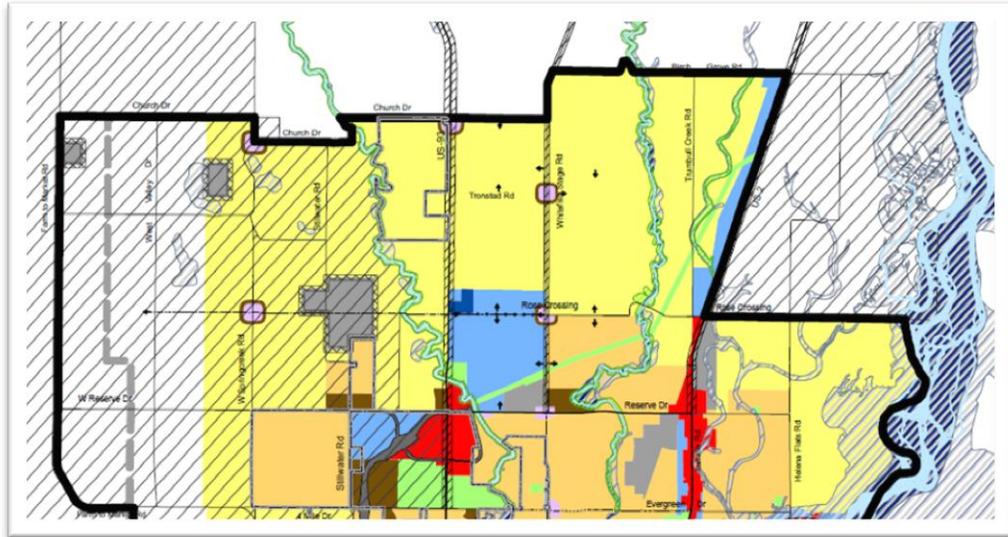
**Finding #13:** This zoning map amendment appears to encourage the most appropriate use of land in this particular location and would not diminish the value of buildings because the I-1H zone is appropriate in the landfill transition area and the light industrial uses are generally compatible with low density agriculture in this area along Highway 93.

**iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

The location of the proposed zoning map amendment is not directly adjacent to any city, and is located outside of any city growth area. The northernmost limits of the Kalispell planning area ends at Church Drive on U.S. Highway 93, see Figure 7 below. Whereas the southernmost limits of the Whitefish planning area ends approximately 1.5 miles south of the intersection of Montana Highway 40 and U.S. Highway 93, see Figure 8 below.

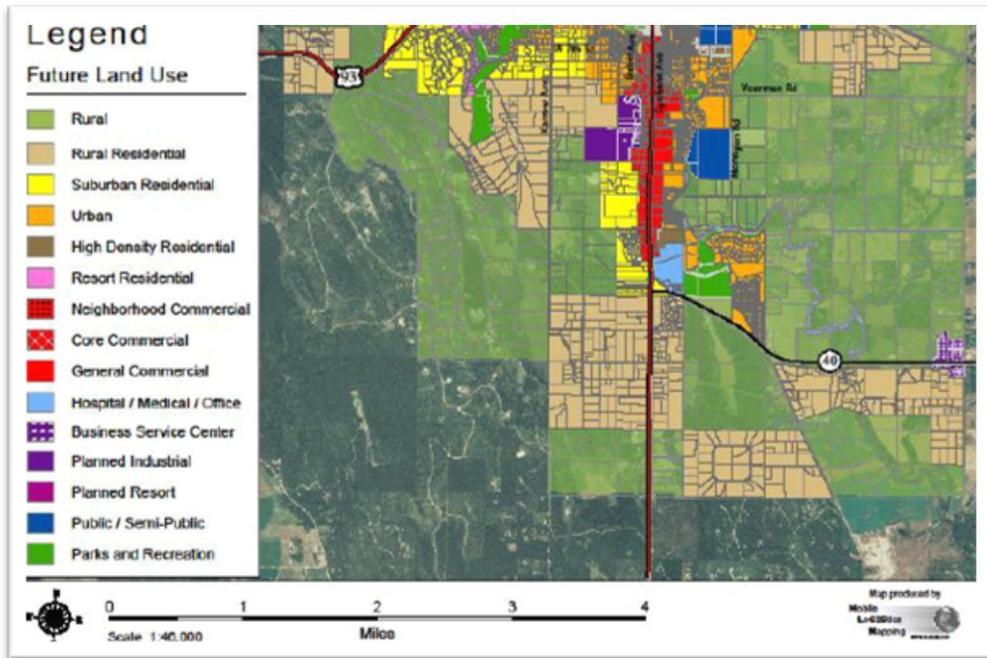
The nearest municipality is the City of Kalispell, the city limits of which are located about 1.0 mile south of the property. The downtown area of Kalispell is located over 7.0 miles from subject property. The Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009 does not extend north beyond Church Drive. The subject property is located approximately 1.0 mile north of Church Drive and not included on the Future Land Use Map. Additionally, the City of Kalispell Planning Department was sent an agency referral but has yet to provide comment on this proposal.

**Figure 7: City of Kalispell Growth Policy Future Land Use Map (Northern portion)**



The city limits of Whitefish are located about 5.25 miles to the north and the Whitefish downtown area is approximately 7.0 miles away. The Whitefish Growth Policy Future Land Use Map, adopted by the City of Whitefish in 2007 extends about 1.5 miles south of the U.S. Highway 93 and Montana Highway 40 intersection. The subject property is located approximately 5.25 miles south of Montana Highway 40 and U.S. Highway 93 intersection and therefore not included on the future land use map. Additionally, the City of Whitefish Planning Department was sent an agency referral but has yet to provide comment on this proposal.

**Figure 8: City of Whitefish Growth Policy Future Land Use Map (Southern Portion)**



**Finding #14:** Consideration has been given to the City of Kalispell’s growth plan and zoning ordinance, however it is not possible for the proposed zoning map amendment to be compatible with zoning ordinance of Kalispell because it is outside the city limits and outside the plan area, therefore no documents exist that would provide guidance on compatibility and no agency referrals were received from Kalispell.

**Finding #15:** Consideration has been given to the City of Whitefish’s growth plan and zoning ordinance, however it is not possible for the proposed zoning map amendment to be compatible with zoning ordinance of Whitefish because it is outside the city limits and outside the plan area, therefore no documents exist that would provide guidance on compatibility and no agency referrals were received from Whitefish.

## V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment to I-1H from AG-40 does not appear to be at risk of spot zoning because the Riverdale Neighborhood Plan supports the zoning map amendment, the proposed district would be comparable in size to other zoning districts, and the use does not significantly differ from prevailing uses in the area.
- 2) The proposed zoning map amendment to I-1H from AG-40 complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the ‘Agriculture’ land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.
- 3) The proposed zoning map amendment to I-1H from AG-40 appears to comply with the Riverdale Neighborhood Plan because the proposed industrial development is compatible with the future land use map designation of ‘Landfill Transition’, texts and goals and policies.
- 4) The proposed map amendment would secure safety from fire and other dangers because the properties are located within the West Valley Fire District and is just about 3.3 road miles from the nearest fire station, the subject property would provide access for emergency vehicles via a public road and a secondary emergency access via Highway 93, the property owner has obtain a Floodplain Development Permit, a base flood elevation has been established, the existing buildings are outside the floodplain and even though the property is located in the WUI the property is devoid of forest.
- 5) The proposed zoning map amendment from ‘AG-40 Agricultural’ to ‘I-1H Light Industrial - Highway’ appears to not have a negative impact on public health, safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and future development would comply with the permitted and conditional uses in an impact mitigating I-1H zone and the floodplain regulations.
- 6) The subject property appears to facilitate the adequate provision of transportation because the proposal would include two separate approaches, the primary access is via local county road and emergency access is via U.S. Highway 93 and no comment from MDT indicates MDT has no problems with the proposal.

- 7) The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools and parks and other public requirements by utilizing existing septic systems, and the existing well for a caretaker's abode, further review may be required by Flathead City-County Environmental Health for a change in use and the proposal would not generate school children or impact parks.
- 8) The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the I-1H designation, and setbacks within the I-1H designation from roadways are generally greater than the existing AG-40.
- 9) Effects on motorized and non-motorized transportation systems appears acceptable because the traffic generated by the zoning map amendment would flow onto U.S. Highway 93 a four lane highway able to accommodate the increase of traffic, no comment from MDT indicates MDT has no problems with the proposal and adequate spaces appears available for a future proposed bike/pedestrian facility on Highway 93.
- 10) Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's urban growth and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on their own Kalispell Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible.
- 11) Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Whitefish's urban growth and it has been determined the map amendment is located beyond the southern extent of Whitefish's urban growth, as shown on their own Whitefish Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible.
- 12) The character of the district where the proposed zone change will occur appears suitable for the uses in an I-1H zone because the property is located adjacent to the landfill, is compatible with the future land use designation 'Landfill Transition,' the industrial uses are generally compatible with agriculture in this particular area and the additional design standards required in an I-1H zone help preserve the character of the district.
- 13) This zoning map amendment appears to encourage the most appropriate use of land in this particular location and would not diminish the value of buildings because the I-1H zone is appropriate in the landfill transition area and the light industrial uses are generally compatible with low density agriculture in this area along Highway 93.
- 14) Consideration has been given to the City of Kalispell's growth plan and zoning ordinance, however it is not possible for the proposed zoning map amendment to be compatible with zoning ordinance of Kalispell because it is outside the city limits and outside the plan area, therefore no documents exist that would provide guidance on compatibility and no agency referrals were received from Kalispell.
- 15) Consideration has been given to the City of Whitefish's growth plan and zoning ordinance, however it is not possible for the proposed zoning map amendment to be compatible with zoning ordinance of Whitefish because it is outside the city limits and outside the plan area, therefore no documents exist that would provide guidance on compatibility and no agency referrals were received from Whitefish.

**VI. CONCLUSION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with all the review criteria, based upon the 15 draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.