FLATHEAD COUNTY PLANNING AND ZONING OFFICE
RUTH HORN ZONE CHANGE REQUEST
ZONING MAP AMENDMENT REPORT (#FZC-14-01)
APRIL 28, 2014

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Ruth Horn 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 'SAG-10 Suburban Agricultural.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on May 14, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First 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. 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 Recorders Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

Update May 19, 2014

On May 14, 2014 the Flathead County Planning Board held a public meeting on the proposal and the Board voted 6-0 to adopt the staff report as Findings of Fact and voted 6-0 to 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 Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner/Applicants

Ruth Horn
3345 West Valley Drive
Whitefish, MT 59937

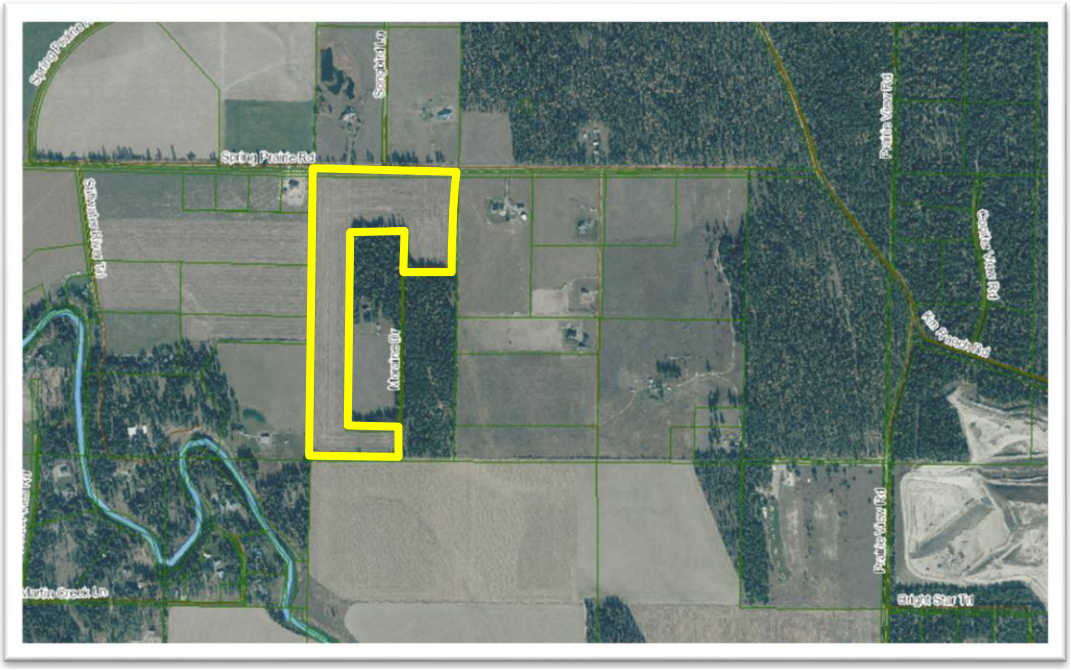
ii. Technical Assistance

Larsen Engineering and Surveying
PO Box 2071
Kalispell, MT 59903

B. Subject Property Location and Legal Description

The subject property consists of one tract totaling 37.5 acres. The property is located on Spring Prairie Road, approximately six-tenths of a mile west of KM Ranch Road as shown in Figure 1 below. The property can be legally described as Tract 2 and 2B in Section 35, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



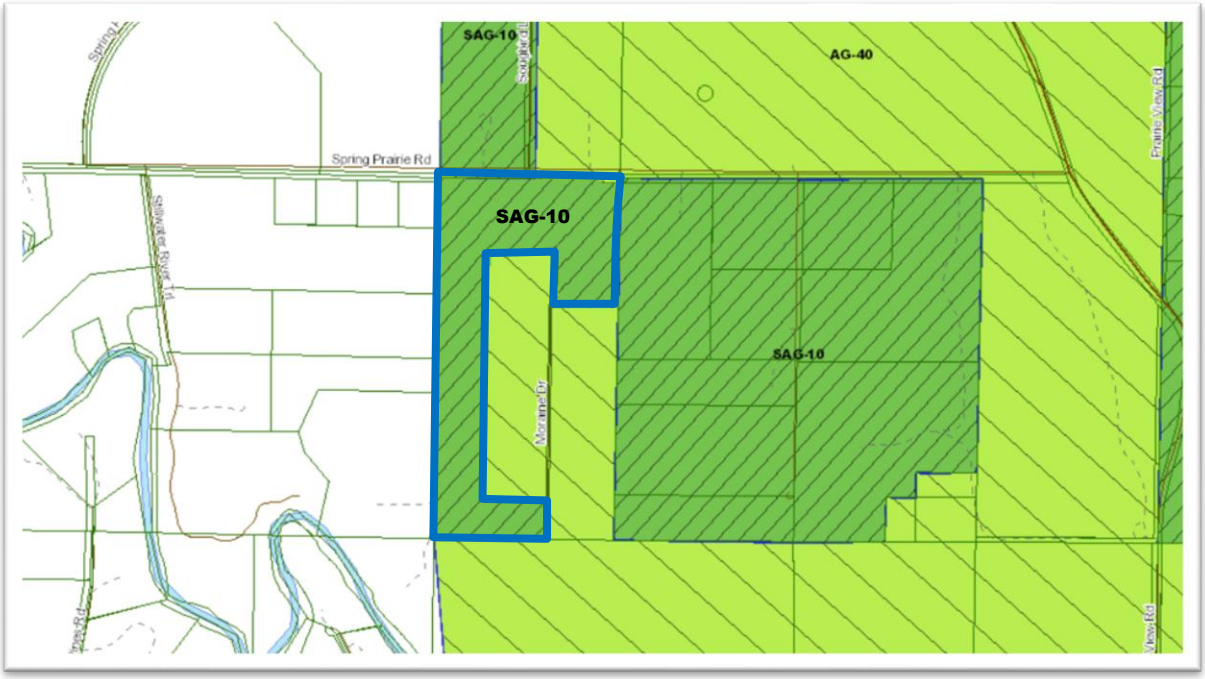
C. Proposed Zoning Map Amendment

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 to allow for 'SAG-10 Suburban Agricultural' zoning. The SAG-10 designation is defined in Section 3.07 FCZR as, '*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

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

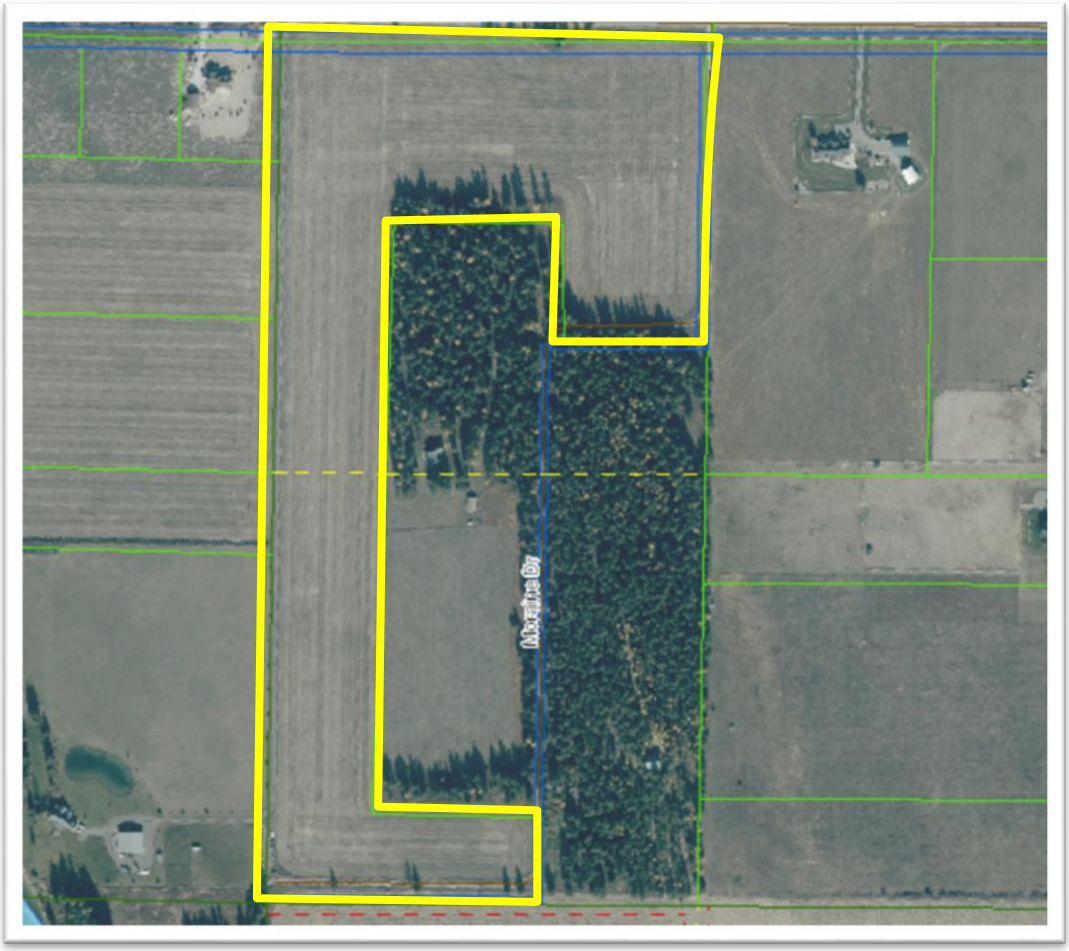
Figure 3: Proposed zoning on the subject property (highlighted in blue)



D. General Character of and Reason for Amendment

The property is located on relatively flat open land that is currently used for agriculture (as shown in Figure of 5 below). With the currently allowed 40 acre minimum lot area in the AG-40 zone and the lot 37.5 acres the property is unable to be further divided. The proposed SAG-10 zoning if approved would allow the applicant to potentially divide the tract into three lots with a minimum lot size of 10 acres.

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



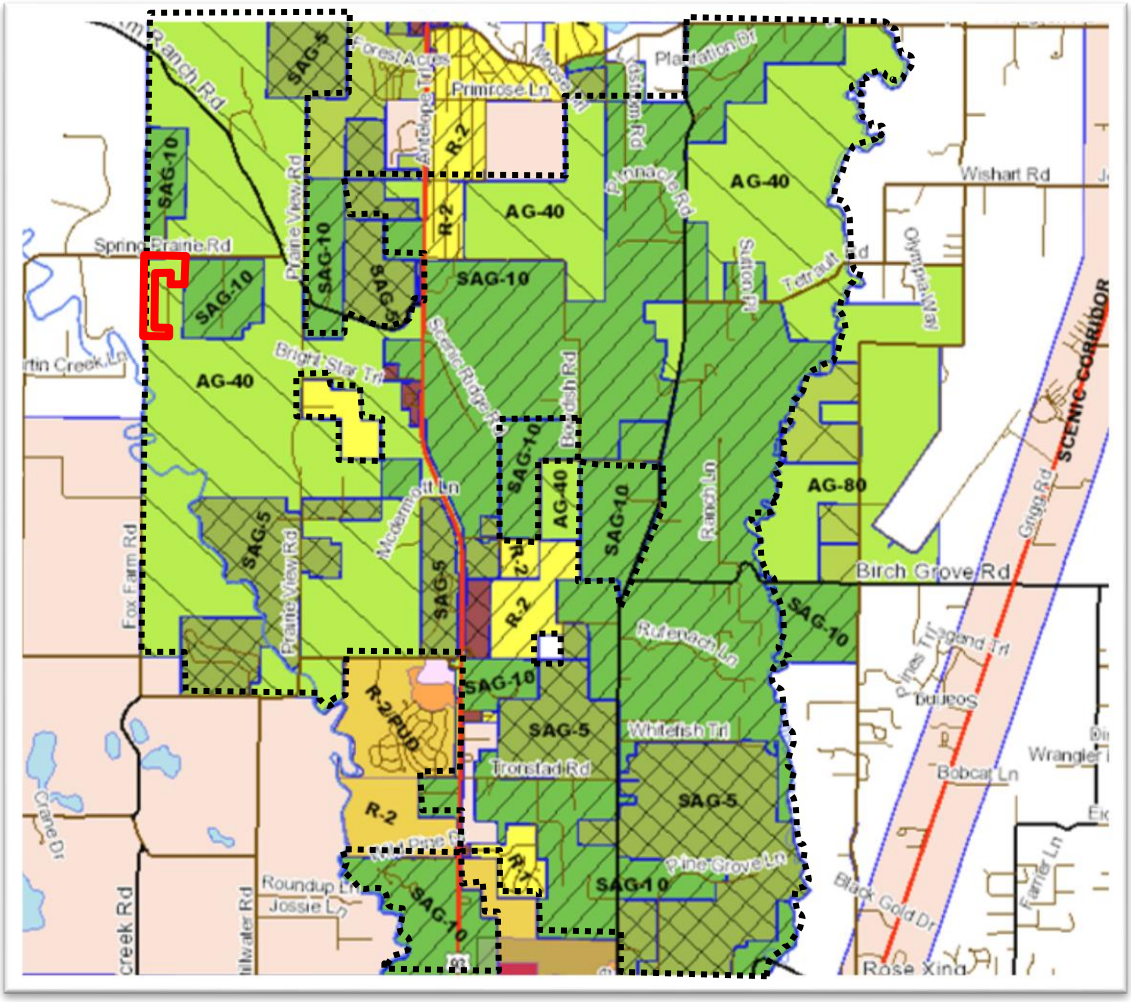
E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Highway 93 North Zoning District and bordered by suburban agricultural and agricultural zoning, and un-zoned properties (see Figure 2). To the north, south and east side of the property is 'AG-40 Agricultural' zoning and to the north and east is 'SAG-10 Suburban Agricultural' zoning. Directly to the west of the subject property is un-zoned. The character of the area surrounding the property is agricultural with some limited rural residential.

Lots within a half mile of the property vary in size from 1.0 acres to 162.1 acres. The two properties south and southwest of the subject property average 136.5 acres. The

properties directly to the east range in size from 1.6 acres to 33.4 acres with the average lot size being 14.2 acres. Northwest of the property is a 162.1 acre property, and to the west and southwest the properties are 1.0 to 39.5 acres, with the average lot size 9.8 acres. On the north sides of the subject property lots are approximately 10.0 acres to 20.0 acres in size with the average lot size 13.1 acres, and to the northeast lots range in size from 19.1 to 46.4 acres.

Figure 5: Highway 93 North Zoning District (outlined with dashed black line & subject property outlined in red)



When an application appears to have the potential for spot zoning, the "three part test" established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application.

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

The intent of the existing 'AG-40 Agricultural' zone is to protect and preserve agricultural land for the performance of a wide range of agricultural functions. The purpose of the proposed 'SAG-10 Suburban Agricultural' zone is to provide and preserve agricultural functions and provide a buffer between urban and unlimited agricultural uses. Both the current AG-40 and proposed SAG-10 zones are designed to preserve agricultural functions.

The character of the overall zoning district is agricultural with some rural residential. The proposed zoning map amendment, if approved, would allow for uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed on neighboring properties. The properties directly to the east and north of the subject property are currently zoned SAG-10. The proposed zoning would allow uses that do not differ from the prevailing uses in the area.

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

Using standard ArcGIS software staff determined that the subject property is located within an AG-40 zoning district approximately 3,377.85 acre in size. The area of the proposed zoning map amendment is 37.5 acres or 1.1% of the existing AG-40 district. The property is adjacent to two SAG-10 zoning classification and would combine and enlarge them. North of the subject property is a SAG-10 zoning district which is approximately 114.13 acres in size and east is a SAG-10 district 153.45 acres. If the zone change is approved the total SAG-10 district would approximately 305.08 acres. So even though the property is only 37.5 acres and applies to one land owner the zone change would combine and expand the existing SAG-10 designation currently north and east of the subject property.

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 currently owned by a single landowner however, the properties to the east and north are currently zoned SAG-10. This proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-10 zoning and therefore the proposed zoning map amendment would not be at the expense of the surrounding landowners or the general public and thus is not special legislation.

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 from AG-40 to SAG-10 does not appear to constitute spot zoning because the adjacent properties to the north and east are similarly zoned SAG-10 and this proposed zone change would allow for the same uses that are permitted and currently exist in the adjacent SAG-10.

F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative

Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Whitefish School District
	Whitefish High School District
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 April 21, 2014. Legal notice of the Planning Board public hearing on this application was published in the April 27, 2014 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. 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 general character of the proposed change, and 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 March 13, 2014:

- Bonneville Power Administration
  - Reason: BPA has requested that anytime agency referrals are sent they receive a copy.
- 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 services.
- Flathead County Solid Waste

- Reason: The type and amount of solid waste resulting from uses permitted within the proposed zone change could have an impact on existing public services.

- Flathead County Weeds and Parks Department
  - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing public services.

- City of Whitefish, Planning Department
  - Reason: The subject property is located near the City of Whitefish.

- Whitefish School District
  - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.

- 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 May 14, 2014 and/or the Commissioner's Public Hearing. 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: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time." Email received 3/18/14.

- Flathead City-County Health Department
  - Comment: "The proposed development may require further sanitation review. The property owners are requesting the zone change in order to further subdivide the property. Further subdivision of the property into parcels less than 20 acres would require subdivision review through the Sanitations in Subdivisions Act and compliance with Montana Department of Environmental Quality subdivision rules and regulations as well as the Flathead County Sewage Treatment System Regulations." Letter dated 3/17/14.

- Flathead County Weed, Parks & Recreation

- "It is the landowners' responsibility to control noxious weeds on their land – MCA Section 7-22-2116. A noxious weed is legally defined as 'any exotic plant species that may render land unfit for agriculture, forestry, livestock, wildlife or other beneficial uses, or that may harm native plant communities.' Most noxious weeds thrive when soil is disturbed. Some can grow from root parts, as well as seeds that become exposed. […]." Letter dated 3/20/14.

- Flathead County Road & Bridge Department
  - Comment: "At this point the County Road Department does not have any comments on this request." Letter dated 3/18/14.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have 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 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

The proposed zoning map amendment would change the zoning designation on the subject property from 'AG-40 Agricultural.' AG-40 is defined in Section 3.05.010 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 (See Chapter VII – Definitions).
4. Cluster housing (See Chapter V – Performance Standards).
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.*
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.

The bulk and dimensional standards under AG-40 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner yards for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner yards and 5 feet from the rear and side yards. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The subject property totals 37.5 acres and the current AG-40 zoning requires a minimum lot area of 40 acres. Under the current AG-40 zoning no additional lots could be created.

ii. Proposed Zoning

As previously stated, the applicant is proposing SAG-10 is defined in Section 3.07.010 FCZR as, "*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development."* The following is a list of permitted uses in an SAG-10 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. Home occupation.
10. Homeowners park and beaches.
11. Nursery, landscaping materials.
12. Park and publicly owned recreational facility.
13. Produce stand.
14. Public transportation shelter station.
15. Public utility service installation.
16. Ranch employee housing.
17. Stable, riding academy, rodeo arena.

The following uses are listed as conditional uses in an SAG-10 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airfield.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
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. Community center building operated by a non-profit agency.
10. Community residential facility.**
11. Contractor's storage yard.*
12. Dwelling, family hardship.*
13. Electrical distribution station.
14. Extractive industry.
15. Golf course.
16. Golf driving range.
17. Kennel, commercial.*
18. Manufactured home park.
19. Recreational facility, low-impact.

20. School, primary and secondary.
21. Temporary building or structure.*
22. Water and sewage treatment plant.
23. Water storage facility.

The bulk and dimensional standards under SAG-10 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner yards for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner yards and 5 feet from the rear and side yards. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The subject property totals 37.5 acres and the proposed SAG-10 zoning requires a minimum lot area of 10 acres. Under the proposed SAG-10 zoning two additional lots could be created.

In summary, the requested zone change from AG-40 to SAG-10 has the potential to increase density, by allowing two additional lots through subsequent divisions. The bulk and dimensional requirements are the same in AG-40 and SAG-10 and the zoning map amendment would allow uses that are typical of zoning districts in the area, does not allow for many uses currently allowed under the existing AG-40 but does allow for the same uses as the neighboring SAG-10 zoning.

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).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Agricultural.' The proposed Suburban Agricultural 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.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ***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.*
  - The proposed zone change would preserve the right of the property owner to divide the property.
- ***G****.3 – Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
  - ***P.3.5*** *– Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.*
    - The proposed zone change would allow similar uses to what currently exists on the neighboring properties.
- ***G.4*** *– Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
  - The SAG-10 designation allows for agriculture and forestry and provides the land owner with more flexibility when it comes to a minimum lot area.
- ***G.8*** *– Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
  - The SAG-10 designation would allow for densities of 1 dwelling units per 10 acres and would not require public water, sewer and storm water services. Uses permitted in SAG-10 are similar to uses allowed in the surrounding SAG-10.
- ***G.31*** *– Growth that does not place unreasonable burden on the school district to provide quality education.*

- According to the applicant, "This property lies within the Whitefish School District and it appears that it would not adversely impact Whitefish School District because the population of the school has decreased over the last ten years." No comments were received from the Whitefish High School District and Whitefish School District therefore it appears the proposal would not adversely impact area school districts.

❖ ***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.*

- This report contains discussion on the adequacy of emergency service in Section B.ii.1 and B.ii.2 below.

Finding #2: The proposed zoning map amendment is found to generally comply with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the map only portrays zoning which was established at the time the map was created and is not a future land use map.

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 4.2 miles west of the property at the intersection of Farm to Market Road and Pine Cone Lane. The West Valley Fire Department would respond in the event of a fire or medical emergency.

The application states, "The West Valley Fire Department has three stations located as 2412 Farm to Market Road, 4195 Farm to Market Road and 2399 Whitefish Stage Road. […]. It appears that the West Valley Fire Department is well equipped with manpower and equipment to provide emergency services to this proposed property. With the fact that the property will be limited to a large 10 acres in density and is void of trees, it appears that there is adequate safety from fire danger."

The subject property is designated as High by the County Wide Priority Area but not located in the Wildland Urban Interface and the property is primarily an open field with very few trees. The property is located on Spring Prairie Road. Spring Prairie Road is a paved two lane local County road within a 60 foot easement and appears adequate to provide ingress and egress for emergency services. Therefore, the proposed map amendment would appear to secure safety from fire.

The subject property appears to be mapped as Zone X, areas determined to be outside the 0.2% annual chance floodplain on FEMA FIRM Panel 30029C1405G or outside the 500 year floodplain.

Finding #3: The proposed map amendment would secure safety from fire and other dangers because it is not located within the WUI, emergency services are available, the property is 4.2 miles from the nearest fire station and the property is mapped as Zone X outside the 0.2% annual chance floodplain, outside in the 500 year floodplain.

2. **Promote public health, public safety, and general welfare;**
The subject property is located within the West Valley Fire District and the nearest fire and emergency response center is located approximately 4.2 miles west of the property at the intersection Farm to Market Road and Pine Cone Lane. The West Valley Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Department provides police services to the subject property.

According to the application, "This property is not in an area with high pressure gas lines or high voltage lines, so no impact is presumed. The property is not on land or adjacent to Superfund or hazardous waste sites, so no impact is presumed. This property is not on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants, so no impact is presumed."

SAG-10 zoning classification would allow for many of the same uses as allowed within the current AG-40 and would generally allow for less land intensive uses and it is not anticipated to adversely impact public health, safety or general welfare. Within the AG- 40 zone a 'Fish hatchery' is a permitted use and not allowed in SAG-10. Additionally, seven uses are allowed with a conditional use permit in the AG-40 designation that are not allowed within SAG-10, they include:

- 'Animal farm,'
- 'Communication tower/mast,'
- 'Feed and seed processing and cleaning,'
- 'Feed lot: cattle, swine, poultry,'
- 'Landfill, sanitary for disposal of garbage and trash,'
- 'Radio and television broadcast studio,' and
- 'Rifle range'

There are four uses allowed in the SAG-10 with a CUP that are not allowed in the AG-40, these are:

- 'Community residential facility,'
- 'Golf course,'
- 'Golf driving range,' and
- 'Manufactured home park.'

The proposed SAG-10 zone would allow for similar uses to what previously exists in the area and what is allowed within in the current AG-40 designation and neighboring SAG-10, and review will be conducted by other applicable agencies when splitting the lot or other development, therefore it is not anticipated to adversely impact public health, safety or general welfare.

Finding #4: The proposed zoning map amendment would promote the public health, public safety and general welfare because the property is served by the Flathead County Sheriff and the West Valley Fire Department, future development would be similar to uses already in the area and anticipated by service providers, and the proposal would increase rural density in an area that it can safely be accommodated.

3. **Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**
   It is anticipated that actual future development would include subdivision review, at which time specific impacts to transportation, water and sewer services, would be considered and mitigated as determined to be appropriate. However, family transfers would be exempt from subdivision review. This zone change request is also an opportunity to assess if the property and public infrastructure could handle impacts associated with the proposed zone change.

   Primary access to the property is currently via Spring Prairie Road. Spring Prairie Road is a paved two lane local County road within a 60 foot easement. The latest traffic counts taken by the Road and Bridge Department for Spring Prairie Road in June 2012 indicate 657 average daily trips (ADT) west of KM Ranch Road. At full build-out two additional single family homes could be constructed on the subject property. Using standard trip generation of 10 ADT per single family dwelling, the proposed zone change has the potential to generate an additional 20 ADT. The proposed zone change could contribute to an increase of 3.0% ADT on Spring Prairie Road.

   Comments received from the Flathead County Road and Bridge Department stated, "At this point the County Road Department does not have any comments on this request." It is anticipated that because traffic would only increase by 3.0% on Spring Prairie Road and the Road and Bridge Department has no comment, the effects on motorized transportation would be minimal.

   The application states, "The subject property will be serviced by individual sewer and water systems." Comments received from the Flathead City-County Health Department state, "The proposed development may require further sanitation review. The property owners are requesting the zone change in order to further subdivide the property. Further subdivision of the property into parcels less than 20 acres would require subdivision review through the Sanitations in Subdivisions Act and compliance with Montana Department of Environmental Quality subdivision rules and regulations as well as the Flathead County Sewage Treatment System Regulations." Further subdivision of the property into parcels less than 20 acres would require Sanitations in Subdivisions Act review regardless of whether it is reviewed under the Montana Subdivision and Platting Act. The applicant will be required to work with Flathead City-County Health Department to develop an on-site well and sewer system to meet the needs of any future development.

   The subject property is located within the Whitefish School District. Whitefish Elementary Schools have seen a decline of 11% in student

enrollment over the last ten years and decline of 3% between 2012 and 2013. Whitefish High School has decreased 33% in student enrollment over the last ten years and declined 4% between 2012 and 2013. Additionally, Central School recently completed a major remodel and voters recently approved a bond to renovate the High School. No comments were received from the Whitefish School District. It is anticipated that the school would have capacity should any growth occur as a result of the proposed zoning map amendment.

The proposal would amend the current 40-acre minimum lot size to a smaller 10-acre minimum lot size, it is anticipated subsequent future development would require review and parkland would not be required at that time because the lots created would be greater than five gross acres in size. There are numerous parks, natural areas, and recreational opportunities within a short drive of the subject property.

Finding #5: The proposed zoning map amendment from AG-40 to SAG-10 would facilitate the adequate provision of transportation because the existing infrastructure appears adequate to accommodate the change in zoning, the County Road Department had no comments regarding this proposal and traffic would increase 3.0% on Spring Prairie Road which would be capable of accommodating the impacts of the proposed zoning map amendment.

Finding #6: The proposed zoning map amendment would not hinder the adequate provision of water, sewer, schools and parks because individual septic systems and wells will require future review from the Montana Department of Environmental Quality and the Flathead City-County Health Department, the proposal may generate school children which would likely not impact schools and there are numerous parks, natural areas, and recreational opportunities in the vicinity.

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

1. The reasonable provision of adequate light and air;

Any new structures on additional lots created as a result of this proposed zone change would be required to meet the bulk and dimensional requirements of the SAG-10 zoning classification. The bulk and dimensional requirements for the proposed SAG-10 zone are similar to the bulk and dimensional requirements for the existing AG-40 with the lone exception being minimum lot size. The proposed SAG-10 zoning sets a maximum building height of 35 feet for all structures, the permitted lot coverage is 20% and the minimum lot area is 10 acres. The proposed zoning map amendment has the potential to increase development density on the subject property and has the potential to add two additional parcels.

The setback requirements in the proposed SAG-10 require a minimum of 20 feet for the front, rear, side and side-corner yards for principal structures and 20 feet for the front and side-corner yards and 5 feet for the side and rear yards for accessory structures. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150

feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. These bulk and dimensional requirements within the SAG-10 designation have been established to ensure a reasonable provision of light and air.

Finding #7: Adequate light and air would be provided by the proposed zoning map amendment because future development would be required to meet all bulk and dimensional requirements including setback, maximum height and lot coverage requirements within the proposed SAG-10 designation.

2. **The effect on motorized and non-motorized transportation systems;**
The property is located about sixth-tenths of a mile west of KM Ranch Road on Spring Prairie Road which serves as primary access to the property. Spring Prairie Road is a paved two lane road within a 60 foot easement, which is classified as a local county road. The Road and Bridge Department traffic counts from 2012 indicate 657 ADT north of KM Ranch Road for Spring Prairie Road. At full build-out two additional single family homes could be constructed on the subject property. The proposed zone change has the potential to generate an additional 20 ADT, based on standard trip generation of 10 ADT per single family dwelling. The traffic generated by the proposed zone change could generate an increase of 3.0% ADT. Comments received from the Flathead County Road and Bridge Department stated, "At this point the County Road Department does not have any comments on this request." It is anticipated that because traffic would only increase by 3.0% on Spring Prairie Road and the Road and Bridge Department has no comment, the effects on motorized transportation would be minimal.

There are no existing bike/pedestrian facilities currently located along Spring Prairie Road or in the vicinity of the subject property. Potential future development may result in construction of a bike/pedestrian trail along Spring Prairie Road, as the road is identified in the Flathead County Trails Plan as a proposed connector. There appears to be adequate space for a future bicycle and pedestrian facility on the subject property.

Finding #8: It is anticipated that the proposed zoning map amendment would have minimal effect on the motorized and non-motorized transportation systems because Spring Prairie Road is a local county road, traffic would increase by 3.0%, the Road and Bridge Department has no comment and adequate space appears available for a future proposed bike/pedestrian facility on Spring Prairie Road, if it was deemed appropriate in the future.

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. According to the applicant, "The subject property is not located within close proximity to a city or town. The existing and proposed zoning

designation is both 'Rural' in land use and density. The proposed zoning is consistent with other zoning in the area."

The City of Whitefish is located about 4.3 miles to the north. 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 and is located approximately 2.6 miles north of the property.

The City of Kalispell is located approximately 2.3 miles 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 2.0 miles north of Church Drive and not included on the future land use map.

Finding #9: 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.

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.

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

The subject property is located within the Highway 93 North Zoning District and bordered by suburban agricultural and agricultural zoning and un-zoned properties (see Figure 2). The property is bordered on the north, south and east by 'AG-40 Agricultural' and on the north and east by 'SAG-10 Suburban Agricultural.' Directly to the west of the subject property is an area of the County that is un-zoned. The character of the area surrounding the property is agricultural with some limited rural residential.

According to the application, "The property is consistent with the current SAG-10 zoning adjacent and directly east of this proposal. Permitted and conditional uses are quite similar between the SAG-10 and AG-40 zoning districts." SAG-10 zoning classification would allow for many of the same uses as allowed within the current AG-40 and would generally allow for less land intensive uses. Within the AG- 40 zone a 'Fish hatchery' is a permitted use and not permitted in SAG-10. Additionally, seven uses are allowed with a conditional use permit in the AG-40 designation that are not allowed within SAG-10, they include:

- 'Animal farm,'
- 'Communication tower/mast,'

- ‘Feed and seed processing and cleaning,’
- ‘Feed lot: cattle, swine, poultry,’
- ‘Landfill, sanitary for disposal of garbage and trash,’
- ‘Radio and television broadcast studio,’ and
- ‘Rifle range’

There are 4 uses allowed in the SAG-10 with a CUP that are not allowed in the AG-40 these are:

- ‘Community residential facility,’
- ‘Golf course,’
- ‘Golf driving range,’ and
- ‘Manufactured home park.’

The proposed SAG-10 zone would allow for similar uses to what already exists in the area and what is allowed within in the current AG-40 designation and neighboring SAG-10, and review will be conducted by other applicable agencies when splitting the lot or other development.

Lots within a half mile of the property vary in size from 1.0 acres to 162.1 acres. Northwest of the property is a property 162.1 acres in size. On the north sides of the subject property lots are approximately 10.0 acres to 20.0 acres in size with the average lot size 13.1 acres, and to the northeast lots range in size from 19.1 to 46.4 acres. The properties directly to the east range in size from 1.6 acres to 33.4 acres with the average lot size being 14.2 acres. The two properties south and southwest of the subject property average 136.5 acres. And to the west and southwest the properties are 1.0 to 39.5 acres, with the average lot size 9.8 acres.

The proposed zoning map amendment would allow for the future division of the subject properties, with the potential to create lots with a minimum size of 10 acres. The smaller lots would be consistent with the character of the immediate vicinity of the subject property.

Finding #11: The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-10 zoning are similar to what is currently allowed and existing under the current AG-40 and neighboring SAG-10 zoning and the minimum lot size allowed is similar to existing lots in the area.

5. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**
The adjacent properties are generally open fields with a few of the neighboring properties developed with single family residence and accessory structures. The tracts to the west are all un-zoned, the un-zoned lands could have many land uses including uses not permitted within the SAG-10 designation. The proposed zoning would allow for similar uses to that of the existing AG-40, additionally the uses allowed within the proposed SAG-10 zone are the same as what is permitted and what currently exists in the SAG-10 nearby. According to the applicant, “The primary difference between the two zoning designations is the density where the proposed zoning

designations of SAG-10 has a minimum lot size of 10 acres per lot and the current zoning designations of AG-40 has a minimum lot size of 40 acres per lot."

Spring Prairie Road is a paved two lane road within a 60 foot easement, and the applicant will utilize individual septic and wells. Ten acres lots and the uses allowed within the SAG-10 seem appropriate here given the availability of public infrastructure and services. Allowing the requested zoning amendment on the subject property appears to conserve the value of buildings and encourage the most appropriate use of the land throughout the jurisdictional area.

Finding #12: This proposal appears to conserve the value of buildings and encourage the most appropriate use of land because the SAG-10 designation allows for the same uses as the neighboring SAG-10, similar uses to the existing AG-40 and public infrastructure and services are available to service smaller lots.

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

The proposed zoning map amendment is not adjacent to any city, and is located outside of any city growth area. The southern limit 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 6 below. Whereas the northern edge of the Kalispell planning area ends at Church Drive, see Figure 7 below.

The downtown area of Whitefish is located over 6.0 miles from subject property. The City of Whitefish's city limits are located approximately 4.3 miles north of the subject property and the Whitefish Growth Policy Future Land Use Map area, adopted by the City of Whitefish in 2007 is located approximately 2.6 miles north. The property is not included on the City of Whitefish's future land use map.

The City of Kalispell city limits are located about 2.3 miles south of the property and the downtown area of Kalispell is located over 8.0 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 2.0 mile north of Church Drive and not included on the Future Land Use Map.

Finding #13: 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.

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.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment from AG-40 to SAG-10 does not appear to constitute spot zoning because the adjacent properties to the north and east are similarly zoned SAG-10 and this proposed zone change would allow for the same uses that are permitted and currently exist in the adjacent SAG-10.

2. The proposed zoning map amendment is found to generally comply with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the map only portrays zoning which was established at the time the map was created and is not a future land use map.

3. The proposed map amendment would secure safety from fire and other dangers because it is not located within the WUI, emergency services are available, the property is 4.2 miles from the nearest fire station and the property is mapped as Zone X outside the 0.2% annual chance floodplain, outside in the 500 year floodplain.

4. The proposed zoning map amendment would promote the public health, public safety and general welfare because the property is served by the Flathead County Sheriff and the West Valley Fire Department, future development would be similar to uses already in the area and anticipated by service providers, and the proposal would increase rural density in an area that it can safely be accommodated.

5. The proposed zoning map amendment from AG-40 to SAG-10 would facilitate the adequate provision of transportation because the existing infrastructure appears adequate to accommodate the change in zoning, the County Road Department had no comments regarding this proposal and traffic would increase 3.0% on Spring Prairie Road which would be capable of accommodating the impacts of the proposed zoning map amendment.

6. The proposed zoning map amendment would not hinder the adequate provision of water, sewer, schools and parks because individual septic systems and wells will require future review from the Montana Department of Environmental Quality and the Flathead City-County Health Department, the proposal may generate school children which would likely not impact schools and there are numerous parks, natural areas, and recreational opportunities in the vicinity.

7. Adequate light and air would be provided by the proposed zoning map amendment because future development would be required to meet all bulk and dimensional requirements including setback, maximum height and lot coverage requirements within the proposed SAG-10 designation.

8. It is anticipated that the proposed zoning map amendment would have minimal effect on the motorized and non-motorized transportation systems because Spring Prairie Road is a local county road, traffic would increase by 3.0%, the Road and Bridge Department has no comment and adequate space appears available for a future proposed bike/pedestrian facility on Spring Prairie Road, if it was deemed appropriate in the future.

9. 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.

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. The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-10 zoning are similar to what is currently allowed and existing under the current AG-40 and neighboring SAG-10 zoning and the minimum lot size allowed is similar to existing lots in the area.

12. This proposal appears to conserve the value of buildings and encourage the most appropriate use of land because the SAG-10 designation allows for the same uses as the neighboring SAG-10, similar uses to the existing AG-40 and public infrastructure and services are available to service smaller lots.

13. 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.

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.

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 the review criteria, based upon the 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.

Planner: EKM