

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
EVAN SHAW
ZONING MAP AMENDMENT REPORT (#FZC-14-06)
JANUARY 28, 2015

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Sands Surveying Inc., on behalf of Evan Shaw for a zoning map amendment in the Southeast Rural Whitefish Zoning District. The proposed amendment would change the zoning of the subject property from ‘SAG-10 Suburban Agricultural’ to ‘SAG-5 Suburban Agricultural.’

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 11, 2015 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 1st 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 Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the February 11, 2015 Flathead County Planning Board review of the proposal.

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

Evan Shaw
2723 Fairmont Drive
Dallas, TX 75201

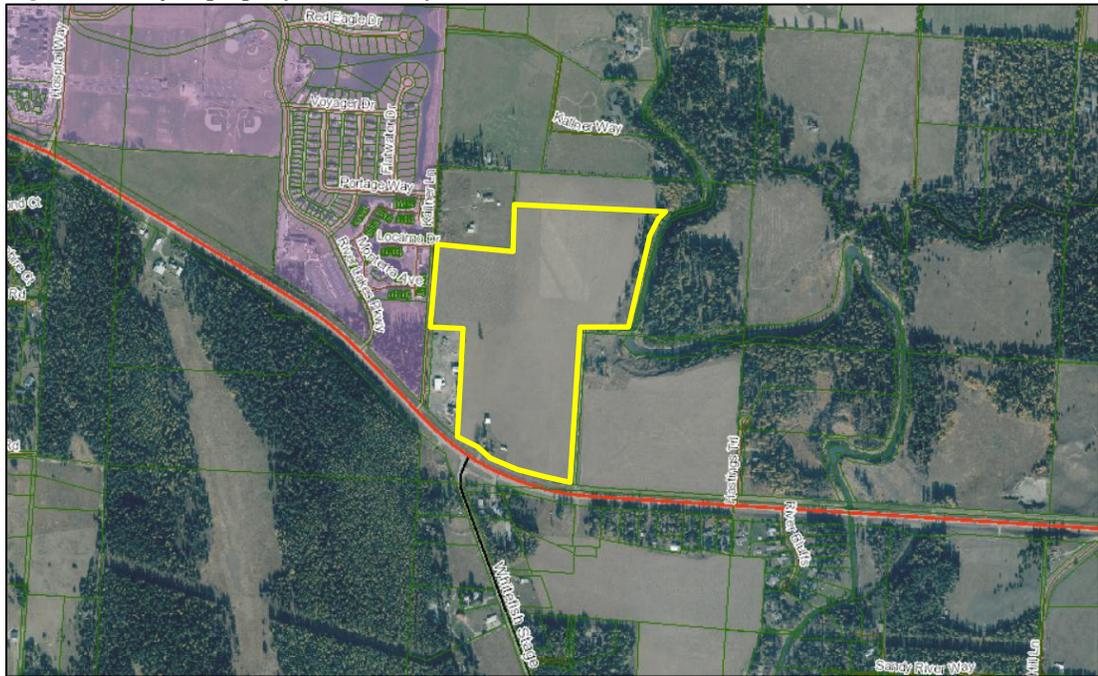
ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property is located at 4435 Highway 40 near Whitefish, MT (see Figure 1 below). The property is approximately 62.48 acres in size and can legally be described as Tract 3B in Section 08, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

The subject property is currently zoned ‘SAG-10 Suburban Agricultural’ and located within the Southeast Rural Whitefish Zoning District (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested the zoning map amendment for the property to zone it ‘SAG-5 Suburban Agricultural.’ The SAG-10 designation is defined in Section 3.07 of the Flathead County Zoning Regulations (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 SAG-5 designation is defined in Section 3.08 FCZR as, ‘A district to provide and preserve smaller 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)

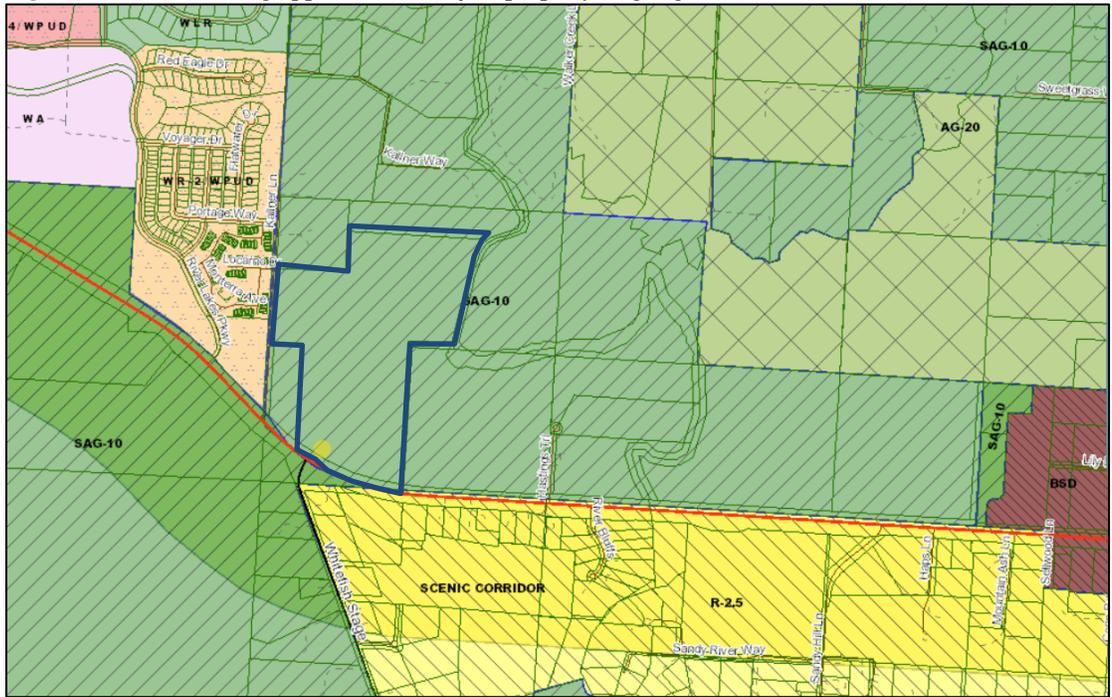
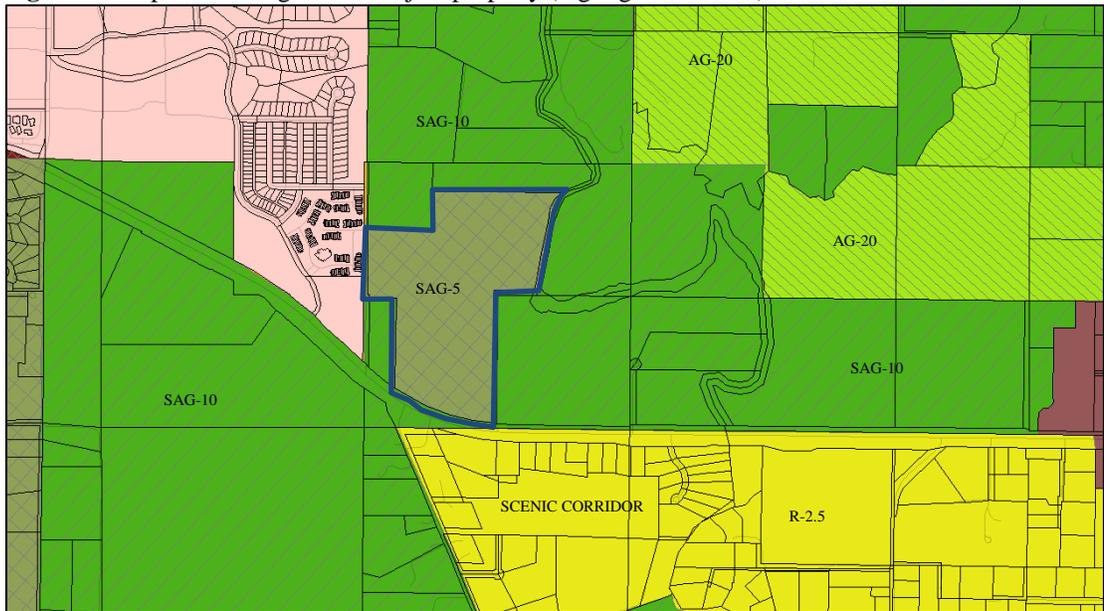


Figure 3: Proposed zoning on the subject property (highlighted in blue)



D. General Character of and Reason for Amendment

The subject property is a relatively flat field with the Whitefish River flanking the properties eastern edge. The subject property currently contains old agricultural buildings and fencing.

The application states, “The property is located near the City of Whitefish which has urban densities and there is 2.5 acre zoning just south across the highway. The applicant would like to develop the property in the future and the SAG-5 will allow

the applicant density options utilizing clustering or PUD provisions in the zoning code. The increased densities will help off-set the infrastructure costs without creating a subdivision that is out of character in this transition area between urban and rural jurisdictions,”

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 Southeast Rural Whitefish Zoning District and surrounded by agricultural, suburban agricultural and residential zones (see Figure 5). The Southeast Rural Whitefish Zoning District consists of AG-20, SAG-10, BSD and BR-2 zones. The minimum lot size of AG-20 is 20 acres, SAG-10 is 10 acres, BSD is 1 acre and BR-2 is 20 acres.

The subject property is bordered on the south, south of Highway 40, by R-2.5 and Scenic Corridor zoning. The R-2.5 has a minimum lot size of 2.5 acres and Scenic Corridor has no minimum lot size. The tracts within the R-2.5 zoning designation average 2.69 acres with the majority of the tracts around one acre.

The properties to the northwest of the subject property are zoned with the City of Whitefish’s WR-2/WPUD and located within a subdivision. The subdivision lots are generally single family residential and have an average lot size of approximately 0.28 acres. There is also parkland within the subdivision on lots over 6 acres in size.

To the north and east of the subject property is SAG-10 and AG-20 zoning. The tracts to the north and east are between 6.4 and 36.4 acres with an average lot size of

located adjacent to the urban densities of the City of Whitefish. The existing SAG-10 does provide a buffer and the proposed SAG-5 zone would continue to provide a buffer between urban densities of the city to the west and the agriculture to north and east. The proposed SAG-5 would allow for similar uses to the existing SAG-10 zoning. The existing SAG-10 zoning allows for two permitted uses that are not allowed within the proposed SAG-5 zoning:

1. *'Dairy products processing, bottling, and distribution'* and
2. *'Ranch Employee Housing.'*

There are three permitted uses in the SAG-10 zone that are allowed with a conditional use permit in the SAG-5 zone:

1. *'Cellular tower,'*
2. *'Riding academy, rodeo arena,'* and
3. *'Stable, public.'*

Only two uses are allowed with a conditional use permit in SAG-5 that are not allowed within SAG-10:

1. *'Recreational facility, high impact,'* and
2. *'Recreational vehicle park.'*

The proposed SAG-5 zoning would be located adjacent to R-2.5 which has a minimum lot size of 2.5 acres, SAG-10 with a minimum lot size of 10 acres and WR-2 with a minimum lot size of 6,000 to 7,200 square feet. The minimum lot size in the SAG-5 zone is 5 acres so the minimum lot size in SAG-5 is in the middle of the minimum lot sizes of surrounding zones.

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 a SAG-10 zoning district approximately 4,599.80 acres in size. The subject property is approximately 62.18 acres, roughly 0.01% of the existing SAG-10 district. South of Highway 40 and south of the subject property is R-2.5 zoning which is approximately 375.05 acres in size. Northeast of the property is an AG-20 zoning district that is approximately 6,206.43 acres. The City of Whitefish's WR-2/WPUD, WR-4/WPUD, WLR and WA zones to the west are 85.10 acres, 28.10 acres, 63.10 acres and 50.50 acres respectively. The proposed zoning map amendment would be similar in size to the neighboring City of Whitefish zoning districts but would be much smaller than the AG-20, SAG-10 and R-2.5 county zones.

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 property is owned by one landowner however, the permitted and conditional uses listed within a SAG-5 zone are similar to the permitted and conditional uses in the current SAG-10 zone. The existing SAG-10 zoning allows for two permitted uses that are not allowed within the proposed SAG-5 zoning (*'Dairy products processing, bottling, and distribution'* and *'Ranch Employee Housing'*) and three permitted uses in the SAG-10 that are allowed with a conditional use

permit in SAG-5 (*‘Cellular tower,’ ‘Riding academy, rodeo arena,’* and *‘Stable, public’*). Furthermore, only two uses are allowed with a conditional use permit within the SAG-5 zone that are not allowed within the SAG-10 zone (*‘Recreational facility, high impact,’* and *‘Recreational vehicle park’*). The zoning map amendment would allow uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the existing suburban agricultural zoning of the surrounding area.

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 does not appear to constitute spot zoning because the proposed SAG-5 zone would allow for similar uses to what is allowed within the existing SAG-10, the minimum lot size in the SAG-5 zone is in the middle of the minimum lot sizes of surrounding zones and the proposed zoning maintains the rural character of the overall zoning district.

G. 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:	Whitefish Rural Fire District
Police:	Flathead County Sheriff’s Office

H. 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.

I. 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 January 23, 2015. Legal notice of the Planning Board public hearing on this application was published in the January 25, 2015 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, the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

J. Agency Referrals

Referrals were sent to the following agencies on December 5, 2014:

- Bonneville Power Administration
 - Reason: BPA has requested that they receive a copy anytime agency referrals are sent.
- City of Whitefish Planning Department
 - Reason: The subject property is located adjacent to the City of Whitefish.
- 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.
- Montana Department of Transportation (MDT)
 - Reason: The zone change request has the potential to impact MDT infrastructure.
- 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 zoning map amendment area could have an impact on existing public services.
- Flathead County Weeds and Parks Department
 - Reason: Potential development resulting from the proposed zoning map amendment may have an impact on existing public services.
- Whitefish High School District
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.
- Whitefish School District
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.
- Whitefish Rural 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 February 11, 2015 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: "BPA does not have any objections to the approval of this request at this time." Email dated December 15, 2014.
- Flathead City-County Health Department
 - Comment: "If future development is proposed, in accordance with MCA76.4.102(16), parcels less than 20 acres, exclusive of roadways, which are created by a division of land, and the plat thereof shall show all such parcels, whether contiguous or not. MCA 76.4.102, 'Subdivision' means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area, regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.' If the proposed development meets the definition of a 'subdivision', it must be reviewed under the Sanitation and Subdivisions. Review will include water supply, wastewater treatment and disposal, storm water drainage, and solid waste disposal." Letter dated December 23, 2014.
- Flathead County Road & Bridge Department
 - Comment: "After completing a review of the change request we do not have any concerns on the requested zone change. However, we would like to let you know of an issue with Kallner Lane we have with the City of Whitefish. We have previously notified them that per MCA 7-2-4211 Kallner Lane is currently the responsibility of the City of Whitefish. Their response was that the residential improvements to the west of Kallner Lane are not accessing the road so they are not responsible for it. We have not pushed the matter but have had discussions with the County Commissioners regarding the issue. In the future it is a strong possibility that Flathead County would take a stronger stance in these discussions with the City. We are currently maintaining the roadway to a point just north of the Shaw property boundary." Letter dated December 10, 2014.
- Flathead County Weed, Parks & Recreation
 - Comment: "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 December 17, 2014.

- Montana Department of Transportation
 - Comment: “I do not have any comments specific to the current zone change request but would note that in the future if the property changes use then the owner will need to contact MDT for a new approach permit for any access to HWY 40.” Email dated January 16, 2014.

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

The property is currently zoned ‘SAG-10 Suburban Agricultural.’ SAG-10 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.*’ The following is a list of permitted uses in an SAG-10 zone (Section 3.07.020 FCZR):

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. Dwelling unit, accessory (ADU).
9. Guest house.
10. Home occupation.
11. Homeowners park and beaches.
12. Livestock
13. Nursery, landscaping materials.
14. Park and publicly owned recreational facility.
15. Produce stand.
16. Public transportation shelter station.

17. Public utility service installation.
18. Ranch employee housing.
19. Riding academy, rodeo arena.
20. Stable, public and private.

The following uses are listed as conditional uses in an ‘SAG-10’ zone (Section 3.07.030 FCZR). An asterisk designates conditional uses that may be reviewed administratively and two asterisks designate conditional uses that may be reviewed administratively for eight or fewer units:

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 for SAG-10 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. 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 proposed SAG-10 zoning requires a minimum lot area of 10 acres. The subject property totals 62.48 acres and under the current SAG-10 zoning 5 additional lots could be created.

ii. Proposed Zoning

As previously stated, the applicant is proposing ‘SAG-5 Suburban Agricultural’ zoning. SAG-5 is defined in Section 3.08.010 FCZR as, “A district to provide and preserve smaller 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-5 zone (Section 3.08.020 FCZR):

1. Agricultural/horticultural/silvicultural use.
2. Class A and Class B manufactured home (See Chapter VII – Definitions).
3. Cluster housing (See Chapter V – Performance Standards).
4. Day care home.
5. Dwelling, single-family.
6. Dwelling unit, accessory (ADU).
7. Guest house.
8. Home occupation.
9. Homeowners park and beaches.
10. Livestock
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. Stable, private.

The following uses are listed as conditional uses in an ‘SAG-5’ zone (Section 3.08.030 FCZR). An asterisk designates conditional uses that may be reviewed administratively and two asterisks designate conditional uses that may be reviewed administratively for eight or fewer units:

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. Cellular tower.*
8. Cemetery, mausoleum, columbarium, crematorium.
9. Church and other place of worship.
10. Community center building operated by a non-profit agency.
11. Community residential facility.**
12. Contractor’s storage yard (See Chapter IV – Conditional Use Standards).*
13. Dwelling, family hardship.*
14. Electrical distribution station.
15. Extractive industry.
16. Golf course.
17. Golf driving range.

18. Kennel, commercial.
19. Manufactured home park.
20. Recreational facility, high-impact.
21. Recreational facility, low-impact.
22. Recreational vehicle park.
23. Riding academy and rodeo arena.
24. School, primary and secondary.
25. Stable, public.
26. Temporary building or structure.*
27. Water and sewage treatment plant.
28. Water storage facility.

The bulk and dimensional standards under SAG-5 zoning a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. 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 proposed SAG-5 zoning requires a minimum lot area of 5 acres. The subject property totals 62.48 acres and under the proposed SAG-5 zoning 11 additional lots could be created.

In summary, the bulk and dimensional requirements are the same in the SAG-10 and the SAG-5, the zoning map amendment would allow uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the existing SAG-10 zoning and 5 additional lots could be created under the current SAG-10 and 11 additional lots could be created under the proposed SAG-5 zone.

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 Whitefish City-County Master Plan 2020, adopted on February 6, 1996 by the Flathead County Commissioners (Resolution #677-G) and the City of Whitefish on February 20, 1996 (Resolution #96-3).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Important Farmlands.’ The proposed Suburban Agricultural zoning classification would appear to contrast with the current ‘Important Farmlands’ 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 land uses. 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 plans. 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.” 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.
- ❖ **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.3.3** – Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.
- ❖ **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 proposed SAG-5 zoning designation allows for agricultural and silvicultural land uses and provides the land owner with more flexibility when it comes to 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-5 designation would allow for densities of 1 dwelling units per 5 acres which would likely not require public services because 5 acres lots can be serviced by septic systems and wells.

- ❖ **G.31** – Growth that does not place unreasonable burden on the school district to provide quality education.
 - This report contains discussion on the proposals potential burden on schools below.
- ❖ **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 below.
- ❖ **G.46** – Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.
 - This report contains discussion on the Whitefish City-County Master Plan below.

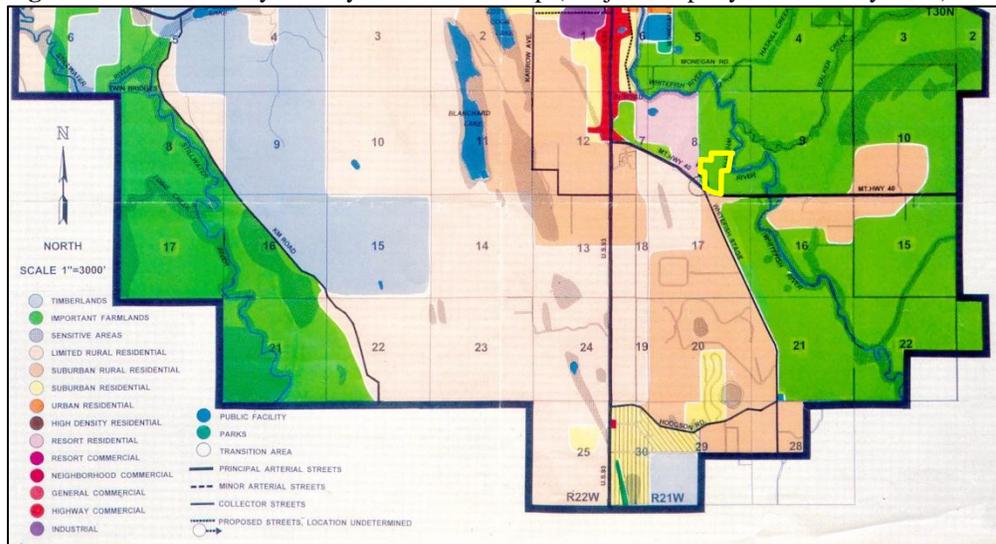
Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text outlined in this staff report appear to generally support the request, the Designated Land Use Map is not a future land use map and the ‘Important Farmland’ designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.

2. Whitefish City-County Master Plan

The Whitefish City-County Master Plan Map (Master Plan) serves as a localized planning tool for the area surrounding the City of Whitefish. The Master 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 Master Plan is composed of two major components, the text and the map. According to the Master Plan, “Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan.” Therefore, this report contains discussion on compliance with both the map and the text of the Master Plan.

The Master Plan identifies the subject property as ‘Important Farmlands’ and ‘Sensitive Area.’ The ‘Sensitive Area’ is located along the Whitefish River and is an overlay of the ‘Important Farmlands’ designation (as shown in Figure 6 below). The proposed Suburban Agricultural zoning classification appears to contrast with the ‘Important Farmland’ designation because Policy 8.12(a)(1) of the Master Plan defines ‘Important Farmlands’ as, “Residential Density of one dwelling unit per 20 or more acres” and the SAG-5 zoning allows for a 5 acre minimum lot sizes.

Figure 6: Whitefish City-County Master Plan Map (Subject Property outlined in yellow)



- **Policy 2.1** – Minimize development density on environmentally sensitive lands and critical wildlife habitat.
 - As previously stated, the Master Plan identifies the subject property as ‘Important Farmlands’ and ‘Sensitive Area.’ The ‘Sensitive Area’ is an overlay and is located along the Whitefish River. Both the SAG-10 and SAG-5 zones require a 20 foot setback from rivers.
- **Policy 3.5** – Conserve the one hundred year floodplain in its natural state as open space, recreational area, or agriculture, and work to eliminate existing non-conforming uses.
 - A portion of the property is located within the 100-year floodplain; this report contains discussion on the 100-year floodplain below.
- ❖ **Goal 4A** – Maximum protection, preservation, and restoration of lakes, rivers, and streams.
 - **Policy 4.1** – To the greatest extent possible, lakes, rivers, and streams and their banks shall be preserved in their natural condition.
 - **Policy 4.4** – The banks and adjacent areas of all rivers and streams shall be preserved as permanent greenbelt in a natural state: a. The Whitefish River shall incorporate a greenbelt of not less than 50-foot width
 - The subject property is located along the Whitefish River. Both the SAG-10 and SAG-5 zones require a 20 foot setback from rivers, which is less than the 50 feet stated in the policy.
- ❖ **Goal 5A** – Decent and safe living environments for low, medium and high density housing.
 - This proposed zone change would allow for additional low density housing.

- ❖ **Goal 5B** – An adequate supply and mix of housing options in terms of cost, location, type and design, to meet the needs of present and future residents.
 - This proposed zoning would allow for additional housing and has the potential to add to the supply and mix of rural housing options in terms of cost, location, type and design, to meet the needs of present and future residents.
- ❖ **Goal 5G** – Residential development which does not excessively burden the local government and is adequately served by public facilities and services.
 - The proposed zone change will likely not burden the local government because the property would not be served by water and wastewater but can be serviced by onsite sewer and water on 5 plus acre lots.
- **Policy 5.3** – All residential areas shall be served by suitable public roads and the basic emergency services such as fire, police and ambulance.
 - This report contains discussion on the adequacy of emergency service below.
- **Policy 5.7** - Discourage medium and high density residential developments in fragile, sensitive or critical areas so as to avoid exceeding the carrying capacity of the site.
 - The proposed SAG-5 designation would allow for 1 dwelling unit per 5 acres, and is more in-line with a rural residential density, as described in the Master Plan.
- **Policy 5.9** – Conserve open space within the City as well as in rural areas.
 - The SAG-5 designation allows for large lots and it is likely that a majority of the lot will remain open space at full build-out.
- ❖ **Goal 8B** – Conserve agricultural lands by allowing their limited conversion only if those are not productive or are needed for proper urban expansion.
 - The subject property is located adjacent to a higher density residential area within the City of Whitefish.
- **Policy 8.1** – Important, productive farm lands which are not in the urban growth area of a City, which are not presently served by community sewer or water systems, and which are not already excessively impacted by existing or impending (approved) development shall be preserved as a highest priority.
 - The property is not serviced by community sewer or water systems but is located adjacent to the City of Whitefish and urban densities.

- **Policy 8.3** – Growth shall be directed to already established urban areas which are not environmentally sensitive or productive agricultural lands.
 - The east side of the property, along the Whitefish River, is designated as ‘sensitive area.’ With a 5 acre minimum lot size, lots could be divided in a way that there is buildable area outside the sensitive area and the sensitive area could be designated as a no build zone during a subsequent subdivision process.
- **Policy 8.4** – Extending municipal services and roads into agricultural lands which would result in the premature development of such areas shall be avoided.
 - No municipal services are to be extended to the property or would be required for a 5 acre minimum lot size.
- **Policy 8.8** – Avoid the use of large-lot, zoning techniques in important, productive farmland areas that have the result of creating lots too small to conventionally farm yet too large to domestically maintain. Avoid creation of tracts of two to ten acres.
 - According to the application, “In reviewing the SCS WebSoils Survey, the subject property is comprised of over 90% Half Moon-Haskill Complex (Hg) soils. The upper Flathead Valley Area Soils Survey (1960) Issue states that Half Moon-Haskill soils complex consists of: ‘Cultivated areas are usually small fields and patches on small farms owned by families who depend on work off the farm for their income... They are used mainly for home gardens, oats, alfalfa, and tame grass hay.’” Based on the description of the soil from the Upper Flathead Valley Area 1960 Soils Survey, the SAG-5 zone seems an appropriate density for the subject property.
- **Policy 8.12(a)(2)** – This designation is characterized by lands rated as ‘prime,’ ‘prime if irrigated,’ or ‘lands of state importance’ on the SCS Important Farmland map and/or lands within significant and productive agricultural districts.
 - According to the application, “In reviewing the SCS WebSoils Survey, the subject property is comprised of over 90% Half Moon-Haskill Complex (Hg) soils. The upper Flathead Valley Area Soils Survey (1960) Issue states that Half Moon-Haskill soils complex consists of: ‘Cultivated areas are usually small fields and patches on small farms owned by families who depend on work off the farm for their income... They are used mainly for home gardens, oats, alfalfa, and tame grass hay.’” Based on the description of the soil from the Upper Flathead Valley Area 1960 Soils Survey, the SAG-5 zone seems an appropriate density for the subject property.
- **Policy 8.12(a)(3)** – This designation is intended to preserve and protect important agricultural lands, minimize land use conflicts with

non-agricultural activities, and encourage commitment to long-term agricultural use.

- **Policy 8.12(a)(4)** – Primary land uses are farming, ranching, and ancillary uses.
 - According to the application, “In reviewing the SCS WebSoils Survey, the subject property is comprised of over 90% Half Moon-Haskill Complex (Hg) soils. The upper Flathead Valley Area Soils Survey (1960) Issue states that Half Moon-Haskill soils complex consists of: ‘Cultivated areas are usually small fields and patches on small farms owned by families who depend on work off the farm for their income... They are used mainly for home gardens, oats, alfalfa, and tame grass hay.’” Based on the description of the soil from the Upper Flathead Valley Area 1960 Soils Survey, the SAG-5 zone seems an appropriate density for the subject property.
- **Policy 8.12(a)(5)** – Control the scattered intrusion of incompatible residential and commercial development, to prevent inflated land prices, spread of noxious weeds, and pressure to limit conventional agricultural activities involving spraying, dust, noise, odors, or large equipment on local roads.
 - The subject property is located adjacent to a higher density residential area within the City of Whitefish and is located adjacent to County zones that allow for 2.5 and 10 acre minimum lot sizes.
- **Policy 8.12(a)(6)** – Avoid extension of sewer and water utilities into these areas, in order to prevent premature development.
 - The SAG-5 designation would allow for densities of 1 dwelling units per 5 acres which would likely not require public services because 5 acres lots can be serviced by individual septic systems and wells.

The proposed zoning map amendment does not appear to comply with the Master Plan map but the proposed zoning map amendment is generally supported by the text of the Master Plan.

Finding #3: The proposed zoning map amendment from SAG-10 to SAG-5 does not appear to comply with the Whitefish City-County Master Plan Map Year 2020 because the proposed zoning classification is not compatible with the future land use map designation of ‘Important Farmland’ which calls for densities of one dwelling unit per 20 acres or more and the SAG-5 permits a density as low as one dwelling per 5 acres or more.

Finding #4: The proposed zoning map amendment appears to comply with the text of Whitefish City-County Master Plan because it would allow for additional low density housing, lots could be divided in a way that there is buildable area outside the sensitive area, the property is located adjacent to a higher density residential area within the City of Whitefish, is located adjacent

to County zones that allow for 2.5 and 10 acre minimum lot sizes, and 5 acres lots can be serviced by individual septic systems and wells.

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

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

The subject property is located within the Whitefish Rural Fire District and the Whitefish Rural Fire Department would respond in the event of a fire or medical emergency. The nearest fire station is located approximately 2¼ miles south of the property at the corner of Whitefish Stage and Hodgson Road. The applicant received an email from the Whitefish Fire Marshall which states, “The proposed zoning change does not present any apparent negative impacts or problems on the Fire Department’s ability to adequately service this area. Therefore, we would not have any objections to the proposed change from SAG-10 to SAG-5.”

The subject property is located within the Wildland Urban Interface (WUI), contrary to the statement in the application. Additionally the property is located in the County Wide Priority Area and designated as medium high. The majority of the subject property is open space, with some trees located along the river and near the existing buildings. Many of the surrounding properties are also heavily forested which could reduce the fire safety of the property if 12 dwelling units are constructed.

The subject property is located along Montana Highway 40 and Kallner Lane both of which have the potential to be used as an emergency access for the subject property. Highway 40 is a two lane MDT maintained highway with a left turn lane in front of the subject property. Kallner Lane is a 20-foot wide two lane paved local road within a 40 foot easement. Both roads appear adequate to provide ingress and egress in the event of an emergency.

The subject property is flat with embankments near the Whitefish River. The subject property is located on four separate FEMA FIRM Panels. FIRM Panels 30029C1405G, 30029C1410G and 30029C1090G show the majority of the property is located within an unshaded Zone X. Zone X is an area determined to be outside the 0.2% annual chance floodplain. FEMA FIRM Panel 30029C1095G designates a portion of the property as Zone A along the Whitefish River and the rest of the property as Zone X. Zone A is an area determined to be subject to inundation by the 1% annual chance flood. The applicant states, “The floodplain appears to be confined within the banks of the river.” With a 5 acre lot minimum, lots could be divided in a way so that there is buildable area outside the floodplain and the floodplain could be designated as a no build zone during a subsequent subdivision process.

Finding #5: The proposed map amendment will not impact safety from fire and other danger because even though the property is located in the WUI and a county wide priority area, the Whitefish Fire Department had no concerns with the proposal, and a majority of the property is open space with only a few trees located on it and lots could be divided in a way that there is buildable area outside the 100 year floodplain.

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

The subject property is located within the Whitefish Rural Fire District and the Whitefish Rural Fire Department would respond in the event of a fire or medical emergency. The nearest fire station is located approximately 2¼ miles south of the property at the corner of Whitefish Stage and Hodgson Road. The applicant received an email from the Whitefish Fire Marshall which states, “The proposed zoning change does not present any apparent negative impacts or problems on the Fire Department’s ability to adequately service this area. Therefore, we would not have any objections to the proposed change from SAG-10 to SAG-5.”

The subject property is located along Montana Highway 40 and Kallner Lane both of which have the potential to be used as access the subject property. Highway 40 is a two lane MDT maintained highway with a left turn lane near the subject property. Kallner Lane is a 20-foot wide two lane paved local road within a 40 foot easement. The application states, “Both roads provide access to the property but Kallner Lane provides the safest access.”

The intent of the existing ‘SAG-10 Suburban Agricultural’ is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural use. The purpose of the proposed ‘SAG-5 Suburban Agricultural’ is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use. The property is located adjacent to the urban densities of the City of Whitefish. The existing SAG-10 does provide a buffer and the proposed SAG-5 zone would continue to provide a buffer between urban densities of the city to the west and the agriculture to north and east.

The proposed SAG-5 would allow for similar uses to the existing SAG-10 zoning. The existing SAG-10 zoning allows for two permitted uses that are not allowed within the proposed SAG-5 zoning:

1. *‘Dairy products processing, bottling, and distribution’* and
2. *‘Ranch Employee Housing.’*

There are three permitted uses in the SAG-10 zone that are allowed with a conditional use permit in the SAG-5 zone:

1. *‘Cellular tower,’*
2. *‘Riding academy, rodeo arena,’* and
3. *‘Stable, public.’*

Only two uses are allowed with a conditional use permit in SAG-5 that are not allowed within SAG-10:

1. *‘Recreational facility, high impact,’* and
2. *‘Recreational vehicle park.’*

The proposed SAG-5 zoning would be located adjacent to R-2.5 which has a minimum lot size of 2.5 acres, SAG-10 with a minimum lot size of 10 acres and WR-2 with a minimum lot size of 6,000 or 7,200 square feet depending on use. The minimum lot size in the proposed SAG-5 zone is 5 acres which is in the middle of the minimum lot sizes of surrounding zones.

Finding #6: The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff, the Whitefish Rural Fire Department, future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning and the minimum lot size in the proposed SAG-5 zone is in the middle of the minimum lot sizes of surrounding zones.

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

Access to the property is via Highway 40 and Kallner Lane. Kallner Lane is a two lane paved local road within a 40 foot easement. Highway 40 is a two lane MDT maintained highway with a left turn lane in front of the property. Traffic counts by the Flathead County Road and Bridge Department, from May 2004; indicate 73 average daily trips (ADT) on Kallner Lane and according to the 2011 Montana Traffic Flow Map, Highway 40 has 9,932 average daily trips.

Comments received from the Flathead County Road and Bridge Department state, “After completing a review of the change request we do not have any concerns on the requested zone change. However, we would like to let you know of an issue with Kallner Lane we have with the City of Whitefish. We have previously notified them that per MCA 7-2-4211 Kallner Lane is currently the responsibility of the City of Whitefish. Their response was that the residential improvements to the west of Kallner Lane are not accessing the road so they are not responsible for it. We have not pushed the matter but have had discussions with the County Commissioners regarding the issue. In the future it is a strong possibility that Flathead County would take a stronger stance in these discussions with the City. We are currently maintaining the roadway to a point just north of the Shaw property boundary.”

Comments received from MDT state, “I do not have any comments specific to the current zone change request but would note that in the future if the property changes use then the owner will need to contact MDT for a new approach permit for any access to HWY 40.”

Staff estimated ADT using a standard trip generation of 10 vehicle trips per single family dwelling. The subject property could be divided into 11 new single family lots. Based on projected land uses arising from the proposed zone change, this proposal could generate an additional 110 ADT. The proposed zone change has the potential to contribute to an increase of 151% ADT on Kallner Lane and the addition of 110 trips from the proposed zone change could lead to a 1.1% increase in traffic on Highway 40. Kallner Lane appears capable of handling the increase in traffic as it is a paved two lane road if the issue is resolved on whether the City or the County maintains the road. Highway 40 could be used as a primary access to offset the traffic impact on Kallner Lane. Given that Highway 40 is a state maintained highway and MDT had no comments regarding this request, a negative impact on Highway 40 is not anticipated.

According to the applicant, “The property is undeveloped and therefore has no sewer or water facilities. If a subdivision were proposed on the property, the development would most likely be served by individual septic and individual or public water system.”

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. Comments received from the Flathead City-County Health Department state, “If future development is proposed, in accordance with MCA76.4.102(16), parcels less than 20 acres, exclusive of roadways, which are created by a division of land, and the plat thereof shall show all such parcels, whether contiguous or not. MCA 76.4.102, “Subdivision’ means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area, regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.’ If the proposed development meets the definition of a ‘subdivision’, it must be reviewed under the Sanitation and Subdivisions. Review will include water supply, wastewater treatment and disposal, storm water drainage, and solid waste disposal.” The subject property would be required to undergo review under the Sanitation in Subdivision Act if the property is divided into 5 acre lots.

The subject property is located within the Whitefish School District and Whitefish High School District. The Whitefish School District has seen a decline in student enrollment of 9% over the last ten years but an increase of 3% between 2013 and 2014. Whitefish High School District student enrollment has seen a decrease of 31% over the last ten years but remained even between 2013 and 2014. Agency referrals were sent to the Whitefish School District and Whitefish High School District but no comments were received regarding the proposal. Given the decrease in enrollment over the last ten years, it is anticipated that the school would have capacity should any growth occur as a result of the proposed zoning map amendment.

The zoning map amendment would change the current 10 acre minimum lot size to a smaller 5 acre minimum lot size. It is anticipated subsequent future subdivision 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. Additionally, there are numerous parks, natural areas, and recreational opportunities within a short drive of the subject property.

Finding #7: The proposed amendment would facilitate the adequate provision of transportation because the property is accessed by both Highway 40 and Kallner Lane, the Montana Department of Transportation did not have any comments regarding the proposal, Highway 40 would see a slight increase in traffic and Kallner Lane could manage the increase in traffic as it is a paved two lane road if the issue is resolved on whether the City or the County maintains the road.

Finding #8: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because any new development would require review through the Sanitation and Subdivision Act which will ensure the adequate provision of water and wastewater, it is anticipated that the school would have capacity should any growth occur as a result of the proposed zoning map amendment and 5 acre lots would not require parkland during the subdivision review process.

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

1. The reasonable provision of adequate light and air;

The application states, “The proposed SAG-5 zoning designation has a minimum lot size of five acres and has identical setbacks to the SAG-10. The neighborhood at Kallner and Highway 40 area consists of a mix of lots sizes ranging from 12 units per acre in the Montarra directly to the west, 2.5 acre lots just south of Highway 40, and 10 acre lots to the north and east.”

Any additional lots created or structures constructed would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the SAG-5 zoning classification. The maximum building height within the proposed SAG-5 zone is 35 feet and the maximum building height of the existing SAG-10 zone is 35 feet.

The bulk and dimensional requirements under SAG-5 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. 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 setbacks for the proposed zoning classification are identical to those of the current zoning. The bulk and dimensional requirements for the SAG-5 designation have been established to provide for a reasonable provision of light and air.

Finding #9: 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, setbacks and lot coverage requirements within the proposed SAG-5 designation.

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

Access to the property is by both Highway 40 and Kallner Lane. Kallner Lane is a two lane paved local road within a 40 foot easement and Highway 40 is a two lane MDT maintained highway. Traffic counts by the Flathead County Road and Bridge Department, from May 2004; indicate 73 ADT on Kallner Lane and according to the 2011 Montana Traffic Flow Map, Highway 40 has 9,932 average daily trips.

Comments received from the Flathead County Road and Bridge Department state, “After completing a review of the change request we do not have any concerns on the requested zone change. However, we would like to let you know of an issue with Kallner Lane we have with the City of Whitefish. We have previously notified them that per MCA 7-2-4211 Kallner Lane is currently the responsibility of the City of Whitefish. Their response was that the residential improvements to the west of Kallner Lane are not accessing the road so they are not responsible for it. We have not pushed the matter but have had discussions with the County Commissioners regarding the issue. In the future it is a strong possibility that Flathead County would take a stronger stance in these discussions with the City. We are currently maintaining the roadway to a point just north of the Shaw property boundary.”

Comments received from MDT state, “I do not have any comments specific to the current zone change request but would note that in the future if the property changes use then the owner will need to contact MDT for a new approach permit for any access to HWY 40.”

Staff calculated ADT using a standard trip generation rate of 10 trips per single family dwelling. The subject property could be divided into 11 new single family lots. Based on projected land uses arising from the proposed zone change, this proposal could generate an additional 110 ADT. The proposed zone change has the potential to contribute to an increase of 151% ADT on Kallner Lane and could lead to a 1.1% increase in traffic on Highway 40. Kallner Lane appears capable of handling any effect the proposal would have on motorized transportation because it is a paved two lane road, if the issue is resolved on whether the City or the County maintains the road. Highway 40 could be used to offset the effect on motorized transportation on Kallner Lane. Given that Highway 40 is a state maintained highway and MDT had no comments regarding the proposal, no negative effect on motorized transportation on Highway 40 is anticipated.

There is no existing bike/pedestrian facilities currently located along Highway 40 or Kallner Lane in the vicinity of the subject property. Potential future growth may result in the development of a bike/pedestrian trail along Highway 40 near the subject property as it is identified in the Flathead County Trails Plan as part of a proposed arterial pathway which would hypothetically provide non-motorized connectivity between Columbia Falls and Whitefish.

Finding #10: Effects on the motorized transportation system will be minimal because the property is accessed by both Highway 40 and Kallner Lane, the Montana Department of Transportation did not have any comments regarding the proposal, Highway 40 would see a slight increase in traffic and Kallner Lane could manage the increase in traffic as it is a paved two lane road if the issue is resolved on whether the City or the County maintains the road.

Finding #11: Effects on the non-motorized transportation system will be minimal because the subject property does not abut existing or proposed

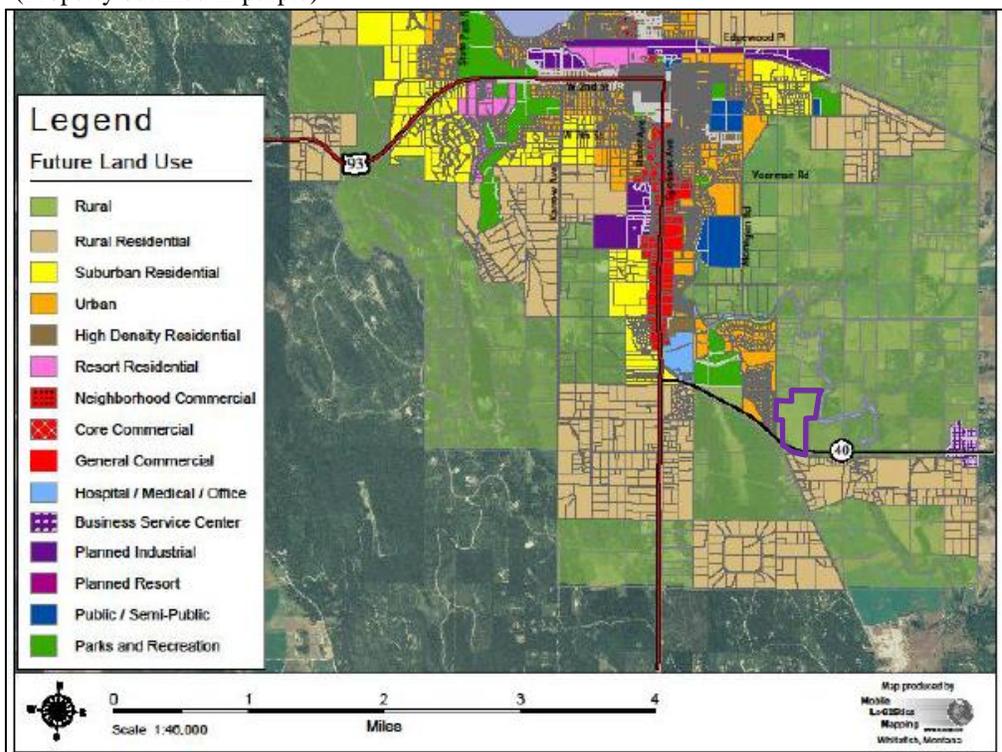
bike/pedestrian facilities and it is designated as an arterial trail on the Flathead County Trails Plan.

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

The subject property borders the City of Whitefish. As of the date of the completion of this staff report, no comments have been received from the City of Whitefish about this proposal. According to the application, “However, the current Whitefish Growth Policy does not allow for urban density in the outlying areas until such time as 50% of the developable area inside the urban designations are built out.”

The Whitefish City-County Growth Policy Future Land Use Map includes the subject property. The Whitefish City-County Growth Policy Future Land Use Map designated the property as “Rural.” According to the Whitefish City-County Growth Policy the “Rural” land use designation is defined as, “Open lands with decidedly rural character, including farmlands, pasture lands, timber harvesting and management areas, and forest lands generally fall under this designation. Agricultural and timber management are generally allowed, but residential densities are extremely low. This designation includes “important farmlands” as defined by National Resources Conservation Service criteria. Zoning is mainly WA-10 and WA-20.” The City of Whitefish does not have a WA-10 or WA-20 zone list in their ordinance but does have a WA zone with a 15 acre minimum lot size.

Figure 6: Northern portion of City of Whitefish Growth Policy Future Land Use Map (Property outlined in purple)



Finding #12: The proposal does not appear to be compatible with urban growth in the vicinity of Whitefish because the property is located within the City of Whitefish Growth Policy Future Land Use Map and the proposed SAG-5 zone would allow for a 5 acre minimum lot size and the “Rural” designation calls for 15 acre minimum lots, however the City of Whitefish had no comments regarding this request.

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

The subject property is located within the Southeast Rural Whitefish Zoning District and surrounded by suburban agricultural and residential zones (see Figure 2). The subject property is bordered on the south by ‘SAG-10 Suburban Agricultural,’ ‘R-2.5 Rural Residential’ and “SC Scenic Corridor.’ The properties to the north and east are zoned ‘SAG-10 Suburban Agricultural.’ The properties to the west are located within the City of Whitefish and zoned WR-2/WPUD, WR-4/WPUD, WLR and WA. Also in the area is ‘AG-20 Agricultural’ zoning. The character of the area surrounding the property is rural residential, urban residential and agricultural.

The application states, “The property to the south consists of small tracts 2 to 5 acres in size with an R-2.5 zoning designation. The properties to the north and east consist of 10 acre tracts and greater with estate type houses. The property east [sic] of Kallner Lane is in the City Limits with WR-2(PUD) zoning designations comprising of multi-family condominium and single-family residential development.” SAG-10 has a minimum lot size of 10 acres and R-2.5 has a minimum lot size of 2.5 acres. The WR-2 zone in Whitefish has a minimum lot size of 6,000 to 7,200 square feet depending on the use. The minimum lot size in the SAG-5 zone is 5 acres. The lot sizes permitted within the SAG-5 zone is in between the lots sizes of the nearby City and County zones.

As previously discussed, the permitted and conditional uses listed within a SAG-5 zone are similar to the permitted and conditional uses in the current SAG-10 zone. The existing SAG-10 zoning allows for two permitted uses that are not allowed within the proposed SAG-5 zoning (*‘Dairy products processing, bottling, and distribution’* and *‘Ranch Employee Housing’*) and three permitted uses in the SAG-10 that are allowed with a conditional use permit in SAG-5 (*‘Cellular tower,’ ‘Riding academy, rodeo arena,’* and *‘Stable, public’*). Additionally only two uses are allowed with a conditional use permit within the SAG-5 zone that are not allowed within the SAG-10 zoning (*‘Recreational facility, high impact,’* and *‘Recreational vehicle park’*). All other uses are the same between the SAG-10 and SAG-5 zoning.

Finding #13: The character of the proposed zoning map amendment appears suitable for the particular district because the adjacent zones allows for minimum lot sizes both greater than and less than what is permitted in the proposed SAG-5 zone and the uses permitted and conditionally permitted within the SAG-5 zone are similar to what is allowed and existing in the current SAG-10 zone.

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

The subject property is located within the Southeast Rural Whitefish Zoning District and surrounded by suburban agricultural and residential zones (see Figure 2). The subject property is bordered on the south by ‘SAG-10 Suburban Agricultural,’ ‘R-2.5 Rural Residential’ and ‘SC Scenic Corridor.’ The properties to the north and east are zoned ‘SAG-10 Suburban Agricultural.’ The properties to the west are located within the City of Whitefish and zoned WR-2/WPUD, WR-4/WPUD, WLR and WA. Also in the area is ‘AG-20 Agricultural’ zoning. The SAG-10 zone has a minimum lot size of 10 acres and the R-2.5 zone has a minimum lot size of 2.5 acres. The WR-2 zone designation in Whitefish has a minimum lot size of 6,000 to 7,200 square feet depending on the use. The minimum lot size in the proposed SAG-5 zone is 5 acres. The lot sizes permitted within the SAG-5 zone is in between the lots sizes of the neighboring City and County zones.

According to the applicant, “The permitted and conditionally permitted uses of the proposed Zoning designation of the SAG-5 are almost identical to that of the existing SAG-10 zoning classification. The primary difference between the two zoning designations is the density where the proposed zoning designation has a minimum lot size of 5 acres per lot and the existing zoning designation has a minimum lot size of 10 acres per lot.”

The character of the area surrounding the property is rural residential, urban residential and agricultural. The uses allowed within the proposed SAG-5 zone are similar to what is currently allowed within the SAG-10.

Finding #14: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is rural residential, urban residential and agricultural which is in line with the proposed SAG-5 zone.

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

The subject property borders the City of Whitefish. The City of Whitefish Planning Department was sent an agency referral but as of the date of the completion of this staff report, did not provided comment on this proposal. The City does not have a zoning use district with a similar minimum lot size to either the current SAG-10 zone or the proposed SAG-5 zone. The closest City of Whitefish zones in proximity to the subject are “WR-2/PUD” and ‘WA Agricultural.’ There is WA zoning less than 3/10 of mile to the west and WR-2/PUD is directly adjacent to the subject property.

According to Section 11-2G-1 of the Whitefish Zoning Ordinance the WR-2 district is, ‘*A district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and*

services.’ The minimum lot size in WR-2 is 6,000 square feet for a single family dwelling and 7,200 square feet for a two-family dwelling, both are less than the minimum lot sizes of the existing SAG-10 and the proposed SAG-5. The WR-2 district does not allow for many of the uses allowed in the existing SAG-10 or proposed SAG-5, such as agriculture, stables, rodeo arenas, riding academies, airfield, kennels, etc.

Planned Unit Developments (WPUD) allow for greater flexibility and multiple uses. According to the Whitefish Zoning Ordinance, the intent of the WPUD District “*is to provide a mechanism to allow the developer and design professionals the flexibility to respond to the environmental characteristics of a site, character of the surrounding neighborhood, and changing market demands and housing needs of the Whitefish community. In return for increased flexibility and the opportunity to vary standards of the underlying zone, it is the intent of the WPUD that the proposed development provides the following benefits as applicable: A. Preserve and/or enhance environmentally sensitive areas of the site. B. Preserve crucial wildlife habitat and/or daily or seasonal migration corridors. C. Provide usable open space. D. Preserve and protect the character and qualities of existing neighborhoods. E. Make efficient use of infill property. F. Provide effective buffers or transitions between potentially incompatible uses of land. G. Facilitate street continuity and connectivity, and attractive high quality streetscapes. H. Provide pedestrian and bicycle facilities and encourage transportation alternatives. I. Provide affordable housing. J. Provide a variety of residential product type while avoiding a monotonous and institutional appearance. K. Compliance with and/or implementation of the growth policy.*” Because of the PUD overlay, it is difficult to identify the precise zoning requirements for a property.

The WA zone which allows for agricultural uses has a minimum lot size of 15 acres. According to Section 11-2A-1 of the Whitefish Zoning Ordinance the WA district is, “*The district is intended for areas for silviculture, agricultural functions, outdoor recreation purposes, open spaces or future development, and for detached single-family homes with customary farm and/or accessory buildings situated in a setting conducive to a rural lifestyle.*” The permitted and conditional uses within the City’s WA zone allows for many of the uses that are permitted and conditionally permitted within the proposed SAG-5 and existing SAG-10. The proposed SAG-5 zone has a minimum lot size requirement less than the minimum lot size of the WA zones.

Finding #15: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed SAG-5 zone has a minimum lot size requirement greater than the minimum lot size of the WR-2 zone but are less than the minimum of the WA zone and the permitted uses within the SAG-5 zone are similar to the permitted uses within the City’s WA zone and the City of Whitefish had no comments regarding this request.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment does not appear to constitute spot zoning because the proposed SAG-5 zone would allow for similar uses to what is allowed

within the existing SAG-10, the minimum lot size in the SAG-5 zone is in the middle of the minimum lot sizes of surrounding zones and the proposed zoning maintains the rural character of the overall zoning district.

- 2) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text outlined in this staff report appear to generally support the request, the Designated Land Use Map is not a future land use map and the 'Important Farmland' 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 from SAG-10 to SAG-5 does not appear to comply with the Whitefish City-County Master Plan Map Year 2020 because the proposed zoning classification is not compatible with the future land use map designation of 'Important Farmland' which calls for densities of one dwelling unit per 20 acres or more and the SAG-5 permits a density as low as one dwelling per 5 acres or more.
- 4) The proposed zoning map amendment appears to comply with the text of Whitefish City-County Master Plan because it would allow for additional low density housing, lots could be divided in a way that there is buildable area outside the sensitive area, the property is located adjacent to a higher density residential area within the City of Whitefish, is located adjacent to County zones that allow for 2.5 and 10 acre minimum lot sizes, and 5 acres lots can be serviced by individual septic systems and wells.
- 5) The proposed map amendment will not impact safety from fire and other danger because even though the property is located in the WUI and a county wide priority area, the Whitefish Fire Department had no concerns with the proposal, and a majority of the property is open space with only a few trees located on it and lots could be divided in a way that there is buildable area outside the 100 year floodplain.
- 6) The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff, the Whitefish Rural Fire Department, future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning and the minimum lot size in the proposed SAG-5 zone is in the middle of the minimum lot sizes of surrounding zones.
- 7) The proposed amendment would facilitate the adequate provision of transportation because the property is accessed by both Highway 40 and Kallner Lane, the Montana Department of Transportation did not have any comments regarding the proposal, Highway 40 would see a slight increase in traffic and Kallner Lane could manage the increase in traffic as it is a paved two lane road if the issue is resolved on whether the City or the County maintains the road.
- 8) The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because any new development would require review through the Sanitation and Subdivision Act which will ensure the adequate provision of water and wastewater, it is anticipated that the school would

- have capacity should any growth occur as a result of the proposed zoning map amendment and 5 acre lots would not require parkland during the subdivision review process.
- 9) 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, setbacks and lot coverage requirements within the proposed SAG-5 designation.
 - 10) Effects on the motorized transportation system will be minimal because the property is accessed by both Highway 40 and Kallner Lane, the Montana Department of Transportation did not have any comments regarding the proposal, Highway 40 would see a slight increase in traffic and Kallner Lane could manage the increase in traffic as it is a paved two lane road if the issue is resolved on whether the City or the County maintains the road.
 - 11) Effects on the non-motorized transportation system will be minimal because the subject property does not abut existing or proposed bike/pedestrian facilities and it is designated as an arterial trail on the Flathead County Trails Plan.
 - 12) The proposal does not appear to be compatible with urban growth in the vicinity of Whitefish because the property is located within the City of Whitefish Growth Policy Future Land Use Map and the proposed SAG-5 zone would allow for a 5 acre minimum lot size and the “Rural” designation calls for 15 acre minimum lots, however the City of Whitefish had no comments regarding this request.
 - 13) The character of the proposed zoning map amendment appears suitable for the particular district because the adjacent zones allows for minimum lot sizes both greater than and less than what is permitted in the proposed SAG-5 zone and the uses permitted and conditionally permitted within the SAG-5 zone are similar to what is allowed and existing in the current SAG-10 zone.
 - 14) This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is rural residential, urban residential and agricultural which is in line with the proposed SAG-5 zone.
 - 15) The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed SAG-5 zone has a minimum lot size requirement greater than the minimum lot size of the WR-2 zone but are less than the minimum of the WA zone and the permitted uses within the SAG-5 zone are similar to the permitted uses within the City’s WA zone and the City of Whitefish had no comments regarding this request.

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 most 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