

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
R-2 LAKESIDE BOULEVARD NORTH ZONING DISTRICT REPORT FZD-10-01
SEPTEMBER 27, 2010

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Jim and Diane Jenks, Brent and Barbara Hall, Bob Berreth and Gregg Schoh for a new zoning district to be called Lakeside Boulevard North. The proposed district would be generally located between US Highway 93, Flathead Lake, Caroline Point Road and the Lakeside Zoning District. The proposed use classification would be R-2 One Family Limited Residential.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning district on October 13, 2010 in the 2nd Floor Conference Room, 1035 1st Ave West, 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 also hold a public hearing on the proposed zoning district at a date and time yet to be determined. Documents pertaining to the zoning district are available for public inspection in the Flathead County Planning and Zoning Office, Earl Bennett Building, 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning district will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed zoning district is within the advisory jurisdiction of the Lakeside Community Council (Council). On September 28, 2010 at 7:00 pm at the Lakeside Water and Sewer District office the Council will hold a public meeting to review the proposed zoning district and make a recommendation to the Flathead County Planning Board. This space is reserved for a summary of the Committee's discussion and recommendation.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed zoning district on October 13, 2010 at 6:00 pm and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board's discussion and recommendation.

C. Commission

The Flathead County Commissioners will hold a public hearing on the proposed zoning district on a date to be determined. This space is reserved for a summary of the Commission's discussion and decision.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

Jim and Diane Jenks
183 Lakeside Blvd

Lakeside, MT 59922

Brent and Barbra Hall
197 Lakeside Blvd
Lakeside, MT 59922

Bob Berreth
6895 MT 93
Lakeside, MT 59922

Gregg Schoh
PO Box 709
Lakeside, MT 59922

ii. Technical Assistance

None

B. Proposed Zoning District

The applicants are proposing the creation of a new zoning district in an unzoned area of the county. The proposed zoning district is located north of downtown Lakeside. The approximate size of the district is 87.4 acres.

Figure 1: Location of the proposed zoning district.

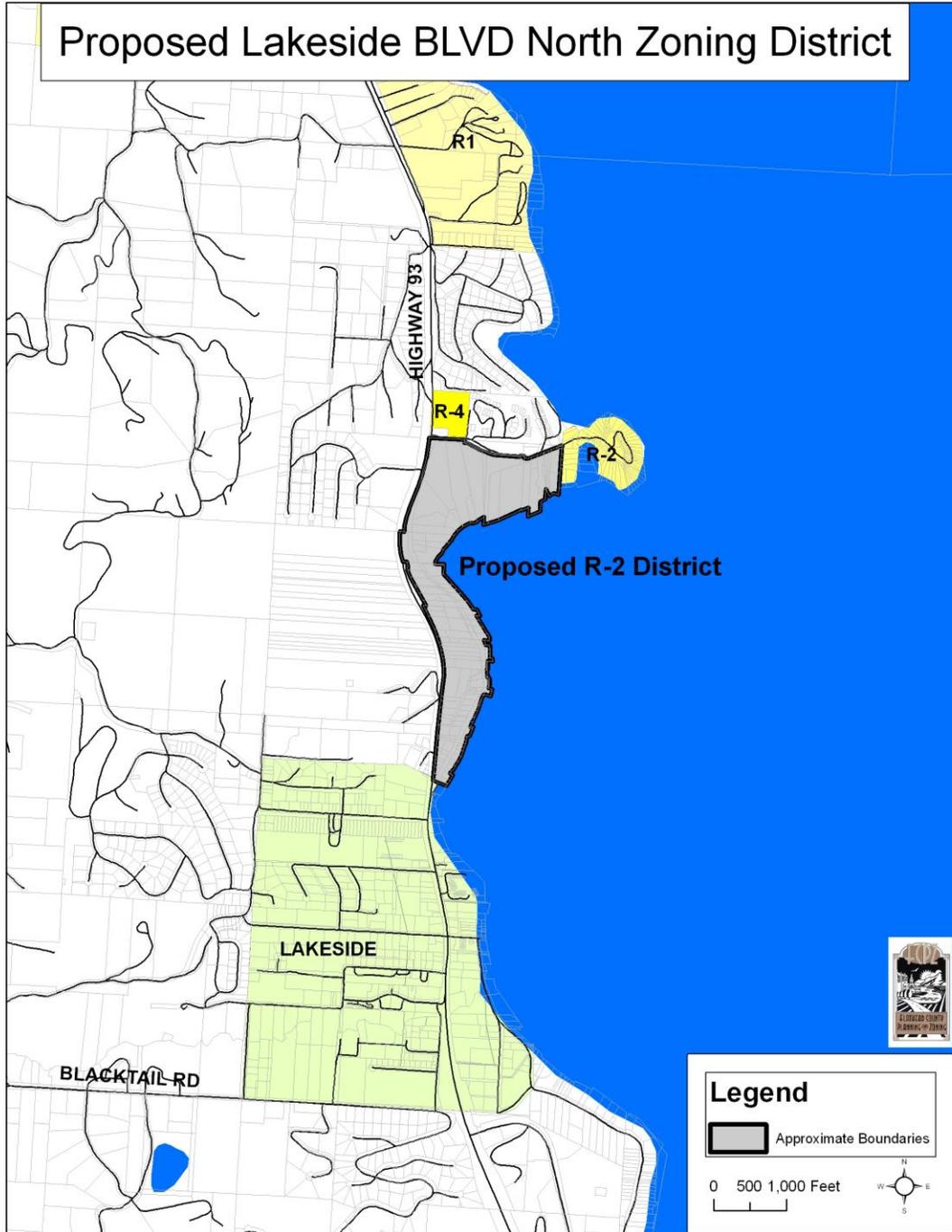
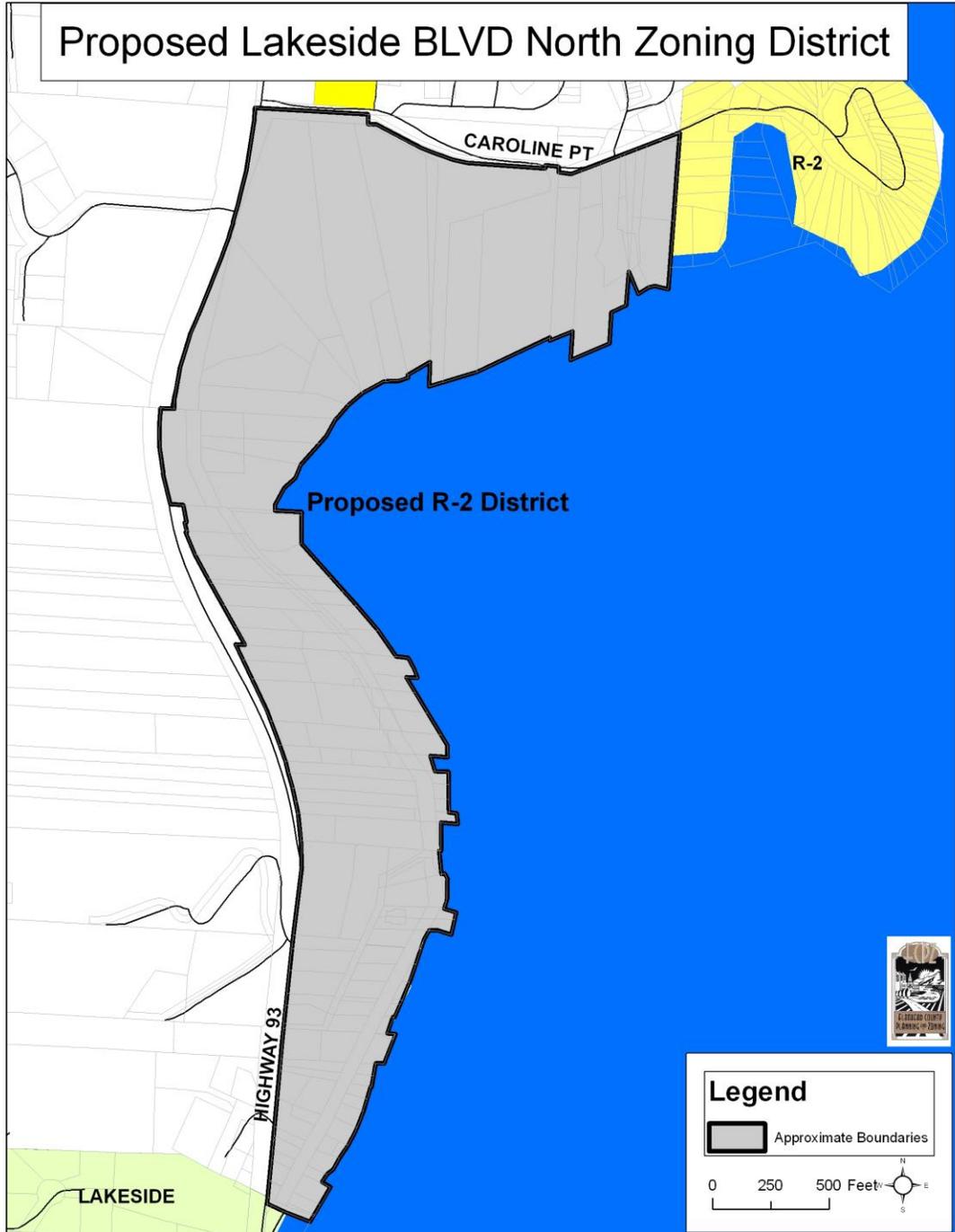


Figure 2: Location of the proposed zoning district.



C. District Boundaries and General Character of Proposed Zoning

The boundaries of the proposed district could be described as the area bound by the intersection of the center line of Caroline Point Road and the center line of US Highway 93, south along the centerline of US Highway 93 to the north boundary of the Lakeside Zoning District, east along the boundary of the Lakeside Zoning District

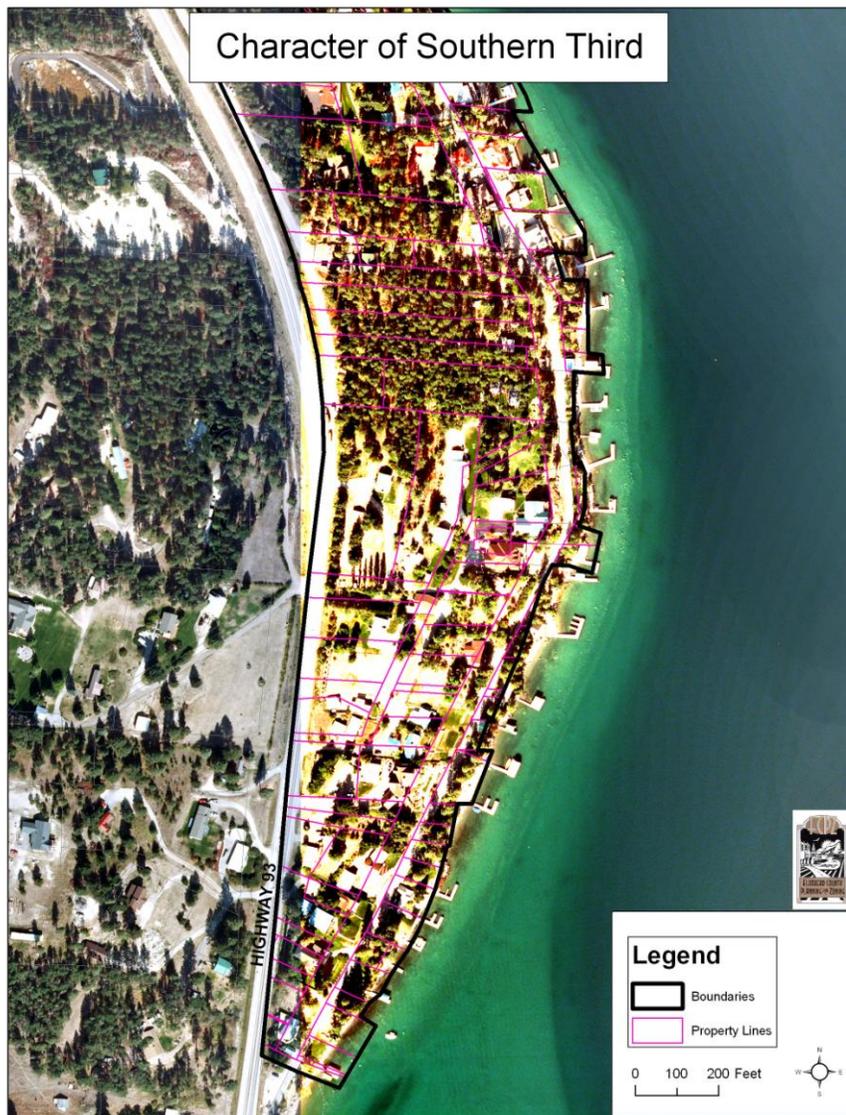
to the low water mark of Flathead Lake, north along the low water mark of Flathead Lake to the west boundary of the Caroline Point Zoning District, north along the west boundary of the Caroline Point Zoning District to the center line of Caroline Point Road, west along the center line of Caroline Point Road to the beginning.

The proposed zoning use classification is described as R-2 One Family Limited Residential, a district to provide for large-tract residential development generally found in suburban areas served by either sewer or water lines.

D. General Character of the Area

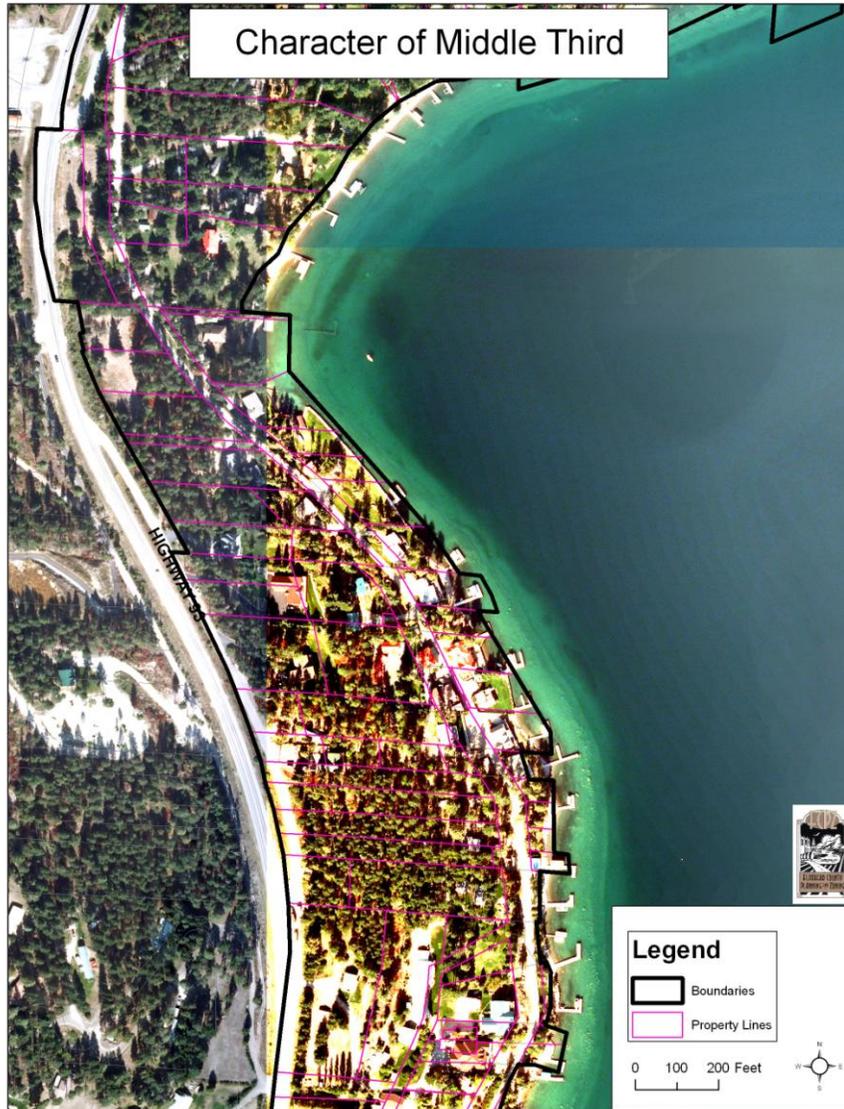
The proposed district could be separated into three areas with different characteristics. On the southern third of the proposed district (from about the Bangeman’s property south), the area is characterized by single family residential uses on small lots. There are multi-family uses in this area, and an operating hotel.

Figure 3. Character of the southern third of the proposed district.



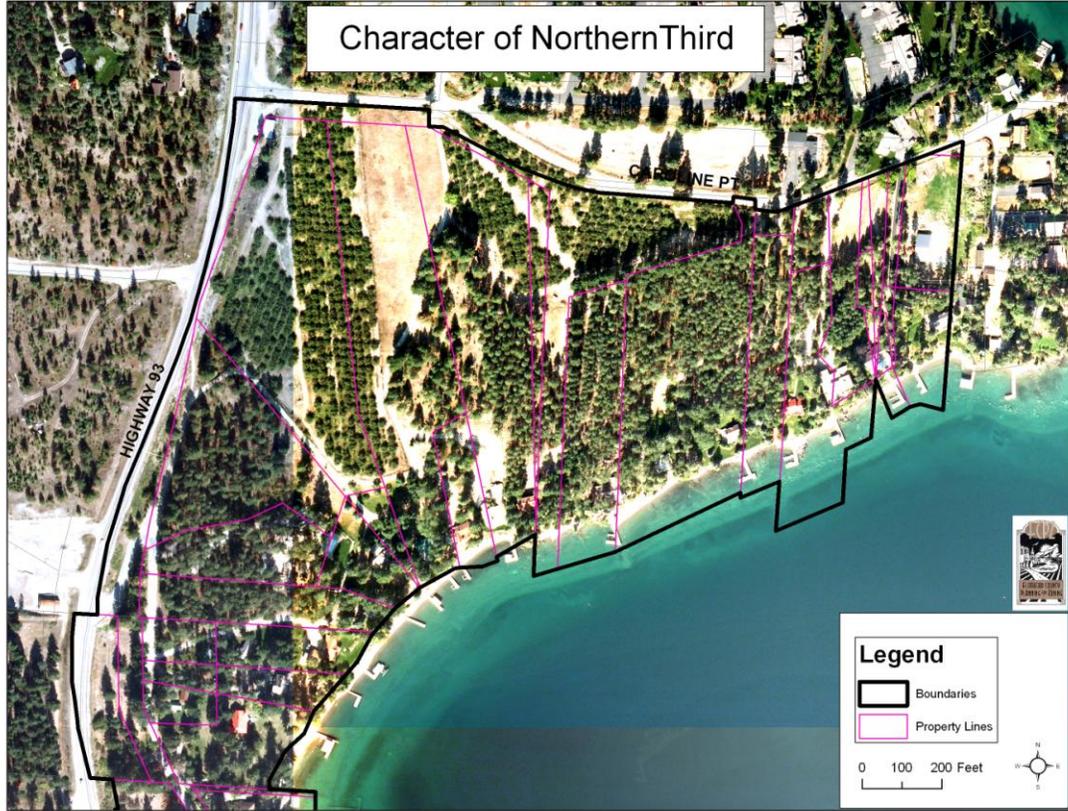
The middle third of the area (from about the Bangeman's property to the Addison property), the area is characterized by single family residential uses on medium size lots. There is a duplex in this area.

Figure 4. Character of middle third of the proposed district.



The upper third of the area (from the Addison's property to the Caroline Point Zoning District), the area is characterized by single family residential uses, agricultural uses, and large lots.

Figure 5. Character of northern third of the proposed district.



E. Landowner Support of Proposed Zoning

The applicants attempted to contact every landowner within the proposed district primarily by going door to door. Letters were mailed to landowners who were not in town. The applicants formulated a petition supporting the R-2 zoning use which was signed by 67% of the landowners totaling 74% of land area (the total number of landowners was estimated by staff using a list generated by Flathead County GIS). At the time of writing this staff report, there has been no written opposition to the district.

F. Plan(s) Being Implemented

The proposed zoning district would be an implementation of the Lakeside Neighborhood Plan and the Flathead County Growth Policy. For discussion on the proposals consistency with the applicable plans, please see Section IV of this report.

G. Public Services and Facilities

- | | |
|--------------|---------------------------------------|
| Sewer: | Lakeside Sewer and Water is available |
| Water: | Lakeside Sewer and Water is available |
| Electricity: | Flathead Electric Cooperative |
| Telephone: | CenturyTel |
| Schools: | Somers |
| Fire: | Lakeside/Somers |

Police: Flathead County Sheriff's Office

H. Criteria Used for Evaluation of Proposed Zoning District

The adoption of new zoning districts are processed in accordance with Section 2.09 of the Flathead County Zoning Regulations. The criteria for reviewing new zoning districts are found in 76-2-201 to 76-2-211, inclusive, M.C.A.

I. Compliance With Public Notice Requirements

A letter was mailed out to all landowners as a courtesy by Flathead County Planning and Zoning on August 24, 2010. The letter, which was sent to a list of landowners within the proposed district that was generated by Flathead County GIS Department, notified landowners of the proposal. A legal notice to all property owners within the proposed district and within 150 feet of the proposed district was mailed on September 14, 2010. Legal notice of the Planning Board public hearing on this application will be published in September 26, 2010 edition of the Daily Interlake.

Following the Planning Board public hearing on October 13, 2010, public notice of the zoning map amendment will be physically posted 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 date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

J. Agency Referrals

A request for agency referrals was sent on September 10, 2010. A standard agency referral list was used in this application to cover all possible bases. Included were the Somers Fire Department, Somers School District, and the Lakeside Water and Sewer District due to the fact this zoning district would be within their jurisdiction. Below is a list of agencies contacted:

- Mike Meehan, Flathead County Sheriff
- Dave Prunty, Public Works/Flathead County Road Department
- Jim Chilton/Flathead County Solid Waste
- Glen Gray, Flathead City-County Health Department
- Joe Russell, Flathead City-County Health Department
- Marcia Sheffels, Superintendent of Schools
- Jed Fisher, Flathead County Weeds & Parks Department
- Larry Van Rinsum, Flathead Conservation District
- James Freyholtz, MDT
- Jamie Murray, BPA
- Mike Wyrwas, USPS Billings
- MT Fish, Wildlife, & Parks
- DEQ, Subdivision Section (specify either Jared Mohr or Emily Gillespie)
- Somers Fire District
- Somers Elementary School District
- Flathead High School District

- Jim Heim, Lakeside County Water and Sewer District
- Somers Water and Sewer District
- Dan Walls, MDT
- US Forest Service, Planning Staff Officer

III. COMMENTS RECEIVED

A. Public Comments

The applicants have submitted petitions supporting the R-2 zoning use with 71 signatures. As of September 27, 2010, the date of the completion of this staff report for the Flathead County Planning Board, no additional public comment has been received regarding the proposed zoning district. Any public comment received after September 27, 2010 at 5:00 pm will be summarized verbally into the record at the public hearing held by the Flathead County Planning Board.

B. Agency Comments

A request for agency referrals was sent on September 10, 2010. Agency comments received prior to September 27, 2010 have been summarized below. Any agency comment received after September 27, 2010 at 5:00 pm will be summarized verbally into the record at the public hearing held by the Flathead County Planning Board.

- Bonneville Power Administration
 - There will be no impact to their transmission lines
- Flathead County Road and Bridge
 - No comment
- Lakeside County Water and Sewer District
 - Zoning helps the District plan better for future growth
- Environmental Health Services
 - No objection, some properties are not yet on sewer
- Montana Fish Wildlife and Parks
 - No comment

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

The area is currently unzoned. In unzoned areas with sewer and water it is difficult to forecast how the area will be utilized in the future. The intensity of development and the use of the property in the area could change dramatically in short durations of time. Currently, many of the properties are developed, primarily with single family residences. However, there are a few duplexes and apartments, one condominium, and a small hotel.

If the area was to be zoned R-2, the existing duplexes and apartments, the condominium and the hotel would become legally non-conforming uses (sometimes referred to as “grandfathered” uses), and could continue according to Section 2.07

FCZR. New uses in the future would be limited to the permitted and conditional uses allowed in an R-2 zoning use. Any new lot created would have to be 20,000 square feet, meaning lots would have to be at a minimum of 40,000 square feet to be split. Currently, 44 additional lots could be created in the proposed district (the 44 lots does not include any parcel that is owned by the county or Montana Department of Transportation).

B. Review of Proposed Zoning District (76-2-203 M.C.A.)

i. Whether the proposed zoning regulations are made in accordance with the Growth Policy/Neighborhood Plan.

Growth Policy Review

According to 76-2-203 (1) and 76-2-203(a), M.C.A. zoning regulations must be made in accordance with an adopted growth policy. The Implementation Plan found in the Flathead County Growth Policy Appendix C identifies how policies are to be implemented. The Implementation Plan separates the policies into separate categories by how they are to be implemented. The categories are:

Policy: A specific but non-regulatory statement that directly guides a community towards meeting an established goal regarding the promotion of public health, safety, welfare and efficiency in the process of community development. Growth-related policies are frequently directly implemented with regulatory mechanisms.

Action Item: A statement providing guidance for future planning efforts and requiring a follow-up action such as creation of a subsequent, more detailed plan or educational outreach effort. Implementation of an action item (i.e. creation of an additional plan) can result in detailed policies regarding a specific issue.

Neither: The *policy* category, as stated in the Flathead County Growth Policy, does not provide specific guidance for growth or direction for future planning efforts.

Below is a list of policies that are listed as “Policy” in the implementation plan that may be implemented through the use of zoning and may be relevant to this proposal. In this search, the majority of policies implemented through zoning are specific to industrial and commercial zoning. There are no policies in the Growth Policy that are specifically implemented through residential zoning.

P.17.3 Encourage mobile home parks as a form of affordable homeownership in areas with access to public sewer and water.

R-2 zoning allows class A manufactured homes (also defined as mobile homes) as a permitted use and manufactured home parks are a conditional use.

P.24.5 Restrict signalized highway intersections to a minimum of one mile spacing outside of urban areas to promote mobility and ½ mile within urban settings such as Evergreen.

US Highway 93 creates the western boundary of the proposed district. The highway is administered by the Montana Department of Transportation, and therefore, Flathead County has no actual input to the positioning of lights. The

method Flathead County can implement this Policy is through sound land use decisions. An R-2 zoning designation will restrict high density development that may increase traffic on existing intersections with Highway 93 or create future intersections with Highway 93 that may require signalization. Due to the size of the proposed district, it is unlikely a single family designation will necessitate signalization.

P.33.3 Support crime prevention through planning and community design.

The implementation section of the growth policy designates zoning as a method of implementation of this policy. R-2 zoning provides for setbacks from property lines and security lighting requirements for conditional use permits. Setbacks and lighting requirements discourage crime by facilitating lines of vision. Lighting requirements and setbacks are not required in unzoned areas.

P.40.2 Promote development into areas with public facilities or appropriate depth to groundwater to preserve water quality and water supply.

The proposed district is served by the Lakeside Sewer District. Portions of the proposed district are served or could be served by the Lakeside Water.

P.40.3 Encourage rural residential densities at an average of one dwelling unit per five acres and/or community wastewater treatment systems on sites where the groundwater is less than eight feet unless scientific evidence shows that a greater or lesser density is appropriate.

The proposed district is served by the Lakeside Sewer District. Portions of the proposed district are served or could be served by the Lakeside Water.

P.47.6 Discourage urban-density development that lacks urban services and facilities.

The area is unzoned and there are no restrictions of density. The area is served by the Lakeside County Sewer and Water District; however, it does not have the transportation infrastructure to accommodate urban densities. There are no sidewalks, no street lights, no storm drains, no gutters, or other infrastructure that would warrant urban densities.

The 2006 Designated Land Use Map in the Flathead County Growth Policy designates the land use in the proposed district as Rural 1DU/Acre, or 1 dwelling unit per acre. The applicants considered an R-1 designation, but felt an R-2 designation was a more accurate reflection of the existing lot sizes. The R-2 designation is single family and has been considered substantially consistent with the Growth Policy in the creation of the Old Highway 93 North Zoning District.

Lakeside Neighborhood Plan Review

The Lakeside Neighborhood Plan was adopted November 22, 1995. The plan generally divides the planning area into 4 areas. The proposed zoning district lies within the Lakefront Development area. Considerations for the Lakefront Development area are:

1. Strong desire to maintain the primarily single-family nature of the lake front

2. Need to establish minimum lot sizes, building heights and setbacks along lakeshore to limit density. (All residences should be appropriately set back from the waterfront and neighbors to avoid blocking sunlight and adjoining views, to minimize man made impacts, to preserve the natural aesthetics of the lake, and to meet sanitation requirements for water quality protection.)

The proposed district would accomplish both of these considerations.

Chapter IV of the plan are the Neighborhood Plan Recommendations. Item E of the chapter lists items that could be implemented through a Land Use Development Code. Item 4 recommends setting density standards for the 4 sub-areas. Item 5 recommends setting general height limitations and setbacks from property lines as appropriate to various sub-areas. The proposed zoning district establishes standards for building heights. Since the adoption of the Lakeside Plan, the Lakeside, Fish Hatchery and Spring Creek Zoning Districts have been implemented within the planning area. The Fish Hatchery Zoning District is in the Lakefront Development area.

Finding #1- The proposed zoning district is made in accordance with the Flathead County Growth Policy because it is consistent with the goals and polices that are to be implemented with zoning and the 2006 Designated Land Use Map.

Finding #2- The proposed zoning district is made in accordance with the Lakeside Neighborhood Plan adopted November 22, 1995 because it is consistent with the considerations and recommendations for setting density standards and height limitations in the “Lakefront Development area.”

ii. Whether the proposed zoning regulations are designed to:

1. Secure safety from fire and other dangers;

Zoning offers predictability which allows public service providers a mechanism by which to plan for protection needs in a specific area. Under the current unzoned status, there are no bulk and dimensional requirements. Height restrictions in residential zones are typically 35 feet because that is a reasonable height for ladders used by fire departments to reach. Unless an application is subject to subdivision review where conditions of approval can be enforced, structures may be built that are not readily accessible in the event of a fire emergency. In addition to a lack of maximum height requirements, the absence of zoning regulations results in no setback requirements and no lot coverage maximum, both of which serve to protect adjoining properties in the event of an emergency.

Finding #3- The proposed zoning district is designed to secure safety because the bulk and dimensional standards in the R-2 zoning use are intended to allow access for emergency services and slow the spread of fires.

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

Public health, safety and general welfare will be promoted through the implementation of zoning in the area. Currently the area is unzoned. There

are not bulk and dimensional requirements, limitations of densities, or restrictions on use. Because of the proximity to Flathead Lake and the availability of sewer and water, property values may make the area a desirable location to develop at a greater density than the existing public infrastructure can support. By establishing the R-2 zoning use, setbacks, height restrictions, and lot coverage requirements will be observed for all new development. The area will be protected in the event of emergency by limiting development to single family dwellings or extensively reviewed Planned Unit Developments that have been through the subdivision process. This will help to maintain water quality of Flathead Lake and protect the health and general welfare of the public.

Finding #4- The proposed zoning district is designed to promote public health, safety, and general welfare because bulk and dimensional requirements are intended to provide for public health and safety, and limiting densities and intensities of land uses along Flathead Lake may help maintain water quality.

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

Zoning allows service providers a level of predictability that is not available in unzoned areas. Having the predictability of how much density is likely to occur in an area allows service providers to appropriately plan the type and intensity of service required for the area. This benefits transportation systems, water and sewer districts, park planning, and schools.

In unzoned areas, it is difficult for service providers to forecast future trends within their planning horizons. Without zoning, densities, intensity of land use, and the type of land use can change, sometimes without any local government review. Service providers have to react to where growth and change are occurring. The costs of providing services after the fact can be higher than if there is predictability of where future services would be required to expand.

Finding #5- The proposed zoning district is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because zoning allows service providers a level of predictability that is not available in unzoned areas.

iii. In evaluating the proposed zoning regulations, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The bulk and dimensional requirements of the R-2 zone facilitate the adequate provision of light and air by establishing minimum lot areas, minimum yard setbacks, maximum height requirements, and maximum lot coverage. Minimum lot areas and setbacks prevent the overcrowding of buildings. Height restrictions allow movement of air and maximum lot coverage minimizes stormwater run-off.

Finding #6- The proposed zoning district has given consideration to the reasonable provision of adequate light and air because requirements of minimum lot area, minimum yard setbacks, maximum heights, and maximum lot coverage contained in the proposed zoning are all designed allow the flow of air and light.

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

Limiting the potential densities in the area will have a positive effect on the existing transportations systems. Portions of Lakeside Boulevard do not have an associated easement. If road widths needed to be expanded, or sidewalks, curb and gutter, or bike paths needed to be built, additional space may have to be acquired and in some situations, at public expense. The northern intersection of Highway 93 and Lakeside Boulevard is steep followed by an immediate S curve. The southern intersection of Highway 93 and Lakeside Boulevard has a sharp angle of intersection with the highway. Without zoning, the densities, intensities of land use, and the type of land use could change in a way that has negative impacts on the existing transportation system. The non-motorized transportation system would not be impacted by the proposed district.

Finding #7- The proposed zoning district has given consideration to the reasonable provision of motorized and non-motorized transportation systems because roadways do not have the appropriate easements to accommodate significant expansions, intersections with Highway 93 and Lakeside Boulevard are not at proper angles and the proposal will have no impact on non-motorized transportation systems.

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

The proposed zoning districts northern edge is approximately 7 air miles from the southern point of the annexed area of the City of Kalispell. The proposed district is not in an area the City of Kalispell could annex and the proposal will have no impact on the City of Kalispell. The proposed district is just north of the downtown area of the unincorporated community of Lakeside. The proposed district is within the planning area for the community, and the proposal is consistent with the plan.

Finding #8- The proposed zoning district has given consideration to compatible urban growth in the vicinity of cities and towns because the nearest incorporated city is 7 air miles to the north and the proposed district is consistent with the Lakeside Neighborhood Plan.

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

The proposal is consistent with the 2006 Designated Land Uses Map and goals and policies of the Growth Policy. The requested zone is also supported by the Lakeside Neighborhood Plan considerations for Lakefront Development. The R-2 zoning use is an appropriate zone for this area based

on the prevailing development pattern, environmental constraints, and availability of public services.

Finding #9- The proposed zoning district has given consideration to the character of the district and its suitability of particular uses because the district is consistent with the Growth Policy, the Lakeside Neighborhood Plan and the prevailing development pattern, environmental constraints, and availability of public services.

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

The intent of the proposed district is to maintain the character of the area as primarily single family residential, and to prevent types or intensities of growth that are incompatible to area. Types and intensities of uses not compatible with the existing development pattern can have negative impacts on property values. Zoning will provide predictability to landowners within the district and may provide a level of security on their investment. In contrast, some landowners may have plans to develop their property in a manner that is not compatible with the proposed zoning. If the proposed district is adopted, these landowners would still have the right to develop their property in a way compatible with the zoning. This may result in a perceived depreciation of the value of their property.

Existing uses that would not be allowed in the proposed R-2 zoning use would be considered legally non-conforming and could continue to be used according to Section 2.07 FCZR. The uses and structures could be remodeled, expanded, experience a changing in ownership, and reconstructed according to the regulations. However, it does not allow a change of use in the property, and could limit options for the use or structure in the future.

Finding #10- The proposed zoning district has given consideration to the value of buildings and encouraging the most appropriate use of land because the intent of the proposed district is to maintain the character of the area as primarily single family residential, to prevent types or intensities of growth that are incompatible to the area and existing uses that would not be allowed in the proposed R-2 zoning use would be considered legally non-conforming and could continue to be used according to Section 2.07 FCZR.

iv. Whether the proposed zoning regulations are, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The proposed zoning district's northern edge is approximately 7 air miles from the southern point of the annexed area of the City of Kalispell. The proposed district is not in an area the City of Kalispell could annex and will have no impact ordinances of the City of Kalispell.

Finding #11- The proposed district has given consideration to the zoning ordinances of nearby municipalities because the nearest incorporated city is 7 air miles to the north and there will be no impact on their ordinances.

V. SUMMARY OF FINDINGS

Finding #1- The proposed zoning district is made in accordance with the Flathead County Growth Policy because it is consistent with the goals and polices that are to be implemented with zoning and the 2006 Designated Land Use Map.

Finding #2- The proposed zoning district is made in accordance with the Lakeside Neighborhood Plan adopted November 22, 1995 because it is consistent with the considerations and recommendations for setting density standards and height limitations in the “Lakefront Development area.”

Finding #3- The proposed zoning district is designed to secure safety because the bulk and dimensional standards in the R-2 zoning use are intended to allow access for emergency services and slow the spread of fires.

Finding #4- The proposed zoning district is designed to promote public health, safety, and general welfare because bulk and dimensional requirements are intended to provide for public health and safety, and limiting densities and intensities of land uses along Flathead Lake may help maintain water quality.

Finding #5- The proposed zoning district is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because zoning allows service providers a level of predictability that is not available in unzoned areas.

Finding #6- The proposed zoning district has given consideration to the reasonable provision of adequate light and air because requirements of minimum lot area, minimum yard setbacks, maximum heights, and maximum lot coverage contained in the proposed zoning are all designed allow the flow of air and light.

Finding #7- The proposed zoning district has given consideration to the reasonable provision of motorized and non-motorized transportation systems because roadways do not have the appropriate easements to accommodate significant expansions, intersections with Highway 93 and Lakeside Boulevard are not at proper angles and the proposal will have no impact on non-motorized transportation systems.

Finding #8- The proposed zoning district has given consideration to compatible urban growth in the vicinity of cities and towns because the nearest incorporated city is 7 air miles to the north and the proposed district is consistent with the Lakeside Neighborhood Plan.

Finding #9- The proposed zoning district has given consideration to the character of the district and its suitability of particular uses because the district is consistent with the Growth Policy, the Lakeside Neighborhood Plan and the prevailing development pattern, environmental constraints, and availability of public services.

Finding #10- The proposed zoning district has given consideration to the value of buildings and encouraging the most appropriate use of land because the intent of the proposed district is to maintain the character of the area as primarily single family residential, to prevent types or intensities of growth that are incompatible to the area and existing uses that would not be allowed in the proposed R-2 zoning use would be

considered legally non-conforming and could continue to be used according to Section 2.07 FCZR.

Finding #11- The proposed district has given consideration to the zoning ordinances of nearby municipalities because the nearest incorporated city is 7 air miles to the north and there will be no impact on their ordinances.

VI. RECOMMENDATION

Staff recommends the Flathead County Planning Board adopt staff report FZD-10-01 as findings of fact and recommend approval of the proposed Lakeside Boulevard North Zoning District to the Flathead County Commissioners.