

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ROY AND MARCELLA VAN DEREN
ZONING MAP AMENDMENT REPORT (#FZC-16-04)
MAY 25, 2016

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Roy and Marcella Van Deren for a zoning map amendment within the Evergreen Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from 'B-2 General Business/EEO Evergreen Enterprise Overlay' to 'R-5 Two Family Residential.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on June 8, 2016 at 6:00 P.M. 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 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 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/Applicant

Roy and Marcella Van Deren
825 Helena Flats
Kalispell, MT 59901

ii. Technical Assistance

APEC Engineering, Inc.
111 Legend Trail
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property is located at 116 Poplar Drive in Evergreen, MT (see Figure 1 below). The property is approximately 0.25 acres in size and is legally described as follows:

Lots 1 and 2 of the Amended Subdivision Plat of a Portion of Lots 6 and 7 of Evergreen Subdivision, in Section 33, Township 29 North, Range 21 West, P.M.M., according to the map or plat of record in the office of the Clerk and Recorder office of Flathead County, Montana.

Figure 1: Subject property outlined in yellow



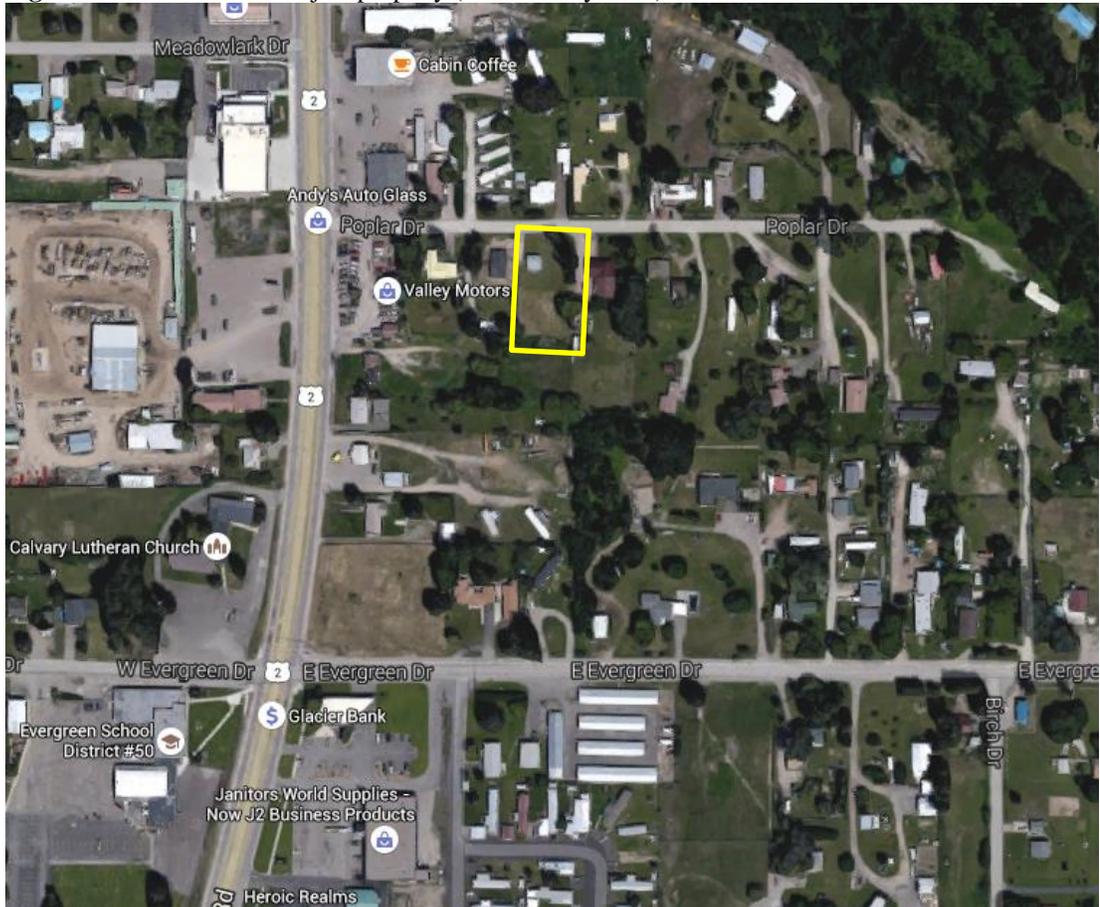
C. Proposed Zoning Map Amendment

The subject property is located within the Evergreen Zoning District and is currently zoned B-2 General Business/EEO Evergreen Enterprise Overlay’ (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested a zoning map amendment to zone the property ‘R-5 Two Family Residential.’ The B-2 designation is defined in Section 3.17 FCZR as, ‘A *business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.*’

The EEO designation is defined in Section 3.45 FCZR as, ‘A *zoning district to diversify allowable businesses along the Evergreen commercial corridor while maintaining existing zoning by overlaying B-2 General Business or B-3 Community Business zoning districts with one additional permitted use.*’

The R-5 designation is defined in Section 3.13 FCZR as, ‘A *residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.*’

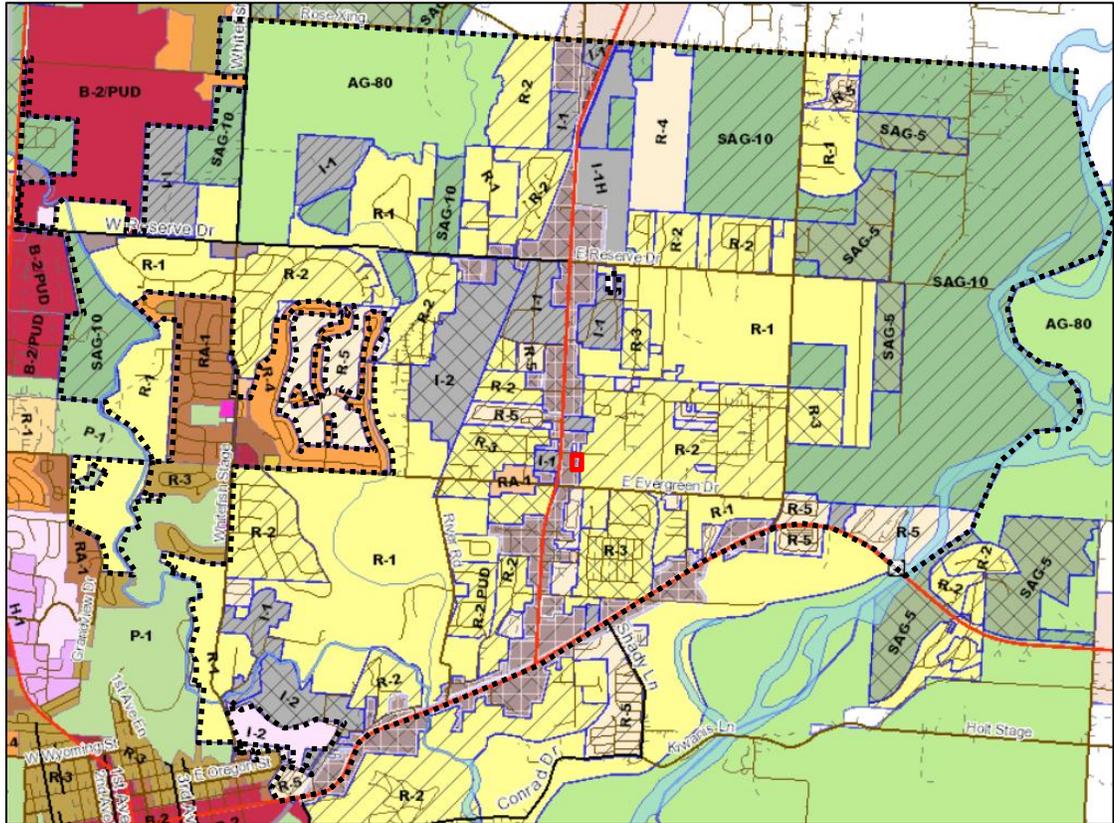
Figure 4: Aerial view of subject property (outlined in yellow)



E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is surrounded by B-2/EEO zoning to the north, south and west and R-5 to the east. Also in the vicinity of the property is some R-5 zoning. Many of the lots surrounding the property are similarly sized and used for residential. The commercial uses appear to front Highway 2 but there are residential uses on the lots zoned B-2/EEO east of the Highway.

Figure 5: Evergreen Zoning District (outlined with dashed black line & subject property outlined in red).



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

i. The zoning allows a use that differs significantly from the prevailing use in the area.

The applicant is proposing to rezone the subject property to R-5. To the north, south and west of the subject property the zoning is B-2/EEO. However, most of the properties surrounding the subject property are residential. Many of the properties that are similarly zoned B-2/EEO and located off of Highway 2 are residential with lots sizes between 0.2 acres and 0.46 acres. The R-5 zone would allow for lots 0.12 acres in size. Within a half mile of the proposed zone change there are several areas with R-5 zoning (see Figure 6 below). The proposed zoning would allow for a smaller lot size than permitted in the existing zoning but would be the same as the permitted lot size in the nearby R-5 zones.

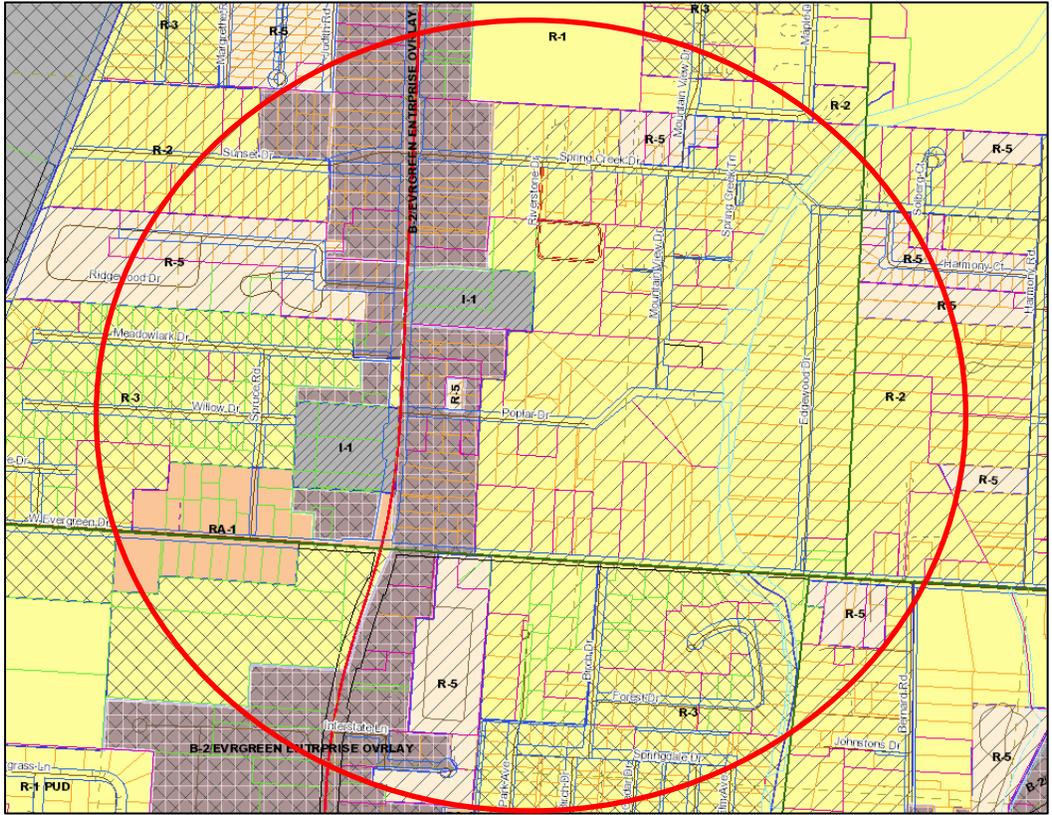
Additionally, directly to the east of the subject property is a large R-2 zoning district and also within the vicinity are R-3 and RA-1 zones. The minimum lot size within the R-2 and R-3 is 20,000 and 10,000 square feet respectively. The

minimum lot size for the RA-1 zone depends on the use on the property, for single family and duplex the minimum lots size is 7,500 square feet, whereas a 3-plex or larger would require an additional 1,500 square feet for each additional dwelling. The proposed zone would allow for residential at a similar density to the neighboring R-5, a greater density than the R-2 and R-3 but lesser density than that of the RA-1.

ii. The zoning applies to a small area or benefits a small number of separate landowners.

Staff determined that the subject property is located within the Evergreen Enterprise Overlay zoning along Highway 2 and Highway 35 which is approximately 523.54 acres. The area of the proposed zoning map amendment is 0.49 acres or 0.09% of the existing EEO district. Directly to the northwest of the subject property is an R-5 zoning that is approximately 0.4 acres. And neighboring the subject property to the east is an area approximately 306.5 acres zoned R-2. Within a half mile of the proposed zone change there are several areas with R-5 zoning ranging in size from 0.4 acres to 23.3 acres and averaging 7.71 acres (see Figure 6 below). The proposed R-5 would be similar in size to several of the pockets of R-5 zoning within a half mile but would be significantly smaller than the neighboring R-2 and existing EEO.

Figure 6: R-5 zoning within half mile radius of subject property (1/2 mile radius in red)



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 proposed zone change would allow for residential lots with a minimum lot size of 5,400 square feet. A majority of the lots to the north, south and west are similar residential lots zoned B-2/EEO. As previously stated, directly to the east of the subject property is a large R-2 zoning district and also within the vicinity is R-3 and RA-1 zoning. The minimum lot size within the R-2 and R-3 is 20,000 and 10,000 square feet respectively. The minimum lot size for the RA-1 zone depends on the use on the property, the minimum lots size for single family and duplex lot is 7,500 square feet and 1,500 square feet for each additional dwelling for 3-plex or larger. The proposed zone would allow for residential at a similar density to the neighboring R-5, a greater density than the R-2 and R-3 but lesser density than that of the RA-1.

The application states, ““This is a lot behind another lot on the road. It has an easement to Poplar. But this location does not seem to be a good business location. It is residential around it, and on a dead end road.”

The proposal would benefit a single landowner, however given the nature of the neighborhood and immediate vicinity would likely not be special legislation at the expense of the surrounding landowners or the general public.

Finding #1: The proposed zoning map amendment does not appear to be at risk of spot zoning because the proposed zoning is a similar to the R-5 zoning in the vicinity, between the densities allowed within the R-2, R-3, and RA-1 zones, the proposal would allow for residential uses similar to what exist in the vicinity, there are several R-5 zoning districts in the vicinity similar in size to the proposed zoning district and the property is located on a dead end road.

F. Public Services and Facilities

- Sewer: Evergreen
- Water: Evergreen
- Electricity: Flathead Electric Cooperative
- Natural Gas: Northwestern Energy
- Telephone: CenturyTel
- Schools: Evergreen School District
Flathead High School District
- Fire: Evergreen Fire District
- Police: Flathead County Sheriff’s Office

G. Criteria Used for Evaluation of Proposed Amendment

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

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on May 20, 2016. Legal notice of the Planning Board public hearing on this application was published in the May 22, 2016 edition of the Daily Interlake.

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

I. Agency Referrals

Referrals were sent to the following agencies on April 18, 2016:

- Flathead County Sheriff
- Flathead County Road and Bridge Department
- Flathead County Solid Waste
- Flathead City-County Health Department; Environmental Health Services
- Evergreen Sewer and Water
- Flathead County Weeds and Parks Department
- Bonneville Power Administration
- City of Kalispell Planning Department
- Evergreen School District
- Flathead High School District
- Evergreen Fire District

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 June 8, 2016 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:

- Flathead County Weed, Parks & Recreation
 - Sent an email with a copy of a completed Soil Disturbance – Invasive Plant Management Plan on May 16, 2016.
- Evergreen Water and Sewer District
 - Comment: "I have no comments pertaining to this zone change other than if they require more than 1 water and service they need to insure that both lots are adjacent to Poplar Dr. as the only way we could provide services to a lot that was not adjacent to our water main would be for them to do a main extension which would not be sensible financially for 1 service. Having said that we have water and sewer mains on Poplar Dr." Email dated May 5, 2016.

- Flathead City-County Health Department
 - Comment: “No comments for this one. Old tracks with no Certificate of Subd. Approval and Evergreen Water and Sewer.” Email dated May 9, 2016.
- Bonneville Power Administration (BPA)
 - Comment: “In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of these requests at this time.” Email dated April 22, 2016.
- Flathead County Solid Waste
 - Comment: “The Solid Waste District views no negative impact with solid waste issues at this time. The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission private hauler in this area.” Letter dated April 22, 2016.
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated April 25, 2016.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build-Out Analysis

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

i. Current Zoning

The property is currently zoned ‘B-2 General Business’ zoning. B-2 is defined in Section 3.17 FCZR as, ‘*A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.*’ The following is a list of permitted uses within the B-2 zone:

1. *Accessory apartments.*
2. *Art foundry.*
3. *Automobile (new and used) and accessory sales.*
4. *Automobile service station.*

5. *Boat sales, new and used.*
6. *Bus station.*
7. *Car wash.*
8. *Cellular tower.*
9. *Church and other place of worship.*
10. *Day care center.*
11. *Farm equipment sales.*
12. *Financial institution.*
13. *Food store, supermarket, and delicatessen.*
14. *Health club.*
15. *Hotel, motel.*
16. *Lodge and fraternal and social organization, provided that any such establishment shall not be conducted primarily for gain.*
17. *Lumber yard, building materials; storage and sales.*
18. *Manufactured home sales and storage.*
19. *Nursery, landscaping materials.*
20. *Offices.*
21. *Park and publicly owned recreational facility.*
22. *Public transportation shelter station.*
23. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*
24. *Quasi-public building. (fire station, government office, etc.)*
25. *Radio and television broadcast station.*
26. *Recreational facility, high-impact.*
27. *Recreational facility, low-impact.*
28. *Recreational vehicle park.*
29. *Recycling drop-off station.*
30. *Rental yard.*
31. *Retail sales and service.*
32. *Restaurant.*
33. *Theater, housed in permanent indoor structure.*
34. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture in an enclosed facility.*

The following uses are listed as conditional uses in a B-2 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Animal hospital, veterinary clinic.*
2. *Automobile repair shop.*
3. *College, business school, trade school, music conservatory, dance school.*
4. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.**
5. *Commercial recreation area.*
6. *Convention hall facility.*
7. *Electrical distribution station.*
8. *Golf driving range and putting course.*
9. *Mini-storage, RV storage.*

10. Mortuary.
11. Tavern.
12. Temporary building or structure.*
13. Water storage facility.

The property is currently zoned 'EEO Evergreen Enterprise Overlay' zoning. EEO is defined in Section 3.45.010 FCZR as, 'A zoning district to diversify allowable businesses along the Evergreen commercial corridor while maintaining existing zoning by overlaying B-2 General Business or B-3 Community Business zoning districts with one additional permitted use.' The EEO has no conditional uses and the following is a list of permitted uses within the EEO zone:

1. *Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:*
 - a. *Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.*
 - b. *Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment; and boat building.*
 - c. *Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.*
 - d. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.*
 - e. *Storage and warehousing such as mini-storage, boat and vehicle storage.*

According to Section 3.45 of the Flathead County Zoning Regulations the bulk and dimensional requirements of the underlying B-2 or zoning district would apply to all properties designated as EEO. The bulk and dimensional standards for B-2 require a setback of 20 feet from the front, and side-corner, 5 feet from the side, and 15 feet from rear for all structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 10 foot setback is required from county roads classified as collector or arterials.

The B-2 zone has no applicable lot coverage and a maximum height of 35 feet. The minimum lot area is 7,500 square feet and the subject property is two tracts and 0.49 acres. Therefore, zero additional lots could be created under the existing zoning.

ii. Proposed Zoning

As previously stated, the applicant is proposing ‘R-5 Two-Family Residential’ zoning. R-5 is defined in Section 3.13.010 FCZR as, ‘A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.’ The following is a list of permitted uses in an R-5 zone:

1. *Class A manufactured home.*
2. *Class A and Class B manufactured home. (See Chapter VII – Definitions).*
3. *Day care home.*
4. *Dwelling, single-family.*
5. *Duplex.*
6. *Home occupation (See Chapter V – Performance Standards and Chapter VII - Definitions).*
7. *Homeowners park and beaches.*
8. *Park and publicly owned recreational facility.*
9. *Public transportation shelter station.*
10. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*

The following uses are listed as conditional uses in an R-5 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Beauty Salon and Barbershop.*
2. *Bed and breakfast establishment.*
3. *Cellular tower.**
4. *Church and other place of worship.*
5. *Community center building operated by a non-profit agency.*
6. *Community residential facility.***
7. *Dwellings, cluster development.**
8. *Dwelling unit, accessory (ADU).*
9. *Electrical distribution station.*
10. *Golf course.*
11. *Manufactured home park.*
12. *Mini-storage, RV storage.*
13. *Recreational vehicle park/campground.*
14. *School, primary and secondary.*
15. *Temporary building or structure.**
16. *Water storage facility.*

The bulk and dimensional standards within R-5 require a setback of 20 feet from the front, rear and side-corner and 5 feet from the side on principal structures, 20 feet from the front and side-corner and 5 feet from the rear and side for accessory structures. 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 arterials.

The permitted lot coverage is 40%, the maximum height is 35 feet, the minimum lot area is 5,400 square feet and the subject property is 0.49 acres. Therefore, approximately one additional lot could be created under the proposed zoning.

The requested zone change has the potential to increase density through subsequent division of the land in the future by one lot. The amendment would remove uses to most of the business and industrial uses of the property.

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 Kalispell City-County Master Plan 2010, adopted on February 6, 1986 by the Flathead County Commissioners (Resolution #578A) and the City of Kalispell on April 7, 1986 (Resolution #3641).

1. Flathead County Growth Policy

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

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

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*

- The amendment would allow the owner to subdivide the property and place additional residential on the property.
- ❖ **G.8** – *Safe healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowner to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
 - The R-5 designation would allow for densities of 1 dwelling unit per 5,400 square feet which would be the same density to the R-5 zoning, smaller than nearby RA-1 and larger than the neighboring R-2 and R-3 zones.
- ❖ **G.15** – *Promote a diverse demographic of residents.*
- ❖ **G.16** – *Safe housing that is available, accessible, and affordable for all sectors of the population.*
 - **P.16.3** – *Promote the development of affordable single and multi-family housing in areas of adequate service networks.*
 - The proposed zone would allow for additional single and multi-family residential, if approved.
- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
 - **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - **P.23.4** – *Recognize areas in proximity to employment and retail centers as more suitable for higher residential densities and mixed use development.*
 - This report contains discussion on the proposal’s potential burden on transportation below.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal’s 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, effort and community involvement that has taken place.*
 - The property is located within the Kalispell City-County Master Plan. This report contains discussion on the proposals compliance with the Master Plan below.

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

2. Kalispell City-County Master Plan

The Kalispell City-County Master Plan (Master Plan) Map 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 three major components, the text, goals and objectives, 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. Or worse, it may lead to a twisting or manipulation of the Plan.”* Therefore, this report contains discussion on compliance with all three of the Master Plan.

The subject property is located within the 2016 Evergreen Enterprise Area, an addendum to the Kalispell City-County Master Plan Year 2010, which was adopted to promote economic diversity in Evergreen, using infill development of existing highway commercial corridors. The addendum document supplements the text, goals, policies and map(s) found in the KCCMP. The EEA is an additional element of the KCCMP and the Flathead County Growth Policy.

The Master Plan map designates the subject property as ‘Evergreen Enterprise Commercial’ which is defined as, *“An overlay land use classification to allow diversification of commercial land uses within the Evergreen highway commercial corridor. This overlay promotes infill in an area of existing services and infrastructure by adding land uses such as light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond lot lines and do not involve materials that are explosive, hazardous or toxic. Within the Evergreen Enterprise Area, such uses are allowable adjacent to existing residential communities where compatible.”*

The goal and policies of the addendum are:

- ❖ **Goal 1** – *Vibrant highway commercial corridors in Evergreen, Montana filled with a variety of successful businesses that fully utilize existing services and infrastructure and that meet the many needs of the community.*
 - **Policy i** – *Respect and preserve the conforming status of the many successful existing businesses within the EEA by maintaining the B-2 and B-3 zoning within which the area has historically developed and upon which many businesses have relied.*

- *Policy ii – Use planning and zoning to add to and diversify allowable business types in the historically retail sales and service-oriented EEA.*
- *Policy iii – Consider the compatibility of allowable businesses types in the EEA with existing adjoining residential communities.*
- *Policy iv – Allow commercial land uses in the flood fringe of the 100-year floodplain in the EEA provided that all new construction, alteration and substantial improvement of structures within the flood fringe of the 100-year floodplain is reviewed and approved in conformance with the FCF&FMR.*

Finding #3: The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan: 2016 Evergreen Enterprise Area addendum because the proposed R-5 would not comply with the ‘Evergreen Enterprise Commercial’ designation and would not be compatible with the goals and policies of the addendum.

ii. Whether the proposed map amendment is designed to:

1. Secure safety from fire and other dangers;

The subject property is located within the Evergreen Fire District and the nearest fire station is located approximately one-tenth of a mile west of the property on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency. The subject property is not located within the Wildland Urban Interface (WUI) or within a fire district priority area.

The subject property is located on Poplar Drive just north of East Evergreen Drive and less than one-tenth of a mile east of Highway 2. Poplar Drive is a paved two lane local road within a 40 foot easement. Poplar Drive would be able to provide adequate ingress/egress for emergency vehicles.

The application state, “The proposed zoning of R5 has similar required setbacks and height limitations as existing B-2, so fire considerations remain the same.”

According to FEMA FIRM Panels 30029C 1810J, the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance floodplain. There is a low chance of flooding on the subject property.

Finding #4: The proposed map amendment will likely not impact safety from fire and other danger because the property is not in the 100 year floodplain, not located in the WUI, Poplar Drive is a paved local road capable of handling emergency vehicles and the property is located approximately one-tenth of a mile from the nearest fire station.

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

As previously stated, the property is located within the Evergreen Fire District about one-tenth of a mile east of the nearest fire and emergency response center located on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Department provides police services to the subject property. The

property is located on Poplar Drive which appears adequate to provide ingress and egress for emergency services.

The zoning to the north, south and west is B-2/EEO and the zoning to the east is R-2 and within a half mile of the proposed zone change there are several properties with R-5 zoning. The uses allowed within the R-5 would be similar to what exists on the neighboring properties and the same as that of the nearby R-5. Because the uses are similar to what exist in the area the proposal is not likely to negatively impact public health, public safety and general welfare.

Finding #5: The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because future development would be similar to uses already existing in the area and the property is served by the Flathead County Sheriff and the Evergreen Fire Department.

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

The subject property is located on Poplar Drive, just north of East Evergreen Drive and less than one-tenth of a mile east of Highway 2. Poplar Drive is a paved two lane local road within a 40 foot easement. Comments from the Flathead County Road and Bridge Department indicate no concerns with the proposed zoning map amendment.

There are no traffic counts available for Poplar Drive. However, Poplar Drive is a dead end road, approximately 30 dwellings and 28 lots that use Poplar Drive for access. Using standard trip generation, typically 10 vehicle trips are generated per dwelling for single family residential. Staff assumes that the average daily trips on Poplar Drive is approximately 300. The proposed R-5 zone would allow for the potential of 1 additional lot which would generate approximately 10 vehicle trips per day. Given the potential of 10 additional average daily trips, the proposal will likely have no negative impact on motorized transportation. The proposed zone change has the potential to increase traffic on Alpine Lane by 3.3%. It is unlikely that the proposal would hinder the adequate provision of transportation given the existing low traffic count on Poplar Drive and the potential of 10 vehicles trips generated by the proposed change.

The application states that the property will utilize public water and sewerage. Comments from the Evergreen Water and Sewer District state, "I have no comments pertaining to this zone change other than if they require more than 1 water and service they need to insure that both lots are adjacent to Poplar Dr. as the only way we could provide services to a lot that was not adjacent to our water main would be for them to do a main extension which would not be sensible financially for 1 service. Having said that we have water and sewer mains on Poplar Dr." The applicant will be required to work with the Evergreen Water and Sewer District to obtain services if any additional lots are created and those lots would need to be adjacent to Poplar Drive in order to connect to services.

The subject property is located within the Evergreen and Flathead School Districts. Evergreen Elementary Schools have seen a decrease in student enrollment over the last ten years of 30% and decrease between 2014 and 2015 of 7%. Flathead High School District has seen an 11% increase in student enrollment over the last ten years but no change between 2014 and 2015. No comments have been received from either the elementary or high school districts. As previously stated, the proposal has the potential to generate one additional single family dwellings, it is anticipated that the schools would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The development of one additional lot would has not trigger parkland requirements during subdivision review; however there are many parks, natural areas, and recreational opportunities within a short drive.

Finding #6: The proposed amendment appears to facilitate the adequate provision of transportation, water, sewerage, schools and parks because the proposal has the potential to generate one additional single family residential lot, comments from the Flathead County Road and Bridge Department and the Flathead County Environmental Health indicate no concerns, the new lot would likely utilize Evergreen water and sewer, no comments were received from either school district, and there are many parks, natural areas, and recreational opportunities in the valley.

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 zoning has similar height and setback restrictions as the existing zoning, so adequate light and air should be maintained.”

The bulk and dimensional requirements, which includes setbacks, have been established to provide for a reasonable provision of light and air. The minimum lot area for the proposed R-5 zone is 5,400 square feet and the minimum lot area for the existing B-2/EEO zone is 7,500 square feet. The maximum building height within the both the B-2/EEO and R-5 zones is 35 feet for a principal structure and 18 feet for accessory structures. The B-2/EEO zone does not have permitted lot coverage and the permitted lot coverage in the proposed zone is 40%.

The bulk and dimensional requirements within the EEO zone would be the underlying B-2 bulk and dimensional requirements. The B-2 zone requires a setback of 20 feet from the front, and side-corner, 5 feet from the side, and 15 feet on the rear for all structures. The bulk and dimensional requirements in the R-5 require a setback of 20 feet from the front, rear and side-corner and 5 feet from the side on principal structures and 20 feet from the front and side-corner and 5 feet from the rear and side for accessory structures.

The setbacks for the proposed zone are similar to those in the existing zoning while a greater area of a lot can be covered in the existing zone as the lot coverage is not applicable. The bulk and dimensional requirements for the R-5

designation have been established to provide for a reasonable provision of light and air.

Finding #7: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to adhere to the bulk and dimensional requirements including setbacks and lot coverage within the proposed R-5 designation.

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

The application states, “The property is accessed off of Poplar Dr., which adjoins U.S. Hwy. 2. Permitted uses (residential) in the proposed zoning typically have lower vehicle trips per day than the existing zoning uses would, so the impact of the zone change will not negatively impact the road system.”

The subject property is located on Poplar Drive, one-tenth of a mile east of Highway 2 and just north of East Evergreen Drive. Poplar Drive is a paved two lane local road within a 40 foot easement. Comments from the Flathead County Road and Bridge Department indicate no concerns with the proposed zoning map amendment. No traffic counts are available for Poplar Drive. However, Poplar Drive is a dead end road with approximately 30 dwellings and 28 lots that use Poplar Drive for access. Using standard trip generation, typically 10 vehicle trips are generated per dwelling for single family residential; staff assumes that the average daily trips on Poplar Drive are approximately 300. The proposed R-5 zone would allow for the potential of one additional lot which would generate approximately 10 vehicle trips per day. Given the potential of 10 additional average daily trips, the proposal will likely not negatively impact motorized transportation.

There is not a bike/pedestrian path along Poplar Drive nor is one proposed in the future. The proposed zone change is not likely to impact non-motorized transportation.

Finding #8: Effects on motorized and non-motorized transportation systems will be minimal because the Flathead County Road and Bridge Department had no concerns with this proposal, the traffic generated by the proposed zoning has the potential for an additional 10 average daily trips and there is no existing bike/pedestrian trail on Poplar Drive and none is proposed.

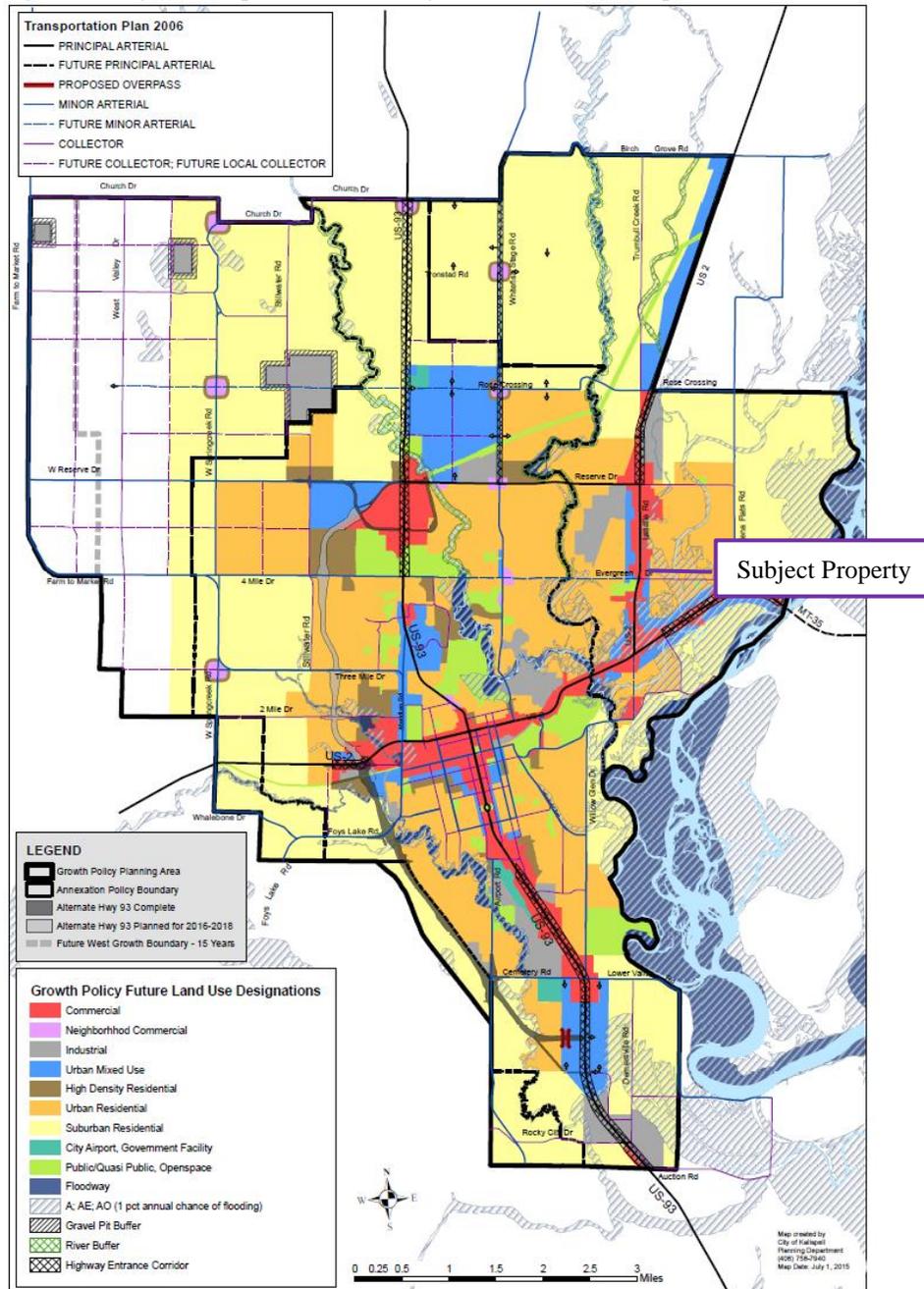
3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

Kalispell is the nearest municipality to the subject property, is located less than one mile west of the subject property, and is located outside of the Kalispell Growth Policy Annexation Policy Boundary but within the boundary of the Kalispell Growth Policy Future Land Use Map. No comments have been received from the City of Kalispell Planning Department regarding the requested amendment.

The application states, “The property is located in an area that transitions from business along U.S. Hwy 2 to residential. The proposed R5 is consistent with

zoning on adjacent properties to the north and provides a transition to the residential R2 zoning on the adjacent properties to the east.”

Figure 7: City of Kalispell Growth Policy Future Land Use Map



The City of Kalispell Growth Policy Future Land Use Map and is designated as ‘Commercial’ and directly west of the property is designated as ‘Urban Mixed Use.’ The existing zoning would be compatible with the City’s commercial use but the proposed R-5 would not.

The ‘Urban Mixed Use’ designation is defined as, “Encourage the development of compact, centrally located service and employment areas that

provide easy connections between existing commercial and residential neighborhoods.” The proposed zoning would be more compatible with the neighboring ‘*Urban Mixed Use*’ than the commercial designation because it would allow for a higher density residential.

According to a disclaimer on the Kalispell Growth Policy Future Land Use Map, “*Land use designations indicated on this map are only applicable when the property is proposed for annexation, and do not have any effect on lands under county jurisdiction with regard to zoning, density, subdivision or other land use decisions.*”

Finding #9: Consideration has been given to compatible urban growth in the vicinity of the City of Kalispell because the property is designated as ‘*Commercial*’ but located outside of the annexation boundary developed by Kalispell and according to the language on the Kalispell Growth Policy Future Land Use Map the land use designations do not have any effect on lands under county jurisdiction.

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

The proposed zoning map amendment would allow for residential lots with a minimum lot size of 5,400 square feet. The properties west of Highway 2 similarly situated near the highway, average 22,751 square feet. The properties directly to the west of the subject property average 12,632 square feet and are zoned B-2/EEO. Northeast and southeast the properties average 46,726 square feet and 42,034 square feet respectively and are zoned R-2. To the north the tracts average 41,913 square feet and to the south they average 22,572 square feet. Many of the lots in the area of the subject property are larger than what is allowed within the R-5. However, In the vicinity of the subject property are several pockets of R-5 zoning, many of which are within a half mile radius. Other zoning nearby includes the existing B-2/EEO, R-2, R-3 and RA-1. The RA-1 zoning allows for higher density, the R-2 and R-3 allows for lower density and the R-5 would allow for the same density as the proposed zoning designation.

The application states, “The property lies between business property to the west along U.S. Hwy. 93 (2) and residential property to the east. The proposed zoning is similar to adjacent properties to the north and east and provides a natural transition between the business and residential communities.”

Finding #10: The proposed zoning map amendment appears suitable for the particular district and character of the district because the uses permitted and conditionally permitted within the R-5 zoning are similar to uses that exist in the vicinity of the property the nearby R-5 would allow for the same density as the proposed zoning designation and the density allowed within the proposed designation would be between the densities allowed within the neighboring R-2, R-3 and RA-1 designations.

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 Evergreen Zoning District and surrounded by residential uses with business and residential zoning in the vicinity (see Figure 2). The application states, “The proposed zoning is appropriate in that it allows uses that transition from the business zoning to the west along U.S. Hwy. 2 to the residential zoning on the adjacent properties to the east. The proposed amendment will not have a negative impact on values of adjacent properties.”

As previously stated, in the vicinity of the subject property are several nodes of R-5 zoning, many of which are within a half mile radius. Other zoning nearby includes the existing B-2/EEO, R-2, R-3 and RA-1. Higher density are allowed in the RA-1 designation, lower densities are allowed in the R-2 and R-3 designation and the same density in the R-5.

The proposed zone change would allow for residential lots with a minimum lot size of 5,400 square feet. The properties west of Highway 2, similarly situated near the highway, average 22,751 square feet. The properties directly to the west of the subject property average 12,632 square feet and are zoned B-2/EEO. Northeast and southeast the properties average 46,726 square feet and 42,034 square feet respectively and are zoned R-2. To the north the tracts average 41,913 square feet and to the south they average 22,572 square feet.

Finding #11: 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 uses allowed for within the proposed zone would be the same as those allowed in the neighboring residential zones and similar to what exists on the neighboring properties.

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

Kalispell is the nearest municipality to the subject property and is located less than one mile west of the subject property. The property is located outside of the Kalispell Growth Policy Annexation Policy Boundary but within the boundary of the Kalispell Growth Policy Future Land Use Map. No comments have been received from the City of Kalispell Planning Department regarding this proposal.

The closest City zoning to the subject property is R-4. The City’s R-4 has a 6,000 square foot minimum lot size and allows for similar uses to the proposed County R-5. The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell.

Finding #12: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the R-5 zone would be, a similar density and allow for similar uses to the nearest City’s zoning and no comments were received from the City of Kalispell.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment does not appear to be at risk of spot zoning because the proposed zoning is similar to the R-5 zoning in the vicinity, between the densities allowed within the R-2, R-3, and RA-1 zones, the proposal would allow for residential uses similar to what exist in the vicinity, there are several R-5 zoning districts in the vicinity similar in size to the proposed zoning district and the property is located on a dead end road.
- 2) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the 'Commercial' land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created and is not a future land use map, and the applicable goals, policies and text generally support the request.
- 3) The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan: 2016 Evergreen Enterprise Area addendum because the proposed R-5 would not comply with the 'Evergreen Enterprise Commercial' designation and would not be compatible with the goals and policies of the addendum.
- 4) The proposed map amendment will likely not impact safety from fire and other danger because the property is not in the 100 year floodplain, not located in the WUI, Poplar Drive is a paved local road capable of handling emergency vehicles and the property is located approximately one-tenth of a mile from the nearest fire station.
- 5) The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because future development would be similar to uses already existing in the area and the property is served by the Flathead County Sheriff and the Evergreen Fire Department.
- 6) The proposed amendment appears to facilitate the adequate provision of transportation, water, sewerage, schools and parks because the proposal has the potential to generate one additional single family residential lot, comments from the Flathead County Road and Bridge Department and the Flathead County Environmental Health indicate no concerns, the new lot would likely utilize Evergreen water and sewer, no comments were received from either school district, and there are many parks, natural areas, and recreational opportunities in the valley.
- 7) The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to adhere to the bulk and dimensional requirements including setbacks and lot coverage within the proposed R-5 designation.
- 8) Effects on motorized and non-motorized transportation systems will be minimal because the Flathead County Road and Bridge Department had no concerns with this proposal, the traffic generated by the proposed zoning has the potential for an additional 10 average daily trips and there is no existing bike/pedestrian trail on Poplar Drive and none is proposed.
- 9) Consideration has been given to compatible urban growth in the vicinity of the City of Kalispell because the property is designated as 'Commercial' but located outside of

the annexation boundary developed by Kalispell and according to the language on the Kalispell Growth Policy Future Land Use Map the land use designations do not have any effect on lands under county jurisdiction.

- 10) The proposed zoning map amendment appears suitable for the particular district and character of the district because the uses permitted and conditionally permitted within the R-5 zoning are similar to uses that exist in the vicinity of the property the nearby R-5 would allow for the same density as the proposed zoning designation and the density allowed within the proposed designation would be between the densities allowed within the neighboring R-2, R-3 and RA-1 designations.
- 11) 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 uses allowed for within the proposed zone would be the same as those allowed in the neighboring residential zones and similar to what exists on the neighboring properties.
- 12) The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the R-5 zone would be, a similar density and allow for similar uses to the nearest City's zoning and no comments were received from the City of Kalispell.

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 of 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