# Flathead County
## Planning & Zoning

1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210

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## PETITION FOR ZONING AMENDMENT

*Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.*

**FEE ATTACHED $ 1919.00 + 75.00**

**APPLICANT/OWNER:**

1. Name: Cahoon Enterprises, LLC Phone: (701) 641-7072
2. Mail Address: 127 Wishart Road
3. City/State/Zip: Columbia Falls, MT 59912
4 Interest in property (if map amendment): Owner

**Check which applies:** [X] Map Amendment [ ] Text Amendment:

**TECHNICAL/PROFESSIONAL PARTICIPANTS:**

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

**IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:**

A. What is the proposed zoning text/map amendment? N/A

**IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:**

A. Address of the property: 412 & 480 Tronstad Road, Kalispell

B. Legal Description: Assessor's Tract 3A and 3DA (Tracts 1 of COS 19952 and Tracts 3 of COS 7197) (See Attached)
*(Lot/Block of Subdivision or Tract #)*

18 - T29N - R21W
Section Township Range

*(Attach sheet for metes and bounds)*

C. Total acreage: 32.99 acres.

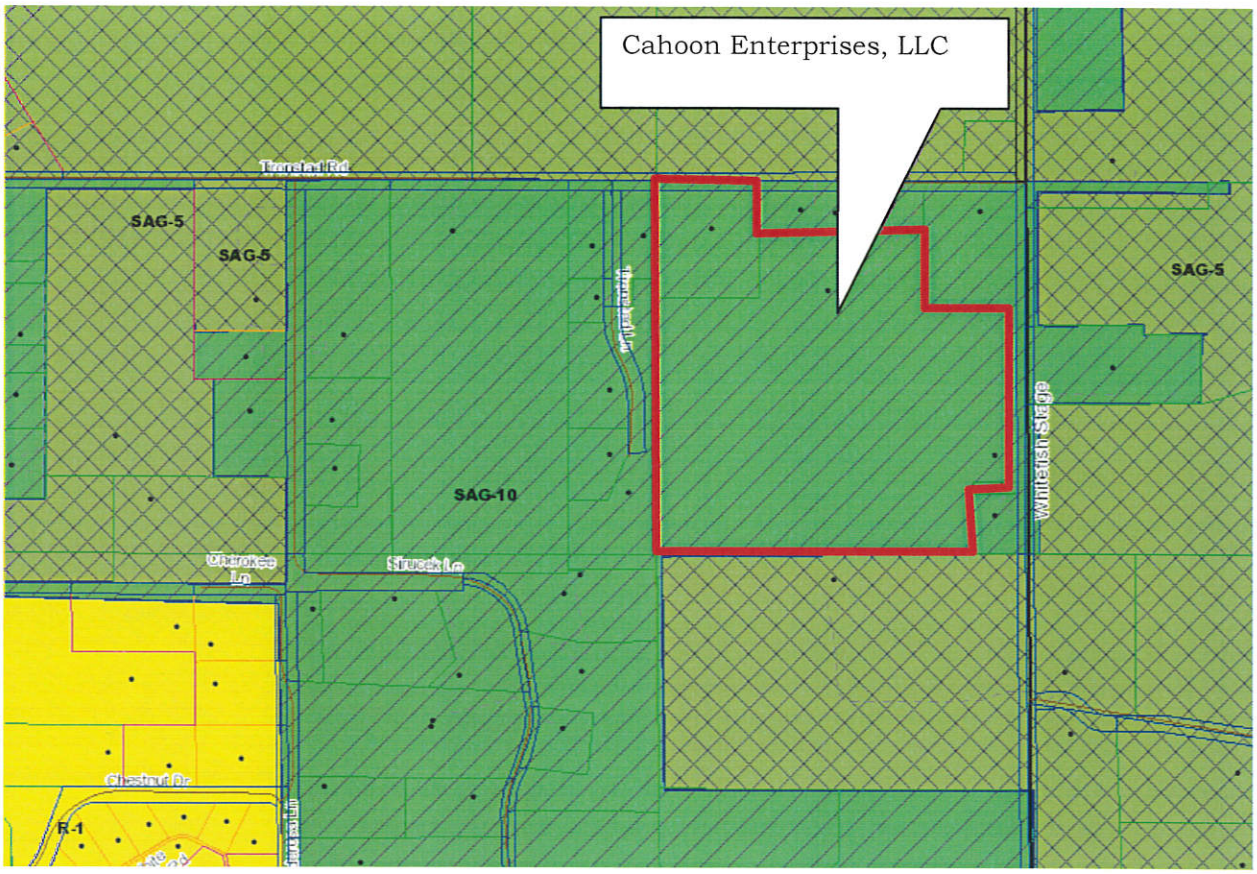
D. Zoning District: Highway 93 North Zoning District

E. The present zoning of the above property is: SAG-10 (Suburban Agricultural).

F. The proposed zoning of the above property is: SAG-5 (Suburban Agricultural)

G. State the changed or changing conditions that make the proposed amendment necessary: The applicant propose the SAG-5 in order to develop a cluster subdivision and match some of the neighboring zoning designations.

Figure 1




Source – Flathead County GIS, Zoning Layer



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**THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND *DETAILED* EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.**

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

   The Cahoon property is located within the boundary of the Flathead County Growth Policy. The Growth Policy Map identifies the property as "Agriculture". The Flathead County Growth Policy Map is not a future land use designation map that is traditionally used with a Growth Policy but an existing land use map that generally depicts the existing zoning categories as its base. The SAG-5 (Suburban Agriculture) designation is a land use category that is consistent with and generally conforms to the "Agricultural" designation.

   The Flathead County Growth Policy identifies a number of Goals and Policies that support the proposed Map Amendment.

   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.

   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 use.

   *Much of the nearby property is already zoned SAG-5 or R-2.*

   P.4.3.- Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)

   *The cluster provision is a tool that the County developed to provide for some development on less desirable agricultural lands while at the same time preserving a large tract that could be used for agricultural or hobby farm.*



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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 proposed SAG-5 will allow an overall density of 1 residential unit per 3.5 acres when utilizing the cluster provision and more specifically in this case, eight lots averaging 1.5 acres and one lot of 20 acres.*

2. Is the proposed amendment designed to:
   a. Secure safety from fire and other dangers? The Cahoon property is within the West Valley Volunteer Fire District. The West Valley Fire District has a Station less than 1/3 mile for the property on Whitefish Stage. The property is not mapped within a WUI or the 100- year floodplain.

   b. Promote public health, public safety and the general welfare? The property has direct access to both Tronstad and Whitefish Stage Roads, both of which are paved County maintained roads. The property is gently rolling with no steep slopes. The Flathead County Sheriff's Office provides police protection and the West Valley Fire District provides fire and ambulance service to the existing and proposed residences.

      The proposed SAG-5 zoning classification provides the same setback and height standards as the existing SAG-10 zone and very similar land use restrictions. The primary difference in the zoning districts is the density with the SAG-10 allowing one dwelling per 10 acres (three lots on 32 acres) and the SAG-5 allowing one dwelling per five acres(six lots on 32 acres). The proposed zoning designations will continue to promote the health, safety and general welfare of the public.

   c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The property has direct access to the Tronstad and Whitefish Stage Road right-of-ways. With the proposed subdivision, the property has been evaluated for water, sewer , and stormwater. The engineers analysis indicates that the property can be served by onsite sewer and water



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With approval of the SAG-5 and utilizing the cluster provision of the Flathead County Zoning Regulations the maximum density on the 32 acres is nine residential units. Assuming 10 vehicle trips per day, the property could produce 90 vehicle trips per day with maximum buildout.

The property is within the Kalispell School District #5. In general, larger lots, like those proposed, require less park land than urban densities with small yard areas.

3. Does the proposed amendment consider:
   a. The reasonable provision of adequate light and air? The proposed SAG-5 zoning designation has identical setbacks to the SAG-10 zoning and only a slight higher lot coverage of 25% as compared to the 20% in the SAG-10. As the lands to the North, East and West are already zoned SAG-5 the proposed zoning designation should provide adequate light and air. There is also a large R-2 zoned development in close proximity of the applicants property (Figure 1).

   b. The effect on motorized and non-motorized transportation systems? There are no public bike or pedestrian trails near the subject property County road shoulders are either narrow or non-existent in this area. The proposed zone change should have no impacts, positive or negative, on the lack of pedestrian trails in the area.

   c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is located approximately 1/2 mile from the City Limits of Kalispell. According to the Planning Director of Kalispell, Tom Jentz, the City has no plans to annex this area or provide services such as water, sewer, or road maintenance. The Suburban Agricultural zoning classification proposed on this property is compatible with the rural nature of the neighborhood and the neighboring Suburban Agricultural zoning.

   d. The character of the district and its peculiar suitability for particular uses? The subject parcel abuts SAG-5 zoning on three sides and there



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are numerous parcels less than five acres in the general vicinity (Figures 1).

Figure 2

Source - Google Earth Image

Considering the provisions of Spot Zoning and the "Three Part Test" as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

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

The proposed SAG-5 zoning classification provide the same setback and height standards and similar lot coverage as the existing SAG-10 zone. The land use categories of the SAG-5 are nearly identical to the SAG-10 catagories. In general the Zoning regulations identify agricultural related uses and single family residential development in both the SAG-10 and SAG-5 zoning designations.

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

The proposed zone change encompasses 32 acres and is adjacent to hundreds of acres already zoned SAG-5.

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 this is in the nature of special legislation.*

The proposed zone change is for a single landowner however the requested zoning matches that of many neighboring property owners.

As presented the proposed zone change application does not meet the three tests for "spot zoning" and therefore should be considered a legal request.



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e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? The permitted and conditionally permitted uses of the proposed zoning designation of SAG-5 are nearly identical to that of the existing SAG-10 zoning classification. The proposed zoning also matches that of much of the neighboring zoning so it would appear that the SAG-5 zoning is an appropriate zoning designation.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?
The nearest City Zoning District is the Kalispell Zoning Jurisdiction, which is approximately 1/2 mile to the southwest. According to Tom Jentz, Planning Director withteh City of Kalispell, the City has no long range planning or zoning policies for this part of the County. However when they did have planning jurisdiction in the area, it was an agricultural/suburban agricultural designation, which is compatible with the SAG-5 zoning designation.



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*The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.*

Mark Cahoon ______________________ 11-21-19 __________

Owner/Applicant Signature(s) Date

______________________ __________

Owner/Applicant Signature(s) Date

______________________ __________

Owner/Applicant Signature(s) Date



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