

G. State the changed or changing conditions that make the proposed amendment necessary: Adjacent to SAG-10

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? SEE ATTACHMENT
2. Is the proposed amendment designed to: SEE ATTACHMENT
 - a. Secure safety from fire and other dangers? SEE ATTACHMENT
 - b. Promote public health, public safety and the general welfare? SEE ATTACHMENT
 - c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? SEE ATTACHMENT
3. Does the proposed amendment consider: SEE ATTACHMENT
 - a. The reasonable provision of adequate light and air? SEE ATTACHMENT
 - b. The effect on motorized and non-motorized transportation systems? SEE ATTACHMENT
 - c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? SEE ATTACHMENT
 - d. The character of the district and its peculiar suitability for particular uses? SEE ATTACHMENT
 - e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? SEE ATTACHMENT
4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities? SEE ATTACHMENT

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.

Ruth E. Horn
Owner/Applicant Signature(s)

2-7-14
Date



APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.



1. Is the proposed amendment 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).

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

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

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

- **G.4 – Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agricultural and forestry in Flathead County while allowing existing landowners flexibility of land uses.**
 - *The SAG-10 designation allows for agricultural and forestry and provides the land owner with more flexibility when it comes to a minimum lot area.*

- **G.8 – Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect health, safety, and welfare of neighbors and efficiently provide local services.**
 - *The SAG-10 designation would allow for densities of 1 dwelling unit per 10 acres and would likely not require public services such as sewer and water. The property directly to the east of this proposal is currently zoned SAG-10 and therefore similar uses directly adjacent to this property are already allowed and were deemed to meet the requirements of protecting public health, safety and welfare.*



- **G.31 – Growth that does not place unreasonable burden on the school district to provide quality education.**
 - *This property lies within the Whitefish School District and it appears that it would not adversely impact Whitefish School District because the population of the school district has decreased over the last ten years.*
- **G.32 – Maintain consistently high level of fire, ambulance and emergency 911 response in Flathead County as growth occurs.**
- **G.33 – Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.**
 - *See discussion of adequate emergency services below.*
- **G.41 – Promote the preservation of critical fish and wildlife habitat and preserve the area’s unique outdoor amenities and quality of life.**
 - *Large SAG lots of 10 acre minimum in size will provide adequate habitat for wildlife that use this property.*
 - *This property does not contain water bodies, nor is it adjacent to a water body. Therefore, there will be no direct affect on critical fish habitat.*

This application is supported by Part 6: Individual Property Rights in Flathead County of the Preface Section of the Growth Policy, which states:

- **Property rights are protected individual rights that guarantee a property owner’s right to use his or her property as he or she wishes, limited only by a reasonable, lawful and compelling public need. Because of the increasing emphasis by the Montana courts on the “regulatory” nature of Growth Policies, any regulatory requirements that apply to the use of private property using this Growth Policy or its’ amendments as its’ lawful basis must meet the following requirements:**

There is no compelling public need to place restrictions on this property beyond the restriction that an SAG-10 designation will provide.

The Growth Policy lists six items for these requirements, but item 2. in particular supports this proposal as follows:

- **2. Must recognize that a key element to the custom and culture as well as the general welfare of Flathead County and its’ citizens and property owners is a strong commitment to protecting individual property rights.**

Changing this property to SAG-10 protects individual property rights of the property owners and there is no compelling public need to restrict this property to any larger density than SAG-10 allows. 2. Also states that “a key element to the general welfare of Flathead County and its’ citizens and property owners, is a strong commitment to protecting individual property



rights." This proposal protects the individual property rights of the applicants and therefore promotes the general welfare as stated in 2. above.

2. Is the proposed amendment designed to:

a. Secure safety from fire and other dangers?

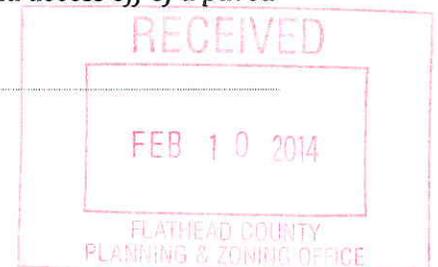
This property is within the West Valley Fire and Rescue Fire District. The West Valley Fire Department has three stations located at 2412 Farm to Market Road, 4195 Farm to Market Road and 2399 Whitefish Stage Road. The fire Department has 30 volunteers and the following equipment:

*2 Engines
3 Rescue/Wildland Trucks
3 Tenders
3 Ambulances
1 ladder truck*

It appears that the West Valley Fire Department is well equipped with manpower and equipment to provide emergency services to this proposed property. With the fact that the property will be limited to a large 10 acres in density and is void of trees, it appears that there is adequate safety from fire danger. Access to the property is provided by paved county roads which also mitigates any transportation safety issues.

b. Promote public health, public safety and the general welfare?

- *This property is not contiguous to urbanized areas, therefore will not have an effect on public health, safety and general welfare of urbanized areas.*
- *This area is not mapped as Wildland Urban Interface wildfire priority. The fact that property is farmed and void of trees and brush would indicate minimal impact to wildfire, especially with the low density proposed with 10 acre lot size. The low density of the SAG-10 zoning designation will promote the public health, safety and general welfare of the area.*
- *This property is not in an area with high pressure gas lines or high voltage lines, so no impact is presumed.*
- *The property is not on land or adjacent to Superfund or hazardous waste sites, so no impact is presumed.*
- *This property is not on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants, so no impact is presumed.*
- *Main access road to the property is Spring Prairie Road a paved county roadway. This property can be accessed by paved roads. The 10 acre density and access off of a paved road will promote health, safety and general welfare.*



➤ *This application is supported by Part 6: Individual Property Rights in Flathead County of the Preface Section of the Growth Policy, which states:*

- **2. Must recognize that a key element to the custom and culture as well as the general welfare of Flathead County and its' citizens and property owners is a strong commitment to protecting individual property rights.**

This application shows a commitment to the individual applicants' individual property rights and therefore promotes the general welfare as defined in the Growth Policy Preface Section because there is no compelling public need to restrict the use of this property beyond the SAG-10 restrictions.

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

Spring Prairie road which accesses the property is a paved county roadway within a 60' right of way. Spring Prairie road is accessed off of K.M. Ranch road, which is also a paved county roadway. Therefore, there is adequate transportation infrastructure to accommodate this proposed zone change. The subject property will be serviced by individual sewer and water systems. Nearby property has been reviewed and approved by both Flathead County and the Montana Department of Environmental Quality (D.E.Q) for both individual wells and sewer systems with no known problems. The property is within the Whitefish School District. The Whitefish School District completed a major remodel of the Central School approximately seven years ago and voters recently approved a School Bond to complete a major remodel of the High School facility. While the School District has been investing in its' infrastructure, the overall trend in the district is a declining enrollment. The Flathead County Statistical Report of Schools 2012, prepared by the County Superintendent's Office, shows a decrease of enrollment in the Whitefish Elementary Schools of 8% over the last ten years and a decrease of 29% in the High School over the same period. In general, larger lots like the 10 plus acres proposed with SAG-10 zoning would not require neighborhood parks because the open spaces on a ten acre property would provide adequate open area for each lot owner. Parks are more appropriate at urban densities.

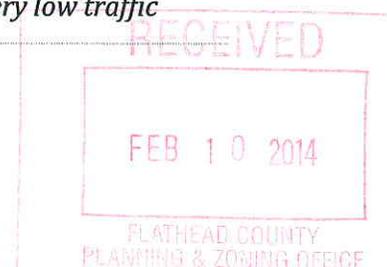
3. Does the proposed amendment consider:

a. The reasonable provision of adequate light and air?

The proposed SAG-10 zoning designation has a minimum lot size of 10 acres and has identical setbacks to the AG-40 that the applicants propose to replace. The SAG-10 zoning designation matches the existing SAG-10 zoning designation adjacent and directly east of this proposal. The low density of unit per 10 acres does provide for adequate light and air.

b. The effect on motorized and non-motorized transportation systems?

Main access road to the property is Spring Prairie Road a paved county roadway within a 60-foot road right of way. This property can be accessed by paved county roads. The 10 acre density of 10 acres being accessed off of a paved road will promote health, safety and general welfare. The road network provides good access for vehicles and with the very low traffic



volume of 657 vpd according to Flathead County Road Dept. counts. Low traffic volumes make for a good location for bicycles and pedestrian use. There is no public bicycle or pedestrian trails near the property, but the 60' wide right of would provide adequate width in which to construct a bicycle/pedestrian path near the existing paved roadway.

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 not located within close proximity to a city or town. The existing and proposed zoning designation is both "Rural" in land use and density. The proposed zoning is consistent with other zoning in the area. Directly east and adjacent to this proposal is property that is currently zoned SAG-10.

d. The character of the district and its peculiar suitability for particular uses?

The property is consistent with the current SAG-10 zoning adjacent and directly east of this proposal. Permitted and Conditional uses are quite similar between the SAG-10 and AG-40 zoning districts.

Spot zoning is not an issue with this proposal because this proposal is consistent with the existing SAG-10 zoning adjacent to and directly east of this proposal.

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-10 are very similar to the existing AG-40 permitted and conditional uses. The primary difference between the two zoning designations is the density where the proposed zoning designation of SAG-10 has a minimum lot size of 10 acres per lot and the current zoning designation of AG-40 has a minimum lot size of 40 acres per lot. This proposed zoning designation will be consistent with the existing SAG-10 zoning directly east and adjacent to this proposal.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The nearest City Zoning is the Whitefish Extra-Territorial Zoning Jurisdiction which extends two miles outside of the City Limits extending south on both sides of U.S. Highway No. 93. That boundary of that zoning jurisdiction is approximately 2.5 miles north of this proposal. The zoning classification on the closest properties in the Whitefish jurisdiction on the west side of Highway No. 93 are SAG-5, SAG-10 and AG-20. The zoning classification on the closest properties in the Whitefish jurisdiction on the east side of Highway No. 93 are WA zoning, which is Whitefish Agricultural zoning with a 15 acre minimum lot size. Based on the closest nearby Whitefish zoning, this proposed zone change from AG-10 to SAG-10 is compatible with the nearest municipal zoning, which is the Whitefish zoning.



The closest City of Kalispell zoning is in the Silverbrook development, which is the farthest north zoning of the City of Kalispell. The city of Kalispell zoning and planning jurisdiction stops at the Kalispell city limits. The north boundary of the Silverbrook development is approximately 2.7 miles south of this proposal. The Silverbrook development consists of three zoning designations which are R-2 PUD, R-4 PUD and B-1 PUD. These zoning districts densities are consistent with municipal services such as public water, public sewer, city police and fire protection. Kalispell sewer and water mains are extended to the property and the Silverbrook property was annexed into the city of Kalispell. Therefore, the development has city services such as City of Kalispell fire and police department jurisdiction. The SAG-10 designation in this application is as compatible as possible with the nearby Kalispell designation because there are no public sewer and water services available and therefore R-2, R-4 and B-1 densities are not appropriate at this time. Therefore, the SAG-10 designation is more appropriate and is consistent with the nearby Whitefish jurisdiction zoning that does not have city sewer and water extended into it.

It does make sense to approve this zone change from AG-40 to SAG-10 because as can be seen from the above discussion, the area is in transition to smaller lot size zoning districts. The proposed zoning district is very compatible with the nearest City of Whitefish jurisdictional zoning areas that are not served by public sewer and water systems.



