

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONSULTING INVESTING MANAGEMENT, LLC
ZONING MAP AMENDMENT REPORT (#FZC-16-08)
SEPTEMBER 28, 2016**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Sands Surveying Inc., on behalf of Johnson Family Trust for a zoning map amendment in the Bigfork Zoning District. The proposed amendment would change the zoning of the subject property from 'SAG-10 Suburban Agricultural' to 'SAG-5 Suburban Agricultural.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on October 12, 2016 in the 2nd Floor Conference Room of the South Campus Building located at 40 11th Street 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 at 40 11th Street West in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the October 12, 2016 Flathead County Planning Board review of the proposal.

B. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner/Applicants

Johnson Family Trust
290 Ramsfield Road
Bigfork, MT 59911

ii. Technical Assistance

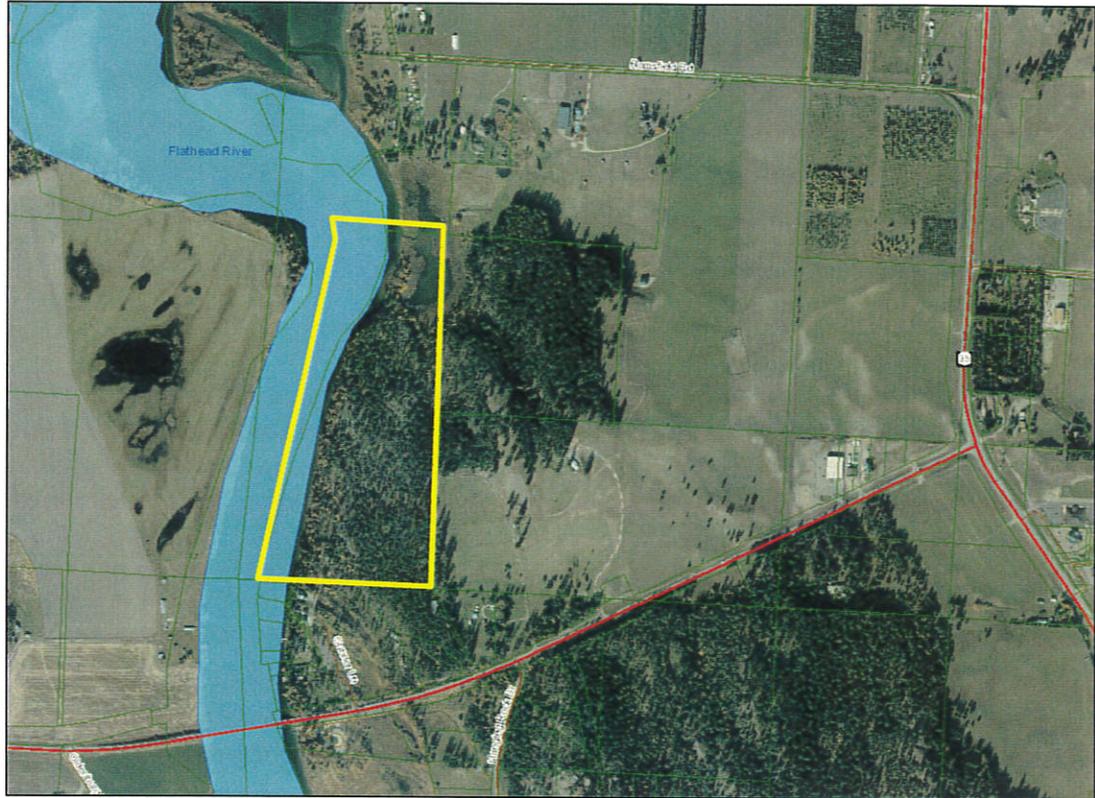
Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property is located at 290 Ramsfield Road in Bigfork, MT (see Figure 1 below). The proposal is for approximately 53.947 acres of the 93.94 acres subject property, and can legally be described as a portion of:

Tract 2 of Certificate of Survey No. 18233, situated, lying and being in the Government Lots 3 & 4 and in the Northeast Quarter of the Southwest Quarter (NE¼ SW¼) of Section 14, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

The subject property is currently zoned 'SAG-10 Suburban Agricultural' and located within the Bigfork Zoning District (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested the zoning map amendment for a portion of the property to zone it 'SAG-5 Suburban Agricultural.'

The SAG-10 designation is defined in Section 3.07 of the Flathead County Zoning Regulations (FCZR) as, '*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

The SAG-5 designation is defined in Section 3.08 FCZR as, '*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

Figure 2: Current zoning applicable to subject property (highlighted in blue)

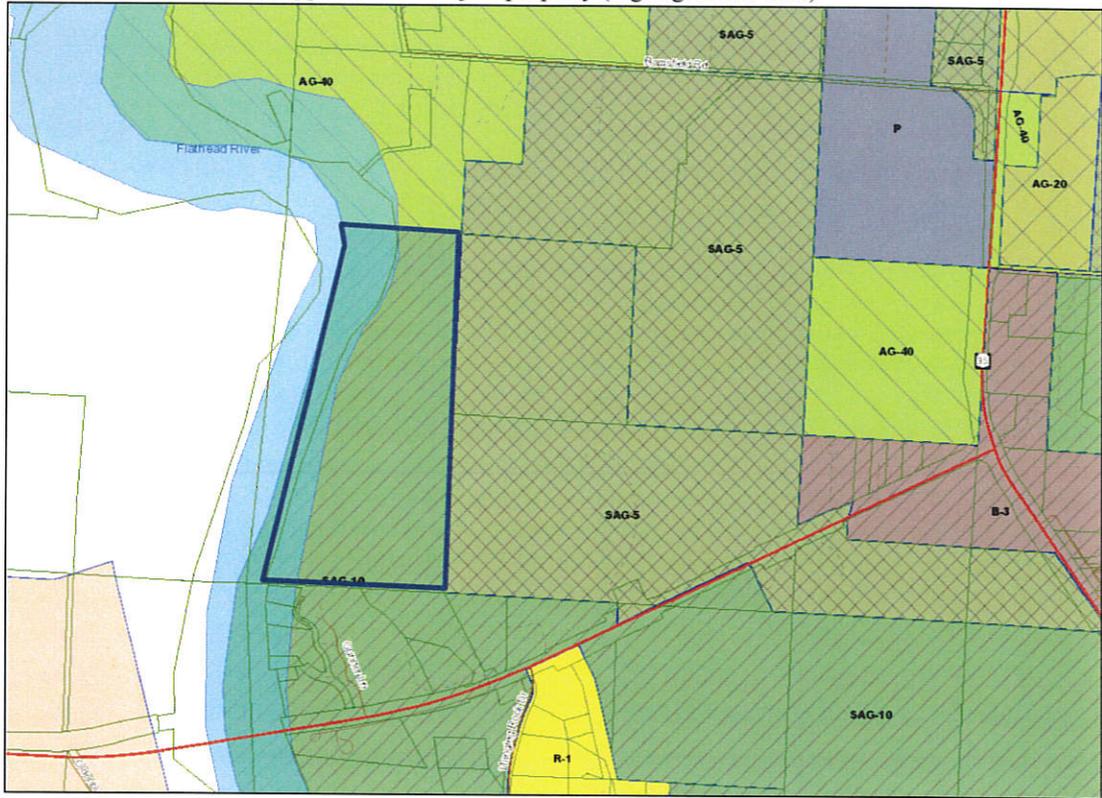
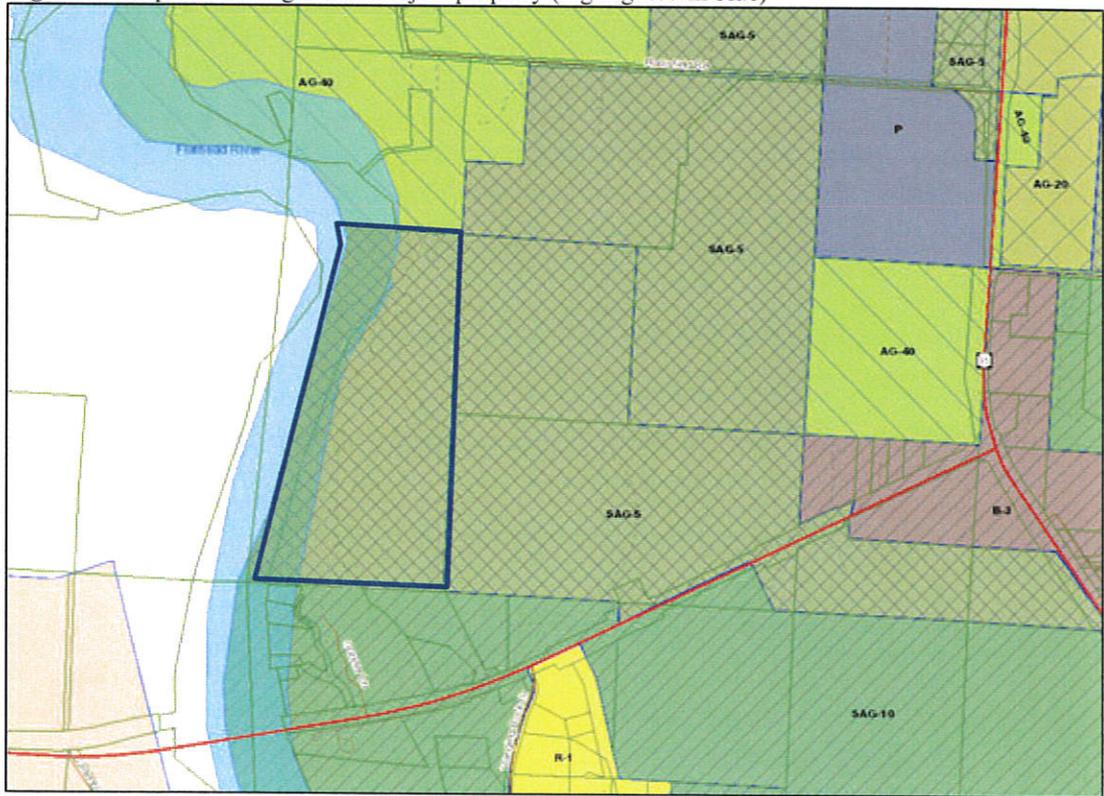


Figure 3: Proposed zoning on the subject property (highlighted in blue)



D. General Character of and Reason for Amendment

The subject property is located on the banks of the Flathead River with over 200 feet of elevation change from the river bank to the highest point of the property. The property is forested, has several rocky cliffs and rock outcroppings. The north edge of the subject property has mapped wetlands and special flood hazards areas located near the river.

Figure 4: Rocky cliff on the subject property



The application states, “Approximately ten years ago the County zoned 111 acres of the Johnson property SAG-5 which matched the zoning on properties north and south of the Johnson holding. Approximately a year ago, the Johnsons acquired another 93 acres in a single tract but the property is split by SAG-10 and SAG-5 zoning classifications with 40 acres in SAG-5 and the remaining 53 acres in SAG-10.”

Section 3.02.030 FCZR states, “District Boundaries shall generally take into consideration property boundaries as platted and not divide a platted lot, parcel, or tract of land into two or more zoning use districts.”

Figure 5: Aerial view of subject property (outlined in red)

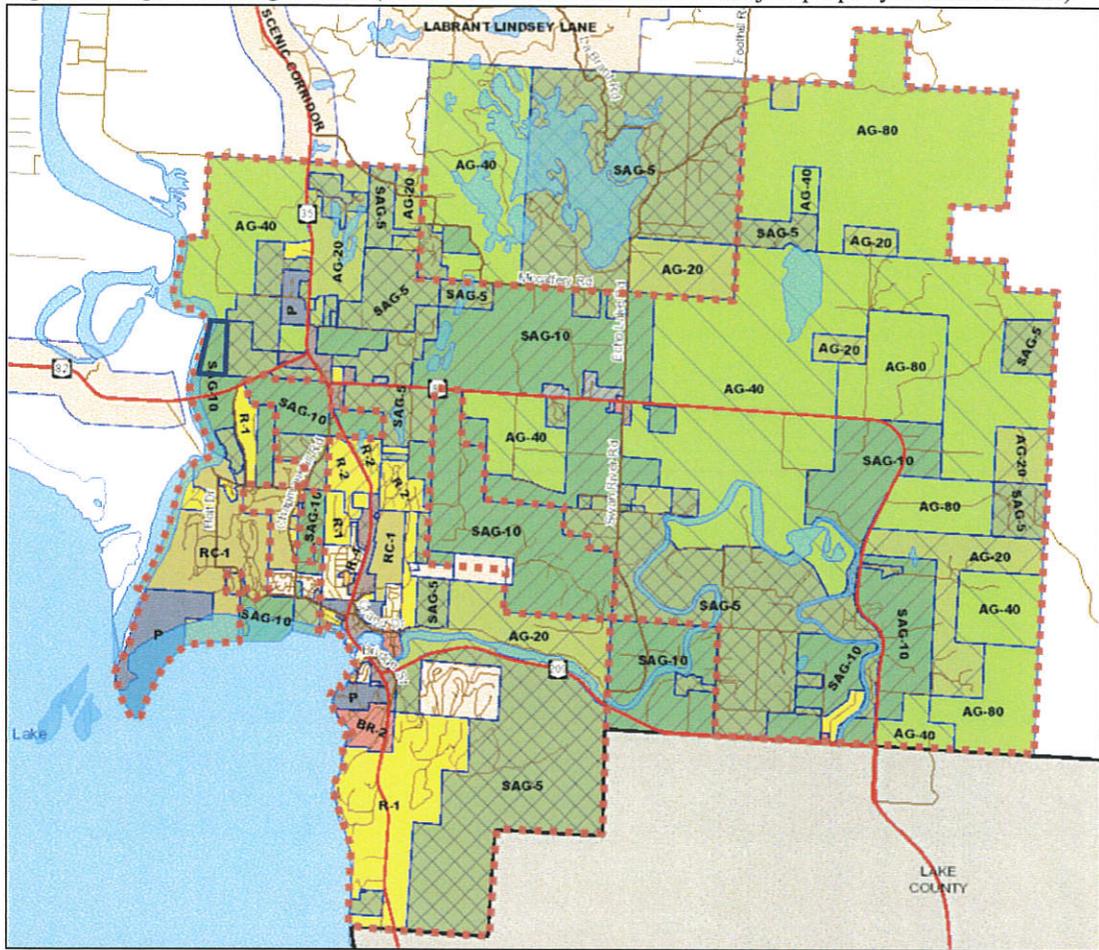


E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Bigfork Zoning District and surrounded by agricultural and suburban agricultural zones (see Figure 6). The Bigfork Zoning District has many different zones but nearest the subject property is SAG-10, SAG-5, AG-4, B-3, P, SC and R-1 zoning. Land on the west side of the Flathead River is not zoned.

The subject property is bordered on the south by SAG-10 and to the east by SAG-5, to the north as AG-40 and land that is not zoned to the west. The AG-40 has a minimum lot size of 40 acres, the SAG-10 has a 10 acres minimum lot size and the SAG-5 has a minimum lot size of 5 acres. Within a half mile of the subject property the lots to the north, northwest, northeast, southwest and west are large lots with agricultural uses, a majority of these lots are over 20 acres in size. Within that same radius the properties to the southeast, east and south are smaller residential lots with a majority of the lots less than 2.5 acres in size.

Figure 6: Bigfork Zoning District (outlined with dashed red line & subject property outlined in blue)



F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Bigfork School District Bigfork High School District
Fire:	Bigfork 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 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 September 23,

2016. Legal notice of the Planning Board public hearing on this application was published in the September 25, 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, 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 August 9, 2016:

- Bonneville Power Administration
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Public Works/Flathead County Road Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Bigfork High School District
- Bigfork School District
- Bigfork 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 October 12, 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:

- Bonneville Power Administration
 - Comment: "BPA does not have any objections to the approval of this request at this time." Email dated August 16, 2016.
- Flathead City-County Environmental Health
 - Comment: "We have no objection to the proposed zone change request." Letter dated August 11, 2016.
- Flathead County Road & Bridge Department
 - Comment: "The Road Department doesn't have any concerns with this request. We appreciate the applicant's discussion on paving Ramsfield Road if a subdivision is ever constructed on this land." Letter dated August 15, 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 ‘SAG-10 Suburban Agricultural.’ SAG-10 is defined in Section 3.07 FCZR as, ‘*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’ The following is a list of permitted uses in an SAG-10 zone (Section 3.07.020 FCZR):

1. *Agricultural/horticultural/silvicultural use.*
2. *Cellular tower.*
3. *Class A and Class B manufactured home.*
4. *Cluster housing.*
5. *Dairy products processing, bottling, and distribution.*
6. *Day care home.*
7. *Dwelling, single-family.*
8. *Dwelling unit, accessory (ADU).*
9. *Guest house.*
10. *Home occupation.*
11. *Homeowners park and beaches.*
12. *Livestock*
13. *Nursery, landscaping materials.*
14. *Park and publicly owned recreational facility.*
15. *Produce stand.*
16. *Public transportation shelter station.*
17. *Public utility service installation.*
18. *Ranch employee housing.*
19. *Riding academy, rodeo arena.*
20. *Stable, public and private.*

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

1. *Airfield.*

2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.**
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center.*
6. *Caretaker's facility.**
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Contractor's storage yard.**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Golf course.*
16. *Golf driving range.*
17. *Kennel, commercial.**
18. *Manufactured home park.*
19. *Recreational facility, low-impact.*
20. *School, primary and secondary.*
21. *Temporary building or structure.**
22. *Water and sewage treatment plant.*
23. *Water storage facility.*

The bulk and dimensional standards for SAG-10 zoning requires a setback for principal structures of 20 feet from all boundary lines or right-of-ways. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The proposed SAG-10 zoning requires a minimum lot area of 10 acres. The subject property totals 53.947 acres and under the current SAG-10 zoning five additional lots could be created from the 93.94 acre tract.

ii. Proposed Zoning

As previously stated, the applicant is proposing 'SAG-5 Suburban Agricultural' zoning. SAG-5 is defined in Section 3.08.010 FCZR as, "*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*" The following is a list of permitted uses in an SAG-5 zone (Section 3.08.020 FCZR):

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A and Class B manufactured home (See Chapter VII – Definitions).*

3. *Cluster housing (See Chapter V – Performance Standards).*
4. *Day care home.*
5. *Dwelling, single-family.*
6. *Dwelling unit, accessory (ADU).*
7. *Guest house.*
8. *Home occupation.*
9. *Homeowners park and beaches.*
10. *Livestock*
11. *Nursery, landscaping materials.*
12. *Park and publicly owned recreational facility.*
13. *Produce stand.*
14. *Public transportation shelter station.*
15. *Public utility service installation.*
16. *Stable, private.*

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

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.**
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center.*
6. *Caretaker’s facility.**
7. *Cellular tower.**
8. *Cemetery, mausoleum, columbarium, crematorium.*
9. *Church and other place of worship.*
10. *Community center building operated by a non-profit agency.*
11. *Community residential facility.***
12. *Contractor’s storage yard (See Chapter IV – Conditional Use Standards).**
13. *Dwelling, family hardship.**
14. *Electrical distribution station.*
15. *Extractive industry.*
16. *Golf course.*
17. *Golf driving range.*
18. *Kennel, commercial.*
19. *Manufactured home park.*
20. *Recreational facility, high-impact.*
21. *Recreational facility, low-impact.*
22. *Recreational vehicle park.*
23. *Riding academy and rodeo arena.*
24. *School, primary and secondary.*
25. *Stable, public.*
26. *Temporary building or structure.**

- 27. *Water and sewage treatment plant.*
- 28. *Water storage facility.*

The bulk and dimensional standards under SAG-5 zoning requires a setback of 20 feet for principal structures from the all boundary lines or right-of-ways and the minimum setback requirement is 20 feet for the front and side-corner and 5 feet for the rear and side for accessory structures. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The proposed SAG-5 zoning requires a minimum lot area of 5 acres. The subject property totals 53.947 acres and under the proposed zoning ten additional lots could be created from the 93.94 acre tract.

The bulk and dimensional requirements in SAG-10 and SAG-5 are similar, the amendment would allow uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the existing SAG-10 zoning and five more lots could be created under the proposed zoning.

- B. The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth 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 Bigfork Neighborhood Plan, adopted on June 2, 2009 by the Flathead County Commissioners (Resolution #2208).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed SAG-5 zoning classification would appear to comply with the current Suburban Agricultural 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.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

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

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
 - **P.4.2** – *Identify lands most suited to agriculture (appropriate soils, access to water, shape and size of parcel, etc.).*
 - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land value, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc).*
 - The zoning map amendment allows greater flexibility to the land owner, while still allowing agriculture and forestry uses. The property is currently used for agriculture and could continue to be used for agriculture under the proposed zone.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The SAG-5 designation would allow for development at densities of 1 dwelling unit per 5 acres which would likely not require public services.
- ❖ **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 proposals potential burden on transportation below.

- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - Discussion is contained below in this report on the adequate provision of 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.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the goals, policies and text generally support the request and the Suburban Agriculture 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.

2. Neighborhood Plan

The Bigfork Neighborhood Map (Neighborhood Plan) serves as a localized planning tool for the Bigfork area. The Neighborhood Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level. According to the Neighborhood Plan, *“The goals, policies, and text included herein should be considered as a detailed description of desired land use in the Bigfork Neighborhood Plan Area (BNPA). The Plan should also be used as guidance in adopting zoning ordinances and resolutions that would regulate land use in the BNPA.”*

The Neighborhood Plan designates the land use of the subject property as ‘AG-Agricultural.’ Part V Land Uses and Natural Resources defines ‘Agricultural’ as, *“designated areas for agricultural production should be protected from the encroachment of residential and other more intensive development. Schools, fire stations, and parks are appropriate in this designation. Zoning designations in these areas range from Suburban Agriculture (SAG) 5 to Agriculture (AG) 80. This spectrum of zoning designations should be applied in a manner that implements the goals and policies of the plan in areas designated as AG on Map 10. Further guidance for the appropriate use of the spectrum of Agricultural zoning designations is as follows:*

“4. SAG-10 zoning is appropriate for areas exhibiting the attributes of rural services and facilities, and where a transition between AG zones and residential areas is appropriate. Paved roads, adequate emergency service response times, minimal environmental constraints and the ability to fully create lots with building areas unaffected by environmental constraints are indicators of where this intensity of growth should be guided. Access to schools and basic commercial services should be within

a reasonable driving distance, so as to limit vehicle miles traveled and traffic on rural roads not designed to accommodate growth.

“5. In areas adjacent to Residential designations with efficient service provision, convenient access to public facilities, paved roads and no environmental constraints, SAG-5 zoning is an appropriate use and density. As the smallest “agricultural” designation, small hobby farms, horse pastures and rural single family residential dwellings exemplify areas where this zone is used.”

The property is currently zoned both SAG-10 and SAG-5. The objective of the proposed zoning map amendment would be to zone the entire property SAG-5. The subject property is not adjacent to residential zoning but is located less than a quarter mile north of R-1 zoning. The lots directly to the south are zoned SAG-10, all are less than 13 acres with the majority under 5 acres. This report contains discussion on the proposals potential burden on roads and public facilities below.

The following goals and objectives of the Neighborhood Plan appear applicable to the proposed Neighborhood Plan map amendment, and generally indicate consistency with the proposal:

- ❖ **G.8** - *Encourage housing that maintains traditional development patterns while protecting property values and natural resources.*
 - As previously stated, the property is currently zoned both SAG-10 and SAG-5. The objective of the proposed zoning map amendment would be to zone the entire property SAG-5.
 - **P.8.2** - *Encourage lot size and configuration in rural areas that promote open space and scenic views, while maintaining the character of these areas and supporting agricultural operations.*
 - The SAG-5 zoning would allow for open space while still allowing for agricultural operations.
 - **P.8.4** - *Prevent construction in flood plains, wetlands and natural drainage areas. Recommend development to conform to terrain, and minimize grading on steep slopes to prevent scarring and erosion.*
 - The property is located along the Flathead River and a portion of the property is located within the floodplain. This report contains discussion on the proposals potential burden on floodplain below.

Finding #2: The proposed zoning map amendment generally complies with the Bigfork Neighborhood Plan because applicable goals, policies and text appear to generally support the request and the proposed SAG-5 zoning is described as an appropriate zoning implementation for the ‘Agricultural’ designation.

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

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

According to the application, “The proposed action of the one change will neither increase nor reduce the dangers of fire, panic, or other hazards.” The subject property is located within the Bigfork Fire District and the Bigfork Fire Department would respond in the event of a fire or medical emergency.

The nearest rural fire station is located approximately 4.0 miles southeast of the property at the corner of Grand Avenue and Highway 35.

The subject property is located within the Wildland Urban Interface (WUI). But not located in a County Wide Priority Area or a Fire District Priority Area. The majority of the subject property is forested but appears to be thinned and no comments were received from the Bigfork Fire Department regarding this proposal.

The subject property is accessed via Ramsfield Road which has the potential to be used as emergency access. Ramsfield Road is a gravel two lane local road within a 60 foot easement.

The subject property is located on the Flathead River and according to FEMA FIRM Panel 30029C 2305J, a portion of the property is located within a Zone AE, a Special Flood Hazard Area with a base flood elevation and regulatory floodway. The majority of the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard. Future subdivision of the property would likely require no build zones in the portion of the property designated as floodplain and floodway, additionally any development within the floodplain and floodway would likely require a floodplain development permit.

Finding #3: The proposed map amendment will likely not impact safety from fire because even though the property is located in the WUI, the Bigfork Fire Department had no comment and although the property is covered in trees it appears to have been thinned.

Finding #4: The proposed map amendment will likely not impact safety from other dangers because even though a portion of the property is mapped as Special Flood Hazard Area, future subdivision of the property would likely require no build zones in that portion of the property and any development within the floodplain and floodway would likely require a floodplain development permit.

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

The subject property is located within the Bigfork Fire District and the Bigfork Fire Department would respond in the event of a fire or medical emergency. The nearest rural fire station is located approximately 4.0 miles southeast of the property at the corner of Grand Avenue and Highway 35.

The subject property is located within the Wildland Urban Interface (WUI) but not located in a County Wide Priority Area or a Fire District Priority Area. The majority of the subject property is forested but appears to be thinned and no comments were received from the Bigfork Fire Department regarding this request.

The subject property is accessed via Ramsfield Road which has the potential to be used as emergency access. Ramsfield Road is a gravel two lane local road within a 60 foot easement. According to the applicant, "Ramsfield Road

is graveled and provides access to a limited number of homes in the neighborhood.”

The intent of the existing ‘SAG-10 Suburban Agricultural’ is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural use. The purpose of the proposed ‘SAG-5 Suburban Agricultural’ is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use. Within a half mile of the subject property the lots to the north, northwest, northeast, southwest and west are large lots with agricultural uses, a majority of these lots are over 20 acres in size. Within that same radius the properties to the east, southeast and south are smaller residential lots with a majority of the lots less than 2.5 acres in size. The SAG-5 would continue to be a buffer between the smaller residential lots to the south, southeast and east and the agricultural uses on the other sides of the property.

The application also states, “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 uses permitted and conditionally permitted by the Flathead County Zoning Regulations for the SAG-10 (existing) and SAG-5 (proposed) are almost identical. The exceptions are the SAG-10 allows Cell Towers, Dairy product processing, Ranch Employee Housing and Stables as permitted uses while the SAG-5 does not. The SAG-5 requires a CUP for Cell Towers, Stables and Schools.”

The tract is currently split between SAG-10 and SAG-5 zoning and the proposed SAG-5 if approved would zone the entire tract SAG-5. As the applicant states the uses and setbacks are very similar between the existing zoning and proposed zoning and therefore a zone change is not likely to impact public health, public safety, and general welfare.

Finding #5: The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff and the Bigfork Fire Department, future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning and the same as the uses allowed in the SAG-5 on the rest of the property.

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

The subject property is accessed via Ramsfield Road. Ramsfield Road is a gravel two lane local road within a 60 foot easement. The application states, “If the property were ever developed to the densities prescribed by the zoning, new roads would need to be constructed on the property and all or a portion of Ramsfield Road would need to be paved per Flathead County Subdivision Regulations. However there is no plan to subdivide the holding.”

Comments from the Flathead County Road and Bridge Department states, “The Road Department doesn’t have any concerns with this request. We

appreciate the applicants discussion on paving Ramsfield Road if a subdivision is ever constructed on this land.”

Traffic counts by the Flathead County Road and Bridge Department, completed 09/26/2014 to 10/08/2014, indicate an average daily traffic (ADT) count of 135 trips east of Highway 35 on Ramsfield Road. With the proposed zoning the subject property could be divided into ten additional lots. Based on projected land uses arising from the proposed zone change, this proposal could generate an additional 100 ADT. The proposed zone change has the potential to contribute to an increase of 74% ADT on Ramsfield Road. The projected traffic counts would likely not impact Ramsfield Roads ability to facilitate adequate transportation because future subdivision would require paving requirements and the road department had no concerns with this proposal.

According to the applicant, “Water and sewer would most likely be developed with on-site systems if the property were to be subdivided.”

Comments received from the Flathead City-County Health Department state, “We have no objection to the proposed zone change request.”

The subject property is located within the Bigfork Elementary School District and Bigfork High School District. The Bigfork Elementary School District has seen an increase in student enrollment of 3% over the last ten years but an increase of 17% between 2014 and 2015. Bigfork High School District student enrollment has seen a decrease of 22% over the last ten years and a decrease of 3% between 2014 and 2015. Agency referrals were sent to the Bigfork School District and Bigfork High School District but no comments were received regarding the proposal. It is anticipated that the school would have capacity should any growth occur as a result of the proposed zoning map amendment.

The zoning map amendment would change the current minimum lot size from 10 acres to a smaller 5 acres on the subject property. It is anticipated subsequent future subdivision would require review and parkland would not be required at that time because the lots created would be greater than five gross acres in size. Additionally various parks, natural areas, and recreational opportunities are within a short drive of the subject property.

Finding #6: The proposed amendment would facilitate the adequate provision of transportation water, sewerage, schools, parks, and other public requirements because the Road and Bridge Department and school districts did not have any concerns regarding the proposal, the applicant would utilize individual wells and septic systems if subdivided, no comments were received from the school districts and 5 acre lots would not require parkland during the subdivision review process.

- iii. **In evaluating the proposed map amendment, consideration shall be given to:**
1. **The reasonable provision of adequate light and air;**

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

The bulk and dimensional requirements under SAG-5 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The setbacks for the proposed zoning classification are identical to those of the current zoning. The bulk and dimensional requirements for the SAG-5 designation have been established to provide for a reasonable provision of light and air.

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

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

The subject property is accessed via Ramsfield Road. Ramsfield Road is a gravel two lane local road within a 60 foot easement. Comments from the Flathead County Road and Bridge Department states, “The Road Department doesn’t have any concerns with this request. We appreciate the applicants discussion on paving Ramsfield Road if a subdivision is ever constructed on this land.”

The application states, “The road network provides good access for vehicles and with the relatively slow speeds and low traffic volumes.”

Traffic counts by the Flathead County Road and Bridge Department, completed 09/26/2014 to 10/08/2014, indicate an average daily traffic (ADT) count of 135 trips east of Highway 35 on Ramsfield Road. With the proposed zoning the subject property could be divided into ten additional lots. Based on projected land uses arising from the proposed zone change, this proposal could generate an additional 100 ADT. The proposed zone change has the potential to contribute to an increase of 74% ADT on Ramsfield Road. The projected traffic counts would likely not impact Ramsfield Roads motorized transportation because future subdivision would require paving requirements and the road department had no concerns with this proposal.

The application states, “Ramsfield connects with Highway 35 to the east and neither Ramsfield nor Highway 35 have bike or pedestrian facilities.”

There is no existing bike/pedestrian facilities currently located on Ramsfield Road and the Flathead County Trails Plan does not show Ramsfield Road as a proposed connector or arterial. Given the low traffic volume currently on Ramsfield Road and project build-out traffic volumes, it is likely that effects on non-motorized transportation would be minimal.

Finding #8: Effects on the motorized and non-motorized transportation system will be minimal because the property is accessed via Ramsfield Road a local gravel road capable of handling the increased traffic, the Road and Bridge Department did not have any concerns regarding the proposal, and the subject property does not abut existing or proposed bike/pedestrian facilities.

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

The town of Bigfork, which is not an incorporated municipality, is located approximately 3.5 miles south of the subject property, and the proposed zoning map amendment appears compatible with urban growth of the Bigfork Planning Area (BPA) as described in the Bigfork Neighborhood Plan because the plan designates the location of the subject property as ‘Agricultural’ and specifically contemplates SAG-5 zoning as being an appropriate zoning implementation for the ‘Agricultural’ designation.

The incorporated City of Kalispell, which is the nearest city, is located approximately 14 miles northwest of the subject properties and the proposed zoning map amendment will not have an impact on urban growth of Kalispell.

Finding #9: The proposed zoning map amendment would be compatible with current urban growth in the Bigfork area because the proposed SAG-5 zoning is described as an appropriate zoning implementation for the ‘Agricultural’ designation in the Bigfork Neighborhood Plan.

Finding #10: The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the area of influence of the City of Kalispell.

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

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. 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 review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

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

As previously stated, the subject property is currently split zoning partially zoned SAG-10 and SAG-5. The applicant is proposing to change the zoning from the existing SAG-10 to SAG-5, to have consistent zoning on the entire property. The intent of the existing ‘SAG-10 Suburban Agricultural’ is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural use. The purpose of the proposed ‘SAG-5 Suburban Agricultural’ is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use.

The proposed SAG-5 would allow for similar uses to the existing SAG-10 zoning. The existing SAG-10 zoning allows for two permitted uses that are not allowed within the proposed SAG-5 zoning and three permitted uses in that are allowed with a conditional use permit in the SAG-5 zone. Additionally, only two uses are allowed with a conditional use permit in SAG-5 that are not allowed within SAG-10.

The proposed zoning would not provide for uses that differ significantly from the prevailing uses in the area as the uses are very similar and the proposed SAG-5 is adjacent to existing SAG-5.

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

The application states, “The proposed zone change would encompass 53 acres of the 93 acre tract with the remaining 40 acres already zoned SAG-5. The subject parcel is comparably large and it abuts 111 acres of SAG-5 owned by Johnson. Additionally there is another 200 acres zoned SAG-5 contiguous to the proposed zoning change.”

As the applicant states 40 acres of the subject tract is already zoned SAG-5 and the proposal would change the zoning on the remaining 53.947 acres to 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, thus, is in the nature of special legislation.*

As previously stated, the property is located in the Bigfork Neighborhood Plan and the plan designates the location of the subject property as ‘Agricultural’ and specifically contemplates SAG-5 zoning as being an appropriate zoning implementation for the ‘Agricultural’ designation. The subject property is currently split zoning with 40 acres zoned SAG-10 and approximately 54 acres zoned SAG-5.

The application states, “[...] many of the neighboring landowners already have the requested SAG-5 zoning or have parcels less than 10 acres in size.” The applicant is proposing to change the zoning from the existing SAG-10 to SAG-5 in order to have SAG-5 zoning on the entire property. Section 3.02.030 FCZR states, “District Boundaries shall generally take into consideration property boundaries as platted and not divide a platted lot, parcel, or tract of land into two or more zoning use districts.”

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #11: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within SAG-10 and SAG-5 zoning neighboring the property, the proposal complies with the neighborhood plan and would change the zoning so the entire lot would be zoned SAG-5.

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 Bigfork Zoning Districts and surrounded by agricultural and suburban agricultural zones (see Figure 6). The Bigfork Zoning District has many different zones but nearest the subject property is SAG-10, SAG-5, AG-40, B-3, P, SC and R-1 zoning and land on the west side of the Flathead River is not zoned.

The character of the area surrounding the property is agricultural and suburban agricultural. As previously stated, the applicant is proposing to change the zoning from the existing SAG-10 to SAG-5 in order to have SAG-5 zoning on the entire property. The proposed zoning, if approved would allow for the same uses on the entire property which would be consistent the neighboring SAG-5 zoning.

According to the applicant, “The permitted and conditionally permitted uses of the proposed Zoning designation of SAG-5 are almost identical to that of the existing SAG-10 zoning classification. The applicant hays, pastures, and keeps much of their lands in a natural state which is constant with many of the neighboring properties and both the existing and proposed zoning designations.”

Finding #12: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is suburban agricultural and agricultural which is in line with the proposed SAG-5 zone.

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

The nearest incorporated city is the City of Kalispell which is located approximately 14 miles northwest of the subject property. Because there are no nearby municipalities the proposal will have no impact on compatibility of zoning ordinances of nearby municipalities.

Finding #13: The proposed map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 14 miles northwest of the subject property.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the goals, policies and text generally support the request and the Suburban Agriculture 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.
- 2) The proposed zoning map amendment generally complies with the Bigfork Neighborhood Plan because applicable goals, policies and text appear to generally support the request and the proposed SAG-5 zoning is described as an appropriate zoning implementation for the 'Agricultural' designation.
- 3) The proposed map amendment will likely not impact safety from fire because even though the property is located in the WUI, the Bigfork Fire Department had no comment and although the property is covered in trees it appears to have been thinned.
- 4) The proposed map amendment will likely not impact safety from other dangers because even though a portion of the property is mapped as Special Flood Hazard Area, future subdivision of the property would likely require no build zones in that portion of the property and any development within the floodplain and floodway would likely require a floodplain development permit.
- 5) The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff and the Bigfork Fire Department, future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning and the same as the uses allowed in the SAG-5 on the rest of the property.
- 6) The proposed amendment would facilitate the adequate provision of transportation water, sewerage, schools, parks, and other public requirements because the Road and Bridge Department and school districts did not have any concerns regarding the proposal, the applicant would utilize individual wells and septic systems if subdivided, no comments were received from the school districts and 5 acre lots would not require parkland during the subdivision review process.
- 7) The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk, dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.
- 8) Effects on the motorized and non-motorized transportation system will be minimal because the property is accessed via Ramsfield Road a local gravel road capable of handling the increased traffic, the Road and Bridge Department did not have any concerns regarding the proposal, and the subject property does not abut existing or proposed bike/pedestrian facilities.

- 9) The proposed zoning map amendment would be compatible with current urban growth in the Bigfork area because the proposed SAG-5 zoning is described as an appropriate zoning implementation for the 'Agricultural' designation in the Bigfork Neighborhood Plan.
- 10) The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the area of influence of the City of Kalispell.
- 11) The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within SAG-10 and SAG-5 zoning neighboring the property, the proposal complies with the neighborhood plan and would change the zoning so the entire lot would be zoned SAG-5.
- 12) This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is suburban agricultural and agricultural which is in line with the proposed SAG-5 zone.
- 13) The proposed map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 14 miles northwest of the subject property.

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 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