

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
THORNTON MOTORSPORTS
ZONING MAP AMENDMENT REPORT (#FZC-16-12)
NOVEMBER 30, 2016**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Carver Engineering, on behalf of Thornton Motorsports, LLC., for a zoning map amendment within the Highway 93 North Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from 'AG-40 Agricultural' to 'R-1 Suburban Residential.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on December 14, 2016 at 6:00 P.M. in 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 Office of the Board of Commissioners at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee

On November 21, 2016 the Riverdale Land Use Advisory Committee held a public meeting on the proposal and the Committee voted 4-0 to forward a positive recommendation to the Planning Board and Board of County Commissioners

B. Planning Board

This space will contain an update regarding the December 14, 2016 Flathead County Planning Board review of the proposal.

C. Commission

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

II. GENERAL INFORMATION

A. Application Personnel

i. Owner

Thornton Motorsports, LLC
Po Box 280
Whitefish Mt 59937

ii. Technical Assistance

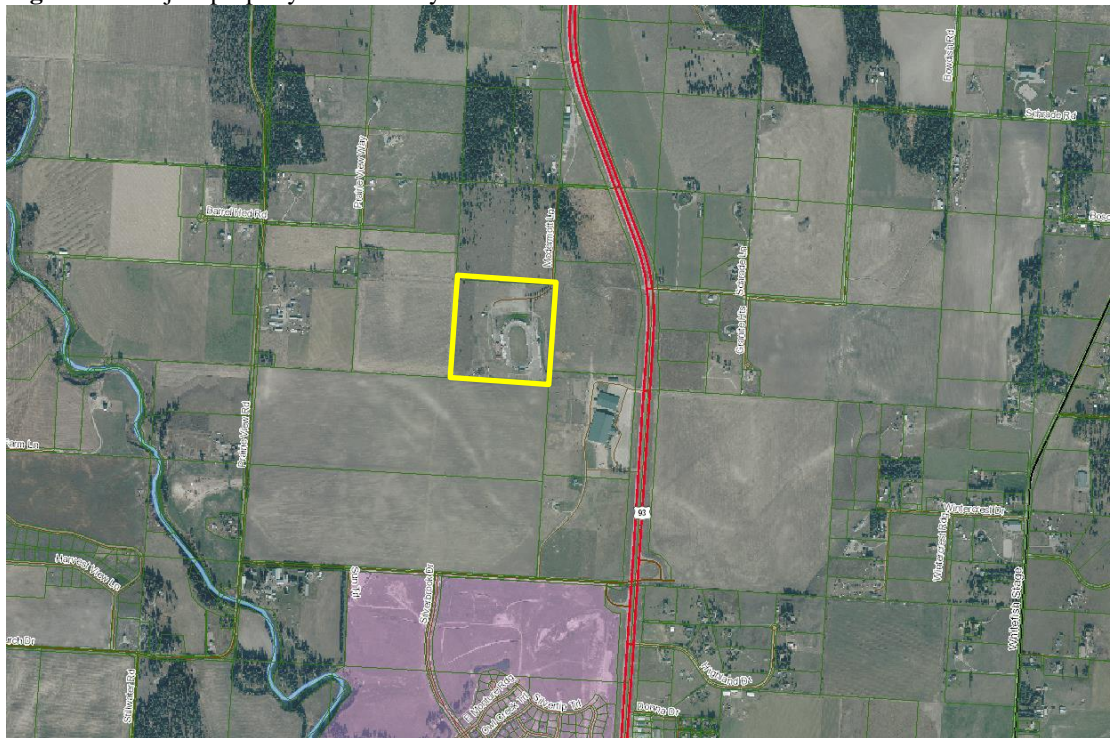
APEC Engineering, Inc.
75 Somers Road
Somers, MT 59932

B. Subject Property Location and Legal Description

The subject property is located 3790 Highway 93 North, north of Kalispell (see Figure 1 below). The property is approximately 40.6 acres in size and can legally be described as: The Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of

Section 12 in Township 29 North, Range 22 West, M.P.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

The subject property is located within the Highway 93 North Zoning District and is currently zoned 'AG-40 Agricultural' (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested the zoning map amendment for the property to zone it 'R-1 Suburban Residential.' Per Section 3.05 of the Flathead County Zoning Regulations (FCZR), AG-40 is 'A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.'

The R-1 designation is defined in Section 3.09 FCZR as, 'A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).'

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

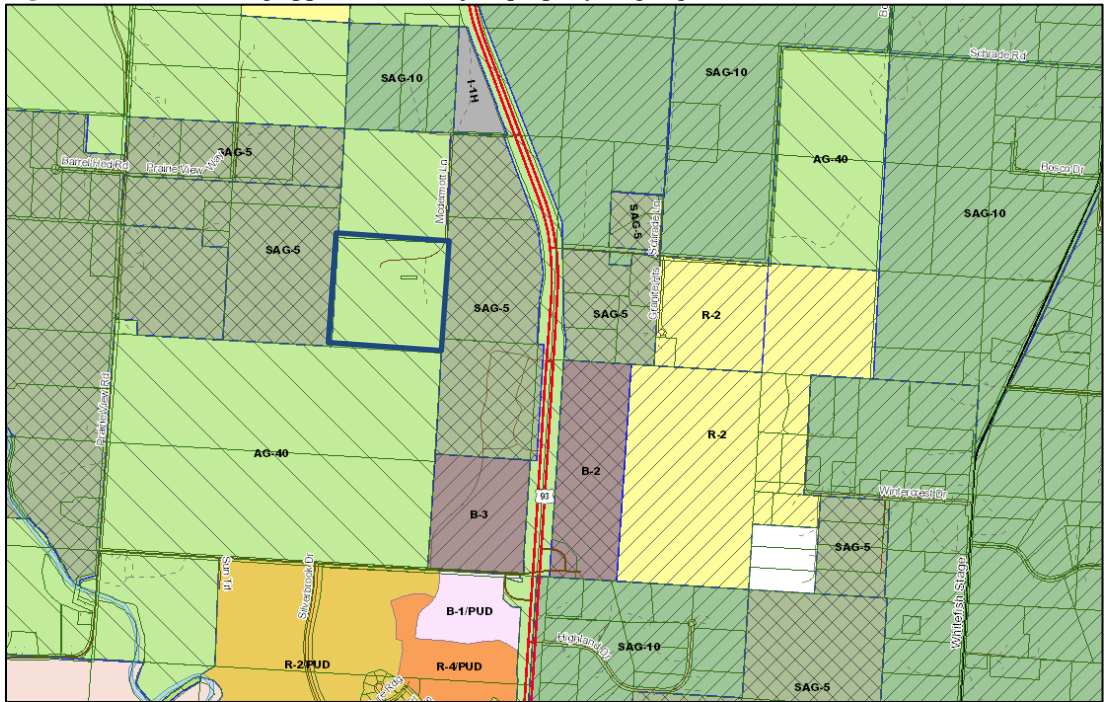


Figure 3: Proposed zoning on the subject property (highlighted in blue)



D. General Character of and Reason for Amendment

The property is located on McDermott Lane, just off Highway 93. The property is located atop a rise and overlooks fields and Majestic Valley Arena to the east. The property currently contains a quarter mile race track, with accompanying stands concession area, parking lot and ticket both. Trees line the driveway in the northeast corner of the property but the property is otherwise relatively open.

The application states the reason for the request as, “The proposed development of this property and the current neighborhood plan designation do not conform to the current zoning of AG-40”

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



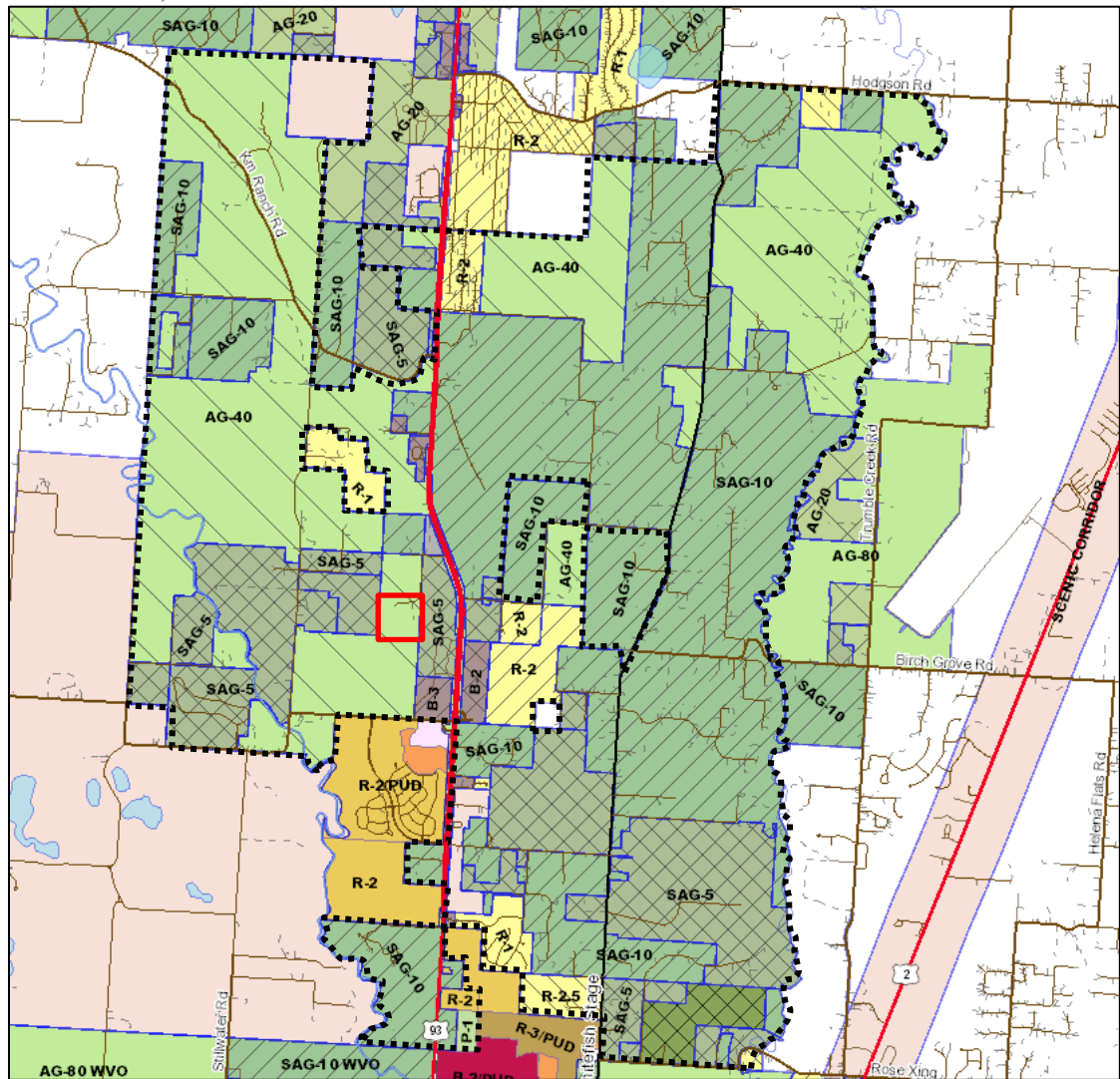
E. Adjacent Zoning and Character of the Overall Zoning District

The property is located within the Highway 93 North Zoning District, which is a 12,780 acre zoning district that covers much of the area between Whitefish and Kalispell. Because of that staff looked at the zoning within the Riverdale Neighborhood Plan area and along Highway 93 corridor, as those are the most relevant to the subject property. The character of the Highway 93 corridor is a mixture of suburban agricultural zoning, agricultural, highway industrial, commercial and residential and the character of the Riverdale Neighborhood Plan corridor is a mixture of suburban agricultural zoning, agricultural, highway industrial, commercial and residential.

Directly to the east of the subject property is the Majestic Valley Arena property which is zoned SAG-5 and B-3. North and south of the property is AG-40 zoning, with agricultural lands in a conservation easement to the south. To the west of the property is SAG-5 zoning which contains agricultural uses. Also in the vicinity is the Flathead County Landfill and various other businesses. The landfill property is mostly zoned AG-40 and SAG-10 and many of the businesses in the area are zoned B-2 and I-1H. Across Highway 93 is SAG-5, R-2, and B-2 zoning, also in the vicinity of the property is R-1 zoning to the north which is owned by Flathead County.

The City of Kalispell extends to Church Drive, approximately a 1/2 mile south of the property (Silverbrook Subdivision). The zoning within the Silverbrook Subdivision is a mixture of B-1/PUD at the corner of Church and Highway 93 and R-4/PUD and R-2 /PUD.

Figure 5: Highway 93 North Zoning District (outlined with dashed black line & subject property outlined in red)



F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Whitefish School District Whitefish High School District
Fire:	West Valley Fire District
Police:	Flathead County Sheriff

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 November 23, 2016. Legal notice of the Planning Board public hearing on this application was published in the November 27, 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 September 7, 2016:

- Bonneville Power Administration
- City of Kalispell Planning Department
- City of Whitefish Planning Department
- West Valley Fire District
- Montana Fish, Wildlife and Parks
- Flathead City-County Health Department
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Montana Department of Transportation
- Whitefish High School District
- Whitefish School 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 December 14 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: "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 this request at this time." Email dated September 12, 2016.
- Flathead County Road & Bridge Department
 - Comment: "Our files show that McDermott Lane was improved in 1996 by Raceway Park in the area through wetlands immediately off Highway 93. Paving may have come after this time. The improvements were very beneficial and have withstood the current traffic loading. With the planned PUD and the anticipated increase in traffic loading we don't know if improvements will continue to function at their current level. An analysis from a geotechnical engineer may be beneficial to assess the improvements structural section." Letter dated September 12, 2016.
- Montana Department of Transportation
 - Comment: "[...]. I do not have comments regarding this proposal." Email dated September 23, 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 proposed zoning map amendment would change the zoning designation on the subject property from 'AG-40 Suburban Agricultural.' AG-40 is defined in Section 3.05.010 FCZR as, 'A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.' The following is a list of permitted uses in an AG-40 zone:

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. *Fish hatchery.*
11. *Home occupation.*
12. *Homeowners park and beaches.*
13. *Kennel.*
14. *Livestock*
15. *Nursery, landscaping materials.*
16. *Park.*
17. *Produce stand.*
18. *Public transportation shelter station.*
19. *Public utility service installation.*
20. *Ranch employee housing.*
21. *Riding academy, rodeo arena.*
22. *Stable, public and private.*

The following uses are listed as conditional uses in an AG-40 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airport.*
2. *Animal farm.*
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. *Communication tower/mast.*
10. *Community center building operated by a non-profit agency.*
11. *Contractor's storage yard.**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*

14. *Extractive industry.*
15. *Feed and seed processing and cleaning.*
16. *Feed lot: cattle, swine, poultry*
17. *Landfill, sanitary for disposal of garbage and trash.*
18. *Radio and television broadcast studio.*
19. *Recreational facility, low-impact.*
20. *Rifle range.*
21. *School, primary and secondary.*
22. *Temporary building or structure.**
23. *Water and sewage treatment plant.*
24. *Water storage facility.*

The bulk and dimensional standards under AG-40 zoning has a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for 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 major/minor arterials. The permitted lot coverage is 20% and a maximum height of 35 feet.

The existing zoning requires a minimum lot area of 40 acres. The subject property totals 40.6 acres therefore; no additional lots could be created within the current zoning.

ii. Proposed Zoning

As previously stated, the applicant is proposing ‘*R-1 Suburban Residential*’ zoning. R-1 is defined in Section 3.09.010 FCZR as, ‘*A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).*’ The following is a list of permitted uses in a R-1 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Dwelling, single-family.*
5. *Dwelling unit, accessory (ADU).*
6. *Guest house.*
7. *Home occupation.*
8. *Homeowners park and beaches.*
9. *Livestock.*
10. *Nursery, landscaping material.*
11. *Park and publicly owned recreational facility.*
12. *Produce stand.*
13. *Public transportation shelter station.*
14. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*
15. *Stable, private.*

The following uses are listed as conditional uses in an 'R-1' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining and airport/landing field.**
3. *Bed and breakfast establishment.*
4. *Camp and retreat center.*
5. *Caretaker's facility.**
6. *Cellular antenna & monopole.*
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. *Dwellings, cluster development.*
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Golf course.*
15. *Golf driving range.*
16. *Manufactured home park.*
17. *Radio and television broadcast station.*
18. *School, primary and secondary.*
19. *Stable, public.*
20. *Temporary building or structure.**
21. *Water and sewage treatment plant.*
22. *Water storage facility.*

The bulk and dimensional standards under the proposed zoning require a setback from the boundary line of 20 feet for the front, rear and side-corner and 10 feet for the side for any structure and a setback of 20 feet for 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 major/minor arterials. The permitted lot coverage is 40% and a maximum height of 35 feet.

The proposed zone requires a minimum lot area of 1 acre. The subject property totals 40.6 acres and in typical subdivisions 30% of the lot is dedicated to infrastructure, leaving approximately 70% for lots. Therefore, approximately 28 lots could be created under the proposed zoning. With a PUD the potential lots could be approximately 56.

In summary, the requested zone change from AG-40 to R-1 has the potential to increase density through subsequent division in the future. The bulk and dimensional requirements vary from AG-40 to R-1 and the proposed amendment would introduce uses.

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 Riverdale Neighborhood Plan, adopted on November 28, 2007 by the Flathead County Commissioners (Resolution #2015 D).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Agricultural.' The proposed 'R-1 Suburban Residential' zoning classification would appear to contrast with the current designations. 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 land uses. 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 plans. 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.*
 - The amendment would allow the owner to subdivide the property.
- ❖ **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 general welfare of neighbors and efficiently provide local services.*
 - The R-1 designation would allow for densities of 1 dwelling unit per acre.

- ❖ **G.14** – *Solid waste collection facility operation and landfill expansion free from land use conflicts with adjacent property owners.*
 - **P.14.1** – *Identify a 1,320 foot buffer surrounding the landfill and designate this area only for those land uses compatible with current and future landfill activities. Compatible use types such as industrial should be encouraged in this buffer.*
 - The subject properties northern boundary is located approximately 3,000 feet south of the county landfill and outside of the buffer.
- ❖ **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.*
 - **P.16.4** – *Consider the locational needs of various types of housing with regard to proximity of employment, access to transportation and availability of public services.*
 - The R-1 zone with a PUD would allow for additional single family housing.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - Further 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 applicable goals, policies and text generally support the request and the proposal would allow for additional single family dwellings.

2. Riverdale Neighborhood Plan

The subject property is located within the Riverdale Neighborhood Plan (Neighborhood Plan) which is primarily composed of the text, goals & policies and a map. The Neighborhood Plan serves as a localized planning tool for the Riverdale area, and 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.

The subject property is designated as ‘Mixed Use’ by the Riverdale Neighborhood Plan. The Riverdale Neighborhood Plan identifies ‘Mixed Use’ as, “*The Mixed Use land use category is intended to provide flexibility in design and to promote a mixed of commercial and housing options. This category permits retail and general commercial uses that serve the broader community and tourist economy. Mixed residential-commercial uses where*

the commercial portion is compatible with the residential is appropriate. This category permits a range of commercial development such as hotels, banks, restaurants, professional office centers and mix of residential use including apartment complexes, single family attached and detached, duplexes, town homes, and accessory apartments at an average density of six (6) dwelling units per one (1) acre. Commercial developments should be configured as centers or nodes. Strip commercial configurations should be avoided. Development density in the Mixed Use land use category may be increased with the creation of community or public water and sewer systems or annexation into a municipal water and sewer district. Commercial development such as shopping malls or large box retail stores (e.g. Super Wal-mart) is neither appropriate nor contemplated in this land use category.”

“All mixed use projects should be planned and processed as PUD Overlays and then hard zoned as a PUD. This plan recommends that new mixed use PUD zoning districts be created to facilitate combinations of commercial and residential land uses.”

The applicant is proposing a zone change from AG-40 to R-1, and has also submitted a PUD and subdivision application. If the PUD and zone change is approved, the zoning on the subject property would be R-1 PUD. The application states, “The proposed zoning of R-1 PUD is consistent with this designation.”

The proposed R-1 zone would allow for residential uses but not commercial uses and the proposed PUD does not contemplate nor would it allow for commercial uses as currently drafted.

A variety of goals and policies within the text of the Neighborhood Plan have been found to generally support the requested zoning map amendment.

- ❖ **Goal 2** – *Encourage a range of housing types.*
 - **Policy 1.1** – *Permit townhouses, duplexes, and multi-family housing types in areas designated for mixed use.*
 - **Policy 1.5** – *Provide for a range of residential densities and housing types.*
 - The proposed R-1 PUD could allow for a variety of housing types but would not allow for mixed uses or housing types.
- ❖ **Goal 4** – *Preserve the right and opportunity to farm.*
 - Even though the property is currently zoned AG-40 the property is not in agricultural production.
- ❖ **Goal 5** – *Residential, commercial, and open space and recreational land uses that are integrated and are efficiently served by local services and necessary public facilities.*
 - **Policy 5.1** – *Permit a range of residential development densities and identify areas appropriate based on availability of local services, public facilities and physical constraints.*

- **Policy 5.5** – Encourage the creation of Planned Unit Developments (PUD).
 - The proposed R-1 PUD could allow for a variety of residential densities and housing types.
- ❖ **Goal 6** – Provide opportunities for low and medium density residential development.
- ❖ **Goal 7** – Provide opportunities for mixed-use development within the Riverdale area.
 - **Policy 7.7** – Requests for zone changes appropriate for the mixed-use land use area will be considered if accompanied with a request for a Planned Unit Development (PUD) Overlay. Once approved, the PUD Overlay will become the permanent zoning district.

Finding #2: The proposed zoning map amendment appears to not comply with the map and text of Riverdale Neighborhood Plan because although the applicant is requesting R-1 zoning and proposing a PUD, the proposal would not allow for a variety of housing types and there is no commercial component to the PUD and therefor would not comply with the ‘Mixed Use’ designation.

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

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

The subject property is located within the West Valley Fire District. The nearest fire and emergency response center is located approximately 4.0 road miles southeast of the property on Whitefish Stage. The West Valley Fire Department, which did not provide comments on this proposal, would respond in the event of a fire or medical emergency.

The subject property is not located within the Wildland Urban Interface WUI but a portion of the property is within the county wide priority area. The subject property is not heavily forested nor are the neighboring properties heavily forested. The proposed zone change would likely not negatively impact safety from fire on the property.

According to FEMA FIRM Panel 30029C1415J, the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard.

Finding #3: The proposed map amendment will not negatively impact safety from fire and other danger because the property is not located in the WUI, it is not forested, is located less than 4.0 miles from the nearest fire station and not located within the 100 year floodplain.

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

As previously stated, the subject property is located within the West Valley Fire District. The West Valley 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 also has a secondary emergency access that crosses the same entry point to the property

as the primary access. Access may not be adequate to provide ingress and egress for emergency vehicles within a future subdivision.

R-1 zoning would allow for residential and agricultural uses and generally uses that are less land intensive than uses allowed within the current AG-40 zoning. The proposed zoning would also allow for uses that will generally be less impactful on neighboring properties as a result of noise, vibrations, fumes, etc. than the current use of a race track.

Finding #4: The proposed zoning map amendment would likely have minimal impact on public health, public safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and the proposed zoning would allow for less land intensive uses than allowed within the current AG-40.

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

Currently primary access to the property is off McDermott Lane via Highway 93. McDermott Lane is a two-lane local gravel road with a 40 foot easement. As previously stated, approximately 28 lots could be created under the proposed zoning and likely 56 lots if the PUD is approved. Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential. Therefore the zone change would generate 280 average daily trips (ADT) without a PUD and approximately 560 ADT with a PUD.

The Environmental Assessment for the proposed subdivision states, “The existing intersection at McDermott Lane will operate at an acceptable Level of Service (LOS) at full buildout of the development.” But the Environmental Assessment does not state what the LOS is for the proposed subdivision.

The Flathead County Road Department comment indicates, “With the planned PUD and the anticipated increase in traffic loading we don’t know if improvements will continue to function at their current level. An analysis from a geotechnical engineer may be beneficial to assess the improvements structural section.”

Finding #5: It is unclear if the proposed amendment would facilitate the adequate provision of transportation because comments from the Road and Bridge Department indicate concern with the existing access and the submitted Environmental Assessment does not provide a grade for the LOS for McDermott Lane.

No comments were received from the Flathead City-County Environmental Health Department regarding water and sewerage. According to the application, “A community water and sewer system and an internal road system will serve the proposed development.” The Environmental Assessment states, “It is not economically feasible to extend the City of Kalispell’s Water Main to the subdivision as it is approximately 0.5 miles away from the

proposed subdivision along the shortest path. [...]. It is not economically feasible to extend the City of Kalispell’s wastewater system...”

The subject property is located within the Whitefish Elementary School District and Whitefish High School District. The Whitefish Elementary School District has seen a decline in student enrollment of 6% over the last ten years but an increase of 8% between 2014 and 2015. Whitefish High School District student enrollment has seen a decrease of 31% over the last ten years and a decrease of 2% between 2014 and 2015. Agency referrals were sent to the Whitefish School District and Whitefish High School District but no comments were received regarding the proposal. The Environmental Assessment states, “The district has approximately 1,500 students currently enrolled. A 2.5% increase in enrollment could be expected with this development.” The high school district has 489 students, while the elementary school district has 1,186 students. It is anticipated that the school would have capacity should any growth occur as a result of the proposed zoning map amendment.

A future subdivision on the property would likely require parkland dedication or cash-in-lieu. The applicant as part of the proposed subdivision is proposing to dedicate parkland and cash-in-lieu. Additionally, there are many parks, natural areas, and recreational opportunities within a short drive.

Finding #6: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the further division of land or a change of use would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, the school districts did not provide comment indicating concern, and parkland dedication or cash-in-lieu would be required during subdivision review.

iii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The minimum lot area for the proposed zone is 1 acre and the minimum lot area for the existing zone is 40 acres. The maximum building height within the proposed R-1 zone is 35 feet and the maximum height for the existing zone is also 35 feet. The permitted lot coverage is 20% for the AG-40 zone and 40% in the proposed zoning. More of the acreage could be covered by structure under the proposed zoning.

The bulk and dimensional requirements in the R-1 zone require a setback from the boundary line of 20 feet for the front, rear, side-corner and side for principal structures, the side and rear setback changes to 5 feet 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 major/minor arterials. The bulk and dimensional requirements for the proposed zoning designation have been established to provide for a reasonable provision of light and air.

The application states, “The proposed zoning has sufficient lot size and setbacks to maintain adequate light and air.”

Finding #7: Consideration has been given to the ability to provide adequate light and air to the subject property because the future development would be required to meet the bulk and dimensional requirements within the proposed R-1 designation, the proposal would allow for adequate light and air.

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

Currently primary access to the property is off McDermott Lane via Highway 93. McDermott Lane is a two-lane local gravel road with a 40 foot easement. As previously stated, approximately 28 lots could be created under the proposed zoning and likely 56 lots if a PUD is approved. Approximately 280 ADT would be generated without a PUD and 560 ADT with a PUD.

The Environmental Assessment for the proposed subdivision states, “The existing intersection at McDermott Lane will operate at an acceptable Level of Service (LOS) at full buildout of the development.” But the Environmental Assessment does not state what the LOS is for the proposed subdivision.

The Flathead County Road Department comment indicates, “With the planned PUD and the anticipated increase in traffic loading we don’t know if improvements will continue to function at their current level. An analysis from a geotechnical engineer may be beneficial to assess the improvements structural section.”

The Flathead County Trails Plan does not identify McDermott Lane as a future bike/pedestrian trail. The application does not specially address effects on non-motorized transportation.

Finding #8: It is unclear if the proposed amendment would have a negative effect on motorized transportation systems because comments from the Road and Bridge Department indicate concern with the existing access and the submitted Environmental Assessment does not provide a grade for the LOS for McDermott Lane.

Finding #9: Effects on the non-motorized transportation systems will be minimal because McDermott Lane is not recognized as a future bike/pedestrian trail as such no easement would be required in the future.

3. 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 between the cities of Kalispell and Whitefish. The subject property is located approximately 0.5 miles north of the northernmost extent of the Kalispell Growth Policy Map, annexation policy boundary and the Kalispell City limits. The City of Kalispell did not provide comments on this proposal.

Because the property is located outside of the City of Kalispell Growth Policy Boundary it is difficult to determine if the proposal is compatible with the urban growth of the City of Kalispell. The nearest land use designations used by the City of Kalispell are ‘*Suburban Residential*’ and ‘*Neighborhood*

Commercial. Neighborhood commercial is generally found at major intersection, while suburban residential has a density of two to four dwelling units per acre. The proposed R-1 zone has minimum lots size of 1 dwelling unit per acre, which would be a lower density than the City of Kalispell designation. A PUD would allow for 2 dwellings per acre which would be in line with the nearest City designation.

Finding #10: Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell’s urban growth and it has been determined that the map amendment is located beyond the northern extent of Kalispell’s urban growth, as shown on the Kalispell Growth Policy Future Land Use Map and the zoning would be less than or equal to the density of the nearest City of Kalispell land use designation.

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.

Staff looked at the zoning within a half mile of the subject property and further north and south along the highway to determine the prevailing uses in the area. The character of the Highway 93 corridor is a mixture of suburban agricultural, agricultural, highway industrial, commercial and residential.

The property zoned SAG-5 to the east is currently an arena that hosts rodeos, concerts and other events and contains pasture land. North, south and west of the property are agricultural lands. A half mile to the south is the City of Kalispell and the Silverbrook Subdivision with a higher density of residential than is currently being proposed. Further to the north of the property is the Flathead County Landfill, commercial uses and industrial uses. Further south are also commercial uses. The prevailing uses in the area tend to be a range from commercial to residential to agricultural.

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

The subject property is approximately 40.6 acres in size and located between SAG-5 to the east and west and AG-40 to the north and south. A quarter mile to north of the property is a SAG-10 zoning district that is also approximately 40 acres in size and a quarter mile to southeast of the

property is a B-3 zoning district that is also approximately 40 acres in size. Directly to the east of the property is a SAG-5 district approximately 100 acres in size. Adjacent to the SAG-5 on the east is an I-1H zoning district that is approximately 10.4 acres in size. It appears that the zoning would not apply to a small area, relative to the size of the neighboring zoning districts.

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 property is located within the Riverdale Neighborhood Plan and designated as 'Mixed Use.' *"The Mixed Use land use category is intended to provide flexibility in design and to promote a mixed of commercial and housing options. This category permits retail and general commercial uses that serve the broader community and tourist economy. Mixed residential-commercial uses where the commercial portion is compatible with the residential is appropriate. This category permits a range of commercial development such as hotels, banks, restaurants, professional office centers and mix of residential use including apartment complexes, single family attached and detached, duplexes, town homes, and accessory apartments at an average density of six (6) dwelling units per one (1) acre. Commercial developments should be configured as centers or nodes. Strip commercial configurations should be avoided. Development density in the Mixed Use land use category may be increased with the creation of community or public water and sewer systems or annexation into a municipal water and sewer district. Commercial development such as shopping malls or large box retail stores (e.g. Super Wal-mart) is neither appropriate nor contemplated in this land use category."*

"All mixed use projects should be planned and processed as PUD Overlays and then hard zoned as a PUD. This plan recommends that new mixed use PUD zoning districts be created to facilitate combinations of commercial and residential land uses."

In addition to the proposed zone change the applicant is also requesting a PUD. The R-1 zoning would allow for a density of 1 dwelling unit per acre and the PUD would allow for an increase in density to 2 dwelling units per acre. The R-1 zone would also allow for an Accessory Dwelling Unit on single family lots which would have the potential to increase the density to 4 dwelling units per acre. The proposed R-1 and PUD does not allow for commercial uses. The proposal would generally not comply with the Riverdale Neighborhood Plan map and text and as such could be at the expense of the surrounding landowners or the general public.

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 proposal would apply to an area similar in size to neighboring zoning districts and the prevailing uses in the area tend to be a range from commercial to residential to agricultural

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

Staff looked at the zoning within a half mile of the subject property, further north and south along the highway and within the Riverdale plan area. The character of the Highway 93 corridor is a mixture of suburban agricultural, agricultural, highway industrial, commercial and residential and the character of the Riverdale Neighborhood Plan corridor is a mixture of suburban agricultural zoning, agricultural, highway industrial, commercial and residential. The property is located between SAG-5 to the east and west and AG-40 to the north and south. The proposed R-1 zoning allows for agricultural and residential uses.

The property to the east is currently an arena that hosts rodeos, concerts and other events and contains pasture land. North, south and west of the property are agricultural lands. A half mile to the south is the City of Kalispell and the Silverbrook Subdivision with a higher density of residential. Further to the north of the property is the Flathead County Landfill, commercial uses and industrial uses and further south are also commercial uses.

Many of the properties in the immediate vicinity do not contain buildings. The property to the east contains an arena an accessory building but the lands to the south are in a conservation easement. The proposed zone change would likely not impact the value of the buildings that do exist in the area as the proposed zoning would allow for residential uses.

As previously stated, the property is located within the Riverdale Neighborhood Plan Area which calls a mixed use PUD. The proposed R-1 zone would allow for residential uses but not commercial uses and the proposed PUD does not allow for commercial uses.

Finding #12: This proposed zoning map amendment appears to conserve the value of buildings but may not encourage the most appropriate use of land in this location because the R-1 zoning and proposed PUD do not allow for commercial uses that would comply with the designated land use of *'Mixed Use.'*

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

The subject property is located about a half mile north of the City of Kalispell and just outside the Kalispell Growth Policy and annexation policy boundary. The City of Kalispell and the City of Whitefish planning departments were sent agency referrals but has yet to provide comment on this proposal. The nearest City of Kalispell zones are R-2/PUD, R-4/PUD and B-1/PUD, with the nearest

being R-2/PUD. Because the property is located outside the City's annexation policy boundary, the City has no plans to annex the property. Additionally the R-1 zoning is less dense than any of the zoning within the City of Kalispell, the closest density the City has would be Kalispell R-1 with a density of 1 dwelling per 20,000 square feet.

Finding #13: Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's zoning ordinance and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on the Kalispell Growth Policy Future Land Use Map and would be less than or equal to the density than the nearest City of Kalispell zoning designation.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text generally support the request and the proposal would allow for additional single family dwellings.
- 2) The proposed zoning map amendment appears to not comply with the map and text of Riverdale Neighborhood Plan because although the applicant is requesting R-1 zoning and proposing a PUD, the proposal would not allow for a variety of housing types and there is no commercial component to the PUD and therefore would not comply with the *'Mixed Use'* designation.
- 3) The proposed map amendment will not negatively impact safety from fire and other danger because the property is not located in the WUI, it is not forested, is located less than 4.0 miles from the nearest fire station and not located within the 100 year floodplain.
- 4) The proposed zoning map amendment would likely have minimal impact on public health, public safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and the proposed zoning would allow for less land intensive uses than allowed within the current AG-40.
- 5) It is unclear if the proposed amendment would facilitate the adequate provision of transportation because comments from the Road and Bridge Department indicate concern with the existing access and the submitted Environmental Assessment does not provide a grade for the LOS for McDermott Lane.
- 6) The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the further division of land or a change of use would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, the school districts did not provide comment indicating concern, and parkland dedication or cash-in-lieu would be required during subdivision review.
- 7) Consideration has been given to the ability to provide adequate light and air to the subject property because the future development would be required to meet the bulk and dimensional requirements within the proposed R-1 designation, the proposal would allow for adequate light and air.

- 8) It is unclear if the proposed amendment would have a negative effect on motorized transportation systems because comments from the Road and Bridge Department indicate concern with the existing access and the submitted Environmental Assessment does not provide a grade for the LOS for McDermott Lane.
- 9) Effects on the non-motorized transportation systems will be minimal because McDermott Lane is not recognized as a future bike/pedestrian trail as such no easement would be required in the future.
- 10) Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's urban growth and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on the Kalispell Growth Policy Future Land Use Map and the zoning would be less than or equal to the density of the nearest City of Kalispell land use designation.
- 11) The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposal would apply to an area similar in size to neighboring zoning districts and the prevailing uses in the area tend to be a range from commercial to residential to agricultural.
- 12) This proposed zoning map amendment appears to conserve the value of buildings but may not encourage the most appropriate use of land in this location because the R-1 zoning and proposed PUD do not allow for commercial uses that would comply with the designated land use of *'Mixed Use.'*
- 13) Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's zoning ordinance and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on the Kalispell Growth Policy Future Land Use Map and would be less than or equal to the density than the nearest City of Kalispell zoning designation.

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