

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
MARE LANE ESTATES ET. AL.  
ZONING MAP AMENDMENT REPORT (FZC-20-09)  
JUNE 23, 2020**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Sands Surveying on behalf of the property owners of Mare Lane Estates Phase I, for a zoning map amendment in the Willow Glen Zoning District. The proposed amendment would change the zoning of properties currently zoned R-1 PUD (Mare Lane Estates R-1 PUD) to R-5 (Two Family Residential).’

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on July 8, 2020 in the South Campus Building at 40 11<sup>th</sup> 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 in the South Campus Building at 40 11<sup>th</sup> 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 Recorders Office at 800 South Main Street in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

This properties are not located within the jurisdiction of a Land Use Advisory Committee.

**B. Planning Board**

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on July 8, 2020 at 6:00 P.M. in the 2<sup>nd</sup> Floor Conference Room of South Campus Building located at 40 11<sup>th</sup> Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

**C. Commission**

In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment on August 18, 2020.

**II. GENERAL INFORMATION**

**A. Applicant/Petitioner**

**i. Applicant/Owners**

- a. Mare Lane LLC and Wayne Evert (Tract 4X and Open Space)
- b. BJ Rentals, LLC (Lot 1, 123 S. Cedar Drive and Lot 6, 133 S. Cedar Drive)
- c. Becky Austin (Lot 2, 125 South Cedar Drive)
- d. Natasha and Travis Cash (Lot 3, 127 S. Cedar Drive)
- e. Ben and Denise Belt (Lot 4, 129 S. Cedar Drive)
- f. Hope and Randy Wamsley (Lot 5, 131 S. Cedar Drive)
- g. ALC Trust #1 (Lot 7, 135 S. Cedar Drive)
- h. David Schettine Jr. (Lot 8, 137 S. Cedar Drive)

**ii. Technical Assistance**

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

**B. Subject Properties Location and Legal Description**

The subject properties are located at Assessor #0504465 (Open Space), Assessor #0850700 (Tract 4X), 123, 125, 127, 129, 131, 133, 135, and 137 South Cedar Drive Kalispell, Montana and total approximately 14.63 acres. The properties can legally be described as follows:

- a. Lot, Open Space of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana, According to the Plat thereof on file and of record in the Office of the Clerk & Recorder of Flathead County, Montana AND
- b. A Tract of land in the southeast quarter (SE1/4) of Section 4, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana, known as:

Certificate of Survey No. 1958. Excepting therefrom Lots 1, 2, 3, 4, 5, 6, 7, 8 of Mare Lane Estates Phase 1, according to the Plat there of on file and of record in the Office of the Clerk & Recorder of Flathead County, Montana. (Tract 4X in SE4)

- c. Lot 1 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, according to the plat there of on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, also known as 123 S. Cedar Drive, Kalispell, Montana.
- d. Lot 6 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Mt. 59901 according to the plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, also known as 133 S. Cedar Drive, Kalispell, Montana.
- e. Lot 2 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana. According to the Plat thereof on file and of record in the Office of the Clerk & Recorder of Flathead County, Montana, also known as 125 South Cedar Drive, Kalispell, Montana.
- f. Lot 3 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana according to the official plat thereof, filed in Official Records of Flathead County, Montana, also known as 127 S. Cedar Drive, Kalispell, Montana.
- g. Lot 4 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, also known as 129 S. Cedar Drive, Kalispell, Montana.

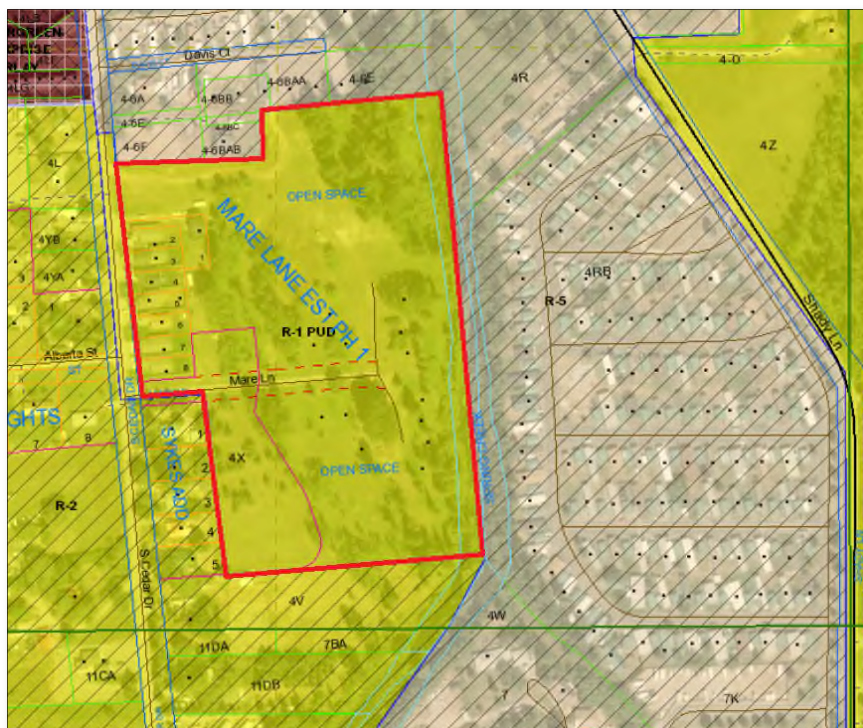
- h. Lot 5 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana according to the map or plat thereof on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, also known as 131 S. Cedar Drive, Kalispell, Montana.
- i. Lot 7 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana according to the map or plat thereof on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, also known as 135 S. Cedar Drive, Kalispell, Montana.
- j. Lot 8 of Mare Lane Estates, Phase 1, in Section 4, Township 28 North, Range 21 West, Kalispell, Montana according to the Map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, also known as 137 S. Cedar Drive, Kalispell, Montana.

**C. Proposed Zoning Map Amendment**

The subject properties are located within the Willow Glen Zoning District and are currently zoned ‘Mare Lane Estates R-1 PUD’ (see Figure 1).

The R-5 designation is defined in Section 3.13.010 of the Flathead County Zoning Regulations (FCZR) as, ‘*A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.*’

**Figure 1:** Current zoning applicable to project outlined in red



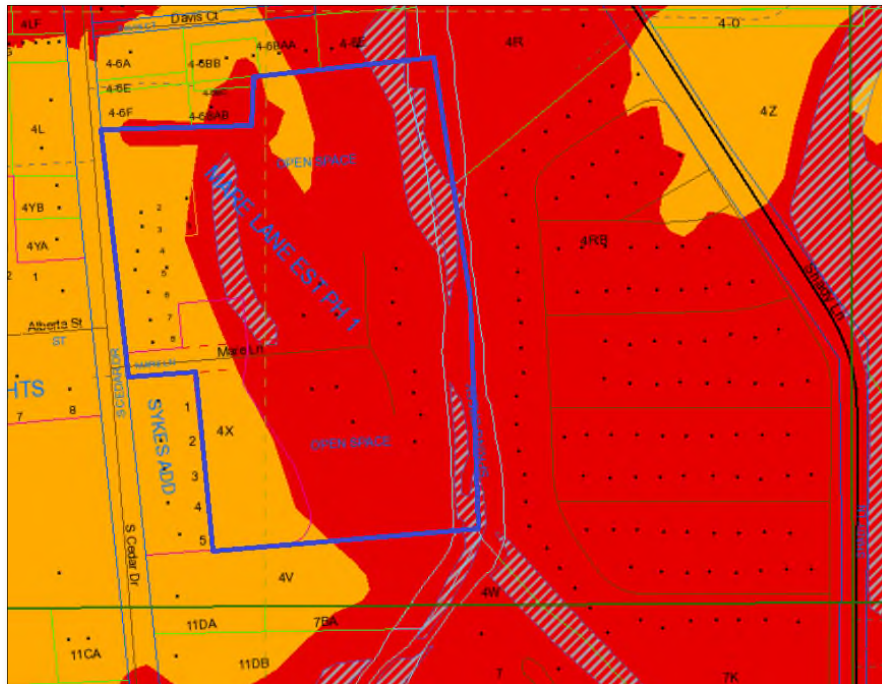
**D. General Character of and Reason for Amendment**

The properties are located north at Assessor #0504465 (Open Space), Assessor #0850700 (Tract 4X), 123, 125, 127, 129, 131, 133, 135, and 137 South Cedar Drive in the community of Evergreen (see Figure 2). The lots are developed with single family dwellings and the open space and former Phase II of Mare Lane Estates are undeveloped. The properties are relatively flat and while the residential lots are outside the 100-year floodplain the open space does contain the 100-year floodplain (see Figure 3). The application indicates the reason for the zoning map amendment request is “The property is located in a residential area of Evergreen. The subject property was previously part of the Mare Lane Estates subdivision where the two properties were designated as “future phase” and “open Space” through a PUD. The proposed zone change to R-5 will reset the development allowing some development of the open space area as well as the original “future phase” lot.”

**Figure 2:** Aerial view of subject properties outlined in red



**Figure 3:** Floodplain on properties



**E. Adjacent Zoning and Character of the Overall Zoning District**

The subject properties are located within the Willow Glen Zoning District and within proximity to both business and residential zones (see Figure 1). The properties are bordered on the north and across Spring Creek by R-5, and to the west and south by R-2. The character of the area surrounding the properties are the higher residential density of manufactured home parks as well as suburban residential density. The proposed zone change is adjacent to existing R-5 zoning and would continue the R-5 zoning designation (see figure 1).

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

**i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.**

The applicants are proposing to rezone the subject properties to R-5, a zoning designation that would allow a similar density and lot size however allow possible development of the small portion or the designated open space associated with Mare Lane Estates Phase I which is not located within the Floodplain.

The character of the overall zoning district is a mix of residential with single family dwellings and residential with manufactured home parks. Based on the surrounding zoning and uses, the proposed zoning map amendment if approved would not differ

significantly from the zoning and associated permitted uses that currently exist in the area.

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

The proposed map amendment would change the zoning on properties owned by more than one owner for the purpose of creating zoning more in line with the existing uses and lot sizes in the area.

**iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.**

The proposed map amendment would allow for residential lots with a minimum lot size of 5,400 square feet. Since the applicants of this proposed zone change are the residents currently residing under the Mare Lane Estates R-1 PUD, the only property owners subject the PUD's benefits and restrictions and the property is directly adjacent to existing R-5 zoning, it does not appear the zone change if approved would be to the detriment to surrounding landowners or the general public.

**Finding #1:** The proposed map amendment will not be for the benefit of an individual landowner, the proposal is not considered spot zoning or considered special legislation at the expense of the surrounding landowners or general public because the proposed R-5 zoning would allow for residential use and densities found adjacent to the subject properties in the existing R-5 zoned properties located to the north and east.

**F. Public Services and Facilities**

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

**G. Criteria Used for Evaluation of Proposed Amendment**

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing 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 properties notification regarding the proposed zoning map amendment was mailed to properties owners within 150 feet of the subject properties on June 17, 2020. Legal notice of the Planning Board public hearing on this application was published in the June 21, 2020 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 properties and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

#### **I. Agency Referrals**

Referrals were sent to the following agencies on April 16, 2020:

- Flathead County Sheriff
- Dave Prunty, Public Works/Flathead County Road Department
- Montana Department of Transportation
- Flathead County Solid Waste
- Flathead City-County Health Department (inter-office mail)
- Flathead County Weeds & Parks Department
- Bonneville Power Administration
- Montana Fish, Wildlife and Parks
- Evergreen Fire District
- Evergreen Water and Sewer 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. 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 July 8, 2020 and/or the Commissioner's public hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

#### **B. Agency Comments**

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead City-County Environmental Health Department. Email 4/28/20.
  - Comment: "The request for a zone change for the Mare Lane Estates, this office has no comments."
- Jim Chilton, Flathead County Solid Waste District. Letter 4/24/20
  - Comment: "The District requests that all solid waste generated at the proposed location be hauled by a private hauler. Evergreen Disposal is the Licensed (PSC) Public Service Commission private hauler in this area."
- Bonneville Power Administration. Email 4/17/20

- Comment: “At this time, BPA does not object to this request, as the properties are located 2.14 miles away from the nearest BPA transmission lines or structures.”
- Montana Department of Transportation. Email 5/5/20
  - Comment: “We do not have any comments regarding this proposal.”

#### 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.

Mare Lane Estates R-1 PUD is defined as ‘*A Planned Unit Development consisting of 15 lots with single-family homes on Evergreen Water and Sewer located off South Cedar on 16.08 acres.*’

The R-5 Two-Family Residential designation is defined in Section 3.13.010 FCZR as, “*A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.*”

The permitted uses and conditional uses for the proposed and existing zoning contain several differences. The amendment would reduce the number of permitted uses from 15 to 9 and the number of conditional uses would also be reduced from 23 to 18.

The permitted and conditional uses listed within the R-1 PUD but not in R-5 are as follows:

- Agricultural/horticultural/silvicultural use.
- Guest House
- Livestock
- Nursery, landscaping material
- Produce stand
- Stable, private
- Airfield
- Aircraft hangars when in association with properties within or adjoining andn airport/landing field.
- Camp and retreat center
- Caretaker’s facility
- Cemetery, mausoleum, columbarium, crematorium
- Dwelling, family hardship
- Golf driving range



- Radio and television broadcast station
- Stable, public
- Water and sewage treatment plant

The permitted uses listed within the R-1 PUD but are listed as conditional uses in in R-5 are:

- Dwelling unit, accessory

The conditional uses listed within the R-5 but not in R-1 PUD are as follows:

- Beauty Salon and Barbershop
- Recreational vehicle park/campground

The bulk and dimensional requirements within the current Mare Lane Estates R-1 PUD require a 10 foot setback from the front, side corner and rear boundary line and five (5) foot from the side boundary line for principal structures and detached accessory structures require a 10 foot setback from the front, side corner and rear boundary lines with a five (5) foot requirement from the side boundary line. The proposed R-5 zoning requires a 20 foot setback from front, rear, and side-corner boundary line with a five (5) foot setback from the side boundary for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for detached accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as properties boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. The permitted lot coverage for both zones is 40% and the maximum height is 35 feet for the principal structure with 18 feet for an accessory structure for both zones as well.

The existing zoning requires a minimum lot area of 5500 square feet. The subject properties total approximately 15.7 acres however, a majority of the open space lot is designated floodplain. Under Flathead County Subdivision Regulations, land deemed to be within the 100-year floodplain may be unsuitable for subdivision [FSCR Section 4.7.9(b)(iii)]. Given the FIRM Panels issued by FEMA mark the floodplain approximately, the services of a land surveyor would be necessary to determine which areas of the property would be documented out of the 100-year floodplain and be subject to possible subdivision. The proposed zoning requires a minimum lot area of 5,400 square feet which is comparable to the Mare Lane Estates Phase I R-1 PUD. The requested zone change has the potential to maintain the possible density through subsequent subdivision in the future as the current Mare Lane Estates R-1 PUD zoning. The bulk and dimensional requirements are more restrictive with the proposed R-5 zoning and reduce the number of both permitted and conditional 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).

## 1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject properties as ‘Planned Unit Developments’ surrounded by ‘Residential’ designated properties. With the changing of the Mare Lane Estates R-1 PUD, the properties would no longer be in compliance with the ‘Planned Unit Developments’ however the proposed R-5 ‘Two-Family Residential’ residential zoning classification appears to generally comply with the surrounding ‘Residential’ designation.

Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, *“This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.”*

Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

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

- ❖ **G.2** – *Preserve the rights of properties owners to the use, enjoyment and value of their properties and protect the same rights for all properties owners.*
  - The amendment would allow the owners to develop the lots and place additional residential units on the suitable properties outside of the designated floodplain.
- ❖ **G.8** – *Safe healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowner to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
  - The R-5 designation would allow for densities of one dwelling unit per 5,400 square feet which would allow for comparable individual single family residential lots and more residential density via permitted duplex development than if zoned Mare Lane Estates R-1 PUD. The R-5 zone would be located adjacent to existing R-5 zoning and would be a continuation of the existing zoning.

- ❖ **G.15** – *Promote a diverse demographic of residents.*
- ❖ **G.16** – *Safe housing that is available, accessible, and affordable for all sectors of the population.*
  - **P.16.3** – *Promote the development of affordable single and multi-family housing in areas of adequate service networks.*
    - The proposed zone would allow for additional single and duplex residential housing in close proximity to a commercial corridor.
- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
  - **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
  - **P.23.4** – *Recognize areas in proximity to employment and retail centers as more suitable for higher residential densities and mixed use development.*
    - This report contains discussion on the proposal’s potential impact on transportation below.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
  - This report contains discussion on the proposal’s potential impact on schools below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
  - This report contains discussion on the adequacy of emergency service below.
- ❖ **G.38** – *Preserve and protect floodplains to ensure the safety of residents from flood hazards and to prevent the degradation of water quality and critical wildlife habitat.*
  - Sections of the properties are located within the 100-year floodplain and will be required to meet Flathead County Floodplain and Floodway Management Regulations for future development in order to ensure the safety of residents from flood hazards. Montana Fish Wildlife and Parks did not comment on the zoning map amendment request when contacted by the planning office.
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans, respecting the time, effort and community involvement that has taken place.*
  - The properties are located within the Kalispell City-County Master Plan. This report contains discussion on the proposals compliance with the Master Plan below.

**Finding #2:** The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the current ‘Planned Unit Developments’ is surrounded by ‘Residential’ land use designation identified

by the Designated Land Use Map which complies with the proposal and the applicable goals, policies and text generally support the request.

## **2. Kalispell City-County Master Plan**

The Kalispell City-County Master Plan (Master Plan) Map was incorporated into the Growth Policy to provide guidance on future development and land use decisions within the plan area at the local level. The Master Plan is composed of three major components, the text, goals and objectives, and the map. According to the Master Plan, *“Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan. Or worse, it may lead to a twisting or manipulation of the Plan.”* This report contains discussion on compliance with the three major components of the Master Plan.

The subject properties are located on the Kalispell City-County Master Plan Map as ‘Urban Residential’. The ‘Urban Residential’ designation is defined as *“A residential district which provides for two or less units per acre. Such areas typically do not have access to a community sewer or water system, have only limited police and fire protection and may have a limited carrying capacity due to site or soil limitations, floodplain or other natural constraints, which preclude higher density. Suburban residential districts are typically located in two areas: on the periphery of the urbanized community where they serve as a transitional development pattern between the urban area and the timber and agricultural areas beyond, and in aesthetically attractive areas such as foothills, lakeshore, or river frontage not suitable for agriculture or timber production. Suburban residential districts provide large lot, estate, ranchette, or resort housing opportunities where limited farming/gardening and raising of animals is common and/or privacy, aesthetic consideration and preservation of the natural surroundings are paramount. Detached single family houses and manufactured homes on individual lots would constitute the major land use pattern.”*

- ❖ **Goal 4** – *A housing supply within the planning jurisdiction that meets the needs of present and future residents in terms of supply, choice and location.*
  - The proposal has the potential to add a mix of housing choices within the planning jurisdiction.
- ❖ **Goal 6** – *The orderly development of the planning jurisdiction with ample space for future growth while, at the same time, ensuring compatibility of adjacent lands uses.*
  - **Objective 6.a.** – *Designate adequate areas for a variety of business and commercial uses such as neighborhood-oriented businesses and services, highway-commercial oriented activities and general commercial uses.*
  - **Objective 6.f.** - *Establish standards for buffering incompatible land uses for mitigating impacts caused by such arrangements.*

- **Objective 6.g.**-*Maintain the character of the single-family neighborhoods.*
- **Objective 6.h.**- *Concentrate medium and high density residential units in areas close to commercial services good traffic access and open space specifically to provide efficient access to these amenities for the occupants and to provide a suitable buffer between commercial and high traffic areas and low density residential areas.*
  - The proposal would provide for additional single family dwellings with similar density and duplexes in an area adjacent to highway-oriented commercial development and single-family dwellings.

According to the applicant, “The property is located within the boundary of the Kalispell Master Plan Map 2010 which was adopted in 1986. The Master Plan Map designates the property as Suburban Residential (Figure 2). When the Kalispell Master Plan was adopted in 1986, all of Evergreen was on septic systems and only a small area was on Public water. The Evergreen fire district at the time was an all-volunteer department. Much of the commercial area north of K-Mart was residential or logging industry related. Now with public sewer and water service, and a more intense commercial strip, it makes good land use policy to convert the R-1 to a higher density residential classification that is more compatible with the neighboring manufactured home parks, commercial use and the new high density assisted living facility.

“As the property is in the old Kalispell Master Plan area...Jarod Nygren, Planning Director for the City of Kalispell (was contacted). Mr. Nygren stated that he did not see any problems with the proposed zone change and the urban designation is more suitable for this property.”

**Finding #3:** The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan map which illustrates the lot as ‘Urban Residential’, however the proposed map amendment would support the goals and objectives outlined in the text of the document.

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

The subject properties are located within the Evergreen Fire District and the nearest fire station is located approximately 1.6 road miles north of the properties on U.S. Highway 2 E. The Evergreen Fire Department would respond in the event of a fire or medical emergency. The subject properties are not located within the Wildland Urban Interface (WUI) or within a fire district priority area.

The subject properties are located at Assessor #0504465, Assessor #0850700, 123, 125, 127, 129, 131, 133, 135, and 137 South Cedar Drive. South Cedar Drive is a paved, two lane public road within a 60 foot easement and appears to be able to provide adequate ingress/egress for emergency vehicles.

According to FEMA FIRM Panel 30029C 1810J, the properties are located with Zone AE floodplain indicated on portions of them. A majority of the floodplain

is located on the designated open space. The properties are limited in their subdivision potential as a majority of the Mare Lane Estates Phase I Open Space lot is within the 100-year floodplain (see Figure 3).

According to the application, “The proposed action of the zone change will neither increase nor reduce the dangers of fire, panic, or other hazards. When the properties are developed they will most likely need to secure a subdivision review or CUP for the density/use and at that time more details would be known about the use and the services.

“The property is within the Evergreen Fire District, has access to the Evergreen Water system which provides fire flow to the systems hydrants. The property is not within the Wildland Urban Interface. The property is served by Flathead County Sheriff’s Office for police protection.

“The lot designated “Open Space” is within the 100-year floodplain as is much of Evergreen. If the applicant develops anything in this area they will secure the proper permits.”

**Finding #4:** The proposed map amendment will likely not impact safety from fire and other danger because the properties are located relatively close to the Evergreen Fire Department, the lot is located on South Cedar Drive which can accommodate emergency vehicles, the development of the lots either by subdivision or Conditional Use Permit will be required to be reviewed through the conditional use permit process or subdivision process and, if approved will presumably cause no significant impacts.

**Finding #5:** The subject properties are located with a majority of the Mare Lane Estates Phase I Open Space within 100-year floodplain.

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

The properties are located within the Evergreen Fire District approximately 1.6 road miles from the nearest fire and emergency response center located on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Department provides police services to the subject properties. The properties appears to provide adequate ingress and egress for emergency services.

Concerning public health, safety and general welfare, the application states, “The property is accessed by South Cedar Drive which is a paved County maintained road. The Flathead County Sheriff’s Office provides police protection to Evergreen. The Evergreen Fire District provides fire service to the property. The property is served by Evergreen Water and Sewer infrastructure.

“The proposed R-5 zoning designation is better aligned with the higher density urban development that surrounds the property. The property to the north and east are already zoned R-5 and contain manufactured home parks. The property to the south and west are zoned R-2 however just a short distance further to the west is the new Woodlands Senior Living Facility. The proposed zone change will promote compatible use and allow some use of the existing open space lot.”

The properties are bordered on the west and south by R-2, to the east and north is similarly zoned R-5. The character of the area surrounding the properties are generally medium to high-density residential with manufactured home parks adjacent to the east. The uses allowed within the R-5 would be similar to what exists on the neighboring properties and the same as that of the adjacent R-5. Because the uses are similar or compatible with what exist in the area the proposal is not likely to negatively impact public health, public safety and general welfare.

**Finding #6:** The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because future development would be similar or compatible to uses already existing in the area and the properties are served by the Flathead County Sheriff and the Evergreen Fire Department.

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

The subject properties are accessed from South Cedar Drive. Comments from the Flathead County Road and Bridge Department indicate no concerns with the proposed zoning map amendment.

There is nothing currently developed on the open space and former future Phase lot with the rest of the lots developed with single family dwellings. The highest density potentially permitted by subdivision with the proposed zoning would be duplexes. According to the ITE Trip Generation Handbook, 9<sup>th</sup> Edition, apartment complexes produce 6.65 ADT per dwelling unit. A majority of the Open Space lot is floodplain with wetlands, therefore may contribute minimal buildable lots with subdivision as property located within the 100-year floodplain is not suitable for subdivision. The future phase lot is approximately 0.89 acres and the remainder of the lots are developed and would not be eligible for future subdivision with the minimum lot size requirement of R-5. With full build out of the 0.89 acres with duplexes and land for access roads, approximately six additional lots would result in 12 duplexes. The traffic from the 12 duplexes would add an additional 80 trips. Traffic counts could not be found for South Cedar Drive, however the drive provides access to several single family dwellings as well as a manufactured home park. South Cedar Drive utilizes Highway 35 for access and the access point is approximately 0.18 miles from the intersection of Highway 2. Traffic accounts for Highway 35 on the east side of the intersection of Highway 2 as of 2019 is 12510 AADT. The map amendment has the potential of increasing the traffic along Highway 35 minimally (approximately 0.0063%). Additionally, uses such as a manufactured home park or recreational vehicle park/campground would require a conditional use permit and therefore would be reviewed for appropriate traffic generation.

The application states “The 14+ acres subject to the zone change all access South Cedar Drive which is a paved street maintained by Flathead County. South Cedar Drive is considered a local road with access to Highway 2 just 800

feet to the north. The property is served by Evergreen Water and Sewer infrastructure.

“The property is within the Evergreen/Flathead School District. The applicant is hoping to develop Recreational Vehicle spots and/or develop several cabins that could be used by family, neither of these uses would generate school children to the District. Any subdivision or CUP of the property would require additional review and approval through the governing bodies.”

The subject properties are located within the Evergreen and Flathead School Districts. Evergreen Elementary Schools have seen a decrease in student enrollment over the last ten years of 30% and decrease between 2014 and 2015 of 7%. Flathead High School District has seen an 11% increase in student enrollment over the last ten years but no change between 2014 and 2015. According to census data for Flathead County, the average household size includes 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. As previously stated, the proposal has the potential to generate 12 duplexes at the higher end of possible density and therefore could generate 5 school age children. No comments have been received from either the elementary or the high school districts.

The zoning map amendment may impact the existing public park system because greater demand on existing parks may be created. A future subdivision on the properties would likely require parkland dedication or cash-in-lieu. The Flathead County Subdivision Regulations would require 11% of the combined gross area of the land proposed to be divided into lots ½ acre or less to be dedicated. A likely scenario would be the property designated with 100-year floodplain would function as open space/parkland since development opportunity is limited. There are many parks, natural areas, and recreational opportunities within a short drive.

**Finding #7:** The zoning map amendment is not expected to negatively impact the transportation network with potential permitted and conditional uses as higher density uses will require a conditional use permit review and will address potential impacts to the road network.

**Finding #8:** The proposed amendment appears to facilitate the adequate provision of water and sewer services, schools and parks because further development will be required to meet Evergreen Water and Sewer requirements, no comments were received from either school district, parkland would be considered during subdivision review and there are parks, natural areas, and recreational opportunities within a short driving distance.

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

The R-5 zoning designation has building height restrictions, minimum building setbacks and maximum fence height requirements that are designed to provide for adequate light and air. R-5 zoning has a minimum lot size of 5,400 square feet and requires no more than 40% lot coverage. Setbacks in the R-5 zoning designation for the principle structure are 20 feet from the front, side corner and



rear and 5 feet from the side. The setbacks for an accessory structure are 20 feet from the front and side corner with 5 feet setbacks from the side and rear. The setbacks for the proposed zone are similar to those in the existing zoning designation.

The application states, “The R-5 zoning classification requires setbacks of 20-foot front; 5-foot side; and 20-foot rear. The R-1 is the same in the front and rear but requires 20-foot on the side however Lots 1-8 of Mare Lane Estates was developed with a PUD and the side yard setbacks were reduced. The R-5 will match that of the properties to the north and south that already have R-5 zoning.”

**Finding #9:** The proposed zoning map amendment would provide adequate light and air to the subject properties because future development would be required to adhere to the bulk and dimensional requirements including setbacks and lot coverage within the proposed R-5 designation.

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

The subject properties will be accessed from South Cedar Drive. MDT had no comment and no comment was received from the Flathead County Road and Bridge Department. As indicated above, traffic counts could not be found for South Cedar Drive, however the drive provides access to several single family dwellings as well as a manufactured home park. South Cedar Drive utilizes Highway 35 for access and the access point is approximately 0.18 miles from the intersection of Highway 2. Traffic accounts for Highway 35 on the east side of the intersection of Highway 2 as of 2019 is 12510 AADT. The map amendment has the potential of increasing the traffic along Highway 35 minimally (approximately 0.0063%). Additionally, uses such as a manufactured home park or recreational vehicle park/campground would require a conditional use permit and therefore would be reviewed for appropriate traffic generation.

The application states, “As stated previously, the property has access onto South Cedar Drive which is a paved County maintained road. There are very few pedestrian walkways or sidewalks in Evergreen. The proposed project is considered infill as much of the neighboring properties are fully developed. The proposed zone change should have minimal effect on transportation systems.”

**Finding #10:** Effects on motorized and non-motorized transportation systems will be minimal because the traffic generated by the proposed zoning should be minimal in relation to current traffic, higher density uses will require CUP review which has elements of transportation system review and the Flathead County Road and Bridge Department did not comment on the application.

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

Kalispell is the nearest municipality to the subject properties, is located a little over one mile west of the subject properties, and is located outside of the Kalispell Growth Policy Annexation Policy Boundary but within the boundary of the Kalispell Growth Policy Future Land Use Map.

According to the application, “The subject property is located less than a mile from the Kalispell City limits. The Community of Evergreen is an unincorporated extension of Kalispell in that the commerce, schools, wastewater utilities, transportation routes move between the two entities in a seamless fashion. The proposed urban residential zoning classification of R-5 is compatible with neighboring urban densities as well as the urban densities of the City of Kalispell.”

It would appear that the proposed map amendment would be compatible with the surrounding urban growth as the Highway 2 corridor is the major commercial and residential center of Evergreen. While not within the incorporated boundaries of Kalispell, this corridor is noted as an extension of the commercial and mixed use development from Kalispell as illustrated by the City of Kalispell Growth Policy Future Land Use Map and the city’s existing zoning.

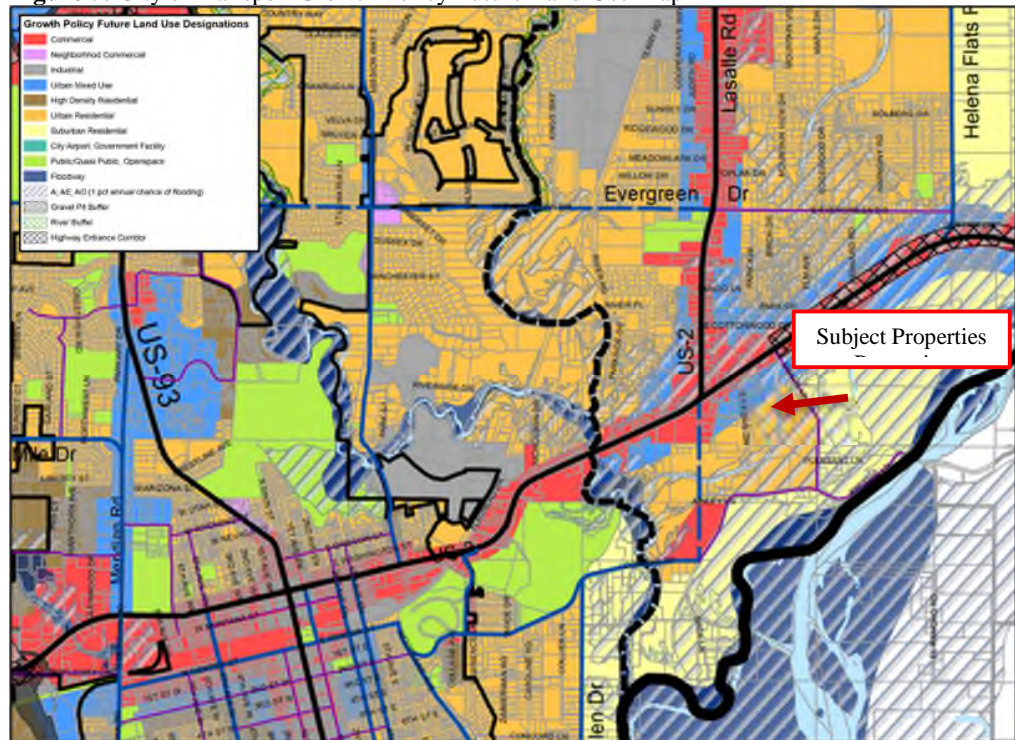
The City of Kalispell Growth Policy Future Land Use Map designates the subject properties as ‘*Urban Residential*’ and the proposed zoning would provide “urban” residential density compatible with the City’s designation.

While the ‘*Urban Residential*’ designation does not have a definition per se, the City of Kalispell Growth Policy Plan-It 2035 states under Chapter 4: Land Use A. Housing: “11. Medium-density residential (urban) neighborhoods should be developed at densities between four and twelve dwelling units per acre on an overall site basis. An integrated development plan within an urban neighborhood could include:

- a. Single-family homes on lots down to 2,500 square feet,
- b. Zero lot line and patio homes, when accompanied by ample open spaces and common areas,
- c. Duplexes and triplexes,
- d. Townhomes; and
- e. Limited mixed uses.”

Also within the City of Kalispell Zoning Ordinance several zoning designations reference the zoning districts would be found in areas designated as urban residential on the Kalispell Growth Policy Future land Use Map. These zoning designations are Kalispell R-3, R-4, R-5, and RA-1. The residential density and light commercial uses allowed with County R-5 would appear to support the ‘*Urban Residential*’ designation.

**Figure 5:** City of Kalispell Growth Policy Future Land Use Map



**Finding #11:** Consideration has been given to compatible urban growth in the vicinity of the City of Kalispell because the properties are designated as ‘Urban Residential’ and appear to be compatible with the proposed map amendment.

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

The proposed zoning map amendment would allow for “A residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district.” The location of the proposed R-5 indicates the map amendment would align with the purpose of the zoning designation and also be a continuation of the existing R-5 zoning.

The applicant indicates in the application, “The area around the subject parcel includes K-Mart, Auto Dealership, Manufactured Home Park, and Manufactured Home Subdivision. The proposed zoning is suitable for the district.”

**Finding #12:** The proposed zoning map amendment appears suitable for the particular district because it would be a continuation of existing R-5 zoning located adjacent to the subject properties.

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

The subject properties are located within the Willow Glen Zoning District and surrounded by residential uses with residential zoning in the vicinity (see Figure 2).

The application states, “This is a residential neighborhood with a mix of densities ranging from tightly developed manufactured home parks and multi-story senior housing to lower density suburban development. With the fully accompaniment of public services, this property and neighboring properties will continue to infill and become more urban. The proposed zone change will preserve the value of buildings in the neighborhood.”

The proposed map amendment would allow for higher density residential uses which would potentially increase the supply of affordable housing in an appropriate location which benefits the larger community.

**Finding #13:** This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the uses allowed for within the proposed zone would be similar to the adjacent R-5 zoning.

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

According to the application, “The subject property is located approximately a mile east of the Kalispell City Limits. The City has zoned the east side of Kalispell with mosaic of urban residential, general commercial, and industrial. The proposed urban residential zoning is consistent with urban zoning of the City of Kalispell. Lastly, Jarod Nygren, Planning Director for the City of Kalispell was consulted on the proposed zone change on March 23, 2020 by telephone. Mr. Nygren stated that the proposed zoning is compatible with the City’s long range plans.”

Kalispell is the nearest municipality to the subject properties and is located approximately 1.07 miles east of the subject properties. The properties are located outside of the Kalispell Growth Policy Annexation Policy Boundary but within the Kalispell Growth Policy Future Land Use Map. The City of Kalispell Future Land Use Map identifies this area as ‘urban residential.’ The proposed map amendment appears to be compatible with the zoning ordinance of Kalispell.

**Finding #14:** The proposed map amendment appears to be compatible with the zoning ordinance of Kalispell because the R-5 zone would allow for uses compatible with Kalispell’s Future Land Use Map.

**V. SUMMARY OF FINDINGS**

**Finding #1:** The proposed map amendment will not be for the benefit of an individual landowner, the proposal is not considered spot zoning or considered special legislation at the expense of the surrounding landowners or general public because the proposed R-5 zoning would allow for residential use and densities found adjacent to the subject properties in the existing R-5 zoned properties located to the north and east.

**Finding #2:** The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the current ‘Planned Unit Developments’ is surrounded by ‘Residential’ land use designation identified by the Designated Land Use Map which complies with the proposal and the applicable goals, policies and text generally support the request.

**Finding #3:** The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan map which illustrates the lot as ‘Urban Residential’, however the proposed map amendment would support the goals and objectives outlined in the text of the document.

**Finding #4:** The proposed map amendment will likely not impact safety from fire and other danger because the properties are located relatively close to the Evergreen Fire Department, the lot is located on South Cedar Drive which can accommodate emergency vehicles, the development of the lots either by subdivision or Conditional Use Permit will be required to be reviewed through the conditional use permit process or subdivision process and, if approved will presumably cause no significant impacts.

**Finding #5:** The subject properties are located with a majority of the Mare Lane Estates Phase I Open Space within 100-year floodplain.

**Finding #6:** The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because future development would be similar or compatible to uses already existing in the area and the properties are served by the Flathead County Sheriff and the Evergreen Fire Department.

**Finding #7:** The zoning map amendment is not expected to negatively impact the transportation network with potential permitted and conditional uses as higher density uses will require a conditional use permit review and will address potential impacts to the road network.

**Finding #8:** The proposed amendment appears to facilitate the adequate provision of water and sewer services, schools and parks because further development will be required to meet Evergreen Water and Sewer requirements, no comments were received from either school district, parkland would be considered during subdivision review and there are parks, natural areas, and recreational opportunities within a short driving distance.

**Finding #9:** The proposed zoning map amendment would provide adequate light and air to the subject properties because future development would be required to adhere to the bulk and dimensional requirements including setbacks and lot coverage within the proposed R-5 designation.

**Finding #10:** Effects on motorized and non-motorized transportation systems will be minimal because the traffic generated by the proposed zoning should be minimal in relation to current traffic, higher density uses will require CUP review which has elements of transportation system review and the Flathead County Road and Bridge Department did not comment on the application.

**Finding #11:** Consideration has been given to compatible urban growth in the vicinity of the City of Kalispell because the properties are designated as ‘Urban Residential’ and appear to be compatible with the proposed map amendment.

**Finding #12:** The proposed zoning map amendment appears suitable for the particular district because it would be a continuation of existing R-5 zoning located adjacent to the subject properties.

**Finding #13:** This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the uses allowed for within the proposed zone would be similar to the adjacent R-5 zoning.

**Finding #14:** The proposed map amendment appears to be compatible with the zoning ordinance of Kalispell because the R-5 zone would allow for uses compatible with Kalispell's Future Land Use Map.

**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: DV