

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**ZONING MAP AMENDMENT REPORT (#FZC-21-08)**  
**JOHN FEDERICO**  
**DECEMBER 29, 2021**

**I. GENERAL INFORMATION**

**A. Project Description**

This a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Flathead Geomatics, on behalf of John Federico, for a zoning map amendment within the Rural Whitefish Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from ‘SAG-10 Suburban Agricultural’ to ‘SAG-5 Suburban Agricultural.’

**B. Application Personnel**

**1. Owner/Applicant**

John and Eman Federico  
PO Box 4478  
Whitefish, MT 59937

**2. Technical Representative**

Flathead Geomatics  
PO Box 1722  
Whitefish, MT 59937

**C. Process Overview**

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. 38

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

This property is not located within the jurisdiction of a Land Use Advisory Committee.

**2. Planning Board**

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on January 12, 2021, 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.

**3. Commission**

The Commissioners will hold a public hearing on the proposed zoning map amendment on after the Planning Board public hearing. 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.

**II. PROPERTY CHARACTERISTICS**

**A. Subject Property Location and Legal Description**

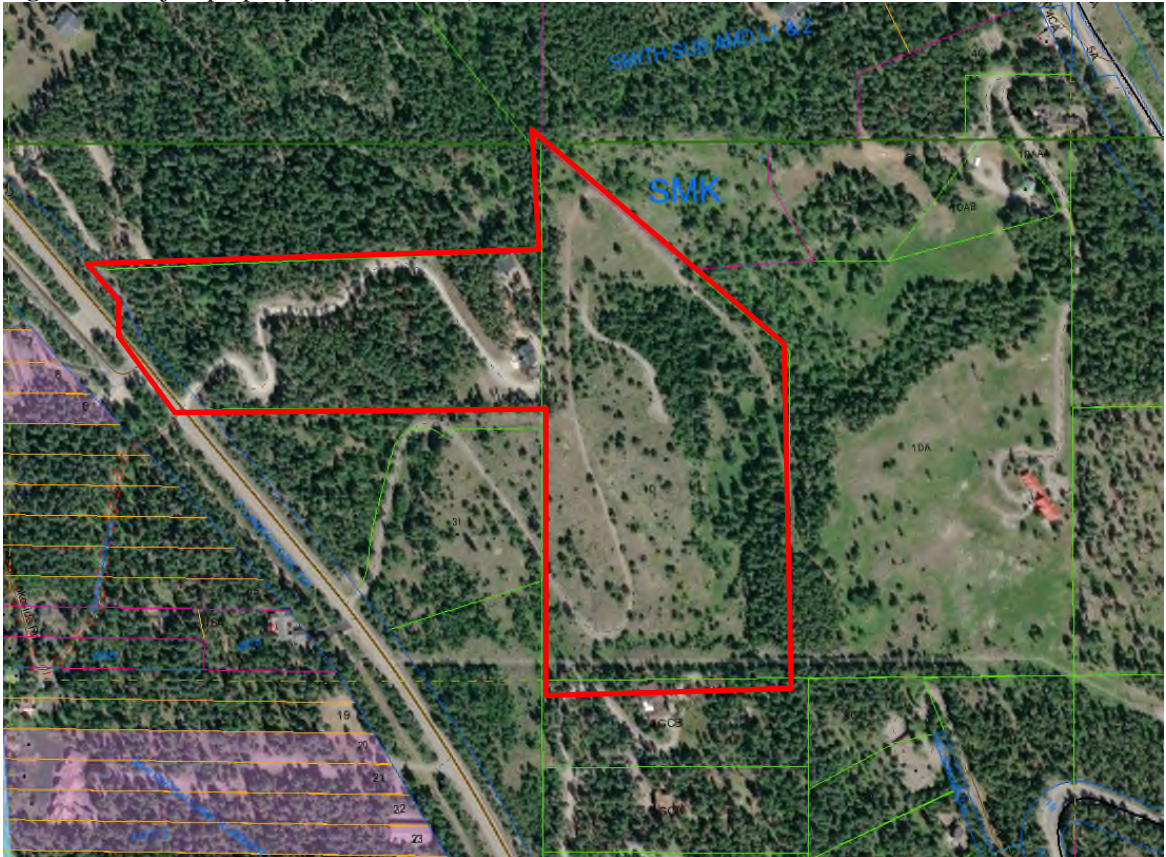
The property is located at located at 2505 and 2525 East Lakeshore drive outside Whitefish (see Figure 1 below) and is approximately 23.05 acres. The properties are legally described as:

Parcel A of Certificate of Survey No. 20173, located in the Northwest Quarter of the Northeast Quarter of Section 14, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

AND

Tract 1 of Retracement Certificate of Survey No. 16804, located and being in Government Lot 1 in Section 14, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

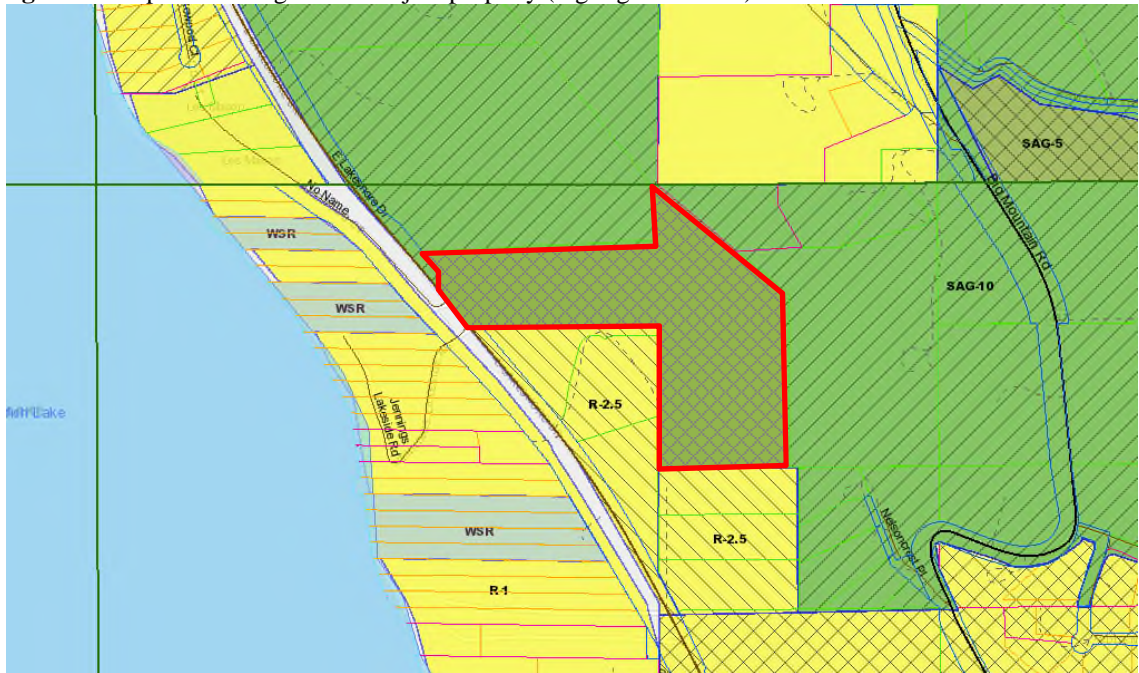
**Figure 1:** Subject property (outlined in red)



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

The subject property is located on East Lakeshore Drive across the road from Jennings Lakeside Rd. Currently the property developed with a house and accessory structures. The east side of the property is heavily wooded, and the west side is more open. The application states the reason for the zone change as, “Mr. and Mrs. Federico are considering developing the property and entertaining the idea of doing a family transfer if the zoning designation is changed for the benefit of their family members.”

**Figure 2:** Proposed zoning on the subject property (highlighted in red)



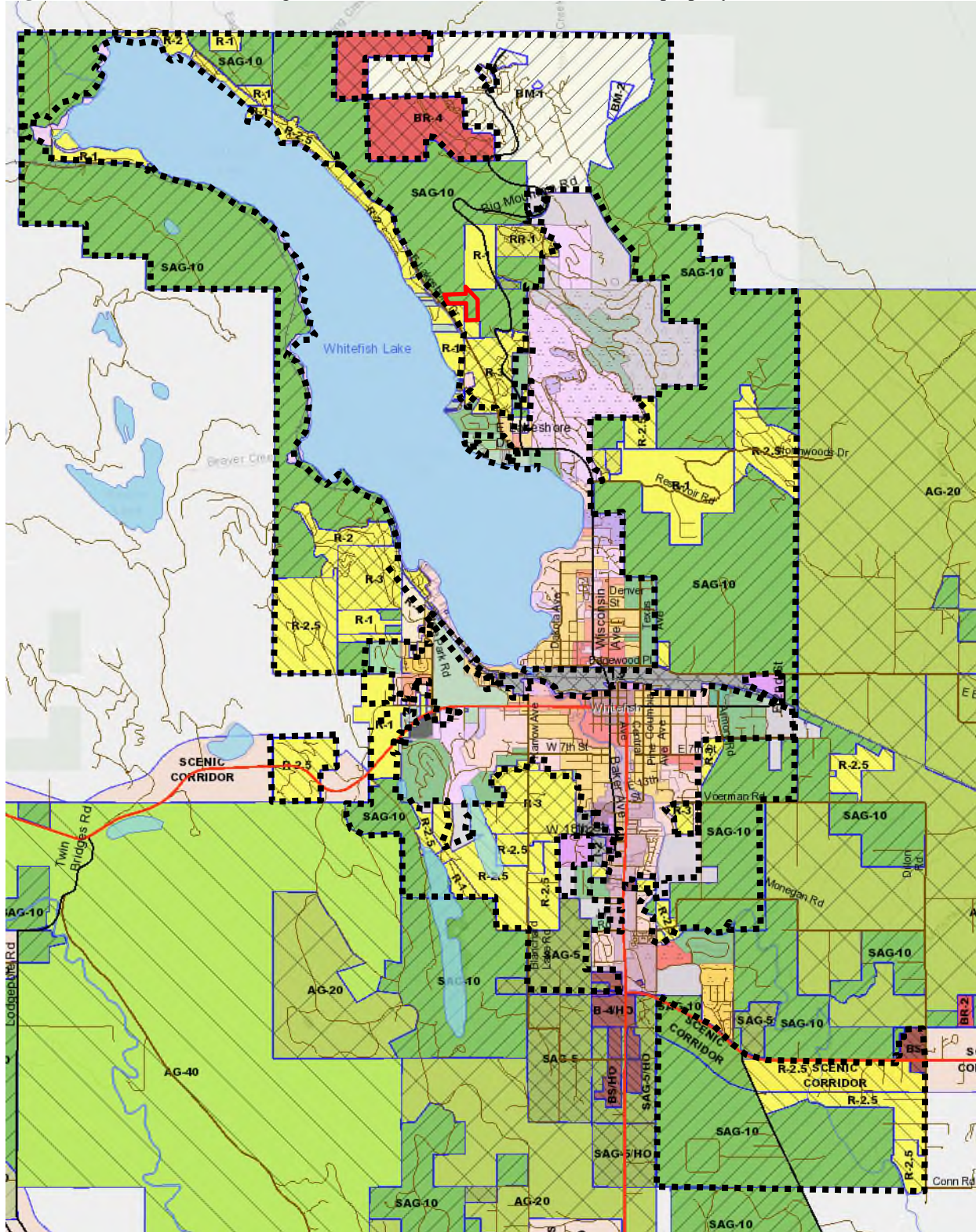
**C. Adjacent Zoning and Character of the Overall Zoning District**

The subject property is located within the Rural Whitefish Zoning District and surrounded by suburban agricultural and residential zones (see Figure 5). The Rural Whitefish Zoning District has many different zones, but nearest properties are SAG-10, SAG-5, R-2.5, R-1 and R-3 zoning. The property is also located near the City of Whitefish; the closest Whitefish zoning are WA, WSR, and WRR-1/PUD.

The properties zoned SAG-10 and R-1 are generally large lots with single family homes. The WSR zoning to the south contains single family residential on 1-2 acre lots on the lake. The WRR-1 properties are part of the Iron Horse residential subdivision. The area around the property is generally forested with areas of steep slopes.



Figure 3: Rural Whitefish Zoning District (outlined with dashed black line & property outlined in red)



#### **D. Public Services and Facilities**

Sewer: Septic  
Water: Well  
Electricity: Flathead Electric Cooperative  
Natural Gas: Northwestern Energy  
Telephone: CenturyTel  
Schools: Whitefish School District  
Whitefish High School District  
Fire: Whitefish Rural Fire Department  
Police: Flathead County Sheriff

### **III. COMMENTS**

#### **A. Agency Comments**

1. Agency referrals were sent to the following agencies on November 2, 2021:
  - Flathead County Sheriff's Office
  - Bonneville Power Administration
  - Whitefish High School District
  - Whitefish School District
  - Whitefish Rural Fire District
  - Flathead City-County Health Department
  - Flathead County Road and Bridge Department
  - Flathead County Solid Waste
  - Flathead County Weeds and Parks Department
2. 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: "At this time, BPA does not object to the request, as the property is located 5.0 miles away from the nearest BPA transmission lines or structures." Email dated November 4, 2021.
  - Flathead County Road & Bridge Department
    - Comment: "At this point the County Road Department does not have any comments on this request." Letter dated November 15, 2021
  - Flathead County Solid Waste
    - Comment: "The District request all solid waste generated at the proposed location be hauled by a private hauler. Republic Services is the listed (PSC) Public Commission private hauler in this area." Letter dated November 12, 2021
  - City of Whitefish Fire Department
    - Comment: "*At this time, we do not have any concerns with this zone change.*" Letter dated November 12, 2021

#### **B. Public Comments**

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on December 22,

2021. Legal notice of the Planning Board public hearing on this application was published in the December 26, 2021 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 was also 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 include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

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 January 12, 2022 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).

**IV. 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.

**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.

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

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

The permitted uses and conditional uses for the proposed and existing zoning varies greatly. The amendment would decrease the number of permitted uses from 21 to 16 and increase the number of conditional uses from 23 to 28. There are two permitted uses within the SAG-10 zone not listed in SAG-5:

- Dairy products, processing, bottling, and distribution, and
- Ranch employee housing.

The permitted uses listed within the SAG-10 that are listed as conditional uses in SAG-5 are as follows:

- 
- Caretaker's facility,
- Cellular tower,
- Riding academy, rodeo arena, and
- Stable, public.

The conditional use listed within the SAG-5 but not allowed in SAG-10 is Recreational vehicle park.

The bulk and dimensional requirements within the current and proposed zoning require 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 for both the proposed and current zoning. For SAG-10 the permitted lot coverage is 20% and maximum height is 35 feet and for SAG-5 the permitted lot coverage is 25% and maximum height of 35 feet.

The existing zoning requires a minimum lot area of ten acres. The subject property totals 23.0 acres because the property is already two separate tracts, no additional lots could be created under the existing zoning. The proposed zoning requires a minimum lot area of five acres; therefore, two additional lots could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar, but the amendment would reduce the number of permitted uses while increasing the number of 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)**

**1. 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).

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Agricultural.' The proposed SAG-5 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 goals and policies of the Growth Policy.

Part 4 of Chapter 2 the Growth Policy states, *‘It is clear that agriculture plays a vital role in both the economy and culture of Flathead County. The custom and culture of agriculture in Flathead County is one of the features that is contributing to rapid growth and development. Lands that have traditionally been used for agriculture are being converted increasingly to residential uses as residents seek rural living.’*

Part 7 of Chapter 2 the Growth Policy states, *‘The change in land uses from agriculture and timberlands to residential and the accompanying impacts of that change, create some of the greatest growth challenges to the county.’*

The surrounding area is mostly forested with some open fields to the east. The proposed zoning would continue to allow for agriculture.

The introduction to Part 7 of Chapter 2 states, *‘The density of residential developments is an issue raised throughout the public involvement process [...] Residential development, including the subdivision of land, is not inherently problematic. However, residential development at a density that is not compatible with existing local services and neighborhood character is likely to be contentious.’* It goes on to say that *‘Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low-capacity roads are a match, but medium or high-density land uses on low-capacity roads create problems.’*

The proposed zoning would allow for both agriculture and silviculture on the property. The SAG-5 zone is a suburban agriculture zone with a five-acre minimum lot size. SAG-5 does not require public water and sewer and the lots would generally be large enough to accommodate a septic system with a drainfield while providing separation for a well.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **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 but would also allow for the continuation of the existing use on the property.
- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
  - **P.3.3** – *Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.*
  - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)*
    - The property is not currently used for agriculture.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
  - **P.4.5** – *Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.*
    - The proposed zoning would allow for agriculture on the subject property while providing additional flexibility to the landowner to subdivide the property and sell off smaller lots.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
  - The SAG-5 designation would allow for densities of one dwelling unit per five acres for single family. One dwelling unit per five acres would not require public water and sewer. Further discussion on public utilities is contained later in this report.
  - **P.8.2** – *Identify required criteria for various densities that support the seven elements of the public’s vision outlined in Chapter 1.*

The Seven Elements of the Public’s Vision include:

- **Protect the Views**  
The vision states, ‘*One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. “Scenic resources” are valued throughout the county regardless of age, gender or location.*’ The proposed zone change if approved would likely have minimal impact on views because it would allow for four lots.
- **Promote a Diverse Economy**  
The vision states, ‘*The cost of living and home ownership should be affordable to the median income.*’ The proposed zone change if approved could allow for additional single family residential adding to the housing supply which has the potential to make homeownership more affordable

because the SAG-5 zone would allow for Accessory Dwelling Units which have the potential to add affordable rental units to the county.

- *Manage Transportation*  
Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.
  - *Maintain the Identity of Rural Communities*  
The vision states, *‘Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.’* The proposed SAG-5 zoning is rural zoning district that would allow for rural residential development.
  - *Protect Access to and Interaction with Parks and Recreation*  
This report contains a discussion on parks and recreation below.
  - *Properly Manage and Protect the Natural and Human Environment*  
The vision states, *‘Air and water quality were mentioned frequently as well as co-habitation of people and wildlife being qualities that make Flathead County unique and desirable. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air for future generations.’* The property does not contain any lakes, rivers, and ponds, and the 5-acre density will allow for wooded areas to remain.
  - *Preserve the Rights of Private Property Owners.*  
As previously stated, the amendment would allow the owner to subdivide the property but would also allow for the continuation of agricultural on the property.
- ❖ **G.15** – *Promote a diverse demographic of residents.*
- **P.15.1** – *Encourage housing, employment, education and recreation to attract, support and maintain young families.*
    - The SAG-5 zone would allow for single family dwelling, manufactured homes and would also allow for accessory dwelling units as a permitted use, all of which has the potential to make housing more affordable for young families.
- ❖ **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.*
    - Primary access to the property is currently via East Lakeshore Drive. East Lakeshore Drive is a paved public road within a 60-foot easement. Any subdivision of land that results from this zone change would not add private driveways arterials and collector roads.

- ❖ **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 burden 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.

**Finding #1:** The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the SAG-5 zone would allow for agriculture, allow for manufactured homes, single family homes and ADUs which has the potential to allow for affordable housing options, and the property is located in a rural area and the proposed zoning is rural in nature.

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

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

The subject property is located within the Whitefish Rural Fire District and the Whitefish Fire Department would respond in the event of a fire or medical emergency. The nearest fire station within the district is located approximately 4.7 miles south of the property on Flathead Drive. Comments from the Whitefish Fire Department indicate no concern with this proposal.

The subject property is located within the Wildland Urban Interface (WUI). Additionally, the property is located in the County Wide Priority Area and designated as medium high. The majority of the eastern parcel is open space, with some trees located along the eastern property line. The western parcel is more forested with open space around the existing house and driveway. Many of the surrounding properties are also heavily forested which could reduce the fire safety of the property if 2 additional lots are created.

The subject property is located along East Lakeshore Drive which have the potential to be used as an emergency access for the subject property. East Lakeshore Drive is a two-lane county collector within a 60-foot easement at the subject property.

FIRM Panels 30029C1080G shows the property is located within an unshaded Zone X. Zone X is an area determined to be outside the 0.2% annual chance floodplain.

**Finding #2:** The proposed map amendment will not impact safety from fire and other danger because even though the property is located in the WUI and a county wide priority area, the Whitefish Fire Department had no concerns with the proposal, and half the property is open space, and the property does not contain any 100-year floodplain.

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

The subject property is located within the Whitefish Rural Fire District and the Whitefish Fire Department would respond in the event of a fire or medical

emergency. The nearest fire station within the district is located approximately 4.7 miles south of the property on Flathead Drive. Comments from the Whitefish Fire Department indicate no concern with this proposal. The Flathead County Sheriff's Department provides police services to the subject property.

As previously stated, the subject property is located along East Lakeshore Drive which have the potential to be used as an emergency access for the subject property. East Lakeshore Drive is a two-lane county collector within a 60-foot easement at the subject property.

The intent of the existing 'SAG-10 Suburban Agricultural' is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural use. The purpose of the proposed 'SAG-5 Suburban Agricultural' is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use. The property is located adjacent to the urban densities of the City of Whitefish. The existing SAG-10 does provide a buffer and the proposed SAG-5 zone would continue to provide a buffer between urban densities of the city to the west and the rural residential and forest land to north and east.

The SAG-5 zoning classification would allow for similar uses to what already exists in the area and what is allowed within in the current and neighboring SAG-10 designation, therefore the zone change is not anticipated to adversely impact public health, safety, or welfare.

**Finding #3:** The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff, and the Whitefish Fire Department, and future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning.

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

According to the applicant the one of the parcels is accessed via East Lakeshore Drive and the other is accessed via a 40-foot private easement via East Lakeshore Drive. East Lakeshore Drive is a paved county road within a 60-foot easement. Comments from the Flathead County Road and Bridge indicate no concerns with the proposal.

The most recent traffic counts from the Road and Bridge Department for East Lakeshore Drive indicate 1,849 average daily trips (ADT). As a result of the proposed zone change two additional lots could be created leading to an increase of 20 ADT. This has the potential to more than double traffic on Addison Trail and lead to an increase of 1.08% on East Lakeshore Drive. The increase of 20 vehicle trips is not likely to have a negatively impact adequate transportation.

The applicant will be required to work with the Flathead City-County Health Department to develop an on-site well and sewer system to meet the needs of any future development. Flathead City-County Health Department submitted no comments on the proposal.



While the subject property is located within the Whitefish School District and Whitefish High School District, the school districts did not provide comments on this proposal. The proposed zoning has the potential to generate school children but is not likely to significantly impact either school. According to the 2019 Census Data there are 49,531 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2021 states there are 17,331 students enrolled in County schools. The total students (17,331) divided by the total households (49,531) equals approximately 0.35 students per household. The proposal has the potential to generate two additional dwellings and therefore could generate approximately one school age child.

The zoning map amendment would change the current ten-acre minimum lot size to a smaller five-acre minimum lot size, it is anticipated subsequent future development would require review and parkland would not be required at that time because the lots created would be greater than five gross acres in size. There are numerous parks, natural areas, and recreational opportunities within a short drive of the subject property.

**Finding #4:** The amendment would facilitate the adequate provision of transportation because East Lakeshore Drive would be able to accommodate an increase of 20 ADT and Bridge Department had no concerns with the proposal.

**Finding #5:** The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the property would continue to be served by on-site septic and wells, further division of the property is subject to review under Sanitation in Subdivisions Act, the school districts provided no comment, and the proposal would generate minimal school children and minimal impact to the existing park system.

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

**a. The reasonable provision of adequate light and air;**

The application states, “the proposed amendment takes into consideration the reasonable provision of adequate light and air. The subject properties have thick timber that by default would be thinned with the development of the property. The change in use is not a major shift from other properties in the area.”

Any additional lots created, or structures constructed would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the SAG-5 zoning classification. The maximum building height within the proposed SAG-5 zone is 35 feet and the maximum building height of the existing SAG-10 zone is 35 feet.

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

collector or major/minor arterials. The setbacks for the proposed zoning classification are identical to those of the current zoning. The bulk and dimensional requirements for the SAG-5 designation have been established to provide for a reasonable provision of light and air.

**Finding #6:** The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.

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

As previously stated, one of the parcels is accessed via East Lakeshore Drive and the other is accessed via a 40-foot private easement via East Lakeshore Drive. East Lakeshore Drive is a paved county road within a 60-foot easement. Comments from the Flathead County Road and Bridge indicate no concerns with the proposal.

The most recent traffic counts from the Road and Bridge Department for East Lakeshore Drive indicate 1,849 average daily trips (ADT). As a result of the proposed zone change two additional lots could be created leading to an increase of 20 ADT. This has the potential to more than double traffic on Addison Trail and lead to an increase of 1.08% on East Lakeshore Drive. The increase of 20 vehicle trips is not likely to have a n effect on motorized transportation.

The Flathead County Trails Plan identifies East Lakeshore Drive as a proposed recreational bike/pedestrian trail. Any future subdivision on the property would likely require an easement for a bike and pedestrian trail on East Lakeshore Drive.

**Finding #7:** Effects on motorized and non-motorized transportation systems will be minimal because East Lakeshore Drive would be able to accommodate an increase of 20 ADT, the road is designated as a recreational bike/pedestrian path, has a low traffic count and the County Road and Bridge Department had no concerns with the proposal.

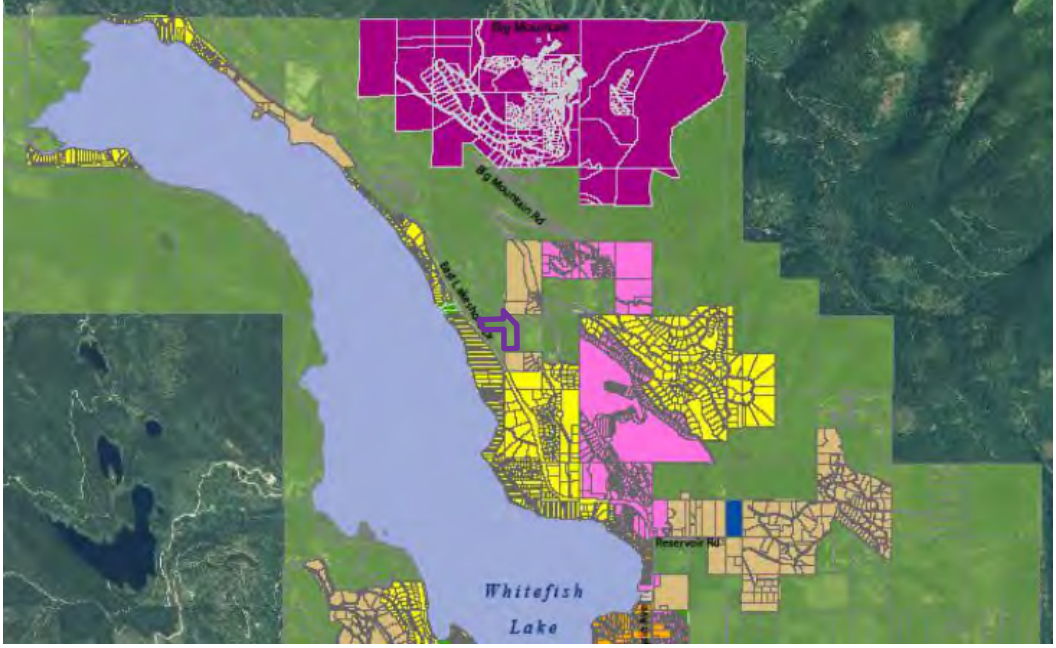
**c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

The subject property borders the City of Whitefish. As of the date of the completion of this staff report, no comments have been received from the City of Whitefish about this proposal. According to the application, “Yes, the proposed zone amendment considers the urban growth in relation to the cities and towns, and whether it is compatible. The subject property is more rural in nature and is located approximately 1 ½ miles west of the Whitefish City limits.”

The Whitefish City-County Growth Policy Future Land Use Map includes the subject property. The Whitefish City-County Growth Policy Future Land Use Map designated the property as “Rural.” According to the Whitefish City-County Growth Policy the “Rural” land use designation is defined as, “Open lands with decidedly rural character, including farmlands, pasture lands, timber harvesting and management areas, and forest lands generally fall under this designation. Agricultural and timber management are generally allowed, but residential densities are extremely low. This designation includes “important farmlands” as

defined by National Resources Conservation Service criteria. Zoning is mainly WA-10 and WA-20.” The City of Whitefish does not have a WA-10 or WA-20 zone list in their ordinance but does have a WA zone with a 15 acre minimum lot size.

**Figure 6:** Northern portion of City of Whitefish Growth Policy Future Land Use Map (Property outlined in purple)



**Finding #8:** The proposal does not appear to be compatible with urban growth in the vicinity of Whitefish because the property is located within the City of Whitefish Growth Policy Future Land Use Map and the proposed SAG-5 zone would allow for a 5-acre minimum lot size and the “Rural” designation calls for 10 to 20-acre minimum lots, however the City of Whitefish had no comments regarding this request.

- d. 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.***  
The intent of the existing ‘SAG-10 Suburban Agricultural’ is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural use. The purpose of the proposed ‘SAG-5 Suburban

Agricultural' is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use.

The property is located adjacent to the urban densities of the City of Whitefish. The existing SAG-10 does provide a buffer and the proposed SAG-5 zone would continue to provide a buffer between urban densities of the city to the west and rural areas to the north. The proposed SAG-5 would allow for similar uses to the existing SAG-10 zoning, as demonstrated in the build-out section of this report.

The proposed SAG-5 zoning would be located adjacent to R-2.5 which has a minimum lot size of 2.5 acres, SAG-10 with a minimum lot size of 10 acres and WSR with a minimum lot size of 1-acre. The minimum lot size in the SAG-5 zone is 5 acres, therefore the minimum lot size in SAG-5 is in the middle of the minimum lot sizes of surrounding zones. The character of the zoning district in the vicinity of the subject property is rural residential and forest.

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

Using standard ArcGIS software staff determined that the subject property is located within a SAG-10 zoning district approximately 1,150 acres in size. The subject property is approximately 23.05 acres, roughly 0.02% of the existing SAG-10 district. Directly adjacent to the subject property is R-2.5 zoning which is approximately 22 acres in size. North of the property is an R-1 zoning district that is approximately 80 acres. The City of Whitefish's WSR zones to the west are 3.05 acres and 1.87 acres. The proposed zoning map amendment would be similar in size to the neighboring R-2.5 zone and larger than the City of Whitefish zoning districts but would be smaller than the R-1 zone, and a lot smaller than the existing SAG-10 zone.

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 owned by one landowner however, the permitted and conditional uses listed within a SAG-5 zone are similar to the permitted and conditional uses in the current SAG-10 zone, as discussed in the build-out section of this report. The zoning map amendment would allow uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the existing suburban agricultural zoning of the surrounding area.

**Finding #9:** The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed SAG-5 zone would allow for similar uses to what is allowed within the existing SAG-10, the minimum lot size in the SAG-5 zone is in the middle of the minimum lot sizes of surrounding zones and the proposed zoning maintains the rural character of the overall zoning district.

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



The subject property is located within the Rural Whitefish Zoning District and surrounded by suburban agricultural and residential zones (see Figure 2). The subject property is bordered on the north and east by SAG-10, R-1 to the north and R-2.5 to the south and west. Also to the west are properties located within the City of Whitefish and zoned WSR. The SAG-10 zone has a minimum lot size of 10 acres and the R-2.5 zone has a minimum lot size of 2.5 acres and R-1 and WSR have a 1-acre minimum lot size. The lot sizes permitted within the SAG-5 zone is in between the lot sizes of the neighboring City and County zones.

According to the applicant, “The proposed zone amendment considers the conservation of buildings, and it does encourage appropriate land use. The SAG-5 zoning that is being sought is comparable to a property located to the Northeast off Big Mountain Road that was rezoned SAG-5. It would also be comparable to the adjoining and surrounding properties located to the South and North in character as they represent size and use, even though they are currently zoned R-2.5, R-3 and R-1.”

The character of the area surrounding the property is rural residential and forest. The uses allowed within the proposed SAG-5 zone are similar to what is currently allowed within the SAG-10.

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

**4. 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 borders the City of Whitefish. The City of Whitefish Planning Department was sent an agency referral but as of the date of the completion of this staff report, did not provided comment on this proposal. The City does not have a zoning use district with a similar minimum lot size to either the current SAG-10 zone or the proposed SAG-5 zone. The closest City of Whitefish zones in proximity to the subject are “WSR Suburban Residential District.” There is WSR is directly adjacent to the subject property.

According to Section 11-2C-1 of the Whitefish Zoning Ordinance the WSR district is, “*intended for single-family homes in an estate type setting and is designed to maintain, protect and preserve a character of development characterized by uses of a residential purpose and with no more than one dwelling unit and customary accessory buildings on one lot.*” The minimum lot size in WSR is 1-acre which is less than the minimum lot sizes of the existing SAG-10 and the proposed SAG-5. The WSR district does not allow for many of the uses allowed in the existing SAG-10 or proposed SAG-5, such as agriculture, stables, rodeo arenas, riding academies, airfield, kennels, etc.

The WA zone which allows for agricultural uses has a minimum lot size of 15 acres. According to Section 11-2A-1 of the Whitefish Zoning Ordinance the WA district is, “*intended for areas for silviculture, agricultural functions, outdoor recreation*

*purposes, open spaces or future development, and for detached single-family homes with customary farm and/or accessory buildings situated in a setting conducive to a rural lifestyle.”* The permitted and conditional uses within the City’s WA zone allows for many of the uses that are permitted and conditionally permitted within the proposed SAG-5 and existing SAG-10. The proposed SAG-5 zone has a minimum lot size requirement less than the minimum lot size of the WA zones.

**Finding #11:** The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed SAG-5 zone has a minimum lot size requirement greater than minimum lot size of the neighboring WSR zone but are less than the minimum of the WA zone and the permitted uses within the SAG-5 zone are similar to the permitted uses within the City’s WA zone and the City of Whitefish had no comments regarding this request.

## V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the SAG-5 zone would allow for agriculture, allow for manufactured homes, single family homes and ADUs which has the potential to allow for affordable housing options, and the property is located in a rural area and the proposed zoning is rural in nature.
2. The proposed map amendment will not impact safety from fire and other danger because even though the property is located in the WUI and a county wide priority area, the Whitefish Fire Department had no concerns with the proposal and half the property is open space, and the property does not contain any 100-year floodplain.
3. The proposed amendment does not appear to have a negative impact on public health, public safety and general welfare because the property is served by the Flathead County Sheriff, and the Whitefish Fire Department, and future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning.
4. The amendment would facilitate the adequate provision of transportation because East Lakeshore Drive would be able to accommodate an increase of 20 ADT and Bridge Department had no concerns with the proposal.
5. The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the property would continue to be served by on-site septic and wells, further division of the property is subject to review under Sanitation in Subdivisions Act, the school districts provided no comment, and the proposal would generate minimal school children and minimal impact to the existing park system.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.
7. Effects on motorized and non-motorized transportation systems will be minimal because East Lakeshore Drive would be able to accommodate an increase of 20 ADT, the road is designated as a recreational bike/pedestrian path, has a low traffic count and the County Road and Bridge Department had no concerns with the proposal.
8. The proposal does not appear to be compatible with urban growth in the vicinity of Whitefish because the property is located within the City of Whitefish Growth Policy

Future Land Use Map and the proposed SAG-5 zone would allow for a 5-acre minimum lot size and the “Rural” designation calls for 10 to 20-acre minimum lots, however the City of Whitefish had no comments regarding this request.

9. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed SAG-5 zone would allow for similar uses to what is allowed within the existing SAG-10, the minimum lot size in the SAG-5 zone is in the middle of the minimum lot sizes of surrounding zones and the proposed zoning maintains the rural character of the overall zoning district.
10. This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the existing SAG-10 and the character of the area surrounding the property is rural residential, which is in line with the proposed SAG-5 zone.
11. The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed SAG-5 zone has a minimum lot size requirement greater than minimum lot size of the neighboring WSR zone but are less than the minimum of the WA zone and the permitted uses within the SAG-5 zone are similar to the permitted uses within the City’s WA zone and the City of Whitefish had no comments regarding this request.

## **VI. CONCLUSION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM