

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-21-12)
MAUREEN KUNZ
AUGUST 24, 2021**

I. GENERAL INFORMATION

A. Project Description

This a report to the Flathead County Planning Board and Board of Commissioners regarding a request by River Design Group, Inc., on behalf of Maureen Kunz, for a zoning map amendment in the Blanchard Lake Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from ‘AG-20’ (Agricultural) to ‘R-2 (One Family Limited Residential)’ and ‘B-2 (General Business)’.

B. Application Personnel

1. Owner/Applicant

Maureen Kunz
328 Karrow Avenue
Whitefish, MT 59937

2. Technical Representative

River Design Group, Inc.
P O 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 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

The 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 September 8, 2021, at 6:00 P.M. in the Second Floor Conference Room of the South Campus Building located at 40 11th Street West in Kalispell, MT. 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 at a future date. 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 126 Soaring Eagle Drive near Happy Valley, MT (see Figure 1 below) and is approximately 27.852 acres. The property can be legally described as:

Tract 2 of Certificate of Survey No. 18192; located in the Southeast Quarter of the Southeast Quarter of Section 24, Township 30 North, Range 22 West, P.M.M., Flathead County Montana.

AND

Tract 2 of Certificate of Survey No. 11144; located in the Southeast Quarter of the Southeast Quarter of Section 24, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

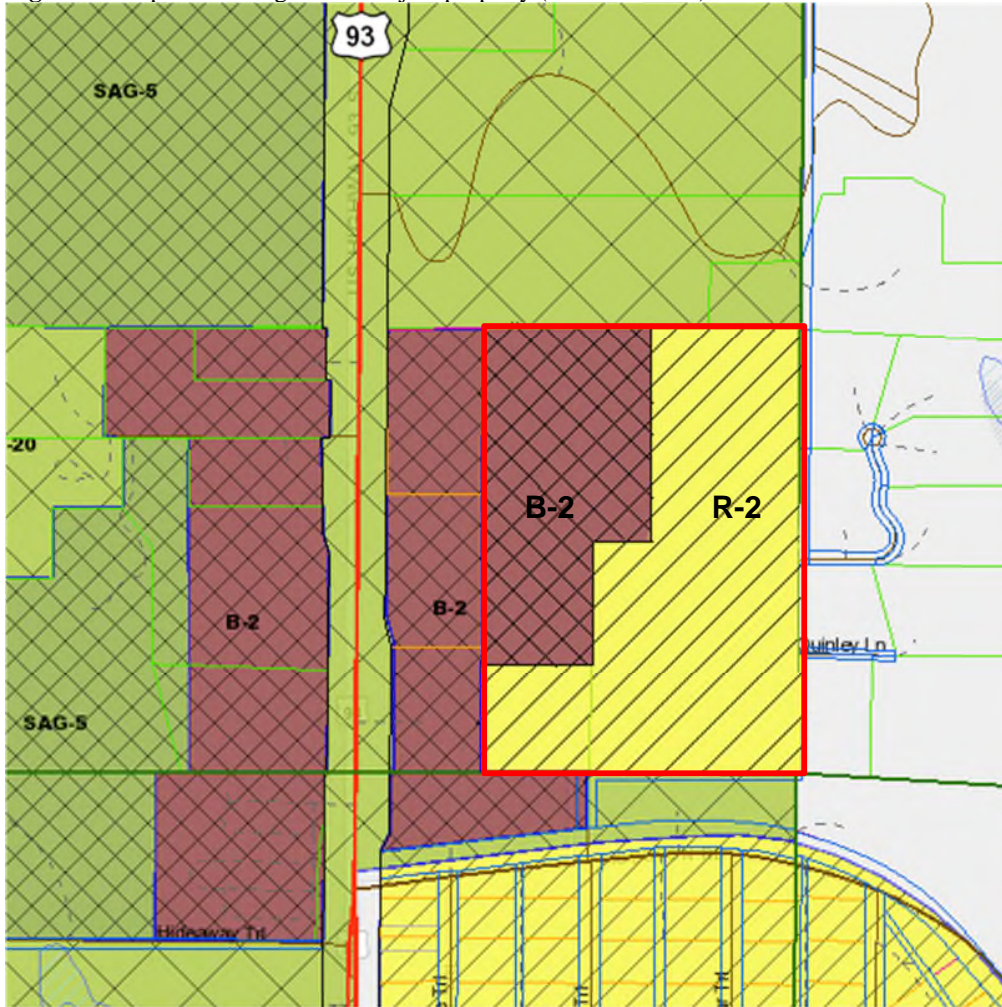
Figure 1: Subject property (highlighted in turquoise and outlined in red)



B. General Character of and Reason for Amendment

The subject property is located at 126 Soaring Eagle Drive east of Highway 93 off Hodgson Road. The property currently contains a single-family dwelling, garage, and shop/garage. The application states the reason for the proposed zone change is, “The property owner would like to set up the property for further division. This is prohibited by the current AG20 zoning.”

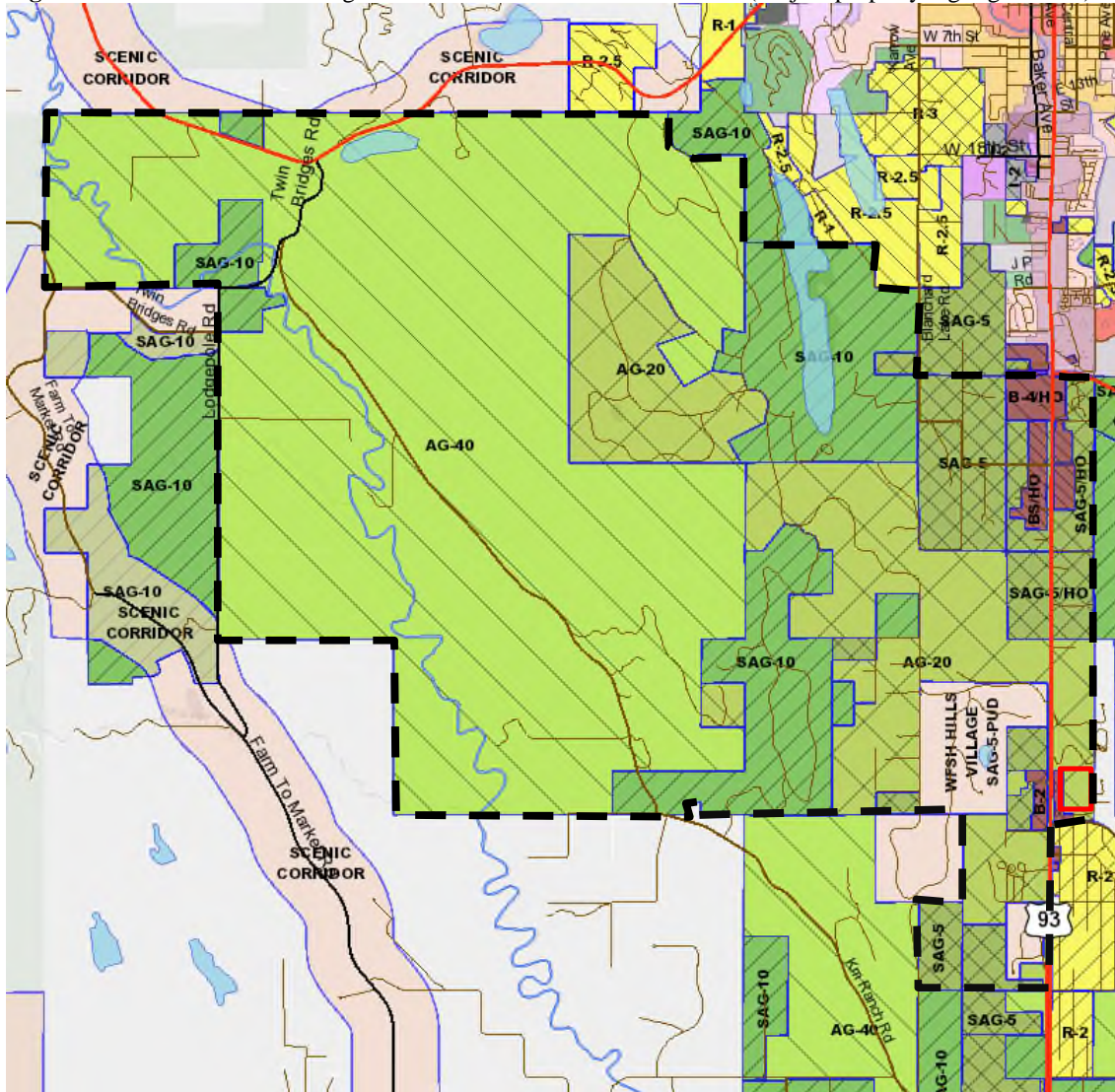
Figure 2: Proposed zoning on the subject property (outlined in red)



C. Adjacent Zoning and Character of the Overall Zoning District

The property is located within the Blanchard Lake Zoning District. The zoning in the general area of the subject property is generally a mixture of business, agricultural, and residential zoning. Adjacent properties to the west are similarly zoned B-2 General Business and within close proximity to the south across Hodgson Road is R-2 One Family Limited Residential (see Figure 2).

Figure 3: Blanchard Lake Zoning District outlined in black-dashed line (subject property highlighted red)



D. Public Services and Facilities

- Sewer: Happy Valley Water & Sewer District
- Water: Happy Valley Water & Sewer District
- Electricity: Flathead Electric Cooperative
- Natural Gas: Northwestern Energy
- Telephone: CenturyTel
- Schools: Whitefish School District
- Fire: Whitefish Fire District (Rural Whitefish Fire Department)
- Police: Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on June 15, 2021:
 - Bonneville Power Administration

- Whitefish Fire District (Whitefish Rural Fire District)
- Whitefish School District
- Happy Valley Water & Sewer District
- Flathead City-County Health Department
- Flathead County Road & Bridge Department
- Flathead County Sheriff's Office
- Flathead County Solid Waste District
- Flathead County Weeds & Parks Department
- Montana Department of Transportation
- Montana Fish, Wildlife & Parks

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

- City of Whitefish Fire Department
 - Comment: "This location while not in the City of Whitefish is in our primary response area.

"We are believers in enforcement through education and would like to provide the property owners with this list of commonly found fire code issues should they develop the property.

"Reference:
International Fire Code – Section 503
International Wildland-Urban Interface Code – Section 403

"Access Road Info
Road width: minimum of 20-feet, 26-foot preferred.
Overhead clearance: minimum of 13-feet 6-inches.
Inside turning radius: minimum 28-feet
Outside turning radius: minimum of 50-feet.
Grade: maximum of 9%.
Imposed load: support at least 30-ton." Letter received July 23, 2021
- Flathead City-County Health Department
 - Comment: "Environmental Health offers no comment regarding this proposed zone change." Email received July 26, 2021
- Flathead County Solid Waste District
 - Comment: "[...] The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission licensed hauler in this area." Letter received July 26, 2021
- Flathead County Road and Bridge Department
 - Comment: "[...] At this point the County Road Department does not have any comments on this request." Letter received July 19, 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 August 18, 2021. Legal notice of the Planning Board public hearing on this application was published in the August 22, 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 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 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 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 (FCZR). 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.

AG-20 to R-2

Per Section 3.06.010 of the Flathead County Zoning Regulations (FCZR), AG-20 is defined '*A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.*'

The R-2 designation is defined in Section 3.10.010 FCZR as, ‘A district to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines.’

The proposed amendment from AG-20 to R-2 would reduce the number of permitted uses from 23 to 9 and the number of conditional uses from 22 to 18.

There are two AG-20 permitted uses listed as a conditional uses in the proposed R-2 zone:

- Cellular communications tower
- Dwelling Unit, Accessory (ADU).

The following are permitted uses in the AG-20 zone that are not permitted in R-2:

- Agricultural/horticultural/silvicultural use
- Caretaker’s facility
- Class B manufactured home
- Cluster housing
- Dairy products processing, bottling, and distribution
- Fish hatchery
- Kennel
- Livestock
- Nursery, landscaping materials
- Produce stand
- Ranch employee housing
- Riding Academy, rodeo arena
- Stable, public and private

The following are conditional uses within the AG-20 zone but not allowed in R-2:

- Airfield
- Animal farm
- Animal hospital, veterinary clinic
- Camp and retreat center
- Contractor’s storage yard
- Extractive industry
- Feed and seed processing and cleaning
- Feet lot: cattle, swine, poultry
- Radio and television broadcast studio
- Recreational facility

The conditional uses allowed within the R-2 but not allowed in AG-20 are:

- Community residential facility
- Dwellings, cluster development
- Golf course
- Golf driving range
- Manufactured home park

The bulk and dimensional requirements within the current AG-20 zoning are 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. The bulk and dimensional requirements for the proposed R-2 zoning are 20 feet from the front, side corner and rear with a 10 feet setback from the side for principal structures and 20 feet for the front and side corner with a five (5) feet setback for the side and rear of detached 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 AG-20 the permitted lot coverage is 20% and maximum height is 35 feet and for R-2 the permitted lot coverage is 30% and maximum height of 35 feet for the principal structure and 18 feet for the accessory structure.

The existing zoning requires a minimum lot area of 20 acres. The subject properties total 37.852 acres, no additional lots could be created under the existing zoning. The proposed zoning on 18.78 acres of the 27.852 acres requires a minimum lot area of 20,000 square feet, therefore, approximately 40 additional lots could be created not taking into account acreage needed for internal subdivision roads. The requested zone change to R-2 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 and conditional uses.

AG-20 to B-2

The B-2 designation is defined in Section 3.17.010 FCZR as, *'A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.'*

The proposed amendment from AG-20 to B-2 zoning would increase the number of permitted uses from 23 to 38 while reducing the number of conditional uses from 22 to 12.

There are no AG-20 permitted uses listed as a conditional uses in the proposed B-2 zone.

The following are permitted uses in the AG-20 zone that are not permitted in B-2:

- Agricultural/horticultural/silvicultural use
- Caretaker's facility
- Class A and Class B manufactured home
- Cluster housing
- Dairy products processing, bottling, and distribution
- Day care home
- Dwelling, single family
- Dwelling Unit, Accessory (ADU)
- Guest House
- Fish hatchery
- Home occupation
- Homeowner's park and beaches
- Kennel
- Livestock

- Produce stand
- Ranch employee housing
- Riding Academy, rodeo arena
- Stable, public and private

The following are conditional uses within the AG-20 zone but not allowed in B-2:

- Airport
- Animal farm
- Bed and breakfast establishment
- Camp and retreat center
- Cemetery, mausoleum, columbarium, crematorium
- Community center building operated by a non-profit agency
- Contractor's storage yard
- Dwelling, family hardship
- Extractive industry
- Feed and seed processing and cleaning
- Feed lot: cattle, swine, poultry
- School, primary and secondary
- Short term rental housing
- Water and sewage treatment plant

The conditional uses allowed within the B-2 but not allowed in AG-20 are:

- Automobile repair shop
- College, business school, trade school, music conservatory, dance school
- Commercial recreation area
- Convention hall facility
- Golf driving range and putting course
- Mini storage, RV storage
- Mortuary
- Tavern

The bulk and dimensional requirements within the current AG-20 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. The bulk and dimensional requirements within the proposed B-2 zoning require a 20 feet setback from the front and side corner, 15 feet from the rear and five (5) feet from the side. A 20-foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries for both zoning designations while an additional 20-foot setback is required from county roads classified as collector or major/minor arterials for the current zoning and 10 feet for the proposed zoning. For AG-20 the permitted lot coverage is 20% and maximum height is 35 feet and for B-2 the permitted lot coverage is not applicable with a maximum height of 35 feet.

The existing zoning requires a minimum lot area of 20 acres. The subject properties total 37.852 acres, no additional lots could be created under the existing zoning. The proposed B-2 zoning for 8.97 acres of the 27.852 acres requires a minimum lot area of 7,500 square feet therefore approximately 52 additional lots could be created not taking into account

acreage required for possible access roads. The requested zone change to B-2 has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are more lenient with the proposed B-2 zoning the amendment and would increase the number of permitted uses while decreasing 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 Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Agricultural.’ Both proposed B-2 and R-2 zoning classifications would appear to contrast with the current designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular 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 1 of Chapter 2 of the Growth Policy states, *‘it is important that Flathead County take the appropriate measures to create a market friendly environment that promotes entrepreneurship and business investment. Appropriate and compatible land uses, such as industrial parks near the airport and visible and accessible commercial lands, are a critical component of rebuilding and maintaining a diverse economy; this is just one example of the many areas to be considered for their future development potential.’*

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.’* *‘Adequate business facilities and public infrastructure are necessary to promote a healthy business climate. Successful business communities often rely upon designated business districts to promote close proximity of businesses and services. Advances in transportation and communication technologies have enabled businesses to thrive in more remote areas of the nation.’*

Part 6 of Chapter 2 of the Growth Policy states, *‘Commercial land uses are unique for their ability to adapt and blend with other land uses.... When land is visible, accessible and relatively affordable, there are limitless possibilities for commercial uses to match the local community character.’*

The proposed 8.97 acres of B-2 zone would be located adjacent to an established B-2 zoning designation adjacent to Highway 93 which the property owner also owns. The subject property is in the Happy Valley area between Kalispell and Whitefish.

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, *‘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 R-2 zoning is considered a lower density residential land use which would utilize Soaring Eagle Drive and Hodgson Road. Hodgson Road is a public, paved two lane road within a 60-foot easement. Potential traffic impacts are addressed later in this report.

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 proposed R-2 zone would allow for lots of 20,000 square feet which is comparable to several existing lots in the Happy Valley development to the south of the property also currently zoned R-2.

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 in the same manner as current properties in the area have subdivided.
- ❖ **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 proposed R-2 zoning would allow for large tract residential development similar to existing developments located across Hodgson Road on the subject property.
- ❖ **G.6** - *Adequate commercial land that is safely accessible and efficiently serviceable.*
 - P.6.2** - *Restrict commercial development in unsafe, inaccessible, remote rural areas.*
 - The subject property is located adjacent to existing B-2 owned by the applicant along Highway 93. If these parcels are developed in the future, they will require either review or re-review by MDOT for the approach permits.
 - P.6.3** - *Provide ample commercial land designation to promote affordability.*
 - The proposed B-2 zone change would allow for additional commercial uses which has the potential to promote affordability.
 - P.7.3** - *Encourage small-scale, impact-mitigated and compatible commercial developments in accessible, developing rural areas with good access and away from urban areas.*
 - The proposed zone change is approximately 2.28 miles south of Whitefish and 4.01 miles north of Kalispell with access to Highway 93 and located adjacent to the residential community of Happy Valley.
 - P.7.4** - *Identify existing areas that are suitable for impact-mitigated commercial uses.*
 - The proposed B-2 zone is located adjacent to existing business zoning near the of Hodgson Road and Highway 93.
 - P.7.5** - *Encourage commercial development that is visually and functionally desirable.*
 - The applicant is proposing B-2 zoning in the Happy Valley area which is considered midway between Kalispell and Whitefish. The applicant also owns undeveloped existing B-2 zoned property adjacent to Highway 93. The area already has several businesses which are functionally desirable such as a gas station and convenience store as well as a local tavern/restaurant.
 - P.7.6** - *Encourage mixed use developments that share infrastructure requirements such as parking, pedestrian facilities, etc. and reduce traffic by promoting live/work situations where appropriate in Flathead County.*
 - While the proposed development may not share infrastructure with neighboring businesses, the location could promote foot traffic since the proximity would encourage walking to nearby businesses, if safe crossing is developed, from the residential development of Happy Valley for their services.

- ❖ **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 R-2 designation would allow for densities of one dwelling unit per 20,000 square acres for a single family. 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 R-2 zone change would likely have minimal impact on views because it is located in close proximity to Highway 93 and the Happy Valley area which has similar R-2 zoning with the required lots sizes but has the chance of reducing open space views.

The proposed B-2 zone would have a similar impact on views to the adjoining B-2 zoning designation. The density of development would be 7,500 square feet as is the existing B-2 zoning.

- *Promote a Diverse Economy*

The vision states, *‘The cost of living and home ownership should be affordable to the median income.’*

The proposed R-2 zone could allow for additional single family residential adding to the housing supply which has the potential to make homeownership more affordable because the R-2 zone would allow for Accessory Dwelling Units with an Administrative Conditional Use Permit which have the potential to add affordable rental units to the county.

The proposed B-2 zone could allow for small scale subdivision of the properties in the future which is not possible given the current AG-20 zoning designation and size of the lots. This addition of B-2 zoned lots would promote business which would support the economy of the area.

- *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 R- is located approximately 2.28 miles south of Whitefish and approximately 4 miles north of Kalispell. This zoning map amendment could be considered an extension of the existing R-2 zoning designation of the Happy Valley area.

The proposed B-2 is located in proximity to the community of Happy Valley and next to existing B-2 zoning. The proposed B-2 zoning would allow for the property to possibly develop at some time in the future similarly as the other businesses in the area.

- *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 contain surface waters which could be potentially impacted by this proposal. If the property is subdivided in the future, subdivision review requires protection of surface waters with the requirements of no build zones and potential wetland delineation on the plat maps. The increased residential density is likely to have a minimum impact on air quality.

- *Preserve the Rights of Private Property Owners.*

The amendment would allow the owner to subdivide the property similarly to the currently developed properties in the area.

- ❖ **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 R-2 zone would allow for single family dwelling, class A manufactured homes and would also allow for accessory dwelling units as a conditional use, all of which has the potential to make housing more affordable for young families.

- ❖ **G.21** – *A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector investment.*

P.21.1 – *Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*

- The proposed business zoning has the potential to allow for the creation of a business/use which has the potential to create living-wage jobs.

P.21.6 - Preserve the natural amenities that characterize the county in order to attract industries and businesses that maintain the high quality of life that attracts visitors and new residents and sustains the tourism sector of the economy.

- The proposed B-2 zoning would allow additional business development in an easy to access midway point between Kalispell and Whitefish.

- ❖ *G.22 - Available, accessible, and adequate business infrastructure including facilities, utilities, services and transportation networks to facilitate new businesses and relocation of existing businesses to the County.*

P.22.1 - Identify infrastructure needs of the various business types and identify areas of the County which can best suit those needs.

- The proposed B-2 zoning would be contiguous to existing B-2 zoning owned by the applicant to the west adjacent to Highway 93. Highway 93 is a high-capacity highway which appears capable of handling the increase in traffic.

P.22.2 - Promote business centers and industrial parks in areas served by sufficient infrastructure with consideration to proximity to population densities.

- The City of Whitefish is located approximately two miles north of the proposed zone change and the city of Kalispell is located to the south. Both of which are accessed by Highway 93 which will grant easy access to either city for services not available from the existing businesses in the existing B-2 zoning designation.

- ❖ *G.23 – Maintain safe and efficient traffic flow and mobility on county roadways.*

P.23.6 – Support land use patterns along transit corridors that reduce vehicle dependency and protect public safety.

- The subject property will either have access directly to Highway 93 as the applicant owns the adjacent B-2 zoned property or have convenient access via Soaring Eagle Drive and Hodgson Road.

- ❖ *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 proposal’s potential burden on emergency services below.

Finding #1: The proposed zoning map amendments generally comply with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use

map, the proposal would allow for both residential and commercial uses in adjacent to similar residential and business uses, the property has access off Hodgson Road, is centrally located between two cities and will allow for a range of housing types.

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 nearest fire station is located approximately 5 road miles north of the property. The Whitefish Rural Fire Department would respond in the event of a fire or medical emergency. The Whitefish Rural Fire Department provided comment regarding basic safety for this proposal. While the subject property is located within the Wildland Urban Interface (WUI) it is not located within a Fire District or Countywide Priority area.

The application states, *“The proposed zone amendments are located within the Whitefish Rural Fire District similar to all surrounding properties and will be secure and safe from fire and any dangers. Additionally, proper forest maintenance and defensible space will provide a greater security from potential fire dangers.”*

Primary access to the subject property is Soaring Eagle Drive, via Hodgson Road. Soaring Eagle Drive is a private, paved two-lane road within a 70-foot easement, while Hodgson Road is which is a paved two-lane, county-maintained road within a 60-foot easement. Both roads appear adequate to provide access for emergency vehicles.

According to FEMA FIRM Panel 30029C1405J, the property is located within unshaded Zone X which is an area determined to be outside the 0.2% annual chance flood hazard.

Finding #2: The proposed zoning map amendment would secure safety from fire and other danger because the property is located approximately 5 driving miles from the nearest fire station within the Rural Whitefish Fire District, the property while located within the WUI is not in a priority area, is not located within a Special Flood Hazard Area, and the property is accessed from a Hodgson Road.

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

As previously stated, the subject property is located within the Whitefish Rural Fire District and the nearest fire station is 5 driving miles north of the property. The Whitefish Rural Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Office provides police services to the subject property. Soaring Eagle Drive and Hodgson Road appear adequate to provide ingress and egress for emergency vehicles which would help to ensure adequate public health and safety. Permitted and conditional uses in the B-2 and R-2 zones would serve to protect and promote public health, safety, and general welfare.

According to the application, *“Yes, the proposed zone amendments are designed to promote public health, safety, and the general welfare. It is designed to be similar in size with the majority of the adjoining properties.”*

The R-2 zoning would allow for similar uses to what already exist in the area to the south, is considered a suburban residential designation more appropriate than most residential zones and would be a more restrictive zone than the current AG-20 designation.

The B-2 zoning would allow for similar uses to what already exist in the area to the west and would be a more restrictive zone than the current AG-20 designation concerning conditional uses and less restrictive concerning permitted uses.

Finding #3: The proposed zoning map amendment would not have a negative impact on public health, safety, and general welfare because the property is served by the Whitefish Rural Fire District and Flathead County Sheriff's Office, and future development would comply with the permitted and conditional uses in both the R-2 and B-2 zones.

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

The applicant states, *"Yes, the proposed zone amendments will facilitate existing transportation routes. All water and sewage will be designed and permitted with the requirements of Montana Department of Environmental Quality."*

Primary access to the subject property is Soaring Eagle Drive, via Hodgson Road. Soaring Eagle Drive is a private, paved two-lane road within a 70-foot easement while Hodgson Road is which is a paved two-lane, county-maintained road within a 60-foot easement. No traffic counts are available for Soaring Eagle Drive. The most recent traffic count for Hodgson Road east of Highway 93 indicated 2,023 average daily traffic (ADT). The Flathead County Road Department indicated no comments regarding the proposal.

The R-2 zoning could allow for approximately 40 additional lots not taking into account acreage. The proposed B-2 zoning could allow for approximately 57 additional lots if the property were to be subdivided in the future. However, if the property is built out with a subdivision, restraints such as, road requirements, and parkland dedication could limit the total lot area by 33% or more. The additional lots would be approximately 27 residential lots and 38 commercial lots. Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential, an increase of approximately 270 ADT for the residential portion is anticipated.

It is difficult to estimate additional traffic with a B-2 zoning designation considering the array of options for potential businesses. If a building of roughly 4,500 square feet was constructed, potential uses of that building in the proposed zone vary. A general office in the building has the potential to generate 49 ADT, a medical office could generate 161 ADT, special retail could generate 198 ADT, a restaurant has the potential to generate 401 ADT, and a gas station could potentially add 752 ADT. If current traffic trends continue the proposed zoning has the potential to increase traffic by between 16% and 50% on Hodgson Road.

The applicant will need to meet the requirements of the Happy Valley Water and Sewer District when new development occurs. No comment was received from

Happy Valley Water and Sewer. It does not appear as though the proposal would have a negative impact on water and sewerage. The application states, “*All water and sewage will be designed and permitted with the requirements of Montana Department of Environmental Quality.*”

The subject property is located within the Whitefish School District. The proposed R-2 zoning has the potential to generate school children. The potential addition of 40 single family dwellings most likely will have a modest impact to the Whitefish School District.

According to the 2019 Census Data there are 49,531 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2020 states there are 16,758 students enrolled in public, private and home schools. The total students (16,758) divided by the total households (49,531) equals approximately 0.34 students per household. The proposal has the potential to generate 27 additional dwellings and therefore could generate approximately 9 school age children. No comments were received from the Whitefish School District.

The development of lots less than 5 acres in size has the potential to trigger parkland requirements during subdivision review for single family dwellings, parkland would not be required for the commercial lots. Additionally, there are many parks, natural areas, and recreational opportunities within a short drive, including Evergreen Lions Park locate 0.4 miles from the subject property.

Finding #4: The proposed zoning map amendment would facilitate the adequate provision of transportation because access to the subject property is via Soaring Eagle Drive a private paved, two-lane road within a 70-foot easement, Hodgson Road a two-lane county-maintained road within a 60-foot easement capable of handling an increase in traffic, and the Flathead County Road and Bridge Department had no comment regarding the proposal.

Finding #5: The proposed zoning map amendment would facilitate the adequate provision of water and sewer services, schools, and parks because future subdivision of the property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, the property would be served by the Happy Valley Water & Sewer District, no comments were received from the local school districts, and parkland dedication would be considered during subdivision review.

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

a. The reasonable provision of adequate light and air;

The application states, “*Yes, the proposed amendments take into consideration the reasonable provision of adequate light and air. It will have little to no effect and the change in use is not a major shift from other properties within the area and will not be a detriment to surrounding neighbors.*”

The proposed R-2 zoning has a minimum lot size of 20,000 square feet and requires no more than 30% lot coverage. Setbacks in the R-2 zone are 20 feet from the front, side corner and rear with a 10 feet setback from the side for principal structures and 20 feet for the front and side corner with a five (5) feet setback for the side and rear

of detached accessory structures. The setbacks for the proposed zone are less restrictive than the existing zoning and a greater area of the lot can be covered in the proposed zoning. The bulk and dimensional requirements for the R-2 designation have been established to provide for the reasonable provision of light and air.

The proposed B-2 zoning has a minimum lot size of 7,500 square feet and requires no more than 20% lot coverage. Setbacks in the B-2 zone are 20 feet from the front and side corner, 15 feet from the rear and five (5) feet from the side. The setbacks for the proposed zone are less restrictive than the existing zoning while the area of a lot which can be covered remain the same as the existing zoning. The bulk and dimensional requirements for the B-2 designation have been established to provide for the 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 requirements of the R-2 and B-2 designations.

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

According to the application, *“Yes, the subject properties are located directly adjacent to Hwy 93 South and an existing easement/road accessing from Hodgson Road. The proposed amendments consider the effect on motorized and non-motorized transportation systems, it will not affect the current transportation systems in the area.”*

As previously stated, primary access to the subject property is Soaring Eagle Drive, via Hodgson Road. Soaring Eagle Drive is a private, paved two-lane road within a 70-foot easement while Hodgson Road is which is a paved two-lane, county-maintained road within a 60-foot easement. No traffic counts are available for Soaring Eagle Drive. The most recent traffic count for Hodgson Road east of Highway 93 indicated 2,023 average daily traffic (ADT). The Flathead County Road Department indicated no comments regarding the proposal.

The R-2 zoning could allow for approximately 40 additional lots not taking into account acreage. The proposed B-2 zoning could allow for approximately 57 additional lots if the property were to be subdivided in the future. However, if the property is built out with a subdivision, restraints such as, road requirements, and parkland dedication could limit the total lot area by 33% or more. The additional lots would be approximately 27 residential lots and 38 commercial lots. Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential, an increase of approximately 270 ADT for the residential portion is anticipated.

It is difficult to estimate additional traffic with a B-2 zoning designation considering the array of options for potential businesses. If a building of roughly 4,500 square feet was constructed, potential uses of that building in the proposed zone vary. A general office in the building has the potential to generate 49 ADT, a medical office could generate 161 ADT, special retail could generate 198 ADT, a restaurant has the potential to generate 401 ADT, and a gas station could potentially

add 752 ADT. If current traffic trends continue the proposed zoning has the potential to increase traffic by between 16% and 50% on Hodgson Road.

The Flathead County Trails Plan does not identify either Soaring Eagle Drive or Hodgson Road as a future bike/pedestrian trail.

Finding #7: The proposed zoning map amendment would have a minimal impact on motorized and non-motorized transportation systems because Soaring Eagle Drive and Hodgson Road provides legal and physical access to the subject property, the Flathead County Road and Bridge had no comments on the proposal, and the change will not have an impact on bicycle and pedestrian trails in the County.

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

Concerning compatible urban growth, the application indicates, *“Yes, the proposed zone amendments consider the urban growth in relation to the cities and towns, and whether it is compatible. The location is moral rural in nature. The proposed zone amendments are compatible with the growth of the surrounding properties, as they represent size, use and character of them.”*

The subject property is not located within the Kalispell Growth Policy Map or annexation boundary. It is also located outside the Whitefish Future Land Use Map.

Finding #8: The proposed zoning map amendment is located outside the Kalispell Growth Policy Map and annexation boundary as well as the Whitefish Growth Policy.

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

According to the application, *“Yes, the proposed zone amendments do consider the character of the district and its peculiar suitability for peculiar uses. It is compatible with adjacent properties that are within the same district and reflects similar character as those properties.”*

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 character of the overall zoning in the area is commercial, agricultural, and residential. Properties to the south are similarly zoned R-2 and adjacent properties to the west along Highway 93 are zoned B-2.

The proposed amendment would expand the existing of B-2 zoning to allow the same uses as the adjacent properties to the west and the R-2 zoning would be consistent with R-2 zoning to the south.

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

While the zoning map amendment would apply to two tracts of land which are owned by one landowner the proposed zone changes would be considered an extension of the existing B-2 adjacent along Highway 93 and within proximity to the Happy Valley development across Hodgson Road which is also zoned R-2.

- 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 B-2 zone would allow for commercial development such as hotels, banks, restaurants, and professional offices, and would also allow for duplexes, multi-family dwellings, and resort dwellings. However, the amendment from AG-20 to R-2 would not be a substantial change in use from the surrounding area because adjacent properties to the south across Hodgson Road are zoned R-2. Even though the proposed zoning would be for one landowner and two tracts of land, it does not appear to be at the expense of the surrounding landowners.

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

Finding #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 B-2 zoning designation would be a continuation of existing B-2 zoning located adjacent to the subject property and R-2 zoning exists in proximity to the subject property across Hodgson Road.

- 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 Blanchard Lake Zoning District and is adjacent and in proximity to residential and commercial zones. The application states, “*Yes, the proposed zone amendments take into account the conservation of buildings, and it does encourage appropriate land use, similar to the adjacent properties. The B-2 Zoning is already existing and is only being expanded. This is comparable to the business Midway Tavern located directly South to the properties. The R-2 Zoning is comparable to the South subdivision of Happy Valley Homesites and the surrounding areas.*”

Previous sections of this report have discussed the differences between permitted and conditional uses in the existing AG-20 zoning and the proposed B-2 zoning and R-2 zoning. Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. Many of the land uses listed as permitted and conditional uses in the proposed B-2 zone exist in the vicinity of the subject property as well as the permitted and conditional uses of the R-2 zone. The permitted and conditional uses would likely not impact the value

of buildings and would be appropriate land uses throughout the area of the proposed zoning map amendment because they already exist in the area.

Finding #10: The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the area already contains a variety uses and the proposed zoning designation would expand upon the existing B-2 zoning in the area and be in proximity to existing R-2 zoning.

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

The applicant indicates, *“The subject property is not located adjacent to a municipality. The proposed amendments are compatible with current surrounding uses.”*

The proposed zone change is located approximately 2.28 miles south of Whitefish and approximately 4 miles north of Kalispell. It is not within proximity to either jurisdiction.

Finding #11: The proposed zoning map amendment appears to be, as nearly as possible, compatible with the City of Kalispell’s and the City of Whitefish’s zoning ordinances because it is not in proximity to either municipality.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendments generally comply with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map, the proposal would allow for both residential and commercial uses in adjacent to similar residential and business uses, the property has access off Hodgson Road, is centrally located between two cities and will allow for a range of housing types..
2. The proposed zoning map amendment would secure safety from fire and other danger because the property is located approximately 5 driving miles from the nearest fire station within the Rural Whitefish Fire District, the property while located within the WUI is not in a priority area, is not located within a Special Flood Hazard Area, and the property is accessed from a Hodgson Road.
3. The proposed zoning map amendment would not have a negative impact on public health, safety, and general welfare because the property is served by the Whitefish Rural Fire District and Flathead County Sheriff’s Office, and future development would comply with the permitted and conditional uses in both the R-2 and B-2 zones.
4. The proposed zoning map amendment would facilitate the adequate provision of transportation because access to the subject property is via Soaring Eagle Drive a private paved, two-lane road within a 70-foot easement, Hodgson Road a two-lane county-maintained road within a 60-foot easement capable of handling an increase in traffic, and the Flathead County Road and Bridge Department had no comment regarding the proposal.
5. The proposed zoning map amendment would facilitate the adequate provision of transportation because access to the subject property currently exists via Soaring Eagle Drive, which is a private paved, two-lane road within a 70-foot easement, and Hodgson

Road a public county maintained two lane road within a 60 foot easement capable of handling an increase in traffic, and the Flathead County Road and Bridge Department had no comment regarding the proposal.

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 requirements of the R-2 and B-2 designations.
7. The proposed zoning map amendment would have a minimal impact on motorized and non-motorized transportation systems because Soaring Eagle Drive and Hodgson Road provides legal and physical access to the subject property, the Flathead County Road and Bridge had no comments on the proposal, and the change will not have an impact on bicycle and pedestrian trails in the County.
8. The proposed zoning map amendment is located outside the Kalispell Growth Policy Map and annexation boundary as well as the Whitefish Growth Policy.
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 B-2 zoning designation would be a continuation of existing B-2 zoning located adjacent to the subject property and R-2 zoning exists in proximity to the subject property across Hodgson Road.
10. The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the area already contains a variety uses and the proposed zoning designation would expand upon the existing B-2 zoning in the area.
11. The proposed zoning map amendment appears to be, as nearly as possible, compatible with the City of Kalispell's and the City of Whitefish's zoning ordinances because it is not in proximity to either municipality.

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 generally complies with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 FCZR 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