

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
ZONING MAP AMENDMENT REPORT (#FZC-21-14)  
GARDNER BALDWIN  
AUGUST 24, 2021**

**I. GENERAL INFORMATION**

**A. Project Description**

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by River Design Group, Inc. for Gardner Baldwin for a zoning map amendment within the Prairie View 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**

Gardner Baldwin  
2619 Lidestone Street  
Houston, TX 77023

**2. Technical Representative**

River Design Group, Inc,  
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 September 8, 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 October 5, 2021. 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.

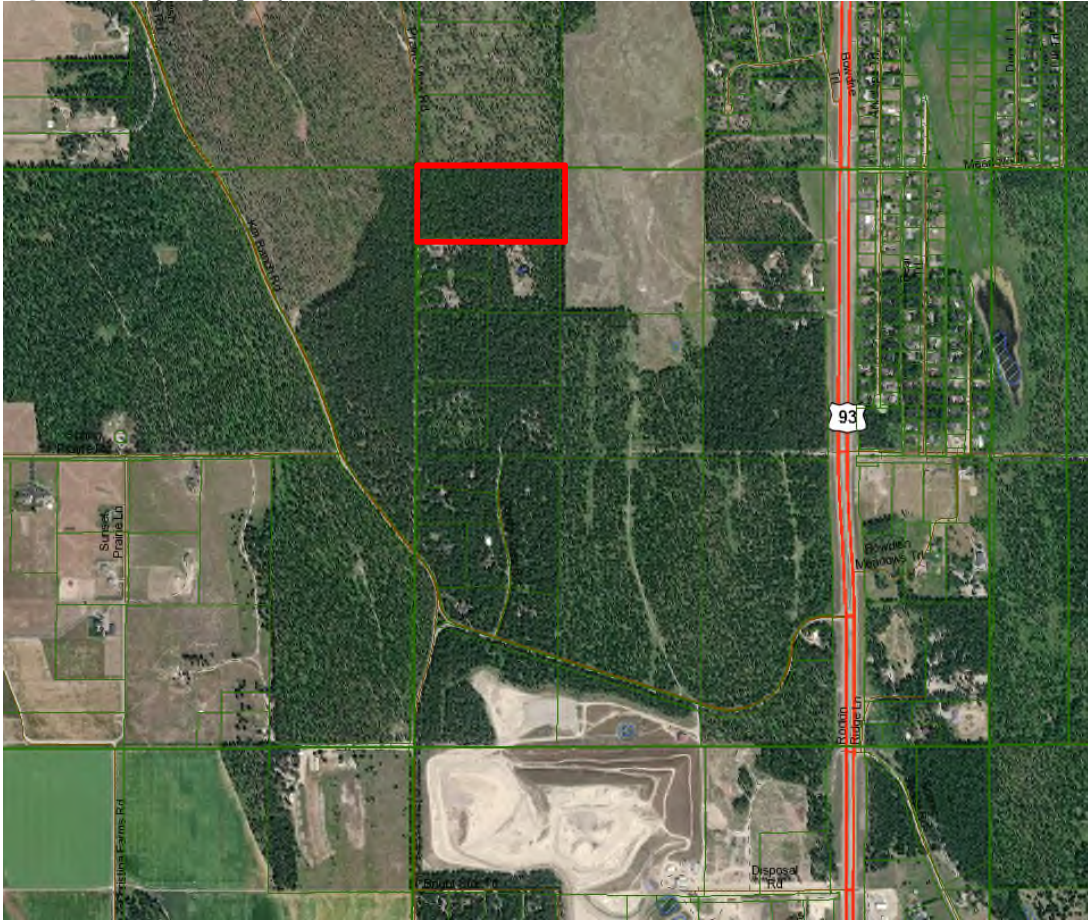
**II. PROPERTY CHARACTERISTICS**

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

The property is located at located on Prairie View Road a ½ mile north of KM Ranch Road, near Whitefish, MT (see Figure 1 below) and is approximately 20.0 acres. The properties are legally described as:

The North Half of the Northwest Quarter of the Northwest Quarter of Section 36, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

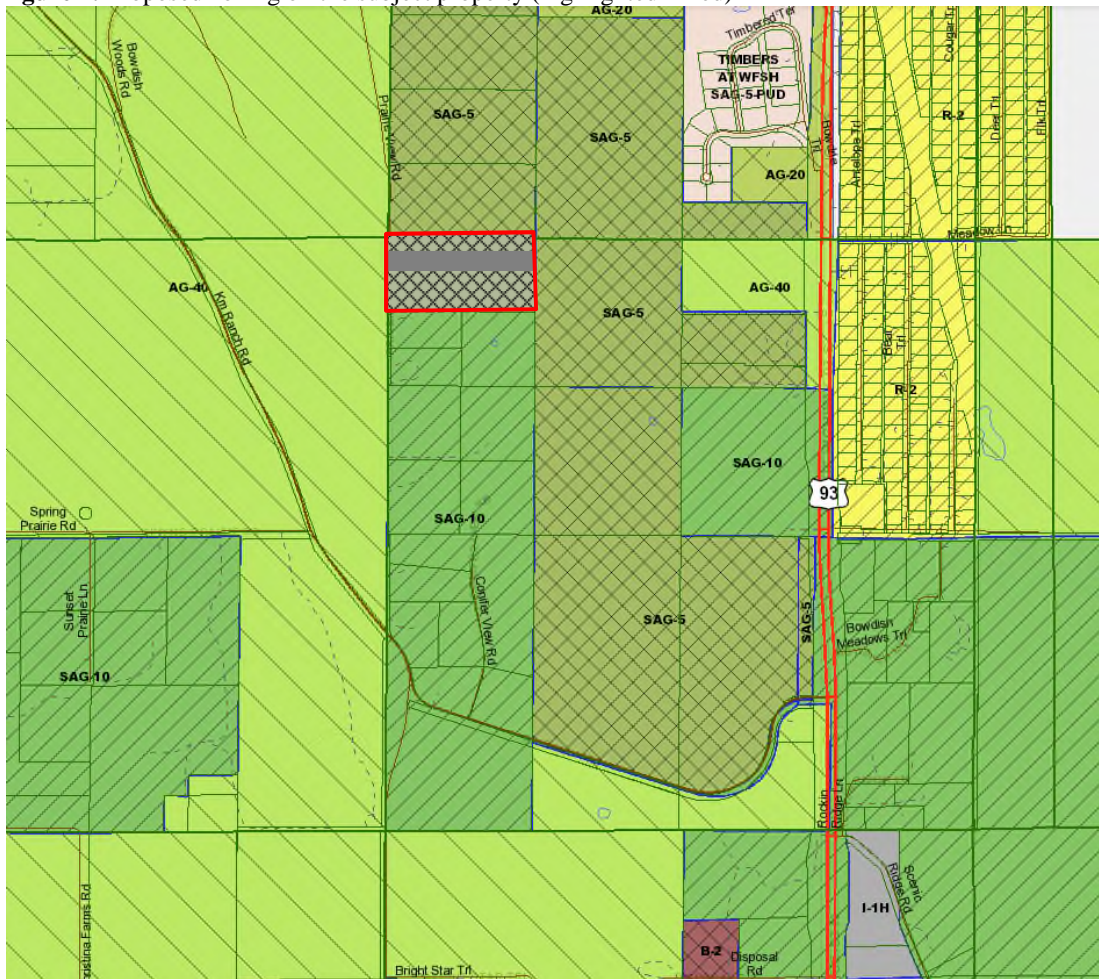
**Figure 1:** Subject property (outlined in red)



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

The subject property is located on Prairie View Road a ½ mile north of KM Ranch Road. Currently the property is undeveloped and heavily wooded. The application states the reason for the zone change as, “The property owner requests Zoning Amendment to SAG-5 to allow for the property to be divided into 4 5-acre parcels.”

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

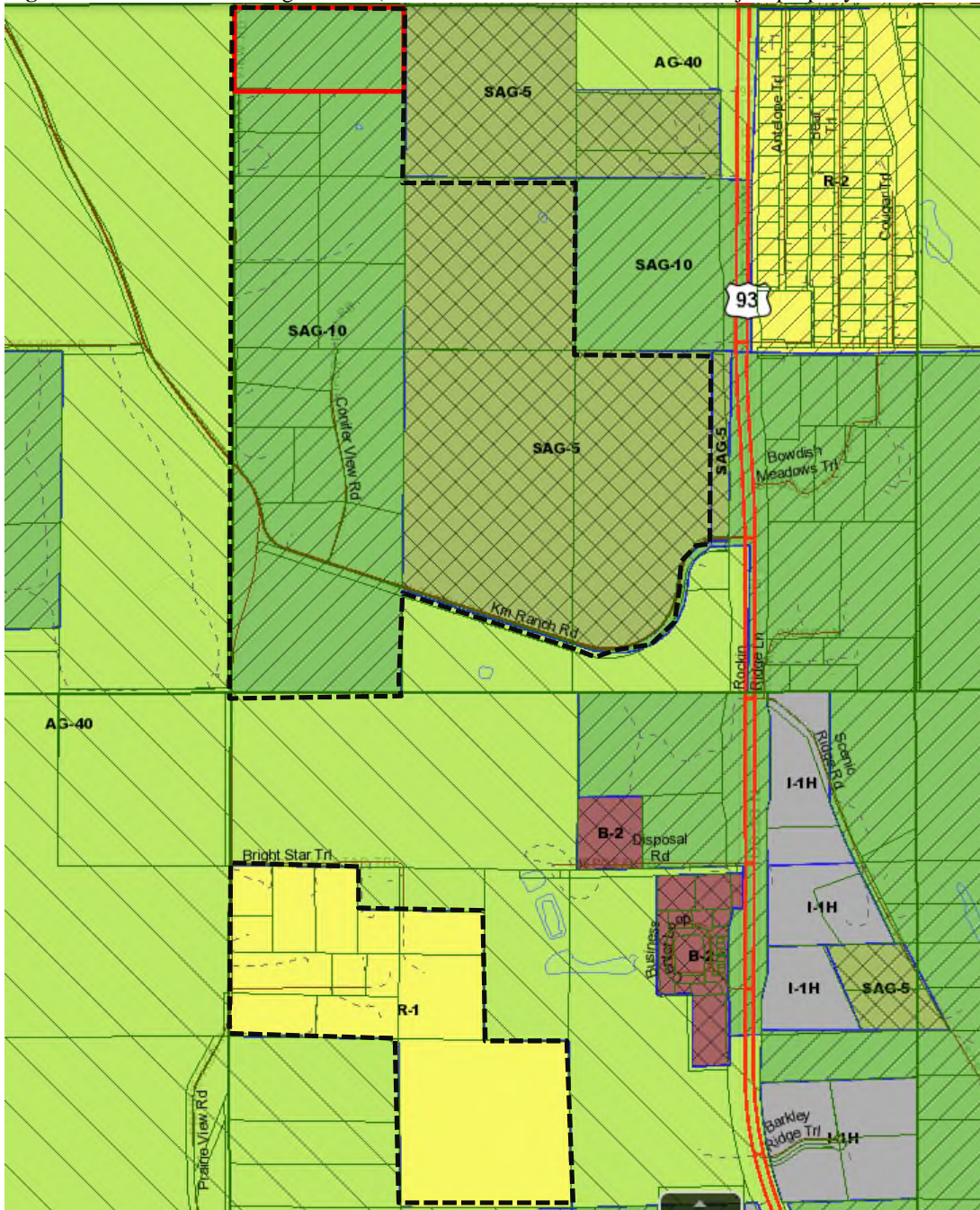


**C. Adjacent Zoning and Character of the Overall Zoning District**

The property is located in the Prairie View Zoning District. The character of the zoning district in the vicinity is rural and agriculture. The property is located on Prairie View Road and to the north and east of the property is SAG-5 zoning, to the west is AG-40 and to the south is SAG-10.

The application the surrounding area is mostly forested with some open fields to the east. The SAG-10 zoning to the south consists of rural residential land uses.

**Figure 3:** Prairie View Zoning District (outlined with dashed black line & subject property outlined in red)



**D. Public Services and Facilities**

- Sewer: N/A
- Water: N/A
- Electricity: Flathead Electric Cooperative
- Natural Gas: Northwestern Energy
- Telephone: CenturyTel
- Schools: Whitefish School District  
Whitefish High School District

Fire: N/a  
Police: Flathead County Sheriff

### III. COMMENTS

#### A. Agency Comments

1. Agency referrals were sent to the following agencies on July 7, 2021:
  - Bonneville Power Administration
  - Montana Fish, Wildlife, and Parks
  - Whitefish High School District
  - Whitefish School District
  - West Valley Fire 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 3.0 miles away from the nearest BPA transmission lines or structures.” Email dated July 9, 2021.
  - Flathead County Road & Bridge Department
    - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated July 12, 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 July 15, 2021
  - 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 to be fixed.*  
  
*“OUTSIDE*
      - *“Property address properly displayed and easily visible from the street.*
      - *“Property maintained with an eye towards Firewise Safety.*  
*“INSIDE*
      - *“Operable smoke detectors in each sleeping area plus one on each level including basement and attic.*
      - *“Operable CO detector outside the bedrooms on each level with a bedroom.*

- *“GFCI (ground fault circuit interrupter outlets in kitchen and bathrooms.*
- *“An A-B-C type fire extinguisher (Minimum 5-pounds but no larger than 10-pounds) properly maintained and installed within 10-feet of the kitchen.*
- *“Each bedroom shall have an egress window that must open to at least 5.7 square-feet that is at least 20-inches wide by 24-inches high no more than 44-inches from the floor.” Letter dated July 23, 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 was 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 October 5, 2021 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 20.0 acres, one additional lot could be created under the existing zoning. The proposed zoning requires a minimum lot area of five acres; therefore, three 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 onto 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 currently used for agriculture and the SAG-5 zoning would continue to allow for agriculture similar to the existing zone.
- ❖ **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 Prairie View Road from Addison Square. Prairie View Road is a gravel local county 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 continued 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 property is located between the Rural Whitefish and West Valley Fire District approximately 5 miles northeast of the Rural Whitefish Fire Station located on Whitefish Stage and 6 miles from the nearest West Valley Fire Station. The property is located in the Wildland Urban Interface (WUI), and a county wide priority area.

Primary access to the property is currently via Prairie View Road. Prairie View Road is a gravel local county road within a 60-foot easement. Prairie View Road appears adequate to provide ingress and egress for emergency services given the traffic volumes, condition of the road and potential lots created.

FEMA FIRM Panel 30029C1385J shows the property as located within a unshaded zone Zone X. An unshaded Zone X is an area determined to be outside the 0.2% annual chance floodplain.

**Finding #2:** The proposed map amendment could impact safety from fire and other danger because the property is located in the WUI and county wide priority area, and not located within a fire district, however, the zone change has the potential to add only three lots.

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

The property is located between the Rural Whitefish and West Valley Fire District approximately 5 miles northeast of the Rural Whitefish Fire Station located on Whitefish Stage and 6 miles from the nearest West Valley Fire Station. If the property is developed with residential it will likely need to be annexed into a fire district.

The Flathead County Sheriff's Department provides police services to the subject property.

According to the applicant, "Yes, the proposed zone amendments are designed to promote public health, safety, and the general welfare. It is designed to secure safety from fire and other dangers."

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 zoning map amendment could have a impact on public health, public safety and general welfare because the property is not located in a fire district and located in the Wildland Urban Interface, however the property is served by the Flathead County Sheriff, and the SAG-5 zoning would allow for similar uses to what already exist in the area.

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

Primary access to the property is currently via Prairie View Road. Prairie View Road is a gravel local county road within a 60-foot easement. Comments from the Flathead County Road and Bridge indicate no concerns with the proposal.

The Road and Bridge Department does not have recent traffic counts are available north of KM Ranch for Prairie View Road. Based on the number of lots along Prairie View Road, the existing traffic count is approximately 70 Average Daily Trips (ADT). As a result of the proposed zone change three lots could be created leading to an increase of 30 ADT. This has the potential to more than double traffic on Addison Trail and lead to an increase of 54.3% on Prairie View Road.

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 provided 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 2019 states there are 16,758 students enrolled in County 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 four 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 Prairie View Road would be able to accommodate an increase of 30 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 into parcels of less than 20 acres is subject to review under Sanitation in Subdivisions Act, the school districts provide no comments, and the proposal would generate minimal school children and impact 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;**

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 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 bulk and dimensional requirements for the SAG-5 and SAG-10 are very similar, with the exception of lot size. The requirements 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, primary access to the property is currently via Prairie View Road. Prairie View Road is a gravel local county road within a 60-foot easement. Comments from the Flathead County Road and Bridge indicate no concerns with the proposal.

The Road and Bridge Department does not have recent traffic counts available north of KM Ranch for Prairie View Road. Based on the number of lots along Prairie View Road, the existing traffic count is approximately 70 Average Daily Trips (ADT). As a result of the proposed zone change three lots could be created leading to an increase of 30 ADT. This has the potential to more than double traffic on Addison Trail and lead to an increase of 54.3% on Prairie View Road.

The Flathead County Trails Plan does not identify any road in the vicinity of the property as a proposed arterial or connector bike/pedestrian trail. Given the low traffic volumes on Prairie View Road the proposed subdivision is not anticipated to have a negative impact on non-motorized transportation systems.

**Finding #7:** Effects on motorized and non-motorized transportation systems will be minimal because Prairie View Road would be able to accommodate an increase of 30 ADT, the road is not designated as a connector or arterial 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);**

Kalispell and Whitefish are the nearest municipalities to the subject property and both city limits are located approximately three miles away. The property is located outside the boundary of the Kalispell Growth Policy and Whitefish Growth Policy.

**Finding #8:** Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's urban growth and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on the Kalispell Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible and comments from Kalispell do not specifically address compatibility with the urban growth of Kalispell.

**Finding #9:** Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Whitefish's urban growth and it has been determined the map amendment is located beyond the southern extent of Whitefish's urban growth, as shown on the Whitefish Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible and the City of Whitefish did not provide comment.

**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 character of the zoning district in the vicinity of the subject property is agricultural and rural residential. The property is located on Prairie View Road and to the north and east of the property is SAG-5 zoning, to the west is AG-40 and south is SAG-10. The proposed SAG-5 zoning would allow for agricultural and residential uses similar to what already exists in the area and similar to what is currently permitted in the SAG-10 zoning.

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

The zoning map amendment would apply to one tract for the benefit of one owner. Using standard ArcGIS software staff determined that the subject property is located adjacent to an approximate 365-acre SAG-5 to the north and east. The proposed zone change would add 20 acres of SAG-5 connecting the existing zoning use district, creating a 385-acre SAG-5 zoning use district.

- 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 subject property is currently owned by a single 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 analysis. The proposed zone change would add 20.0 acres of SAG-5 connecting the existing SAG-5 zoning creating 385-acre SAG-5 zoning use district.

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 #10:** The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because proposed zone change would add 20 acres of SAG-5 to an existing SAG-5 zone and the zoning does not allow uses that differs significantly from the prevailing use in the area.

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

The adjacent properties are similarly wooded, and some contain rural residential uses. The uses allowed within the SAG-5 zone are similar to what is permitted and what currently exists in the surrounding SAG-10 and the same as adjacent SAG-5 designations. Allowing the requested zoning amendment on the subject property could conserve the value of buildings and encourage the most appropriate use of the land throughout the jurisdictional area.

**Finding #11:** This 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 surrounding area.

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

Kalispell and Whitefish are the nearest municipalities to the subject property and both city limits are located approximately three miles away. The subject property is located outside of both Cities Growth Policy. Because there are no nearby municipalities the proposal will have no impact on compatibility of zoning ordinances of nearby municipalities.

**Finding #12:** The proposed map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 3 miles from the subject property.

**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 continued 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 could impact safety from fire and other danger because the property is located in the WUI and county wide priority area, and not located within a fire district, however, the zone change has the potential to add only three lots.
3. The proposed zoning map amendment could have a impact on public health, public safety and general welfare because the property is not located in a fire district and located in the Wildland Urban Interface, however the property is served by the Flathead County Sheriff, and the SAG-5 zoning would allow for similar uses to what already exist in the area.
4. The amendment would facilitate the adequate provision of transportation because Prairie View Road would be able to accommodate an increase of 30 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 into parcels of less than 20 acres is subject to review under Sanitation in Subdivisions Act, the school districts provide no comments, and the proposal would generate minimal school children and impact 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 Prairie View Road would be able to accommodate an increase of 30 ADT, the road is not designated as a connector or arterial bike/pedestrian path has a low traffic count and the County Road and Bridge Department had no concerns with the proposal.
8. Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's urban growth and it has been determined that the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on the Kalispell



Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible and comments from Kalispell do not specifically address compatibility with the urban growth of Kalispell.

9. Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Whitefish's urban growth and it has been determined the map amendment is located beyond the southern extent of Whitefish's urban growth, as shown on the Whitefish Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible and the City of Whitefish did not provide comment.
10. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because proposed zone change would add 20 acres of SAG-5 to an existing SAG-5 zone and the zoning does not allow uses that differs significantly from the prevailing use in the area.
11. This 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 surrounding area.
12. The proposed map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 3 miles from the subject property.

## **VI. CONCLUSION**

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

Planner: EKM