

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-13-01)
JANUARY 29, 2014

A report to the Flathead County Planning Board and Board of County Commissioners for a text amendment to the Flathead County Zoning Regulations (regulations). The purpose of the request is to adopt multiple amendments to improve the practicality of administration and enforcement of the regulations.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 12, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 1st Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the February 12, 2014 Flathead County Planning Board review of the proposal.

B. Commission

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

II. GENERAL INFORMATION

A. Applicant/Petitioner

Flathead County Planning Board

B. Background to Requested Amendments

The Flathead County Planning Board has held several publicly noticed workshops intended to evaluate existing language and/or provisions contained in the Flathead County Zoning Regulations (FCZR). Resulting from the workshops which occurred between March and November 2013, this application includes ten publicly initiated text amendment requests intended to improve the practicality of administration and enforcement of the regulations. The Planning and Zoning Department has been approved by the Planning Board and the Board of Commissioners to evaluate the regulations and to generate and process requests for amendments to the regulations as outlined below.

- A joint Planning Board and Commissioner workshop was held on March 13, 2013 to discuss projects for fiscal year 2013. During this workshop Commissioner Krueger stated an overhaul of the zoning regulations was needed. It was decided at this time to proceed with an update to the regulations that are more than a few minor text amendments but not a complete overhaul.
- At the regularly scheduled Planning Board meeting on April 10, 2013, under old business, staff presented a top down approach to amending the zoning regulations.

Starting with questions like determining what kind of zoning does the county want. If the county wants to use a different form of zoning, what type? Or does the county want to keep the same type of zoning? Planning Board decided they would rather just update the current zoning regulations.

- Planning Board and staff discussed possible public meetings and outreach to identify issues with the regulations at a June 12, 2013 Planning Board Workshop. The goals of the update were also identified by the Planning Board and they are; make the regulations business friendly, user friendly, and use more common sense. Also at this workshop the Planning Board discussed concerns over a possible B-2HG ruling, and if the county lost, how would it impact the ability to make text amendments in the future. The Planning Board directed staff to set-up meeting dates for the listen and learn town hall meetings, and draft a presentation for those meetings. The Planning Board also wanted a list of possible civic organization to meet with, and a draft survey to mail out for the next workshop.
- After the June workshop staff created a list of dates and times for town hall meetings around the county based on the previous workshop. Additionally staff drafted a survey to be mailed or handed out and staff started to prepare a draft PowerPoint presentation, schedule venues for the town hall meetings and draft a list of civic organizations to meet with during the process. Then Judge Ortley issued a ruling on the B-2HG lawsuit.
- At the regularly scheduled Planning Board meeting July 10, 2013, under old business, there was a discussion about the recent B-2HG ruling and how it would impact the zoning update. The Planning Board was concerned that if all the town hall meetings were held as previously discussed it is possible that not all public input would be addressed in the update. The Planning Board decided they wanted to scale back the project and not hold town hall meetings and to put the project on hold until a decision on the appeal was made and to cancel the previously scheduled July 31st workshop.
- At the monthly meeting with the County Commissioners, the Planning Director gave the commissioners an update on the zoning regulations project. The commissioners stated that the Planning Board should move ahead with the project. A new agenda was created for the July 31st workshop to discuss the scope.
- During the Planning Board workshop on July 31, 2013 the scope of the project was again discussed. Planning Board decided to have staff prepare a list of zoning issues to be discussed at the next workshop.
- On August 14, 2013 at the regularly scheduled Planning Board meeting, staff handed out a copy of the list of zoning issues that have been brought during previous Planning Board meetings, staff's daily interaction with the public, administrative fixes, previous complaints, and previous attempts to update the zoning regulations.
- On August 28, 2013, staff distributed a packet of five possible text amendments to the Planning Board at a workshop. The board discussed the list of zoning issues distributed at previous PB meeting and the packet of possible text amendments. The board requested a revision to the caretaker's facility conditional use standards to remove the deed restriction requirement in Section 4.04 before moving forward with

that packet. Staff was also directed to prepare a 2nd packet of text amendments for the Sep. 25 workshop. This packet would include six additional issues from the previously distributed list and setbacks requirements within the clustering provisions. Additionally the PB directed staff to research accessory apartments and home occupations standards.

- On October 9, 2013 the Planning Board rescheduled the cancelled workshop from September 25th, for Wednesday October 23rd. The Planning Board decided they would determine which topic to address next at the October 23rd workshop and schedule that discussion for a future workshop likely sometime in January.
- During the Planning Board workshop on October 23, 2013 the Planning Board agreed to have a packet of text amendments brought forward at the February Planning Board for consideration. These amendments would consist of the first two packets discussed at the previous workshops. The topics included are addressed in this report.

C. Sections Proposed for Amendment

The ten proposed amendments are numbered and addressed sequentially below in Section IV of this report. Each amendment is addressed as follows:

- i. A summary of the general character of and reason for the proposed amendment;
- ii. Listing of the specific section being amended and the actual language of the proposed amendment. Under “Proposed amendment” the language is shown as it appears in the current regulations, with proposed additions *italicized* and shaded gray and proposed deletions ~~stricken~~ and shaded gray.
- iii. Each of the ten amendments are then reviewed individually based on the criteria for zoning amendments currently found in Section 2.08.040 of the regulations. This report covers a package of ten amendments. All amendments will be reviewed separately based on the criteria in order for the requested amendments to be appropriately reviewed in a legally defensible manner.

D. Criteria Used for Evaluation of Proposed Amendment:

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

E. Compliance With Public Notice Requirements:

Legal notice of the Planning Board public hearing on this application was published in the January 26, 2014 edition of the Daily Interlake. Public notice of the Board of County Commissioners public hearing regarding the zoning text amendment will be physically posted within the County according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

F. Agency Referrals

An agency referral was sent to the Flathead County Attorney's Office regarding the placement of political signs on private property. No other agency referrals were sent regarding these text amendments, as they apply to a broad geographic area and not a specific property requiring evaluation by a local or state agency.

III. COMMENTS RECEIVED

A. Public Comments

One written comments regarding the proposed zoning text amendment on the subject property has been received to date. The comment was received on January 14, 2014 and raised concerns about the process for a zoning text amendment. The concerns are summarized below, followed by staff's comments:

- "Citizens for a Better Flathead would like to formally request that you postpone and reschedule the agenda item titled: Authorization to Publish Notice of Public Hearing: Multiple Text Amendments 2014 / Flathead County Zoning Regulations, which is on your agenda for today, as well as any other hearings that may not have been scheduled in accordance with MCA 76-2-205."
 - Response: The authorization to publish notice was postponed to a later date, after the Planning Board hearing.

It is anticipated any member of the public wishing to provide comment on the proposed zoning text amendment may do so at the Planning Board public hearing scheduled for February 12, 2014 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

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

- Flathead County Attorney's Office
 - Comment: "I've reviewed the cases you sent along. As far as I can tell, these cases are still "good law" and I think the proposed amendments would bring the FCZR into compliance with the law regarding duration of political signs. Unless there is a really compelling and specific reason that P&Z has to limit the duration to 30 days, I think it would be best to strike it altogether as you've noted below." Email dated 1.21.14.

IV. EVALUATION OF PROPOSED AMENDMENTS

A. AMENDMENT #1

i. General Character of and Reason for Amendment

Amendment #1 is being proposed because the 'NF North Fork' zoning classification Section 3.40.040(7) FCZR state, '*Cellular towers – Administrative Conditional Use Permit (See Section 2.06.045)*' but Cellular Tower is not listed under Section 3.40.030 FCZR 'Conditional Use' as an administrative conditional use like

administrative conditional uses in other districts. This proposed amendment would add Cellular towers to the list of conditional uses as an administrative conditional use.

ii. Proposed Amendment

The proposed amendment would amend Section 3.40.030 FCZR pertaining to the North Fork Zoning District to include ‘Cellular towers’ as an administrative conditional use as follows:

- 3.40.030 Conditional Uses:
2. *Cellular Tower**

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

According to Section 3.40.040(7) FCZR Development Standards, cellular towers already require the issuance of an administrative conditional use permit and adding it to the list of conditional uses would serve only to improve administrative clarity in the North Fork zoning classification. This proposed amendment would not add a new use to the North Fork zone and the proposed text amendment would be made in accordance with the North Fork Neighborhood Plan.

The Flathead County Growth Policy contains 50 goals and over 200 accompanying policies to guide growth in Flathead County. This amendment is primarily upkeep of the regulations that implement the Growth Policy. Any amendment to improve the clarity, consistency and convenience of implementation procedures would comply with **Policy 2.2** of the Flathead County Growth Policy.

Finding #1: The proposed amendment would comply with the Flathead County Growth Policy and the North Fork Neighborhood Plan because the proposed amendment would serve to add administrative clarity to the regulations and not add any conditional uses to the North Fork zoning classification because the use is already allowed subject to an administrative conditional use permit.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

The proposed amendment would add ‘Cellular tower’ to the list of conditional uses in the North Fork zoning classification to make it consistent with Section 3.40.040(7) which states, ‘*Cellular towers – Administrative Conditional Use Permit (See Section 2.06.045).*’ This amendment makes the intent more clear through consistency with other sections of the regulations and is not adding ‘Cellular tower’ as an administrative conditional use and therefore this proposed amendment is not likely to have any impact on safety from fire and other dangers.

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

This proposed amendment is unlikely to impact public health, public safety, and general welfare because the amendment clarifies that a cellular tower

requires an administrative conditional use permit prior to placement within the North Fork zone and is not adding ‘Cellular tower’ as an administrative conditional use.

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

This proposed amendment to improve the administrative clarity within the regulations is not likely to impact the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The amendment places ‘Cellular tower’ on the list of conditional uses in the North Fork zoning classification to make it consistent with Section 3.40.040(7) which states, ‘*Cellular towers – Administrative Conditional Use Permit (See Section 2.06.045).*’ This amendment makes the intent more clear through consistency with other sections of the regulations.

Finding #2: Amending the Flathead County Zoning Regulations by clarifying that cellular towers are an administrative conditional uses permit in the North Fork zoning classification was found to comply with and have no impact on safety from fire and other dangers, public health, safety, general welfare, transportation, water, sewerage, schools, parks and other public requirements because the amendment makes the intent of the regulations more clear through consistency with other sections of the regulations and is not adding ‘Cellular tower’ as an administrative conditional.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

A cellular tower is currently allowed within the North Fork zoning classification with the issuance of a administrative conditional use permit and this amendment would make the intent of the regulations more clear and consistent because it would list ‘Cellular tower’ under the list of conditional uses. This proposed amendment to improve the administrative clarity within the regulations is not likely to have an impact on the adequate provision of light and air.

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

The proposed amendment would add ‘Cellular tower’ to the list of conditional uses in the North Fork zoning classification to make it consistent with Section 3.40.040(7). This amendment makes the intent of the regulations more clear through consistency with other sections of the regulations and is unlikely to have any impact on motorized and non-motorized transportation systems.

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

This proposed amendment would have little bearing on compatibility with urban growth in the vicinity of cities and towns because the placement of a cellular tower in this district already requires an administrative conditional use permit and the North Fork Zoning District which would be the only district

impacted by this proposed amendment is located over 20 miles from the nearest city or town.

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

This purpose of this amendment is to improve the administrative clarity within the regulations and is not likely to impact the character of any of the North Fork Zoning District because the placement of a cellular tower in this district already requires an administrative conditional use permit prior to placement.

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

This proposed amendment would appear to not impact the value of buildings and the most appropriate use of land throughout the jurisdictional area because the placement of a cellular tower in this district already requires an administrative conditional use permit.

Finding #3: Amending the Flathead County Zoning Regulations by clarifying that cellular towers are an administrative conditional use in the North Fork zoning classification was found to have no impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district, its peculiar suitability for a particular use, value of buildings and encourage the most appropriate use of land throughout the area because the amendment makes the intent of the regulations more clear through consistency with other sections of the regulations and is not adding ‘Cellular tower’ as an administrative conditional.

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

This amendment would improve the administrative clarity within the regulations and is not likely to impact the compatibility of the zoning ordinances of nearby municipalities because the placement of a cellular tower in this district already requires an administrative conditional use permit and the North Fork Zoning District which would be the only district impacted by this proposed amendment is located over 20 from the nearest municipality.

Finding #4: This text amendment has no bearing on zoning ordinances of nearby municipalities because the North Fork Zoning District is located over 20 miles from the nearest municipality and the amendment will not add any administrative conditional uses to the North Fork zoning as a cell tower is already allowed with an administrative conditional use permit.

B. AMENDMENT #2

i. General Character of and Reason for Amendment

Proposed Amendment #2 would amend the regulations by clarifying the use of livestock in AG - Agricultural and SAG – Suburban Agricultural zoning districts through an amendment to Sections 3.04.020, 3.05.020, 3.06.020, 3.07.020 and 3.08.020 FCZR.

‘Agricultural/horticultural/silvicultural’ use is permitted in AG-80, AG-40, AG-20, SAG-10, SAG-5, R-1 and R-2.5 zones, and the definition of ‘Agriculture’ includes uses related to livestock (Section 7.02.040 FCZR) district. Since R-1 and R-2.5 list ‘livestock’ as a permitted use it has led to confusion as to whether or not livestock is permitted in other zones. While it is unclear why livestock within the AG and SAG zoning districts was not originally addressed in Section 3.04, 3.05, 3.06, 3.07 and 3.08 FCZR upon adoption, it appears livestock within an AG and SAG zoning district was simply implied and therefore not specified as a permitted use in the regulations.

ii. Proposed Amendments

The proposed amendment would add language to Sections 3.04.020, 3.05.020, 3.06.020, 3.07.020 and 3.08.020 FCZR, pertaining to livestock within AG and SAG zoning district as follows:

3.04.020 Permitted Uses (AG-80).

15. Livestock.

3.05.020 Permitted Uses (AG-40).

13. Livestock.

3.06.020 Permitted Uses (AG-20).

13. Livestock.

3.07.020 Permitted Uses (SAG-10).

11. Livestock.

3.08.020 Permitted Uses (SAG-5).

9. Livestock.

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

Chapter 2 of the Flathead County Growth Policy specifically addresses agricultural land uses, including the county’s heritage of cattle ranching and the contribution of livestock to the economic and social fabric of the county. It is presumed that impacts to the natural environment and adjacent land uses from unrestricted livestock use may be adequately mitigated due to large minimum lot sizes and correlative low residential density in AG and SAG zoning districts. The proposed amendment is made in accordance with the Growth Policy as it would serve to protect rights to continue active use of agricultural lands and preserve the right to farm specifically;

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 uses that is economically and environmentally viable to both the landowner and Flathead County,*

P.3.3 Maintain flexibility of land uses options to forest and agriculture land owners by focusing on mitigating the negative impacts of development,

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, and

P.4.2 Identify lands most suited to agriculture (appropriate soils, access to water, shape and size of parcels, etc.).

Because livestock is currently interpreted to be permitted use within the AG and SAG zoning classifications and the proposed amendment is not adding an additional use to the list of permitted uses, the text amendment would be made in accordance with the Growth Policy and all applicable neighborhood plans.

Finding #5: The proposed text amendment to clarify that livestock is a permitted use in Agricultural and Suburban Agricultural zones is in accordance with the applicable neighborhood plans and Growth Policy because livestock is already interpreted to be a permitted use within the AG and SAG zoning classifications and the proposed amendment is not functionally adding a permitted use, only clarifying it.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

The proposed amendment to clarify that livestock is a permitted use in AG and SAG zoning districts will not impact safety from fire and other dangers because the keeping of livestock is currently interpreted to be a permitted use in AG and SAG zones.

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

Public health, public safety, and general welfare will not be impacted by the proposed amendment because the amendment simply clarifies that the keeping of livestock in AG and SAG zones is logical as an agricultural use.

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

AG and SAG zoning classifications are generally situated in rural and sparsely populated areas of the county where public infrastructure and facilities are not established. The proposed amendment to clarify that the keeping of livestock is a permitted use in AG and SAG zone will have no impact on the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Finding #6: The proposed amendment appears to have no impact on safety from fire and other dangers, public health, safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because livestock is currently presumed to be a permitted use within the AG and SAG zoning classifications and the proposed amendment is not functionally adding a permitted use, only clarifying it.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

The proposed amendment to clarify that livestock is currently presumed to be a permitted use in Agricultural and Suburban Agricultural zoning districts has no bearing on and will not impact the reasonable provision of light and air because the keeping of livestock is already functionally allowed in AG and SAG zones.

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

Motorized and non-motorized transportation systems will not be impacted by the proposed amendment because the amendment clarifies that the keeping of livestock in Agricultural and Suburban Agricultural zones is intended and logical.

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

There are locations where Agricultural and Suburban Agricultural zoning classifications abut municipal boundaries of incorporated cities with areas of zoning which may be considered incompatible with agricultural practices involving livestock. However, Agricultural and Suburban Agricultural zoning classifications are typically established in locations where there is a history of agricultural use. Residential and urban expansion of cities and towns typically expands into less densely developed areas historically used for various forms of agriculture.

The proposed amendment to clarify that the keeping of livestock is intended to be a permitted use in AG and SAG zones has no bearing on compatibility with urban growth in the vicinity of cities and towns because the keeping of livestock is already functionally allowed in AG and SAG zones.

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

The proposed amendment to improve the administrative clarity of the regulations in regard to the use of livestock in Agricultural and Suburban Agricultural zoning classifications is unlikely to impact the character of any district because large-scale livestock use is typically already established in AG and SAG classifications and it is currently interpreted to be permitted.

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

The intent of proposed amendment is to clarify that the use of livestock in AG and SAG zoning classifications is intended to be a permitted use. Agricultural and Suburban Agricultural zoning classifications were typically established in locations where there was a history of agricultural use and clarifying that livestock is a permitted use would serve to conserve the value of established agricultural buildings and infrastructure. The proposed amendment would encourage continued agricultural uses on lands which have been historically

used for those purposes and which are zoned AG and SAG throughout the jurisdictional area.

Finding #7: The proposed text amendment to clarify livestock as a permitted in Agricultural and Suburban Agricultural zones appears to have no impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and encouraging the most appropriate use of land throughout the area because the keeping of livestock is already interpreted to be allowed in AG and SAG zoning classifications.

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

The proposed amendment to clarify that the keeping of livestock is a permitted use in AG and SAG zones has no bearing on compatibility with the zoning ordinances of nearby municipalities because the keeping of livestock is already interpreted to be allowed in AG and SAG zones.

Finding #8: The proposed text amendment to clarify livestock as a permitted use in Agricultural and Suburban Agricultural zones is unlikely to impact whether or not the zoning regulations are compatible with the zoning ordinances of nearby municipalities because livestock is already interpreted to be a permitted use within the AG and SAG zoning classifications.

C. AMENDMENT #3

i. General Character of and Reason for Amendment

Proposed Amendment #3 would amend the AG and SAG zones list of permitted uses. Currently ‘Stables, private’ is listed as a permitted use in R-1 and R-2.5, ‘Stable, public’ is listed as a conditional use and ‘Riding arena, and rodeo arena’ is not permitted. In SAG-5 ‘Stable, riding academy, and rodeo arena’ is listed as a conditional use and does not distinguish between public and private stable. AG-80, AG-40, AG-20 and SAG-10 list ‘Stable, riding academy, and rodeo arena’ as a permitted use. The definition of ‘Agriculture’ includes uses related to animals (Section 7.02.040 FCZR), it is unclear why a ‘Stable, private’ would be permitted in R-1 and R-2.5 but would require a conditional use permit in a SAG-5 zone. To clarify this issue the planning board said they would like ‘Stable, public and private’ and ‘Riding academy, rodeo arena’ to be a permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 and leave R-1 and R-2.5 as they are.

Conditional use is defined as, “A use which may be permitted in one or more districts as defined in these regulations but which, because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvements, or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same district or districts.” The planning board feels that stables, riding academies, rodeo arenas are compatible to other existing or permissible uses in the SAG-5 district and should therefore be placed as permitted uses.

ii. Proposed Amendment

The proposed amendment would amend Section 3.04.020, 3.05.020, 3.06.020, 3.07.020 and 3.08.020 FCZR pertaining to the AG-80, AG-40, AG-20, SAG-10 and SAG-5 zones as follows:

- 3.04.020 Permitted Uses (AG-80).
21. ~~Stable,~~ Riding academy, rodeo arena.
22. ~~Stable, public and private.~~
- 3.05.020 Permitted Uses (AG-40).
19. ~~Stable,~~ Riding academy, rodeo arena.
20. ~~Stable, public and private.~~
- 3.06.020 Permitted Uses (AG-20).
19. ~~Stable,~~ Riding academy, rodeo arena.
20. ~~Stable, public and private.~~
- 3.07.020 Permitted Uses (SAG-10).
17. ~~Stable,~~ Riding academy, rodeo arena.
18. ~~Stable, public and private.~~
- 3.08.020 Permitted Uses (SAG-5).
15. ~~Riding academy, rodeo arena.~~
16. ~~Stable, public and private.~~
- 3.08.020 Conditional Uses (SAG-5).
24. ~~Stable, riding academy, rodeo arena.~~

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

Chapter 2 of the Flathead County Growth Policy states, “*Current landowners are interested in farming as long as it is economically viable, but the increasing costs of farming combined with stagnant crop revenue impacts the viability.*” It is possible that clarifying the use of stables as a permitted use in AG-80, AG-40, AG-20 and SAG-10 zoning districts and changing stables, riding academy and rodeo arena from a conditional use to a permitted use in SAG-5 will improve the economic viability of farming in the county by providing farmers with revenue from other sources besides crops. The proposed amendment is made in accordance with the Growth Policy as it would serve to protect rights to continue active use of agricultural lands and preserve the right to farm specifically;

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 uses that is economically and environmentally viable to both the landowner and Flathead County,

P.3.3 *Maintain flexibility of land uses options to forest and agriculture land owners by focusing on mitigating the negative impacts of development,*

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, and*

P.4.2 *Identify lands most suited to agriculture (appropriate soils, access to water, shape and size of parcels, etc.).*

Staff researched the various neighborhood plans listed as elements of the Growth Policy for compliance with the proposed amendment. Staff found that the neighborhood plans listed below reference the topic of the proposed text amendment. The proposed amendment is made in accordance with the applicable neighborhood plans as it would serve to allow agriculture as a viable, productive, sustainable use and generally meet the definition of agriculture/ silviculture in the neighborhood plans, specifically;

❖ Bigfork Neighborhood Plan

- *In areas adjacent to Residential designations with efficient service provision, convenient access to public facilities, paved roads and no environmental constraints, SAG-5 zoning is an appropriate use and density. As the smallest “agricultural” designation, small hobby farms, horse pastures and rural single family residential dwellings exemplify areas where this zone is used.*

❖ Columbia Falls City-County Master Plan

- *Agriculture/Silviculture: Areas devoted to the raising and harvesting of crops; feeding, breeding, and management of livestock; dairying; horticulture; and the growing and harvesting of timber.*

❖ Kalispell City-County Master Plan

- *Agriculture/Silviculture: Areas devoted to the raising and harvesting of crops; feeding, breeding, and management of livestock; dairying; horticulture; and the growing and harvesting of timber.*

❖ Whitefish City-County Master Plan

- *8A A viable, productive, sustainable agricultural industry.*

Finding #9: The proposed text amendment to separate stables from riding academy and rodeo arena on the list of permitted use in the AG-80, AG-40, AG-20 and SAG-10 zones appears compatible with the Growth Policy and applicable neighborhood plans because it will not add any new uses to those zoning classifications.

Finding #10: The proposed text amendment to list stables, riding academy and rodeo arena as a permitted use in the SAG-5 zone appears compatible with the

Growth Policy and applicable neighborhood plans because it would serve to allow agriculture to remain viable, productive and sustainable and would generally meet the definition of agriculture/silviculture in the neighborhood plans.

2. Whether the proposed text amendment is designed to:

d. Secure safety from fire and other dangers;

The proposed amendment to clarify that both a public and private stable are permitted uses in AG and SAG zoning districts has no bearing on and will not impact safety from fire and other dangers because a stable is already permitted in AG-80, AG-40, AG-20 and SAG-10 zoning classifications.

In a SAG-5 zone a stable, riding academy and rodeo arena currently require a conditional use permit. This proposed amendment would list ‘Stable, public and private’ and ‘Riding academy, rodeo arena’ as permitted uses. The uses are consistent with and compatible to other existing or permissible uses in the same district such as agricultural/horticultural/silvicultural. Agricultural uses usually contain several buildings and structures, such as sheds, barns, silos, etc. which are required to meet applicable bulk and dimensional requirements for the SAG-5 zoning. Listing stables, riding academies and rodeo arenas as a permitted use is unlikely to impact safety from fire and other dangers because the buildings and structures will also be required to meet bulk and dimensional requirements of the SAG-5 zone.

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

Public health, safety, and general welfare will not be impacted by the proposed amendment because a stable is already permitted in AG-80, AG-40, AG-20 and SAG-10 zoning classifications.

Listing ‘Stable public and private’ and ‘Riding academy, rodeo arena’ as permitted uses within the SAG-5 classification is unlikely to impact public health, public safety, and general welfare because the uses are consistent with and compatible to other existing or permissible uses in the same district such as agricultural/horticultural/silvicultural. The definition of agriculture states, “The use of land for agricultural purposes including farming, dairying, pasturage, grazing land, animal and poultry husbandry, feed lots and the necessary accessory uses for packing, treating, storing or shipping of products.” Stables for public use and private use are often associated with agricultural uses, as are riding academies and rodeo arenas.

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

Agricultural and Suburban Agricultural zoning classifications are generally situated in rural and sparsely populated areas of the county where public infrastructure and facilities are not established. A stable is already permitted in AG-80, AG-40, AG-20 and SAG-10 zones and the proposed amendment will have no impact on the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements in those zones.

Listing ‘Stables, public and private’ and ‘Riding academy, rodeo arena’ as permitted uses within the SAG-5 classification is unlikely to impact water, sewerage, schools, parks, and other public requirements. Staff consulted the ITE Trip Generation Manual to determine potential traffic generated by permitting stables, riding academies and rodeo arenas as permit uses but could not find a similar use. It is possible that by allowing this proposed text amendment facilities for transportation could be impacted; however given the rural nature of the use it seems unlikely.

Finding #11: The proposed text amendment in AG-80, AG-40, AG-20 and SAG-10 zones will not impact safety from fire and other dangers, will promote public health, public safety and general welfare and will provide adequate facilities for transportation, water, sewerage, schools, parks, and other public requirements because the proposed amendment is not adding any additional uses to the list of permitted uses and is simply separating stable from riding academy, rodeo arena.

Finding #12: The proposed text amendment of adding stables, riding academies and rodeo arenas to the list of permitted uses in the SAG-5 zones will not impact safety from fire and other dangers, will promote public health, public safety and general welfare and will provide adequate facilities for transportation, water, sewerage, schools, parks, and other public requirements because the use is rural in nature, and the uses are consistent with and compatible to other existing or permissible uses in the same district such as agricultural/horticultural/silvicultural.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

The Agricultural and Suburban Agricultural zoning classifications are generally situated in rural and sparsely populated areas of the county. A stable, riding academy and rodeo arena are already permitted in AG-80, AG-40, AG-20 and SAG-10 zoning classifications and it is likely that the proposed amendment will have no impact on the adequate provision of light and air in those zones.

In a SAG-5 zone a stable, riding academy or rodeo arena currently requires a conditional use permit prior to placement. This proposed amendment would list ‘Stable, public and private’ and ‘Riding academy, rodeo arena’ as permitted uses. The uses are consistent with and compatible to other existing uses in the SAG-5 zone such as agricultural/horticultural/silvicultural. Listing stables, riding academies and rodeo arenas as a permitted use is unlikely to impact the adequate provision of light and air because the buildings and structures will be required to meet bulk and dimensional requirements of the SAG-5 zone.

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

Motorized and non-motorized transportation systems will not be impacted by the proposed amendment because stable, riding academy and rodeo arena are

already permitted in AG-80, AG-40, AG-20 and SAG-10 zoning classifications.

Staff consulted the ITE Trip Generation Manual to determine potential traffic generated by listing stables, riding academies and rodeo arenas as a permit use in the SAG-5 zone but was unable to find a similar use. It is possible that by allowing this proposed text amendment motorized and non-motorized transportation could be impacted, such as a large rodeo arena being built on a gravel road. However, a large rodeo arena could currently be built in and AG-80, AG-40, AG-20, and SAG-10 zones which are generally situated in more rural areas of the county.

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

The proposed amendment in AG-80, AG-40, AG-20 and SAG-10 zones has no bearing on compatible urban growth in the vicinity of cities and towns because stables, riding academies and rodeo arenas are already allowed in AG-80, AG-40, AG-20 and SAG-10 zones.

SAG-5 is an agricultural zone defined 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 purpose of the SAG-5 district is to provide a buffer urban and agricultural uses. Listing stables, riding academies and rodeo arenas on the list of permit uses would still allow the SAG-5 zone to provide the buffer due to relatively low densities and rural character of the uses.

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

Stables, riding academies and rodeo arenas are already permitted in AG-80, AG-40, AG-20 and SAG-10 zones and therefore the proposed amendment will have no impact on the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements in those zones. The proposed amendment is unlikely to impact the character of any district and its peculiar suitability for a particular use because the uses are currently permitted.

In the SAG-5 zone stable, riding academy and rodeo arena currently require a conditional use permits. This proposed amendment would list ‘Stable, public and private’ and ‘Riding academy, rodeo arena’ as a permitted use. The uses are consistent with and compatible to other existing or permitted uses in the SAG-5 district such as agricultural/horticultural/silvicultural and is therefore unlikely to impact the character of any district and its peculiar suitability for a particular use.

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

The value of buildings and the most appropriate use of land throughout the jurisdictional area will not be impacted by the proposed amendment because stable, riding academy and rodeo arena are already permitted in AG-80, AG-40, AG-20 and SAG-10 zoning classifications.

By listing stables, riding academies and rodeo arenas as permitted uses within the SAG-5 zone, it could conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area by maintaining the viability, productivity and sustainability of the agricultural industry in the zones designated for those uses.

Finding #13: The proposed text amendment in AG-80, AG-40, AG-20 and SAG-10 zones will not negatively impact light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because stable, riding academy and rodeo arena are already permitted uses in those zones and this amendment would serve to improve the clarity of the regulations.

Finding #14: The proposed text amendment to add stables, riding academies and rodeo arenas to the list of permitted uses in SAG-5 zones will not negatively impact light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because the use is rural in nature, and the uses are consistent with and compatible to other existing permitted uses in the same district.

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

The proposed amendment has no bearing on compatibility with the zoning ordinances of nearby municipalities in AG-80, AG-40, AG-20 and SAG-10 zones because stables, riding academies and rodeo arenas are already allowed in those zones.

The City of Whitefish has one agricultural district (WA). The WA district has a minimum lot size of 15 acres and requires a conditional use permit for stables and riding academies. The City of Columbia Falls has a CSAG-5 zone which is Columbia Falls Suburban Agricultural and is the closest zone to the county SAG-5 zone. The CSAG-5 zone has a minimum lot size of 5 acres and does not allow for stables, riding academies or rodeo arenas as a permitted or conditional use. The City of Kalispell does not have any agricultural or suburban agricultural zones. Because all the municipalities have different zoning ordinances, it is not possible to make the zoning regulations compatible with the zoning ordinances of all the municipalities in the county.

Finding #15: The proposed amendment will not impact the Flathead County Zoning Regulations compatibility with the zoning ordinances of nearby

municipalities because stables, riding academies and rodeo arenas are already allowed in AG-80, AG-40 AG-20 and SAG-10 zones and this amendment is to improve the clarity of the regulations.

Finding #16: It is not possible to make the zoning regulations compatible with the zoning ordinances of all the municipalities in the county because the municipalities each have different regulations regarding agricultural uses, the City of Kalispell does not have agricultural zoning, Columbia Falls does not allow stables, riding academies or rodeo arenas as a permitted or conditional use in the CSAG-5 zone and Whitefish requires a conditional use permit for stables and riding academies in their WA zone.

D. AMENDMENT #4

i. General Character of and Reason for Amendment

Proposed Amendment #4 would amend the regulations by clarifying there is no limitation on timeframe for when a political sign can be erected prior to an election or removed after an election on private property (Section 5.11.010(8) FCZR). These changes are based on court decisions concerning residential political signs including: *Collier v. City of Tacoma* and *City of Painesville Building Department v. Dworken and Bernstein Co.*

The Ohio Supreme Court in *City of Painesville Building Department v. Dworken and Bernstein Co.* declared a city ordinance limiting the placing of political signs on private property to seventeen days preceding an election and 48 hours after an election unconstitutional. The Ohio Supreme Court stated, “Although the Supreme Court has not considered the issue, the overwhelming majority of courts that have reviewed sign ordinances imposing durational limits for temporary political signs tied to a specific election date have found them to be unconstitutional.”

In *Collier v. City of Tacoma* the Supreme Court of Washington held unconstitutional portions of a Tacoma, Washington ordinance that attempted to prohibit political signs earlier than 60 days before an election “because city’s interests in aesthetics and traffic safety were not sufficiently compelling to justify restriction on a candidate’s right to political speech.” The Supreme Court stated, “This content – based distinction, while viewpoint neutral, is particularly problematic because it inevitably favors certain groups of candidates over others. The incumbent, for example, has already acquired name familiarity and therefore benefits greatly from Tacoma’s restriction on political signs.”

The Flathead County Attorney’s Office was asked to provide comments regarding the court cases listed above. The Attorney’s Office states, “As far as I can tell, these case are still ‘good law’ and I think the proposed amendments would bring the FCZR into compliance with the law regarding duration of political signs.”

ii. Proposed Amendments

The proposed amendment would amend language to Section 5.11.010 FCZR pertaining to political signs as follows:

5.11.010(8) Political signs *on private property*, each not exceeding thirty-two (32) square feet, ~~not erected more than thirty (30) days prior to, and removed~~

~~not more than one (1) week after, the election or event to which the sign pertains.~~

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

Chapter 2 of the Flathead County Growth Policy addresses property rights stating "*The majority of comments addressing property rights indicated that landowners should be able to do what they want on their property as long as it doesn't negatively impact neighbors, the environment, or the safety of the public. Conversely, some residents identified the desire to protect their property rights from the impacts of incompatible adjacent land uses. Some growth can and does negatively impact neighbor's property rights, the environment and/or public safety.*" The sign ordinance as written appears to violate the resident's free speech right pursuant to the first amendment. The majority of courts that have reviewed ordinances imposing timeframes for political signs have found them to be unconstitutional.

Staff researched the various neighborhood plans regarding the compliance of the proposed amendment. Staff found that the neighborhood plans listed below specifically reference the topic of the proposed text amendment. The proposed amendment is made in accordance with the applicable neighborhood plans specifically;

❖ **Bigfork Neighborhood Plan**

- *The property rights of individuals will be balanced with the good of the community.*
- *P.10.1(2) encourage adherence to design standards part of the application process. All recommended design, signage, and landscaping standards must comply with appropriate zoning.*

Finding #17: The proposed text amendment appears to be in accordance with the Growth Policy and applicable neighborhood plans because removing the limitation on timeframe for placement of political signs would allow property owners to preserve their rights to free speech, as deemed by many courts.

2. Whether the proposed text amendment is designed to:

g. Secure safety from fire and other dangers;

The proposed text amendment will not impact safety from fire and other dangers because the current limitation on duration has no bearing on safety from fire and other dangers.

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

Limiting the timeframe for political signs prior to and after an election or event has been deemed unconstitutional because it does not promote a valid public interest but the limitation on size of a political sign would promote public health, public safety, and general welfare. Therefore this text

amendment will not negatively impact the public health, public safety and general welfare of the community.

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

The proposed text amendment will not impact transportation, water, sewerage, schools, parks, and other public requirements because the current limitation on duration has no bearing on transportation, water, sewerage, schools, parks, and other public requirements. Whereas limiting the size and placement of a political sign would facilitate the adequate provision of transportation because it could prevent a sign from blocking visibility of motorists on private property.

Finding #18: The proposed amendment appears to have no impact on safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because limiting the duration of political signs on private property does not promote a valid public interest, whereas restricting size does.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

The proposed amendment to remove the restriction on timeframe for placement of a political sign will have no impact on the availability of light and air for Flathead County residents because the limitation on political sign size serves that purpose.

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

The Ohio Supreme Court stated, “Although the Supreme Court has not considered the issue, the overwhelming majority of courts that have reviewed sign ordinances imposing durational limits for temporary political signs tied to a specific election date have found them to be unconstitutional.” This is because the regulations limiting duration of political signs do not serve a valid public purpose. Therefore it appears this amendment will not have an effect on motorized and non-motorized transportation.

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

The proposed amendment will not impact urban growth in the vicinity of cities and towns because the regulations limiting duration of political signs do not restrict land uses or bulk and dimensional requirements.

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

The proposed text amendment would not add a use to any district but simply remove the limitations on duration for placement of political signs. As such the proposed amendment is not likely to impact the character of any district and its peculiar suitability for a particular use.

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

The intent of the proposed amendment is to make the regulations on political signs constitutional by removing the limitation on duration. This proposed text amendment does not appear to impact the value of buildings and would impact all the land throughout the jurisdiction.

Finding #19: The proposed amendment to the sign regulations appears to have no impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the jurisdictional area because the proposed amendment would remove the limitation on duration of a political sign which is generally acknowledged to be unconstitutional and the restriction on size would remain.

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

The City of Kalispell list ‘Campaign and election signs which are removed within 14 days after the elections’ on the list of signs not requiring a permit. The City of Columbia Falls restricts the duration to 30 days prior and one week after. The City of Whitefish also restricts duration of political signs to 90 days prior and seven days after an election. It is not possible to make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities when each municipality in the county has different regulations regarding political signs. Flathead County simply seeks to pursue the most legally defensible position for the county’s zoning regulations.

Finding #20: It is not possible to make the zoning regulations compatible with the zoning ordinances of nearby municipalities because each municipality in the county has different regulations regarding political signs.

E. AMENDMENT #5

i. General Character of and Reason for Amendment

Proposed Amendment #5 would amend the regulations in regard to ‘Street and Roadway Standards’ Section 6.16.010.

The reason for the proposed amendment is that the zoning regulations reference approach standards for Montana highways, but not all accesses may be off a highway. As the section is currently written only Montana Department of Transportation approach standards are referenced. Access to a lot could also be off a local, collector, or arterial County road. The Flathead County Road and Bridge Department has their own approach standards that should apply. This proposed change would simplify the regulations by referencing both agencies (state and county) that have applicable access standards.

ii. Proposed Amendments

The proposed amendment would amend Section 6.16.010 FCZR pertaining to the ‘Street and Roadway Standards’ as follows:

6.16.010 Access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access shall meet the requirements as hereinafter provided or as ~~prescribed by applicable of the Approach Standards for Montana Highways~~ *Montana Department of Transportation or Flathead County Road and Bridge Department* (whichever requirements are greater).

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The proposed amendment is intended to clarify access requirements to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access and is made in accordance with applicable text, goals and policies of the Growth Policy as it would:

- *G.23 Maintain safe and efficient traffic flow and mobility on county roads,*
- *P.23.2 Limit private driveways from directly accessing arterials and collector roads to safe separation distances, and*
- *P.24.1 Ensure that identified functional class, road easement width, and condition of existing facilities are adequate.*

Staff researched the various neighborhood plans listed as elements of the Growth Policy regarding compliance with the proposed amendment. Staff found that the neighborhood plans listed below specifically reference the topic of the proposed text amendment. The proposed amendment is made in accordance with the applicable neighborhood plans as it would serve to regulate access to both county and state roads specifically;

❖ Bigfork Neighborhood Plan

- *G.16. Encourage the use of frontage roads to combine highway access and minimize traffic problems.*

❖ Columbia Falls City-County Master Plan

- *To ensure adequate capacity for collector and arterial streets, it is important to avoid or eliminate constraints to a free-flowing traffic system. [...]. Below is a list of traffic and land uses conflicts which should be avoided: Too many entrances and exit points, and Direct street access.*

❖ Kalispell City-County Master Plan

- *Throughout the Planning Jurisdiction individual private access onto arterials serving adjacent parcels should be discouraged.*

❖ Lakeside Neighborhood Plan

- *Policy 1.1. Protect views and promote safety along Hwy 93 by promoting commercial development off the highway and encouraging mitigation of commercial development using typical techniques such as minimizing*

mass & size, appropriate signs, clustering to limit multiple direct highway accesses, turn lanes, setbacks & buffers, landscaping, open spaces, parking areas behind buildings, etc.

- **5. ISSUE:** *There is a high number of access roads onto Highway 93 between Bierney Creek Road and Spring Creek Road. More left turn lanes or a center lane is needed in this area.*
- *Unless properly mitigated, any development that significantly increases traffic on the highway or aggravates access problems has a negative impact on the whole area.*
- **Policy 16.1.** *Encourage effective mitigation of all direct access to Highway 93.*
- **Policy 16.2.** *Encourage new development to use feeder roads rather than accessing Highway 93 directly.*

❖ Riverdale Neighborhood Plan

- *New roads and road extensions should complement the current transportation system, and maintain or reduce the number of individual accesses onto US Highway 93*
- **Policy 12.1** *Direct accesses of private driveways onto US Highway 93 or arterial roads are prohibited.*
- **Policy 12.3** *Minimize direct access points onto U.S. Highway 93. Additional approaches to U.S. Highway 93 are not appropriate.*

❖ The Amended Stillwater Neighborhood Plan

- *B. Limit points of access to the commercial and residential areas of the project.*
- *D. Residential areas will use common roadways and not have private driveway access to Whitefish Stage Road and Rose Crossing. Access from residential areas to Whitefish Stage Road and Rose Crossing will be limited to one access point as determined by the traffic impact study and the Montana Department of Transportation.*

❖ Whitefish City-County Master Plan

- **9.2** *As U.S. 93 continues to develop, limit individual access and establish frontage roads, turn bays, cross streets, and parallel roads to reduce traffic congestion.*

This proposed change would simplify the regulations by referencing both agencies (state and county) that have applicable access standards because both the Montana Department of Transportation (MDT) and Flathead County Road and Bridge Department have restrictions on driveway placement in relation to the nearest intersecting road and guidance on sight distances. The design standards that limit the frequency, proper placement and construction of points of access to highways are critical to the safety and capacity of those highways, according to MDT's Approach Manual for Landowners and Developers. It seems logical to reference both MDT and Flathead County Road and Bridge Department Standards to promote safety on roadways.

Finding #21: Amending the regulations to ensure access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access meet the requirements of the Flathead County Road and Bridge Department and the Montana Department of Transportation is made in accordance with the Growth Policy and neighborhood plans because many of the neighborhood plans and the Growth Policy state as a goal to maintain safe and efficient traffic flow and mobility on roads by limiting direct access on to the roadways and this amendment to clarify the regulations would promote safety.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

Improving the clarity on access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access by requiring the access to meet applicable Montana Department of Transportation (MDT) or Flathead County Road and Bridge Department standards will have no impact on residents' safety from fire, panic and other dangers.

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

The proposed amendment appears to have a positive impact on public health, public safety, and general welfare of residents because the amendment will require certain access standards are met, standards that are in place to promote public safety on roadways.

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

The proposed amendment to require access to lots to meet applicable Montana Department of Transportation or Flathead County Road and Bridge Department standards will likely have a positive impact on transportation and no impact on the adequate provision of water, sewerage, schools, parks, and other public requirements because MDT and the Road and Bridge Department have standards that limit and restrict private driveways from directly accessing collectors and arterials. Limiting access can improve traffic flow and mobility on state and county roads and ensure the adequate provision of transportation.

Finding #22: The proposed amendment appears to have no negative impact on safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because MDT and the Road and Bridge Department have standards that limit and restrict private driveways from directly accessing local roads, collectors, arterials and highways which can improve traffic flow and mobility on state and county roads, and require access points to be built to safe standards, when they are allowed.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

The proposed amendment to improve the practicality of access requirements will have no impact on the availability of light and air for Flathead County residents.

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

The proposed amendment to require access to lots to meet applicable MDT and Flathead County Road and Bridge Department standards will likely have a positive impact on motorized and non-motorized transportation because MDT and the Road and Bridge Department have standards that limit and restrict private driveways from directly accessing local road, collectors, arterials and highways and require them to be built to safe standards. Making the intent of the regulations more clear and consistent throughout the document regarding access to all public roads may minimize uncontrolled access to and from publicly maintained roads and highways. Limiting access can improve traffic flow and mobility on state and county roads.

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

The proposed amendment would provide clarity on access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access and would not impact the compatibility of the zoning regulations with urban growth in the vicinity of cities and towns because the proposed amendment will not foster growth but rather ensure adequate accommodations are provided for transportation of people and goods as growth occurs.

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

The proposed amendment would likely have no impact on the character of the districts and its peculiar suitability for a particular use because the proposed amendment does not address uses in any district only access to the uses and the proposed amendment would impact access requirements for all uses in all districts.

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

The proposed amendment to provide clarity on access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access would not impact the value of buildings or discourage the most appropriate use of land throughout the jurisdictional area because the proposed amendment will ensure adequate access is provided for transportation of people and goods and may serve to preserve property values by protecting safe access.

Finding #23: The proposed amendment appears to not have a negative impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of

cities and towns, the character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because the proposed amendment will clarify access standards, may minimize uncontrolled access to and from publicly maintained roads and highways, will not foster or hinder growth, would impact access requirements for all uses in all districts, will ensure adequate access is provided for transportation of people and goods and may serve to preserve property values by protecting safe access.

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

The proposed amendment would improve clarity on access standards for private lots and is therefore unlikely to impact whether or not the zoning regulations are compatible with the zoning ordinances of nearby municipalities.

Finding #24: The proposed text amendment is unlikely to impact the compatibility with zoning ordinances of nearby municipalities because it would improve clarity on access standards for private lots under county jurisdiction.

F. AMENDMENT #6

i. General Character of and Reason for Amendment

Proposed Amendment #6 would amend the regulations in regard to ‘Increased yard requirement as follows when property fronts:’ ‘County Road:’ in Sections 3.04.040(3)(D), 3.05.040(3)(D), 3.06.040(3)(D), 3.07.040(3)(D), 3.08.040(3)(D), 3.09.040(3)(D), 3.10.040(3)(D), 3.11.040(3)(D), 3.12.040(3)(D), 3.13.040(3)(D), 3.14.040(3)(D), 3.15.040(3)(D), 3.16.040(4)(C), 3.17.040(3)(C), 3.18.040(4)(C), 3.19.040(4)(C), 3.20.040(4)(E), 3.21.040(4)(C), 3.22.040(4)(C), 3.27.040(3)(C), 3.29.040(3)(C), and 3.30.040(3)(C). The increased yard requirement from county roads is to ensure adequate site distances can be preserved on county roads and safe and efficient traffic flow can be maintained. This proposed amendment would strike the reference to County Master Plan or City-County Master Plan and replace it with Flathead County Road Classification Map because the map is the most up to date road classification for the County and the County Master Plan has been replaced by the Flathead County Growth Policy.

ii. Proposed Amendments

The proposed amendment would amend the regulations in Sections 3.04.040(3)(D), 3.05.040(3)(D), 3.06.040(3)(D), 3.07.040(3)(D), 3.08.040(3)(D), 3.09.040(3)(D), 3.10.040(3)(D), 3.11.040(3)(D), 3.12.040(3)(D), 3.13.040(3)(D), 3.14.040(3)(D), 3.15.040(3)(D), 3.16.040(4)(C), 3.17.040(3)(C), 3.18.040(4)(C), 3.19.040(4)(C), 3.20.040(4)(E), 3.21.040(4)(C), 3.22.040(4)(C), 3.27.040(3)(C), 3.29.040(3)(C) and 3.30.040(3)(C) as follows:

- * ~~Classified as a collector or major/minor arterial as defined in the County Master Plan or City County Master Plan. Classified as a county collector or MDT Maintenance as defined by the Flathead County Functional Road Classification Map.~~

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The proposed text amendment to reference the recently adopted Flathead County Functional Road Classification Map would generally comply with the Flathead County Growth Policy because this text amendment will maintain a safe and efficient traffic flow and mobility on county roads as stated in **G.23**. By ensuring that setback requirements are met adequate site distances can be preserved on county roads and safe and efficient traffic flow can be maintained.

The proposed amendment to improve administrative clarity regarding setback requirements from arterials and collectors will not impact the zoning regulations compliance with any neighborhood plan because setback requirements will remain the same.

Finding #25: Amending the Flathead County Zoning Regulations to improve the clarity of setback requirements from public roadways by striking reference to the master plans and instead referencing the Flathead County Road Classification Map was found to comply with and have no impact on any neighborhood plan or the Growth Policy.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

This amendment to improve the administrative clarity within the regulations has the potential to improve the safety from fire and other dangers by making the intent of the regulations more clear and consistent throughout the document regarding setback requirements and improving compliance could improve safety.

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

Public health, public safety, and general welfare of residents has the potential to be promoted by the proposed amendment because the amendment will provide clarity on setback requirement from public roadways and potentially improve compliance with the zoning regulations by striking elements which are impractical for enforcement and implementation.

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

The proposed amendment to improve the clarity on setback requirements from public roads will have no impact on the adequate provision of water, sewerage, schools, parks, and other public requirements because setback requirements have no bearing on public improvements. The proposed amendment to improve the clarity on setback requirements from public roads will have a positive impact on transportation as this text amendment will maintain a safe and efficient traffic flow and mobility on county roads.

Finding #26: The proposed amendment was found to not negatively impact safety from fire and other dangers, public health, public safety, general welfare,

transportation, water, sewerage, schools parks, and other public requirements because making the intent of the regulations more clear and consistent throughout the document regarding setback requirements will help to ensure compliance with the regulations which could minimize dangers.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

One of the main functions of setback requirements is to provide adequate light and air. Improving clarity regarding setbacks from state and county roads will likely increase compliance with the regulations, which in turn will ensure the adequate provision of light and air of future development.

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

This amendment to improve clarity will have a positive impact on motorized and non-motorized transportation systems because this text amendment will help to maintain a safe and efficient traffic flow and mobility on county roads. By ensuring that setback requirements are met adequate site distances can be preserved on county roads and safe and efficient traffic flow can be maintained.

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

The proposed amendment to improve the clarity on setback requirements from public roads would continue to be compatible with urban growth in the vicinity of cities and towns because the setback requirements would continue to be applicable, and this promotes visibility and safety for any growth.

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

The proposed amendment to improve administratively clarity regarding setback requirements is unlikely to impact the character of any district and suitability for a particular use because the setback requirements will remain the same and uses are not impacted.

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

The proposed amendment to improve administratively clarity regarding setback requirements from public roads is unlikely to impact the value of buildings and the most appropriate use of land throughout the jurisdictional area because setbacks will not be altered and exist currently.

Finding #27: The proposed amendment was found to not have a negative impact on light, air, urban growth in the vicinity of cities and towns, the character of any district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the jurisdictional area because making the intent of the regulations more clear and consistent throughout the document regarding setback requirements will help to ensure compliance with the regulations and could minimize dangers and designated uses are not affected.

Finding #28: The proposed amendment was found to have a positive impact on motorized and non-motorized transportation because this text amendment will help to maintain a safe and efficient traffic flow and mobility on county roads.

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

The proposed amendment would simply update and improve the administrative clarity of the setback requirements from public roads and is therefore unlikely to impact whether or not the zoning regulations are compatible with the zoning ordinances of nearby municipalities.

Finding #29: This text amendment will not impact compatibility with the zoning ordinances of nearby municipalities because the amendment will add clarity to the setback requirements from public roadways by referencing the correct documents and will not amend the existing setback requirements.

G. AMENDMENT #7

i. General Character of and Reason for Amendment

Proposed Amendment #7 would amend the regulations in Sections 1.02.010, 2.02.040, 3.01.010, 3.01.020(3)(A) and 3.39.110 by removing “Master Plan” and replacing it with ‘Growth Policy.’ The reason for the proposed amendment is that the Flathead County Growth Policy has replaced the Flathead County Master Plan as the document to provide guidance for growth in Flathead County. The Growth Policy provides the foundation upon which zoning can be based, pursuant to 76-2-201 MCA. At the time of adoption of the Growth Policy some references to the Master Plan were changed to reference the Growth Policy, but not all references were amended.

ii. Proposed Amendments

The proposed amendment would amend Sections 1.02.010, 2.02.040, 3.01.010, 3.31.020(3)(A) and 3.39.110 FCZR as follows:

1.02.010 The purpose of these regulations is to promote the health, safety, and general welfare of the community; to conserve natural resources; to provide adequate accommodations for transportation of people and goods; to provide adequate light and air; to facilitate the provisions for public works requirements such as water, sewer, and environmental needs; to ensure orderly development according to the ~~Master Plan~~ *Growth Policy* adopted for all or parts of Flathead County; to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentages of a lot that may be covered by impervious surfaces, the size of yards and other open spaces, the location and use of buildings, structures, and land for trade, industry, residences, and/or other uses; and the protection of the aesthetic resources of Flathead County.

- 2.02.040 It shall be the duty of the Planning Board to hold public hearings and to make recommendations to the Board of County Commissioners on all matters relating to the creation and amendment of the ~~Master Plan~~ *Growth Policy*; the creation of zoning districts and the regulations to be enforced therein; amendments to the zoning districts of Flathead County; and future amendments to these regulations; (Section 76-1-106, M.C.A.) The Planning Board is also authorized to confer with and advise other City, County, Regional, or State planning and/or zoning commissions.
- 3.01.010(1) Implementing and promoting the Flathead County ~~Master Plan~~ *Growth Policy*;
- 3.31.030(3)(A) Residential PUD districts can be established only in R-1 through R-5, RA-1, R-2.5, SAG-5, SAG-10, AG-20 or LS use districts, or in any area designated as “residential” in the Flathead County ~~Master Plan~~ *Growth Policy*.
- 3.31.030(2) The LaBrant-Lindsey Lane Development Code is based on the LaBrant-Lindsey Lane Neighborhood Plan, which has been adopted as an addendum to the Flathead County ~~Master Plan~~ *Growth Policy*. The Neighborhood Plan and Development Code provide the more specific detail and guidance for the Neighborhood in land use issues.

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The Flathead County Growth Policy was adopted on March 19, 2007 and updated on October 12, 2012. This amendment is proposed because the 1987 Master Plan was replaced by the Flathead County Growth Policy in 2007. This proposed amendment is to change all references within the FCZR from Master Plan to Growth Policy. It is logical to assume that this amendment would be in accordance with the Growth Policy because the purpose of the amendment is to add reference to the Growth Policy.

The proposed amendment to improve administratively clarity by changing the reference to Master Plan with a reference to the Growth Policy will not impact the zoning regulations compliance with any neighborhood plan because the neighborhood plans are elements of the Growth Policy and the purpose of the amendment is to add reference to the Growth Policy in the zoning regulations.

Finding #30: The proposed amendment to eliminate references to the Master Plan and instead reference the Growth Policy is made in accordance with the Growth Policy and neighborhood plans because the purpose of the amendment is to add reference to the Growth Policy in the zoning regulations.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

Changing the references in the Flathead County Zoning Regulations from Master Plan to Growth Policy will have no impact on residents' safety from fire and other dangers because according to language in the Growth Policy, "The growth policy has no regulatory authority and is instead designed as a conceptual foundation for future land use decisions and is a basis for future regulations."

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

Public health, public safety, and general welfare of residents will not be impacted by the proposed amendment because the amendment is simply removing the references to Master Plan and replacing it with references to the Growth Policy which replaced the Master Plan as the document that provides guidance for growth in the County.

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

The proposed amendment to change the references in the FCZR from Master Plan to Growth Policy will have no impact on the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because the reference has no bearing on public improvements.

Finding #31: The proposed amendment will have no impact on any safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because the amendment is simply removing the references to Master Plan and replacing it with references to the Growth Policy which replaced the Master Plan as the document that provides guidance for growth in the County.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

The proposed amendment will not impact the adequate provision of light and air because it is changing the reference to an outdated document to the Growth Policy that replaced it.

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

The proposed amendment will not impact motorized and non-motorized transportation systems because it is changing the reference to an outdated document to the Growth Policy that replaced it.

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

The proposed text amendment would not impact the zoning regulations compatibility with urban growth in the vicinity of cities and towns because the amendment is simply removing the references to Master Plan and replacing it with references to the Growth Policy.

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

The proposed amendment is not likely to have an impact on the character of any district in particular because the purpose is to replace the reference to the Master Plan with a reference to the adopted Growth Policy which replaced the Master Plan.

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

It does not appear likely that the proposed text amendment would have any impact on the value of buildings and would likely not discourage the most appropriate use of land throughout the jurisdictional area of the regulations.

Finding #32: The proposed text amendment will not impact light, air, motorized, non-motorized transportation systems, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because the amendment is simply removing the references to Master Plan and replacing it with updated references to the Growth Policy.

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

The proposed amendment would change the references to Master Plan in the zoning regulations to reference the current Growth Policy that replaced the Master Plan, and is therefore unlikely to impact whether or not the zoning regulations are compatible with the zoning ordinances of nearby municipalities.

Finding #33: This text amendment will not impact the zoning ordinances of nearby municipalities because the proposed amendment would simply change the references to Master Plan in the zoning regulations to reference the current Growth Policy that replaced the Master Plan.

H. AMENDMENT #8

i. General Character of and Reason for Amendment

Proposed Amendment #8 is regarding conditional use standards and the definition of a 'Caretaker's Facility.' The proposed regulation would amend the provisions of a caretaker's facility by striking 'principal dwelling' and replacing it with 'principal use' in Section 4.04.010 and 7.04.025 because it appears the intent is that a caretaker's facility is subordinate to any principal use. It is logical to assume that there are principal uses besides a dwelling that would require a caretaker such as; airport, arena, church recreational facility, a school, etc. A Caretaker's facility is allowed as an administrative conditional use in the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, R-1, and AL zones, and is allowed as a permitted use in RL, LS, WV and LL zones.

ii. Proposed Amendments

The proposed amendment would amend Section 4.04.010 FCZR standards for a caretaker’s facility and Section 7.04.025 FCZR pertaining to the definition of ‘Caretaker’s Facility’ as follows:

4.04.010 A caretaker’s facility is a dwelling, which is constructed and designed to provide living quarters for caretakers or servants, and is clearly subordinate to the principal dwelling use with regard to size and location. Caretaker’s facilities are allowed as a conditional use in the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, and R-1 districts subject to the following conditions:

1. The caretaker’s facility shall be designed in such a manner that its use is clearly subordinate to the principal dwelling use with regard to size and location.

7.04.025 Caretaker’s Facility – A dwelling which is constructed and designed to provide living quarters for caretakers and/or property managers and is clearly subordinate to the principal dwelling use with regard to size and location.

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The Growth Policy does not provide specific guidance related to caretaker’s facilities. **Goal 2** discusses preserving the rights of property owners. **Goal 3** addresses 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. **Goal 16** addresses safe housing that is available, accessible, and affordable for all sectors of the population and **Policy 16.1** discusses providing land use-based incentives and density bonuses for the promotion and development of affordable housing opportunities for a range of household types. Additionally, **Goal 8** discusses safe, healthy residential land use densities that preserve the character of Flathead County.

The proposed amendment is intended to allow caretaker’s facilities as an accessory use to principal uses besides a dwelling. It seems logical that other uses could require a caretaker such as; an airport, arena, church, recreational facility, school, etc. The proposed amendment is made in accordance with applicable goals and policies of the Growth Policy as it would preserve the property rights of landowners, provide land use incentives and allows for a range of household types on a lot.

Staff researched the various neighborhood plans listed as elements of the Growth Policy regarding compliance with the proposed amendment. Staff found that the neighborhood plans listed below reference the topic of the proposed text amendment.

The proposed amendment is made in accordance with the Ashley Lake Neighborhood Plans because the plan states, *“Regulations can have impacts on individuals who have plans for their property. When considering regulations, it is important to consider how fair the regulations are, and to treat the concerns of all residents equally. Equal treatment is also important for the enforcement of existing regulations.”* Allowing a caretaker’s facility as an accessory use to all uses allows all residents to utilize a caretaker’s facility.

The Rogers Lake Neighborhood Plan defines caretaker’s facility as, *“A dwelling which is constructed and designed to provide living quarters for caretakers and/or property managers and is clearly subordinate to the principal dwelling with regard to size and location. Only one (1) caretaker’s residence is permitted per tract.”* The proposed text amendment would not be in compliance with the Rogers Lake Neighborhood Plan based on the definition provided in the plan.

The Whitefish City-County Master Plan **Goal 5B** states, *“An adequate supply and mix of housing options in terms of cost location, type and design, to meet the needs of present and future residents.”* And the Two Rivers Plan states, *“Special consideration and opportunities should be provided to allow the creation of a variety of housing options that include single family, two family, multi-family and mobile home parks as part of an overall development plan.”* However a recommendation of the LaBrant - Lindsey Lane Neighborhood Plan states, *“Future residential development should include both single-family housing and manufactures homes providing that the underlying density of the site should be maintained.”* This proposed amendment could allow for increased density as there is no timeframe for lengths of stay in a caretaker’s facility and it could create more opportunities to utilize this provision.

Finding #34: The proposed amendment is generally in compliance with the Growth Policy and many of the neighborhood plans because allowing a caretaker’s facility for more uses could increase housing opportunities while preserving the rights of property owners.

Finding #35: The proposed amendment is generally not in compliance with the LaBrant – Lindsey Neighborhood Plan or the Rogers Lake Neighborhood Plan because it could allow for increased density as there is no timeframe for lengths of stay in a caretaker’s facility, it could create more opportunities to utilize this provision and does not meet the definition of caretaker’s facility in the Rogers Lake Neighborhood Plan.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

Allowing a caretaker’s facility as accessory to the principal use (not just the principal dwelling) does not appear to limit the reasonable provision of adequate light and air because the caretaker’s facility and principal use would still be required to meet setback requirements. The setback requirements were established for the purpose of securing safety from fire and other dangers.

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

Public health, public safety, and general welfare of residents will not be impacted by the proposed amendment because the caretaker's facility and principal use would still be required to meet minimum bulk and dimensional requirements. The bulk and dimensional requirements were established for the purpose of promoting public health, safety, and general welfare. All caretakers' facilities will still be reviewed by Environmental Health Department for water and sewer. Most zones would require further review for an administrative conditional use permit for a caretaker's facility and a caretaker's facility has already been contemplated in the zones were it is currently permitted.

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

Allowing a caretaker's facility as accessory to the principal use (not just the principal dwelling) may impact the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because there is an increased likelihood that more lots will utilize the caretaker's facility. Because a caretaker's facility is considered a dwelling increased traffic could result on public roads as a result of this proposed amendment. The placement of a caretaker's facility on a property could be constrained by the availability of sewerage and water if the lot size is not adequate to support the proposed use. Caretaker's facilities could also increase the demand on water, sewer and schools as it would allow for an additional dwelling on a lot. All caretakers' facilities will still be reviewed by Environmental Health Department for water and sewer. Most zones would require further review for an administrative conditional use permit for a caretaker's facility and a caretaker's facility has already been contemplated in the zones were it is currently permitted.

Finding #36: The proposed amendment will likely have minimal impact on safety from fire and other dangers, public health, public safety, and general welfare because the bulk and dimensional requirements and review by the Environmental Health Department were established for securing safety from fire and other dangers and promoting public health, safety, and general welfare.

Finding #37: The proposed text amendment has the potential to impact transportation, water, sewerage, schools, parks, and other public requirements because a caretaker's facility is considered a dwelling which could result in increased traffic and it could an increase the demand on water, sewer and schools as it would allow for an additional dwelling on a property.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

It does not seem likely that the proposed amendment would limit the reasonable provision of adequate light and air because the caretaker's facility and the principal use would still be required to meet applicable bulk and dimensional requirements specifically setbacks, maximum height and permitted lot coverage. The bulk and dimensional requirements have been

established in each zoning classification with the purpose of providing adequate light and air.

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

Allowing a caretaker's facility as accessory to the principal use (not just the principal dwelling) may impact motorized and non-motorized transportation, because there is an increased likelihood that more lots will utilize a caretaker's facility and because a caretaker's facility is considered a dwelling, increased traffic could result on rural roads, however most rural roads are capable of handling the sporadic traffic generated by a caretaker's facility. Most zones where a caretaker's facility is allowed would require review as an administrative conditional use permit.

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

The proposed amendment would generally comply with both the City of Whitefish and Columbia Falls zoning as they both define a caretaker's facility as "*A residential structure or portion of a structure intended for permanent occupancy by a manager, watchperson, family, property owner or employee for the purpose of security, oversight, convenience or caretaking of the use or activity being conducted.*" It is logical to assume that the proposed amendment would be compatible with the urban growth of Whitefish and Columbia Falls. The City of Kalispell does not appear to address a caretaker's facilities in their ordinances.

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

The proposed amendment would likely positively impact character of the district and its peculiar suitability for particular uses as it would allow for a caretaker's facility as an accessory use to other uses besides the principal dwelling and it is compatible with uses where it is allowed and most zones require review as an administrative conditional use permit.

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

The proposed amendment would likely not impact the value of buildings and would encourage the most appropriate use of the land as it would allow for a caretaker's facility as an accessory use to other uses besides the principal dwelling it is compatible with uses where it is allowed and most zones require review as an administrative conditional use permit. It appears logical to allow the caretaker's facility for other uses such as a stable, cemetery, school, etc.

Finding #38: The proposed text amendment has the potential to impact motorized and non-motorized transportation because a caretaker's facility is considered a dwelling and increased traffic could result on rural roads, however most rural roads are capable of handling the sporadic traffic generated by a caretaker's facility.

Finding #39: The proposed text amendment will not negatively impact light, air, urban growth in the vicinity of cities and towns, character of the district and its

peculiar suitability for a particular use, or value of buildings and would encourage the most appropriate use of land throughout the area because both Columbia Falls and Whitefish define a caretaker's facility as caretaking of the use or activity being conducted not just the dwelling, Kalispell does not have standards for a caretaker's facility, bulk and dimensional requirements have been established in each zoning classification with the purpose of providing adequate light and air and it would allow for a caretaker's facility as an accessory use to other uses besides the principal dwelling, which is consistent with the character of permitted uses in districts where caretaker's facility are allowed.

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

The City of Whitefish defines a caretaker's unit in the zoning ordinance as , *“A residential structure or portion of a structure intended for permanent occupancy by a manager, watchperson, family, property owner or employee for the purpose of security, oversight, convenience or caretaking of the use or activity being conducted.”*

The City of Columbia Falls defines a caretaker's unit in the zoning ordinance as, *“A watchman/caretaker unit is a residential structure or portion of a structure intended for permanent occupancy by a manager, watchman, family, property owner or employee for the purpose of security, oversight, convenience or caretaking of the use or activity being conducted.”* The proposed amendment would generally comply with both the City of Whitefish and Columbia Falls zoning as they define it as caretaking of the use not dwelling.

The City of Kalispell does not appear to address a caretaker's facilities in their zoning ordinances.

Finding #40: The proposed amendment would generally comply with both the City of Whitefish and Columbia Falls zoning ordinances as both cities define a caretaker's facility as caretaking of the use not just the dwelling and Kalispell does not have standards for a caretaker's facility.

I. AMENDMENT #9

i. General Character of and Reason for Amendment

Proposed Amendment #9 is regarding deed restrictions of a 'Caretaker's Facility.' The regulations would be amended by striking 4.04.010(4) because the planning board does not like the idea of requiring deed restrictions to be placed on private properties. This proposed amendment is based on the Planning Board's request to staff to remove the deed restriction at a Planning Board workshop on August 28, 2013. The Planning Board expressed their concern regarding the difficulty of removing a deed restriction from a property after it was placed on the deed. Removing the deed restriction requirements could allow the property owner to still subdivide the land if a caretaker's facility exists on the property.

ii. Proposed Amendments

The proposed amendment would strike Section 4.04.010(4) FCZR deed restrictions for a caretaker’s facility as follows:

4.04.010(4) ~~A restriction shall be placed on the deed and shall be recorded with the property which:~~

~~A. Prohibits the use of the caretaker’s facility as a rental unit;~~

~~B. Prohibits the separation of the caretaker’s facility and the principal dwelling without first receiving review and approval by the Board of County Commissioners; and~~

~~C. Prohibits reducing the lot size below twice the density of the district.~~

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The Growth Policy does not provide specific guidance related to caretaker’s facilities. **Goal 2** discusses preserving the rights of property owners. **Goal 3** addresses 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. **Goal 16** addresses safe housing that is available, accessible, and affordable for all sectors of the population and **Policy 16.1** addresses providing land use-based incentives and density bonuses for the promotion and development of affordable housing opportunities for a range of household types. Additionally, **Goal 8** discusses safe, healthy residential land use densities that preserve the character of Flathead County.

The proposed amendment is intended to remove deed restrictions on caretaker’s facilities and is made in accordance with applicable goals and policies of the Growth Policy as it would preserve the property rights of landowners.

Staff researched the various neighborhood plans listed as elements of the Growth Policy regarding compliance with the proposed amendment. Staff found that the neighborhood plans listed below specifically reference the topic of the proposed text amendment.

The proposed amendment is made in accordance with the Ashley Lake Neighborhood Plans because the plan states, “Regulations can have impacts on individuals who have plans for their property. When considering regulations, it is important to consider how fair the regulations are, and to treat the concerns of all residents equally. Equal treatment is also important for the enforcement of existing regulations.” Removing deed restriction on caretaker’s facility would reduce future impacts on a property.

The Whitefish City-County Master Plan **Goal 5B** states, “An adequate supply and mix of housing options in terms of cost location, type and design, to meet the needs of present and future residents.” And the Two Rivers Plan states, “Special

consideration and opportunities should be provided to allow the creation of a variety of housing options that include single family, two family, multi-family and mobile home parks as part of an overall development plan.” However a recommendation of the LaBrant - Lindsey Lane Neighborhood Plan states, *“Future residential development should include both single-family housing and manufactures homes providing that the underlying density of the site should be maintained.”* This proposed amendment could potentially lead to an increased density as it could create more demand to utilize this provision because a deed restriction would not be required to be placed on a property.

Finding #41: The proposed amendment is generally in compliance with the Growth Policy and many of the neighborhood plans because removing deed restriction requirements could increase housing opportunities and preserve the rights of property owners to subdivide.

Finding #42: The proposed amendment is generally not in compliance with the LaBrant – Lindsey Neighborhood Plan because removing the deed restriction requirement could potentially lead to an increased density as it could create more demand to utilize this provision.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

Removing the deed restriction on a caretaker’s facility appears to have a minimal impact on safety from fire and other dangers because the caretaker’s facility could still be used with no restriction on duration of use while still requiring the caretaker’s facility to meet applicable setback requirements of the underlying zoning and subdivision of land would require review with the Planning and Zoning Office or Environmental Health Department or both.

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

The proposed text amendment of removing the deed restriction on a caretaker’s facility appears to have a minimal impact on public health, safety and general welfare because the caretaker’s facility could still be used with no restriction on duration of use and would still require the caretaker’s facility to meet applicable setback requirements of the underlying zoning. Any future subdivision of land would require review with the Planning and Zoning Office or Environmental Health Department or both.

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

Because the caretaker’s facility could still be used with no restriction on length of use and the placement of a caretaker’s facility on a property could be constrained by the availability of sewerage and water if the lot size is not adequate to support the proposed use, the proposed text amendment of removing the deed restriction on a caretaker’s facility will have minimal impact on the adequate provision of public requirements. Any future subdivision of land would require review with the Planning and Zoning Office or Environmental Health Department or both.

Finding #43: The proposed amendment will have minimal impact on any safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because the caretaker's facility could still be used with no restriction on duration, the placement of a caretaker's facility on a property could be constrained by the availability of sewerage and water if the lot size is not adequate to support the proposed use, would still require the caretaker's facility to meet applicable setback requirements of the underlying zoning and any future subdivision of land would require review with the Planning and Zoning Office or Environmental Health Department or both.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

Removing the deed restriction on a caretaker's facility would appear to have a minimal impact on the adequate provision of light and air because the caretaker's facility could still be used with no restriction on length of use, and would still require the caretaker's facility to meet applicable setback requirements of the underlying zoning.

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

The proposed amendment to remove the deed restriction on a caretaker's facility has no bearing on and will not impact motorized and non-motorized transportation systems, unless it is subdivided then it will be reviewed..

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

Staff looked at each of the three cities growth policies for guidance on compatibility with the proposed amendment. None of the three cities growth policies address a caretaker's facility but Columbia Falls' and Whitefish's zoning ordinances do. So staff looked at how both Columbia Falls and Whitefish define a caretaker's facility in their respective ordinances. Both cities define a caretaker's facility as "*A residential structure or portion of a structure intended for permanent occupancy by a manager, watchperson, family, property owner or employee for the purpose of security, oversight, convenience or caretaking of the use or activity being conducted.*" Properties within the jurisdiction of Whitefish and Columbia Falls would be required to place a deed restriction on their property with a caretaker's facility but a property in the county would no longer be required to do so.

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

The proposed amendment to remove the deed restriction on a caretaker's facility appears to have a minimal impact on character of the district and its peculiar suitability for the use of a caretaker's facility because the caretaker's facility would remain a permitted or conditional use in all the zones it is currently permitted or conditionally permitted.

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

The proposed amendment to remove the deed restriction on a caretaker's facility appears to have a minimal impact on the value of buildings and the appropriate use of the land because the caretaker's facility would still be permitted or conditionally permitted in all the zones it is currently permitted or conditionally permitted and would now allow for subdivision when appropriate.

Finding #44: The proposed amendment is not compatible with the urban growth in the vicinity of Whitefish or Columbia Falls because properties within the jurisdiction of Whitefish and Columbia Falls would be required to place a deed restriction on their property but a property in the county would no longer be required to do so.

Finding #45: It is not possible to determine if the proposed text amendment is compatible with the urban growth in the vicinity of Kalispell because the Kalispell Growth Policy does not address caretaker's facilities.

Finding #46: The proposed text amendment will not impact light, air, motorized, non-motorized transportation, character of the district, its peculiar suitability for a particular use, value of buildings and would encourage the most appropriate use of land throughout the area because the caretaker's facility would remain a permitted or conditional use in all the zones it is currently permitted or conditionally permitted, has no bearing on and will not negatively impact motorized and non-motorized transportation systems because it will be reviewed through subdivision review, the caretaker's facility could still be used with no restriction on duration of use, and would still require the caretaker's facility to meet applicable setback requirements of the underlying zoning.

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

The City of Whitefish defines a caretaker's unit in the zoning ordinance as, "A residential structure or portion of a structure intended for permanent occupancy by a manager, watchperson, family, property owner or employee for the purpose of security, oversight, convenience or caretaking of the use or activity being conducted." The City of Whitefish has criteria for a caretaker's unit that states, "The caretaker's unit be placed on the same lot as the commercial property or tied to it by deed restriction should the commercial property be on an adjacent lot."

The City of Columbia Falls defines a caretaker's unit in the zoning ordinance as, "A watchman/caretaker unit is a residential structure or portion of a structure intended for permanent occupancy by a manager, watchman, family, property owner or employee for the purpose of security, oversight, convenience or caretaking of the use or activity being conducted." The City has criteria for a caretaker's unit that states, "The caretakers unit shall be placed on the same lot as the commercial or industrial primary use, however, if the unit is placed on an

adjacent lot, it shall be tied to the primary commercial or industrial lot by deed restriction.” The proposed amendment would not be compatible with the Whitefish or Columbia Falls zoning ordinance as they both require a deed restriction to be placed on the property.

The City of Kalispell does not appear to have criteria for a caretaker’s facilities in their zoning ordinances and therefore it is not possible to determine if the proposal is compatible with the zoning ordinance of Kalispell.

Finding #47: This proposed text amendment would not be compatible with the zoning ordinances of nearby municipalities because Whitefish and Columbia Falls zoning ordinance both require a deed restriction to be placed on the property.

Finding #48: It is not possible to determine if the proposed text amendment is compatible with the zoning ordinance of Kalispell because the Kalispell zoning ordinance does not address caretaker’s facilities.

J. AMENDMENT #10

i. General Character of and Reason for Amendment

Proposed Amendment #10 is regarding setback requirements for a parent tract in residential clustering. The regulations would be amended by striking a portion of Sections 3.04.040(3), 3.05.040(3), 3.06.040(3), 3.07.040(3), 3.08.040(3) and 5.09.030(7) because the planning board does not think it makes sense to require a greater setback from the boundary of the “parent” tract or adjacent property(ies). This proposed amendment is based on the Planning Board’s request to staff to change the setback requirement for a parent tract in residential clustering at a Planning Board workshop on August 28, 2013.

ii. Proposed Amendments

The proposed amendment would amend Sections 3.04.040(3), 3.05.040(3), 3.06.040(3), 3.07.040(3), 3.08.040(3) and 5.09.030(7) FCZR pertaining to the ‘Residential Clustering in AG and SAG Districts.’ The proposed amendment would modify Section 3.04.040(3), 3.05.040(3), 3.06.040(3), 3.07.040(3) and 3.08.040(3) as follows:

~~*** If the lot is in a subdivision created under the provisions of clustering in AG and SAG Districts (Section 5.09.030) setbacks of 40 feet from any other boundary of the “parent” tract or adjacent property(ies) is required.~~

The proposed amendment would modify Section 5.09.030(7) as follows:

5.09.030(7) shall establish minimum setbacks for all structures of 100 feet from the boundary of a highway right-of-way and ~~at least 40 feet from any other boundary of the “parent” tract or adjacent property(ies);~~ *otherwise conform to the minimum setbacks of the district;*

iii. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

While the Growth Policy doesn't provide specific guidance related to clustering provisions, **Chapter 11** considers existing appropriateness of clustering but does not provide guidance for clustering standards. The proposed amendment is made in accordance with applicable goals and policies of the Growth Policy as it would not diminish the applicability of clustering requirements.

Staff researched the various neighborhood plans listed as elements of the Growth Policy regarding compliance with the proposed amendment. Staff found that the neighborhood plans listed below specifically reference the topic of the proposed text amendment. The proposed amendment is made in accordance with the applicable neighborhood plans specifically;

❖ Bigfork Neighborhood Plan

- *P.8.5 Advocate incentives for clustered housing and related open space in and around existing population centers.*
- *G.20 Promote cluster development, using existing county zoning as a tool, to provide attractive residential communities that leave significant, commonly accessible open space, paying particular attention to natural features and constraints.*

❖ Lakeside Neighborhood Plan

- *GOAL 13. Promote cluster development to provide attractive residential communities that leave significant, commonly accessible open space, paying particular attention to natural features and constraints.*
- *Policy 13.1. Development in areas near or including wildlife habitat and other sensitive areas should cluster density and maintain open space.*
- *Policy 14.7. Encourage clustered design and related open spaces.*
- *Policy 20.4. Encourage clustering techniques in development designs.*
- *This was a considered decision intended to emphasize the community's desire to encourage clustered development design and promote maximum open space.*

❖ Quarter Circle/LA Ranch Neighborhood Plan

- *Clustering will mitigate the impacts of residential development on the wildlife and the natural environment.*

❖ Riverdale Neighborhood Plan

- *Clustering homes on smaller lots, while maintaining the overall density of the land use category and maximizing open space may become advantageous for developers and provide a more flexible approach to capturing market demand. Subdivisions which utilize clustering to protect valuable natural or agricultural land and provide open space will be eligible for increased densities.*
- *Policy 5.2 Encourage cluster subdivision for residential development so as to preserve open space for recreation, habitat preservation, or agricultural uses.*

Finding #49: The proposed amendment is made in accordance with the Growth Policy and neighborhood plans because it would not diminish the applicability of clustering requirements, only setbacks from parent tracts.

2. Whether the proposed text amendment is designed to:

a. Secure safety from fire and other dangers;

The proposed amendment to remove additional setback requirements in the clustering provision from any boundary of the “parent” tract and allow structures to be placed in accordance with the minimum setback in the underlying zoning will likely not impact safety from fire, panic and other dangers because the minimum setback requirements in the underlying zoning is already sufficient to provide safety from fire and other dangers.

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

Public health, public safety, and general welfare of residents will not be impacted by the proposed amendment because the amendment is removing additional setback requirements in the clustering provision from any boundary of the “parent” tract and the minimum setback requirements in the underlying zoning are already sufficient to promote public health, public safety and general welfare.

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

The proposed amendment to remove additional setback requirements in the clustering provision from any boundary of the “parent” tract will likely not impact of transportation, water, sewerage, schools, parks, and other public requirements as no new traffic will be generated, and no additional demand on water, sewer, school, parks and other requirements will be generated as a result of the proposed amendment.

Finding #50: The proposed amendment will have no impact on any safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because the proposed amendment will not result in increased traffic, no additional demand on water, sewer, school, parks and other requirements will be generated, and the minimum setback requirements in the underlying zoning are already sufficient to provide safety from fire and other dangers, and promote public health, public safety and general welfare.

3. In evaluating the proposed text amendment(s), consideration shall be given to:

a. The reasonable provision of adequate light and air;

The proposed amendment to remove additional setback requirements in the clustering provision from any boundary of the “parent” tract and allow structures to conform to the minimum setback in the district will likely not impact the reasonable provision of light and air because the minimum setback requirements in the underlying zoning were established to provide adequate light and air.

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

The proposed amendment to remove additional setback requirements in the clustering provision from any boundary of the “parent” tract will likely not impact motorized and non-motorized transportation systems because no new traffic will be generated as a result of the proposed amendment.

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

The proposed amendment to remove additional setback requirements in the clustering provision from any boundary of the “parent” tract would be compatible with urban growth in the vicinity of cities and towns because the underlying setback requirements would continue to be applicable.

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 will not be impacted by the proposed amendment to remove additional setback requirements in clustering because the minimum setback requirements of the underlying zoning which applies to the entire zoning district would still apply to all lots utilizing clustering.

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

The proposed amendment would conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area because the minimum setback requirements of the underlying zoning which applies to the entire zoning district, would still apply to all lots utilizing clustering.

Finding #51: The proposed text amendment will not impact light, air, motorized, non-motorized transportation systems, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and would encourage the most appropriate use of land throughout the jurisdictional area because the minimum setback requirements of the underlying zoning would still apply and no new traffic will be generated.

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

The City of Whitefish does not specify additional setbacks on the “parent” tract under clustering. The City of Columbia Falls defines clustering as, “*A pattern of residential development wherein units are grouped together around access courts with the remainder of the yard left in its natural condition*” but does not appear to have any provisions for clustering. The City of Kalispell does not appear to have any clustering provisions. The proposed amendment would make the regulations more compatible with the City of Whitefish’s zoning ordinance and would not alter compatibility with the zoning ordinances of Columbia Falls and Kalispell.

Finding #52: The proposed amendment would make the regulations more compatible with the City of Whitefish’s zoning ordinance and would not alter compatibility with the zoning ordinances of Columbia Falls and Kalispell because Columbia Falls and Kalispell do not appear to have clustering provisions and Whitefish does not have additional setbacks for “parent” tracts within the clustering provisions.

V. SUMMARY OF FINDINGS

1. The proposed amendment would comply with the Flathead County Growth Policy and the North Fork Neighborhood Plan because the proposed amendment would serve to add administrative clarity to the regulations and not add any conditional uses to the North Fork zoning classification because the use is already allowed subject to an administrative conditional use permit.
2. Amending the Flathead County Zoning Regulations by clarifying that cellular towers are an administrative conditional uses permit in the North Fork zoning classification was found to comply with and have no impact on safety from fire and other dangers, public health, safety, general welfare, transportation, water, sewerage, schools, parks and other public requirements because the amendment makes the intent of the regulations more clear through consistency with other sections of the regulations and is not adding ‘Cellular tower’ as an administrative conditional.
3. Amending the Flathead County Zoning Regulations by clarifying that cellular towers are an administrative conditional use in the North Fork zoning classification was found to have no impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district, its peculiar suitability for a particular use, value of buildings and encourage the most appropriate use of land throughout the area because the amendment makes the intent of the regulations more clear through consistency with other sections of the regulations and is not adding ‘Cellular tower’ as an administrative conditional.
4. This text amendment has no bearing on zoning ordinances of nearby municipalities because the North Fork Zoning District is located over 20 miles from the nearest municipality and the amendment will not add any administrative conditional uses to the North Fork zoning as a cell tower is already allowed with an administrative conditional use permit.
5. The proposed text amendment to clarify that livestock is a permitted use in Agricultural and Suburban Agricultural zones is in accordance with the applicable neighborhood plans and Growth Policy because livestock is already interpreted to be a permitted use within the AG and SAG zoning classifications and the proposed amendment is not functionally adding a permitted use, only clarifying it.
6. The proposed amendment appears to have no impact on safety from fire and other dangers, public health, safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because livestock is currently presumed to be a permitted use within the AG and SAG zoning classifications and

the proposed amendment is not functionally adding a permitted use, only clarifying it.

7. The proposed text amendment to clarify livestock as a permitted in Agricultural and Suburban Agricultural zones appears to have no impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and encouraging the most appropriate use of land throughout the area because the keeping of livestock is already interpreted to be allowed in AG and SAG zoning classifications.
8. The proposed text amendment to clarify livestock as a permitted use in Agricultural and Suburban Agricultural zones is unlikely to impact whether or not the zoning regulations are compatible with the zoning ordinances of nearby municipalities because livestock is already interpreted to be a permitted use within the AG and SAG zoning classifications.
9. The proposed text amendment to separate stables from riding academy and rodeo arena on the list of permitted use in the AG-80, AG-40, AG-20 and SAG-10 zones appears compatible with the Growth Policy and applicable neighborhood plans because it will not add any new uses to those zoning classifications.
10. The proposed text amendment to list stables, riding academy and rodeo arena as a permitted use in the SAG-5 zone appears compatible with the Growth Policy and applicable neighborhood plans because it would serve to allow agriculture to remain viable, productive and sustainable and would generally meet the definition of agriculture/silviculture in the neighborhood plans.
11. The proposed text amendment in AG-80, AG-40, AG-20 and SAG-10 zones will not impact safety from fire and other dangers, will promote public health, public safety and general welfare and will provide adequate facilities for transportation, water, sewerage, schools, parks, and other public requirements because the proposed amendment is not adding any additional uses to the list of permitted uses and is simply separating stable from riding academy, rodeo arena.
12. The proposed text amendment of adding stables, riding academies and rodeo arenas to the list of permitted uses in the SAG-5 zones will not impact safety from fire and other dangers, will promote public health, public safety and general welfare and will provide adequate facilities for transportation, water, sewerage, schools, parks, and other public requirements because the use is rural in nature, and the uses are consistent with and compatible to other existing or permissible uses in the same district such as agricultural/horticultural/silvicultural.
13. The proposed text amendment in AG-80, AG-40, AG-20 and SAG-10 zones will not negatively impact light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because stable, riding academy and rodeo arena are already permitted uses in those zones and this amendment would serve to improve the clarity of the regulations.

14. The proposed text amendment to add stables, riding academies and rodeo arenas to the list of permitted uses in SAG-5 zones will not negatively impact light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because the use is rural in nature, and the uses are consistent with and compatible to other existing permitted uses in the same district.
15. The proposed amendment will not impact the Flathead County Zoning Regulations compatibility with the zoning ordinances of nearby municipalities because stables, riding academies and rodeo arenas are already allowed in AG-80, AG-40 AG-20 and SAG-10 zones and this amendment is to improve the clarity of the regulations.
16. It is not possible to make the zoning regulations compatible with the zoning ordinances of all the municipalities in the county because the municipalities each have different regulations regarding agricultural uses, the City of Kalispell does not have agricultural zoning, Columbia Falls does not allow stables, riding academies or rodeo arenas as a permitted or conditional use in the CSAG-5 zone and Whitefish requires a conditional use permit for stables and riding academies in their WA zone.
17. The proposed text amendment appears to be in accordance with the Growth Policy and applicable neighborhood plans because removing the limitation on timeframe for placement of political signs would allow property owners to preserve their rights to free speech, as deemed by many courts.
18. The proposed amendment appears to have no impact on safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because limiting the duration of political signs on private property does not promote a valid public interest, whereas restricting size does.
19. The proposed amendment to the sign regulations appears to have no impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the jurisdictional area because the proposed amendment would remove the limitation on duration of a political sign which is generally acknowledged to be unconstitutional and the restriction on size would remain.
20. It is not possible to make the zoning regulations compatible with the zoning ordinances of nearby municipalities because each municipality in the county has different regulations regarding political signs.
21. Amending the regulations to ensure access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access meet the requirements of the Flathead County Road and Bridge Department and the Montana Department of Transportation is made in accordance with the Growth Policy and neighborhood plans because many of the neighborhood plans and the Growth Policy state as a goal to maintain safe and efficient traffic flow and mobility

on roads by limiting direct access on to the roadways and this amendment to clarify the regulations would promote safety.

22. The proposed amendment appears to have no negative impact on safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because MDT and the Road and Bridge Department have standards that limit and restrict private driveways from directly accessing local roads, collectors, arterials and highways which can improve traffic flow and mobility on state and county roads, and require access points to be built to safe standards, when they are allowed.
23. The proposed amendment appears to not have a negative impact on light, air, motorized, non-motorized transportation, urban growth in the vicinity of cities and towns, the character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because the proposed amendment will clarify access standards, may minimize uncontrolled access to and from publicly maintained roads and highways, will not foster or hinder growth, would impact access requirements for all uses in all districts, will ensure adequate access is provided for transportation of people and goods and may serve to preserve property values by protecting safe access.
24. The proposed text amendment is unlikely to impact the compatibility with zoning ordinances of nearby municipalities because it would improve clarity on access standards for private lots under county jurisdiction.
25. Amending the Flathead County Zoning Regulations to improve the clarity of setback requirements from public roadways by striking reference to the master plans and instead referencing the Flathead County Road Classification Map was found to comply with and have no impact on any neighborhood plan or the Growth Policy.
26. The proposed amendment was found to not negatively impact safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because making the intent of the regulations more clear and consistent throughout the document regarding setback requirements will help to ensure compliance with the regulations which could minimize dangers.
27. The proposed amendment was found to not have a negative impact on light, air, urban growth in the vicinity of cities and towns, the character of any district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the jurisdictional area because making the intent of the regulations more clear and consistent throughout the document regarding setback requirements will help to ensure compliance with the regulations and could minimize dangers and designated uses are not affected.
28. The proposed amendment was found to have a positive impact on motorized and non-motorized transportation because this text amendment will help to maintain a safe and efficient traffic flow and mobility on county roads.

29. This text amendment will not impact compatibility with the zoning ordinances of nearby municipalities because the amendment will add clarity to the setback requirements from public roadways by referencing the correct documents and will not amend the existing setback requirements.
30. The proposed amendment to eliminate references to the Master Plan and instead reference the Growth Policy is made in accordance with the Growth Policy and neighborhood plans because the purpose of the amendment is to add reference to the Growth Policy in the zoning regulations.
31. The proposed amendment will have no impact on any safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because the amendment is simply removing the references to Master Plan and replacing it with references to the Growth Policy which replaced the Master Plan as the document that provides guidance for growth in the County.
32. The proposed text amendment will not impact light, air, motorized, non-motorized transportation systems, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and the most appropriate use of land throughout the area because the amendment is simply removing the references to Master Plan and replacing it with updated references to the Growth Policy.
33. This text amendment will not impact the zoning ordinances of nearby municipalities because the proposed amendment would simply change the references to Master Plan in the zoning regulations to reference the current Growth Policy that replaced the Master Plan.
34. The proposed amendment is generally in compliance with the Growth Policy and many of the neighborhood plans because allowing a caretaker's facility for more uses could increase housing opportunities while preserving the rights of property owners.
35. The proposed amendment is generally not in compliance with the LaBrant – Lindsey Neighborhood Plan or the Rogers Lake Neighborhood Plan because it could allow for increased density as there is no timeframe for lengths of stay in a caretaker's facility, it could create more opportunities to utilize this provision and does not meet the definition of caretaker's facility in the Rogers Lake Neighborhood Plan.
36. The proposed amendment will likely have minimal impact on safety from fire and other dangers, public health, public safety, and general welfare because the bulk and dimensional requirements and review by the Environmental Health Department were established for securing safety from fire and other dangers and promoting public health, safety, and general welfare.
37. The proposed text amendment has the potential to impact transportation, water, sewerage, schools, parks, and other public requirements because a caretaker's facility is considered a dwelling which could result in increased traffic and it could

an increase the demand on water, sewer and schools as it would allow for an additional dwelling on a property.

38. The proposed text amendment has the potential to impact motorized and non-motorized transportation because a caretaker's facility is considered a dwelling and increased traffic could result on rural roads, however most rural roads are capable of handling the sporadic traffic generated by a caretaker's facility.
39. The proposed text amendment will not negatively impact light, air, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, or value of buildings and would encourage the most appropriate use of land throughout the area because both Columbia Falls and Whitefish define a caretaker's facility as caretaking of the use or activity being conducted not just the dwelling, Kalispell does not have standards for a caretaker's facility, bulk and dimensional requirements have been established in each zoning classification with the purpose of providing adequate light and air and it would allow for a caretaker's facility as an accessory use to other uses besides the principal dwelling, which is consistent with the character of permitted uses in districts where caretaker's facility are allowed.
40. The proposed amendment would generally comply with both the City of Whitefish and Columbia Falls zoning ordinances as both cities define a caretaker's facility as caretaking of the use not just the dwelling and Kalispell does not have standards for a caretaker's facility.
41. The proposed amendment is generally in compliance with the Growth Policy and many of the neighborhood plans because removing deed restriction requirements could increase housing opportunities and preserve the rights of property owners to subdivide.
42. The proposed amendment is generally not in compliance with the LaBrant – Lindsey Neighborhood Plan because removing the deed restriction requirement could potentially lead to an increased density as it could create more demand to utilize this provision.
43. The proposed amendment will have minimal impact on any safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because the caretaker's facility could still be used with no restriction on duration, the placement of a caretaker's facility on a property could be constrained by the availability of sewerage and water if the lot size is not adequate to support the proposed use, would still require the caretaker's facility to meet applicable setback requirements of the underlying zoning and any future subdivision of land would require review with the Planning and Zoning Office or Environmental Health Department or both.
44. The proposed amendment is not compatible with the urban growth in the vicinity of Whitefish or Columbia Falls because properties within the jurisdiction of Whitefish and Columbia Falls would be required to place a deed restriction on their property but a property in the county would no longer be required to do so.

45. It is not possible to determine if the proposed text amendment is compatible with the urban growth in the vicinity of Kalispell because the Kalispell Growth Policy does not address caretaker's facilities.
46. The proposed text amendment will not impact light, air, motorized, non-motorized transportation, character of the district, its peculiar suitability for a particular use, value of buildings and would encourage the most appropriate use of land throughout the area because the caretaker's facility would remain a permitted or conditional use in all the zones it is currently permitted or conditionally permitted, has no bearing on and will not negatively impact motorized and non-motorized transportation systems because it will be reviewed through subdivision review, the caretaker's facility could still be used with no restriction on duration of use, and would still require the caretaker's facility to meet applicable setback requirements of the underlying zoning.
47. This proposed text amendment would not be compatible with the zoning ordinances of nearby municipalities because Whitefish and Columbia Falls zoning ordinance both require a deed restriction to be placed on the property.
48. It is not possible to determine if the proposed text amendment is compatible with the zoning ordinance of Kalispell because the Kalispell zoning ordinance does not address caretaker's facilities.
49. The proposed amendment is made in accordance with the Growth Policy and neighborhood plans because it would not diminish the applicability of clustering requirements, only setbacks from parent tracts.
50. The proposed amendment will have no impact on any safety from fire and other dangers, public health, public safety, general welfare, transportation, water, sewerage, schools parks, and other public requirements because the proposed amendment will not result in increased traffic, no additional demand on water, sewer, school, parks and other requirements will be generated, and the minimum setback requirements in the underlying zoning are already sufficient to provide safety from fire and other dangers, and promote public health, public safety and general welfare.
51. The proposed text amendment will not impact light, air, motorized, non-motorized transportation systems, urban growth in the vicinity of cities and towns, character of the district and its peculiar suitability for a particular use, value of buildings and would encourage the most appropriate use of land throughout the jurisdictional area because the minimum setback requirements of the underlying zoning would still apply and no new traffic will be generated.
52. The proposed amendment would make the regulations more compatible with the City of Whitefish's zoning ordinance and would not alter compatibility with the zoning ordinances of Columbia Falls and Kalispell because Columbia Falls and Kalispell do not appear to have clustering provisions and Whitefish does not have additional setbacks for "parent" tracts within the clustering provisions.

Planner: EKM