

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-15-02)
SEPTEMBER 30, 2015

A report to the Flathead County Planning Board and Board of County Commissioners regarding an amendment to the text of the *Flathead County Zoning Regulations*. The proposed amendment would add an overlay zoning district called the “Evergreen Enterprise Overlay” to the *Flathead County Zoning Regulations* as Section 3.50. The “Evergreen Enterprise Overlay” will also be added to the list of use districts found in Section 3.01.020 of the *Flathead County Zoning Regulations* as part of this text amendment. Since the proposed zoning district may only overlay existing “B-2 General Business” or “B-3 Community Business” zoning districts, no other amendments to the text of the *Flathead County Zoning Regulations* are proposed. This report only addresses an amendment to the text of the *Flathead County Zoning Regulations*. Any application of the proposed overlay zoning district to the zoning map will be reviewed and considered separately following all procedural requirements.

The Flathead County Planning Board will conduct a public hearing on the proposed amendment to the text of the *Flathead County Zoning Regulations* on October 14, 2015 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Avenue West in Kalispell. Pursuant to Section 2.08.020(6) of the *Flathead County Zoning Regulations* and 76-2-204 Montana Code Annotated, a recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed amendment to the text of the Flathead County Zoning Regulations at a date and time to be determined and legally noticed.

Documents pertaining to the proposed zoning text 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 proposed zoning text amendment 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

On October 14, 2015 the Flathead County Planning Board held a public hearing on the proposed zoning text amendment. After a brief presentation by the staff of the Planning Board, no one spoke at the public hearing. A unanimous recommendation of approval was forwarded to the Flathead County Commissioners. For details of the Planning Board hearing, see attached addendum and minutes of the hearing.

B. Commission

This space will contain an update regarding the Flathead County Board of Commissioner’s review of the proposal.

II. GENERAL INFORMATION

A. Applicant/Petitioner

Flathead County Planning Board

(This application is based on a May 13, 2015 request by the Evergreen Chamber of Commerce for a publicly initiated project and subsequent approval by the Flathead

County Planning Board and Board of Commissioners, per *Flathead County Planning and Zoning Office Administrative Fees and Fee Policies*, footnote #10.)

B. Sections Proposed for Amendment

The proposed amendment to the text of the Flathead County Zoning Regulations is to add an overlay zoning district called the “Evergreen Enterprise Overlay” to the *Flathead County Zoning Regulations* as Section 3.50. The amendment is presented and described in Sections IV.A and B of this report.

C. 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 Montana Code Annotated.

D. Compliance With Public Notice Requirements:

In conformance with Section 2.08 of the *Flathead County Zoning Regulations* regarding amendments to the text of that document, legal notice of the Planning Board public hearing on this application was published in the September 27, 2015 edition of *The Daily Interlake*. Public notice of the Board of County Commissioners public hearing regarding the zoning text amendment will be published in the legal section of *The Daily Interlake* once a week for two weeks prior to the public hearing and be physically posted within the County according to statutory requirements found in Section 76-2-205 M.C.A. All methods of public notice will include information on the general character of the proposed amendment to the text of the *Flathead County Zoning Regulations*, the time and place of the public hearing and that the text of the amendment is available for public inspection at the Flathead County Planning and Zoning Office and the Office of the Clerk and Recorder.

E. Agency Referrals

Referrals for comment on the proposed amendment to the text of the *Flathead County Zoning Regulations* were sent to the following agencies on September 9, 2015:

- Bonneville Power Administration
- Montana Department of Natural Resources and Conservation
- Evergreen Water and Sewer District
- Evergreen Fire District
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- City of Kalispell Planning Department
- Montana Fish Wildlife and Parks
- Montana Department of Transportation

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report (September 30, 2015) XX public comments have been received regarding the proposed amendment to the text of the Flathead County Zoning Regulations. It is anticipated any member of the public wishing to provide comment on the proposed amendments to the text of the *Flathead County Zoning Regulations* will do so at the Planning Board public hearing scheduled for October 14, 2015. 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.

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 Road & Bridge Department
 - Comment: No comments at this time. (09/09/15 via email)
- Montana Department of Transportation
 - Comment: No comments regarding the proposal. (09/21/15 email)
- Montana Fish, Wildlife & Parks
 - Comment: No comment with regard to this project. (09/22/15 letter)

IV. EVALUATION OF PROPOSED AMENDMENT

A. General Character of and Reason for Amendment

The proposed amendment to the text of the *Flathead County Zoning Regulations* (FCZR) would create a new overlay zoning district. The general character of the proposed “Evergreen Enterprise Overlay” (EEO) zoning district is a district to diversify allowable businesses and encourage infill development along the Evergreen highway commercial corridor by overlaying “B-2 General Business” (B-2) or “B-3 Community Business” (B-3) zoning districts with one additional permitted use. The permitted use that is proposed is #25 from the current list of permitted uses in the “I-1 Light Industrial” (I-1) use district:

25. Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:

- A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.*
- B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment; and boat building.*
- C. Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.*
- D. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.*
- E. Storage and warehousing such as mini-storage, boat and vehicle storage.*

All other provisions of the existing underlying B-2 and B-3 districts will apply. The EEO use district will also be added to the list of use districts found in Section 3.01.020 of the FCZR as part of this text amendment.

B. Proposed Amendment

The proposed amendment to the text of the FCZR would amend Section 3.01.020 as follows (additions *italicized and highlighted*) :

3.01.020 For the purpose of applying these regulations to the zoned areas of Flathead County, said areas are hereby divided into the following use districts:

District	Title	Minimum Lot Size
AG-80	Agricultural	80 acres
AG-40	Agricultural	40 acres
AG-20	Agricultural	20 acres
SAG-10	Suburban Agricultural	10 acres
SAG-5	Suburban Agricultural	5 acres
R-2.5	Rural Residential	2.5 acres
R-1	Suburban Residential	1 acre
R-2	One-Family Limited Residential	20,000 sq. ft.
R-3	One-Family Residential	10,000 sq. ft.
R-4	Two-Family Residential:	
	Single-family	6,000 sq. ft.
	Duplex	7,500 sq. ft.
R-5	Two-Family Residential	5,400 sq. ft.
RC-1	Residential Cluster	Max. Density 1 du/acre
	Detached Dwelling Unit	4,500 sq. ft.
	Attached Dwelling Unit	2,500 sq. ft.
RA-1	Residential Apartment	7,500 sq. ft.
RR-1	Low Density Resort Residential	District, Min. 1 acre
B-1	Neighborhood Business	7,500 sq. ft.
B-2	General Business	7,500 sq. ft.
B-2A	Secondary Business	Not applicable
B-2HG	General Business Highway Greenbelt	See Section 3.44
B-3	Community Business	District, Min. 10 acres
BR-2	Resort Business	District, Min. 20 acres
BR-4	Resort Business	District, Min. 10 acres
B-5	Tourist Retail	District, Min. 5 acres
B-6	Resort Business	15,000 sq. ft.
B-7	Rural Area Commercial	District, Max. 240,000 sq. ft.
BMRR	Big Mountain Resort Residential	District,

		As prescribe by the Big Mountain Plan Land Use Plan
BMV	Big Mountain Village	District, As prescribe by the Big Mountain Plan Land Use Plan
BSD	Business Service District	1 acre
CCC-1	Commercial Country Corner – 1	District, Max. 240,000 sq. ft.
CCC-2	Commercial Country Corner – 2	District, Max. 400,000 sq. ft.
CVR	Commercial Village Resort	2,500 sq. ft.
I-1	Light Industrial	7,500 sq. ft.
I-1H	Light Industrial – Highway	1 acre
I-2	Heavy Industrial	7,500 sq. ft.
P	Public	Not applicable
PUD	Planned Unit Development	See Section 3.31
SC	Scenic Corridor	See Section 3.32
LBL	Little Bitterroot Lake	See Section 3.33
<i>EEO</i>	<i>Evergreen Enterprise Overlay</i>	<i>See underlying zone</i>

The proposed amendment to the text of the FCZR would add Section 3.50 as follows:

SECTION 3.50 EEO EVERGREEN ENTERPRISE OVERLAY

3.50.010 Definition:

A zoning district to diversify allowable businesses along the Evergreen commercial corridor while maintaining existing zoning by overlaying B-2 General Business or B-3 Community Business zoning districts with one additional permitted use.

3.50.020 Permitted Use*:

- 1. Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:

 - A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.*
 - B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment; and boat building.**

- C. *Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.*
- D. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.*
- E. *Storage and warehousing such as mini-storage, boat and vehicle storage.*

**Additional land uses permitted by the EEO overlay will be subject to the Flathead County Zoning Regulations for purposes including, but not limited to, administration, interpretation, enforcement and placement. For purposes of interpreting requirements of the Flathead County Zoning Regulations that reference specific zoning districts (such as signage requirements, permitted accessory uses, etc.) the underlying B-2 or B-3 zoning district shall be used. For purposes of interpreting requirements of the Flathead County Zoning Regulations that reference specific land uses, (such as parking and loading requirements, definitions of land uses, etc.) the actual land use(s) proposed or present shall be used.*

3.50.030 Bulk and Dimensional Requirements (EEO):

- 1. *All bulk and dimensional requirements of the underlying B-2 or B-3 zoning district, per Sections 3.17 or 3.18 (respectively) of the Flathead County Zoning Regulations.*

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

i. Whether the proposed text amendment is made in accordance with the Growth Policy.

The proposed amendment to the text of the FCZR creates a zoning district that is a direct implementation of the 2016 *Evergreen Enterprise Area (EEA)* addendum to the *Kalispell City County Master Plan Year 2010 (KCCMP)*. The KCCMP is an addendum to the *Flathead County Growth Policy*. The language of the proposed EEO overlay zoning district clearly and directly implements three of the four policies in the EEA addendum by:

- Overlaying, not replacing, existing B-2 and B-3 zoning districts thereby preserving conforming status of existing retail sales and service land uses;
- Adding allowable uses to an area historically zoned for retail sales and service to help encourage infill and re-development where critical public services and infrastructure already exist, and;
- Including language that allows Flathead County to regulate “objectionable impacts” that extend beyond lot lines due to the potential proximity of B-2 and B-3 zoning to residentially zoned areas of the community.

Finding #1: The proposed amendment to the text of the *Flathead County Zoning Regulations* is made in accordance with the *Flathead County Growth Policy* because the language of the “*Evergreen Enterprise Overlay*” zoning district is a direct implementation of three of the four policies contained in the *2016 Evergreen Enterprise Area* document that has been reviewed and adopted as an addendum to the *Kalispell City County Master Plan Year 2010* and the *Kalispell City County Master Plan Year 2010* is an addendum to the *Flathead County Growth Policy*.

ii. Whether the proposed text amendment is designed to:

1. Secure safety from fire and other dangers;

One of the primary reasons for the proposed amendment to the text of the FCZR is to increase allowable uses in an area of Flathead County that is currently developed and served with public services and infrastructure, thereby encouraging infill development. The area of Evergreen, MT described in the definition of the EEO zoning district is served by the Evergreen Fire District. Response times by the fire district would be very fast because a fully staffed fire station (Station 81) exists at 2236 Highway 2 East. This fire station is located almost perfectly in the geographic middle of the Evergreen commercial corridor that is described in the definition of the EEO zoning district. Additionally, the EEO zoning district may only be utilized in an area that is already served by existing public water infrastructure making water available for fighting fires. Fire hydrants are available in most of the area in which the EEO zoning district may be utilized and are typically located every 500 feet. The diversification of allowable uses and encouragement of infill development in an area served by a relatively new and fully staffed fire station and fire hydrants is an excellent way to help secure safety from fire. An agency referral was emailed to the Evergreen Fire District but as of the date of completion of this staff report no comments have been received.

Encouraging infill development along the Evergreen highway commercial corridor also helps secure safety from other dangers because the area is routinely patrolled by a Flathead County Sheriff’s Office deputy. Of the 4-5 deputies patrolling Flathead County at a given time, one is typically assigned to the Kalispell/Evergreen area. Additionally, increasing allowable uses for existing structures along a highway commercial corridor through adoption of an overlay zoning district may serve to reduce the likelihood of vacant and underutilized structures creating dangers for the community.

Flooding is a potential danger in portions of the Evergreen highway commercial corridor where the EEO may be applied, but future commercial development in the 100-year floodplain must comply with structural floodproofing requirements found in the *Flathead County Floodplain and Floodway Management Regulations*.

Finding #2: The proposed amendment to the text of the *Flathead County Zoning Regulations* is designed to help secure safety from fire and other dangers because the “Evergreen Enterprise Overlay” will encourage infill and redevelopment in an area of Flathead County that is fully served by public services and infrastructure that exist to prevent and mitigate danger to the community from fire and crime, the area in which the proposed zoning district may be utilized is subject to regulations that prevent and mitigate flood risk, and the “Evergreen Enterprise Overlay” will help to reduce the potential for vacant and underutilized commercial structures that can create dangers in a community.

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

The EEO zoning district is specifically designed to overlay existing B-2 and B-3 zoning districts and provide for more allowable uses to encourage infill, redevelopment and the re-purposing of existing commercial structures along the Evergreen highway commercial corridor. The EEO zoning district also includes language that provides a “safety valve” to protect adjoining landowners from objectionable impacts that extend beyond lot lines. Encouraging the diversification of land uses while continuing the conforming status of the existing retail land uses has multiple benefits to public safety and the general welfare of the Evergreen community.

Many of the benefits of encouraging infill, redevelopment and the re-purposing of existing commercial structures along the Evergreen highway commercial corridor are outlined in the EEA addendum to the KCCMP, of which the proposed EEO zoning district is a direct implementation. For example, any measures to amend regulations to allow the use of existing structures for multiple purposes (so long as objectionable impacts do not extend beyond lot lines) will help prevent vacancies and dilapidated structures from creating safety hazards. The EEO zoning district will help keep existing commercial structures desirable for light assembly, manufacturing, packing storing and other uses listed in the EEO zoning district and these uses will then pay taxes and maintain jobs that provide a significant benefit to the general welfare of the community. In 2014, the landowners within the boundary of the area in which the EEO zoning district may be utilized paid nearly two million dollars in taxes that benefit the community.¹ Regulatory measures to preserve and even add to the taxable value of land and improvements in the Evergreen commercial corridor clearly promote the general welfare of the community.

Finding #3: The proposed amendment to the text of the *Flathead County Zoning Regulations* is specifically designed to improve public safety and the general welfare of the community by helping to prevent vacant and dilapidated commercial structures, diversifying permitted land uses and encouraging infill development and by filling formerly retail sales and service

¹ 2016 *Evergreen Enterprise Area* addendum document, Section IV.3, page 6.

oriented buildings with other land uses that pay taxes and maintain jobs in the community.

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

All of the “public requirements” listed in this criterion for consideration of zoning are already available and more than adequate in the area in which the proposed EEO zoning district may be utilized. The area in which the EEO zoning district may be utilized is served by U.S. Highway 2 and Montana Highway 35, both of which are carefully monitored and maintained by the Montana Department of Transportation. Traffic volumes in the area in which the EEO zoning district may be utilized are some of the highest in Flathead County, further justifying the diversification of allowable uses to take advantage of access to and visibility of existing commercial structures. The area in which the EEO zoning district may be utilized is also in relatively close proximity to rail and air transportation.

Public water and sewer services are available to properties within the area in which the proposed EEO zoning district may be utilized. Those properties within the area in which the proposed EEO zoning district may be utilized that are not currently served by public water and/or sewer services or are just outside the Evergreen Water and Sewer District boundary may request annexation and/or connection.² Other public requirements that may be of benefit to the type of land use permitted by the EEO zoning district such as law enforcement services, mail services, planning and zoning services, and solid waste disposal services are all available and adequate within the area in which the proposed EEO zoning district may be utilized.

Although schools, parks, library facilities and services for the aging are within close proximity to the area in which the proposed EEO zoning district may be utilized, they are not public facilities or services typically required for the type of land use permitted by the proposed zoning district.

Finding #4: The proposed amendment to the text of the *Flathead County Zoning Regulations* will facilitate the adequate provision of many public requirements because developed transportation facilities and public water and sewer are all adjacent to or within close proximity to the area in which the proposed EEO zoning district may be utilized, other public services that may be of benefit to the types of land uses allowed under the proposed EEO zoning district (such as law enforcement, mail, planning and zoning and solid waste disposal) are also available within the area in which the proposed EEO zoning district may be utilized and other public facilities and services such as schools, parks, libraries and aging services are available within the area in which the

² Email correspondence with Roberta Struck, General Manager of Evergreen Water & Sewer District, 08/13/15.

proposed EEO zoning district may be utilized but are typically not required by the type of land uses permitted.

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

1. The reasonable provision of adequate light and air;

The reasonable provision of adequate light and air is typically achieved through bulk and dimensional requirements included in zoning districts. Restrictions on setbacks, building heights and fence heights etc. serve to prevent structures from blocking light or preventing the circulation of air to adjoining lands. The EEO zoning district is written to overlay existing B-2 and B-3 zoning and includes language (proposed Section 3.50.030) that makes clear that the bulk and dimensional requirements of the underlying zoning remain in effect.

Finding #5: The proposed amendment to the text of the *Flathead County Zoning Regulations* will reasonably provide for adequate light and air because the “Evergreen Enterprise Overlay” zoning district will only overlay existing B-2 and B-3 zones that already include bulk and dimensional requirements (such as building height restrictions and setbacks from property lines) that protect access to light and circulation of air and Section 3.50.030 of the proposed “Evergreen Enterprise Overlay” zoning district clearly states that the bulk and dimensional requirements of the underlying zoning remain in effect.

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

The area in which the proposed EEO zoning district may be utilized is a relatively small overall area of Evergreen located along the highway commercial corridor. The Evergreen commercial corridor is referred to as a corridor because it follows and is accessed by U.S. Highway 2 or Montana Highway 35. The EEA addendum to the KCCMP of which the proposed EEO zoning district is a direct implementation outlines existing characteristics and projected trends for the highways that make up the Evergreen commercial corridor. The Montana Department of Transportation monitors and maintains the highways in this area and schedules safety improvement projects and reviews approach permits. Changes of land use that may occur after the proposed EEO zoning district is applied to the zoning map would require review to ensure adequate and safe access to the highway. Similarly, some properties that are currently zoned B-2 or B-3 near major highway intersections with county roads that do not directly access the highway but access the county road will require review by Flathead County when a change of land use occurs. Traffic patterns, physical highway infrastructure and land uses for properties within the area that the EEO zoning district may be applied that access the highway are well-monitored by a state agency. Properties that access a county road are not as closely monitored but still require approach permit review by the county for changes of land use. Therefore, the effects on

motorized transportation systems of diversifying the allowable land uses under zoning to include those listed in the EEO zoning district would be adequately mitigated.

Non-motorized transportation systems within the area that the proposed EEO zoning district may be utilized are limited to a bicycle path on East Evergreen Drive and sporadic sections of sidewalk adjacent to highways. The approach permit review process will ensure that changes in land use that may impact these existing facilities are required to adequately mitigate by redesigning or relocating the facility.

Finding #6: The effect of the proposed amendment to the text of the *Flathead County Zoning Regulations* on motorized and non-motorized transportation systems will be adequately mitigated because changes in land use that occur as a result of the new allowable land uses in the “Evergreen Enterprise Overlay” zoning district will be reviewed by the Montana Department of Transportation or Flathead County for appropriately designed and constructed highway access and potential negative impacts to bicycle paths or sidewalks will be mitigated.

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

The proposed text amendment to add the EEO zoning district to the FCZR will create an overlay zoning district that can only be applied along the Evergreen commercial corridor in areas zoned B-2 or B-3. The nearest municipality to Evergreen is Kalispell, Montana. The current *Kalispell Growth Policy* was adopted by the Kalispell City Council on February 18, 2003. Figure 1 of the *Kalispell Growth Policy* shows the “Growth Policy Area” and includes all the area in which the proposed EEO zoning district could be utilized. Although the Evergreen area is included in the “Growth Policy Area” of the *Kalispell Growth Policy*, the plan only directly refers to Evergreen in regards to the interlocal agreement with the Evergreen Water and Sewer District. Evergreen is not within Kalispell city limits and annexation of Evergreen has been a touchy subject for many years and is highly unlikely. The Evergreen area is not listed as a “Target Development Area”³ or otherwise discussed much in the *Kalispell Growth Policy*.

However, many goals and policies of the *Kalispell Growth Policy* address land use planning for business and industry and many of these goals and policies are related to mixing land uses and utilizing existing services and infrastructure and this is compatible with the purpose of the proposed EEO zoning district. Part 4 of the *Kalispell Growth Policy* provides land use planning guidance for business and industry land uses. “Viable mix(es)” of land uses for business and industry are encouraged, and ten goals are set forth in Part 4 (page 14) specifically related to business and industry. The proposed

³ Kalispell Growth Policy, Policy #6, page 18.

EEO zoning district implements many of the ten goals, including those that address the utilization of existing services and infrastructure, providing adequate area for expansion of commercial and industrial land uses, avoiding encroachment of incompatible land uses into residential areas and better understanding the needs of commercial and industrial land uses.

The *Kalispell Growth Policy* also contains a “Future Land Use Map” at the back of the document. The area in which the proposed EEO zoning district may be utilized is shown on that map as either “Commercial” adjacent to the highway or “Urban Mixed Use” just behind the “Commercial” designation. The “Urban Mixed Use” future land use classification is described in Policy #7 on page 18 of the *Kalispell Growth Policy* and contains six policy statements encouraging the development of centrally located service and employment areas, expanding “urban highway commercial areas” as “mixed use corridors,” and “Allow(ing) a compatible mix of higher-intensity uses including office as well as some commercial and **light industrial**” (emphasis added). While the language of the proposed EEO zoning district does not specifically include a method to “create a gradual transition” (Part 4, Policy 7.d, page 19) of higher intensity land uses into residential neighborhoods, the majority of goals, policies and policy statements in the *Kalispell Growth Policy* are remarkably similar to and compatible with the purpose of the proposed EEO zoning district.

Finding #7: The proposed amendment to the text of the *Flathead County Zoning Regulations* creates a new zoning district applicable to the Evergreen commercial corridor that is compatible with the *Kalispell Growth Policy* because the proposed EEO zoning district encourages the mixing of land uses and infill development in an area of existing public services and infrastructure as well as existing commercial development, the proposed EEO zoning district accommodates and encourages the diversification of land uses to include light industrial land uses in a manner that is prevented from intruding on adjacent residential land uses, and the proposed EEO zoning district may only be applied to the rural county zoning map in an area of the county that Kalispell designates as both “Commercial” and “Urban Mixed Use” future land uses.

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

The area in which the EEO zoning district may be utilized is limited to those areas already zoned B-2 and B-3 in the Evergreen commercial corridor. The Evergreen commercial corridor is presently an “auto-urban” environment predominantly characterized by direct access highway frontage, large areas of ample parking, existing signage and existing commercial structures historically filled with retail sales and service-oriented businesses. The Evergreen commercial corridor is in close proximity to a large residential base of potential employees as well as customers. A large volume of automobile

traffic contributes to the “auto-urban” character of the area and also assures high visibility and accessibility for businesses in the corridor. The majority of the Evergreen commercial corridor where the proposed EEO zoning district may be utilized has all necessary public services and infrastructure to support both the existing commercial land uses under the current B-2 and B-3 zoning as well as the additional land uses that are listed in Section 3.50.020 of the proposed EEO overlay zoning district. The new permitted land uses in the proposed EEO zoning district include light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities etc. The EEO zoning district includes language to prevent objectionable impacts that would extend beyond lots lines. Therefore the character of the Evergreen commercial corridor where the proposed EEO zoning district may be overlaid is well suited to and will benefit from the additional permitted land uses and impact mitigating requirements of the district.

Finding #8: The proposed amendment to the text of the *Flathead County Zoning Regulations* creates a zoning district that can be used to overlay and diversify permitted land uses and encourage infill development in existing B-2 General Business and B-3 Community Business zoning districts in the Evergreen commercial corridor and is ideally suited for the character of the Evergreen commercial corridor because the areas to which the overlay could be applied to the zoning map are already served by public services and infrastructure and are already predominantly “auto-urban” in character with direct access highway frontage, large areas of ample parking, existing signage and existing commercial structures.

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

The proposed amendment to the FCZR to add the EEO zoning district as Section 3.50 is intended to encourage infill and the repurposing of existing commercial property and structures that may otherwise sit vacant or underutilized when some retailers move from Evergreen to other areas of Flathead County. Repurposing commercial land and structures from primarily retail sales and service land uses to the additional land uses found in the EEO zoning district will help to preserve the value of the land and buildings. Structures may be marketed to a broader range of potential tenants conducting light assembly, manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment. These tenants will find value in large, highly visible and highly accessible structures that have ample parking, are centrally located in the Flathead Valley and are relatively affordable compared to new construction.

In addition to preserving the value of buildings in the Evergreen commercial corridor, the proposed EEO zoning district will increase allowable commercial land uses in an area already served by public services and infrastructure. Businesses looking to locate in the Flathead Valley will have new, efficient

and affordable options for locating light assembly and manufacturing jobs in a zoning-compliant manner. This will encourage the most appropriate use of land in the Flathead Valley.

Finding #9: The proposed amendment to the text of the *Flathead County Zoning Regulations* encourages the most appropriate use of land throughout the rural jurisdiction of Flathead County and enhances the value of buildings by creating a zoning overlay in the Evergreen commercial corridor to diversify current permitted land uses and encourage infill and redevelopment in an area already served by public services and infrastructure and the additional options for utilization of buildings and land will create value for both landowners as well as tenants of commercial structures.

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

The proposed text amendment to the FCZR will adopt the EEO zoning district as Section 3.50. However, the proposed EEO zoning district may only be used as an overlay along the Evergreen commercial corridor. The proposed EEO zoning district adds permitted uses to include some land uses that are typically associated with “light industrial” land use categories, but does so in a manner that prevents objectionable impacts that may extend beyond lot lines.

A review of the zoning ordinance of the City of Kalispell shows that many of the land uses that the proposed EEO zoning district adds to the B-2 and B-3 zoning districts on which it could be overlaid are already permitted uses in Kalispell’s B-2 zoning district. For example, the EEO zoning district adds “Light Assembly” to county B-2 zoning in Evergreen and the same use is listed as permitted in Kalispell’s B-2 zoning district.⁴ Other examples of land uses permitted in the proposed EEO zoning district that are already listed as permitted in Kalispell’s B-2 zoning district include automobile, bus, truck, boat and equipment repair, repair shops and processing and manufacturing of alcoholic beverages (microbreweries) or baked goods (bakeries). The proposed EEO zoning district also allows for additional uses in the county’s B-3 “Community Business” zoning district in the Evergreen commercial corridor. Although the City of Kalispell does not have a corresponding B-3 “Community Business” zoning district, the limited areas along the Evergreen commercial corridor where the county B-3 zoning district is used (such as K-Mart, Conlin’s Furniture store and the area around Charlie Wong’s Restaurant) are very similar in character and existing land use to the City of Kalispell’s B-2 zoning district. The land uses added to the county’s B-2 and B-3 zoning districts by the proposed EEO zoning district therefore appear to provide an opportunity for mixture of uses in the Evergreen commercial corridor that is compatible with the zoning ordinances of the City of Kalispell.

⁴ Section 27.13.020(2) Kalispell Zoning Regulations

The zoning ordinance of the City of Kalispell contains other requirements for development such as architectural and lighting controls that are not found in the Flathead County Zoning Regulations. The proposed EEO zoning district does not contain language to add any of these controls in the Evergreen commercial corridor and simply references the performance standards, parking requirements, definitions etc. found in the FCZR. Site development in the Evergreen commercial corridor will continue to occur in a manner that is consistent with other zoned rural areas of Flathead County. Throughout Montana, it is not uncommon to find rural zoning regulations that regulate less than the zoning ordinances of municipal jurisdictions. Rural jurisdictions are limited as to what may be regulated through zoning, whereas municipalities have more regulatory flexibility under “home rule” provisions.

Although a lack of detailed site development controls in rural, zoned areas of Flathead County may not be consistent with the City of Kalispell’s zoning ordinance, it is also not a reasonable basis to interpret that the language of the proposed EEO zoning district is therefore **incompatible** with the City of Kalispell’s zoning ordinance.

Finding #10: The proposed amendment to the text of the *Flathead County Zoning Regulations* to add the Evergreen Enterprise Overlay zoning district makes Flathead County’s B-2 and B-3 zoning districts in Evergreen (where the EEO zoning district may be utilized) more compatible with the City of Kalispell’s B-2 zoning district because it adds permitted land uses in the Evergreen commercial corridor that are similar to uses listed in the City of Kalispell’s B-2 zoning district such as light assembly and processing and manufacturing of food and automobile, bus, truck and boat repair and the City of Kalispell does not have a corresponding B-3 zoning district.

Finding #11: Although a lack of detailed site development controls in the Flathead County Zoning Regulations may be inconsistent with the City of Kalispell’s zoning ordinance that regulates such things as architectural styles, “dark skies” compatibility, etc., this type of inconsistency between rural and municipal zoning regulations is common in Montana and is therefore not a reasonable basis to interpret that the language of the proposed EEO zoning district for the Evergreen commercial corridor is therefore incompatible with the City of Kalispell’s zoning ordinance.

V. SUMMARY OF FINDINGS

Finding #1: The proposed amendment to the text of the *Flathead County Zoning Regulations* is made in accordance with the *Flathead County Growth Policy* because the language of the “*Evergreen Enterprise Overlay*” zoning district is a direct implementation of three of the four policies contained in the *2016 Evergreen Enterprise Area* document that has been reviewed and adopted as an addendum to the *Kalispell City*

County Master Plan Year 2010 and the Kalispell City County Master Plan Year 2010 is an addendum to the Flathead County Growth Policy.

Finding #2: The proposed amendment to the text of the *Flathead County Zoning Regulations* is designed to help secure safety from fire and other dangers because the “Evergreen Enterprise Overlay” will encourage infill and redevelopment in an area of Flathead County that is fully served by public services and infrastructure that exist to prevent and mitigate danger to the community from fire and crime, the area in which the proposed zoning district may be utilized is subject to regulations that prevent and mitigate flood risk, and the “Evergreen Enterprise Overlay” will help to reduce the potential for vacant and underutilized commercial structures that can create dangers in a community.

Finding #3: The proposed amendment to the text of the *Flathead County Zoning Regulations* is specifically designed to improve public safety and the general welfare of the community by helping to prevent vacant and dilapidated commercial structures, diversifying permitted land uses and encouraging infill development and by filling formerly retail sales and service oriented buildings with other land uses that pay taxes and maintain jobs in the community.

Finding #4: The proposed amendment to the text of the *Flathead County Zoning Regulations* will facilitate the adequate provision of many public requirements because developed transportation facilities and public water and sewer are all adjacent to or within close proximity to the area in which the proposed EEO zoning district may be utilized, other public services that may be of benefit to the types of land uses allowed under the proposed EEO zoning district (such as law enforcement, mail, planning and zoning and solid waste disposal) are also available within the area in which the proposed EEO zoning district may be utilized and other public facilities and services such as schools, parks, libraries and aging services are available within the area in which the proposed EEO zoning district may be utilized but are typically not required by the type of land uses permitted.

Finding #5: The proposed amendment to the text of the *Flathead County Zoning Regulations* will reasonably provide for adequate light and air because the “Evergreen Enterprise Overlay” zoning district will only overlay existing B-2 and B-3 zones that already include bulk and dimensional requirements (such as building height restrictions and setbacks from property lines) that protect access to light and circulation of air and Section 3.50.030 of the proposed “Evergreen Enterprise Overlay” zoning district clearly states that the bulk and dimensional requirements of the underlying zoning remain in effect.

Finding #6: The effect of the proposed amendment to the text of the *Flathead County Zoning Regulations* on motorized and non-motorized transportation systems will be adequately mitigated because changes in land use that occur as a result of the new allowable land uses in the “Evergreen Enterprise Overlay” zoning district will be reviewed by the Montana Department of Transportation or Flathead County for

appropriately designed and constructed highway access and potential negative impacts to bicycle paths or sidewalks will be mitigated.

Finding #7: The proposed amendment to the text of the *Flathead County Zoning Regulations* creates a new zoning district applicable to the Evergreen commercial corridor that is compatible with the *Kalispell Growth Policy* because the proposed EEO zoning district encourages the mixing of land uses and infill development in an area of existing public services and infrastructure as well as existing commercial development, the proposed EEO zoning district accommodates and encourages the diversification of land uses to include light industrial land uses in a manner that is prevented from intruding on adjacent residential land uses, and the proposed EEO zoning district may only be applied to the rural county zoning map in an area of the county that Kalispell designates as both “Commercial” and “Urban Mixed Use” future land uses.

Finding #8: The proposed amendment to the text of the *Flathead County Zoning Regulations* creates a zoning district that can be used to overlay and diversify permitted land uses and encourage infill development in existing B-2 General Business and B-3 Community Business zoning districts in the Evergreen commercial corridor and is ideally suited for the character of the Evergreen commercial corridor because the areas to which the overlay could be applied to the zoning map are already served by public services and infrastructure and are already predominantly “auto-urban” in character with direct access highway frontage, large areas of ample parking, existing signage and existing commercial structures.

Finding #9: The proposed amendment to the text of the *Flathead County Zoning Regulations* encourages the most appropriate use of land throughout the rural jurisdiction of Flathead County and enhances the value of buildings by creating a zoning overlay in the Evergreen commercial corridor to diversify current permitted land uses and encourage infill and redevelopment in an area already served by public services and infrastructure and the additional options for utilization of buildings and land will create value for both landowners as well as tenants of commercial structures.

Finding #10: The proposed amendment to the text of the *Flathead County Zoning Regulations* to add the Evergreen Enterprise Overlay zoning district makes Flathead County’s B-2 and B-3 zoning districts in Evergreen (where the EEO zoning district may be utilized) more compatible with the City of Kalispell’s B-2 zoning district because it adds permitted land uses in the Evergreen commercial corridor that are similar to uses listed in the City of Kalispell’s B-2 zoning district such as light assembly and processing and manufacturing of food and automobile, bus, truck and boat repair and the City of Kalispell does not have a corresponding B-3 zoning district.

Finding #11: Although a lack of detailed site development controls in the Flathead County Zoning Regulations may be inconsistent with the City of Kalispell’s zoning ordinance that regulates such things as architectural styles, “dark skies” compatibility, etc., this type of inconsistency between rural and municipal zoning regulations is common in Montana and is therefore not a reasonable basis to interpret that the language

of the proposed EEO zoning district for the Evergreen commercial corridor is therefore incompatible with the City of Kalispell's zoning ordinance.

VI. CONCLUSION

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

Planner: BJ