

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-16-02)
LUND
NOVEMBER 30, 2016

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 change the maximum height limitations for principle structures within the RA-1 zoning classification from 35 feet to 45 feet as noted in Section 3.15.040(4) FCZR. The applicants are requesting the text amendment in conjunction with a zoning map amendment, however this report only covers the text amendment for RA-1 and the zoning map amendment 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 December 14, 2016 in the 2nd Floor Conference Room of the South Campus Building at 40 11th Street 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 South Campus Building at 40 11th Street 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

This space will contain an update regarding the Planning Board review of the proposal.

B. Commission

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

II. GENERAL INFORMATION

A. Applicant/Petitioner

i. Applicants

Curtis Lund
3030 Airport Road
Kalispell, MT 59901

ii. Technical Assistance

Rory Young
Jackola Engineering & Architecture
2250 Highway 93 South
Kalispell, MT 59901

B. Sections Proposed for Amendment

The proposed amendment to the text of the Flathead County Zoning Regulations would change the maximum height limitations for principle structures within the RA-1 zoning classification from 35 feet to 45 feet as noted in Section 3.15.040(4) FCZR. 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 November 27, 2016 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 October 17, 2016:

- Bonneville Power Administration
- Evergreen Fire District
- Bigfork Fire District
- Creston Fire District
- Columbia Falls Rural Fire District
- Ferndale Fire District
- Glacier Airport Fire Department
- Hungry Horse Fire District
- South Kalispell Fire District
- Somers-Lakeside Fire District
- West Valley Fire District
- Smith Valley Fire District
- Olney Fire District
- Marion Fire District
- Martin City Fire District
- Big Mountain Fire District
- Coram-West Glacier Fire District
- Blankenship Fire District
- Badrock Fire District
- Glacier International Airport

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report no 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 December 14, 2016. 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:

- Glacier International Airport
 - Comment: “We do not object to the proposed RA-1 zoning district change provided that it is understood that any structures built around the airport, regardless of zoning, are subject to compliance with the airspace and obstruction criteria defined in Part 77 of the Federal Aviation Regulations.” Email 10/21/2016
- Columbia Falls Rural Fire Department
 - Comment: While there isn’t any RA-1 within the district currently, there could be property rezoned RA-1 in the future. We are not in favor or raising the maximum height from 35’ to 45’. Paraphrased from phone call on 10/31/2016

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 increase the maximum height for principal structures from 35 feet to 45 feet. The applicant is requesting this text amendment because they would like to establish a pitched roof on a 3 story apartment building to be built on a property undergoing a concurrent zoning map amendment in the Evergreen zoning district.

B. Proposed Amendment

The proposed amendment to the text of the FCZR would amend Section 3.15.040 as follows (additions *italicized and highlighted*):

3.15.040 Bulk and Dimensional Requirements (RA-1)
4. Maximum Height:
Principal structure: ~~35 feet.~~ **45 feet.**
Accessory structure: 15 feet.

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 text amendment would increase the maximum height for all principle structures in the RA-1 zoned from 35 feet to 45 feet. Currently, the only RA-1 zoning is located around the Kalispell, Evergreen and Bigfork areas which appears appropriate because the zoning designation allows for higher density residential development typically found around urban centers. While RA-1 zoning

is not prohibited in other areas of the county, the zoning district requires that “this district shall be served by community water and sewer and have immediate access to fire, police, refuse, and park facilities.” Because these services are provided primarily in urban districts, the impacts associated with the text amendment will primarily affect urban services.

The following are the goals and policies affected by the proposed text amendment:

G.8 Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.

P.8.1 Create reasonable, flexible and predictable development guidelines based on accurate, fair and reasonable criteria.

- The proposed text amendment is reviewed below for impacts on impacts to public health and welfare and safety from fire danger.

G.32 Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.

- Fire response providers were contacted during the review period to assess their ability to provide high level fire protection services and addressed in the report below. It would appear that not all fire departments are able to accommodate additional building height.

ii. Whether the proposed text amendment is designed to:

1. Secure safety from fire and other dangers;

The primary reason for the proposed text amendment is to increase the allowable height in the RA-1 district so the applicants can develop a pitched roof on a three story building. While the additional height does not necessarily increase density the text amendment would not preclude other development within the RA-1 zone from potentially adding another 10 foot story to a building. The proposed text amendment would appear to increase potential fire hazards if transportation and on-site access is limited. Currently, RA-1 zoning is limited to areas just outside of the city of Kalispell, Bigfork, and Evergreen as these areas clearly provide appropriate density that would support the uses allowed in RA-1. While the West Valley and Bigfork Fire Departments were among the contacted agencies, only the Evergreen Fire Department responded indicating they have the capacity to accommodate the additional height. Information provided by the Bigfork Fire Department website indicates the Bigfork Hall has a 2008 Smeal, 105 foot aerial ladder truck and the West Valley Fire Department has a Rosenbauer RoadRunner 68 foot aerial ladder truck.

While the Evergreen Fire Department indicated they have the capability to handle the additional height capacity, the Columbia Falls Rural Fire Department expressed their concern with the additional height. There is no

RA-1 zoning within their jurisdiction but a zoning map amendment could take place in the future in any part of the county. It is anticipated that any additional zoning map amendments would review the suitability of the site with regard to fire and other dangers and the appropriate fire department would be contacted during the review period.

The applicants are requesting the text amendment because they are simultaneously proposing a zoning map amendment for a property located at 2149 Highway 2 East to RA-1 for the purpose of constructing an apartment complex. The additional 10 feet will allow the three story apartment building to be constructed with additional architectural features such as a pitched roof with multiple hips. The apartment buildings will be constructed along Interstate Lane which is a paved, private 22 foot road within a 60 foot right-of-way culminating in a cul-de-sac which would appear in this case to provide sufficient access to the site. Because the RA-1 zoning requires a Conditional Use Permit for multi-family dwellings, the applicants will be required to have the proposed complex reviewed for appropriate on-site access for fire and emergency vehicles.

Finding #1: The proposed text amendment may impact fire and emergency services in some rural areas of Flathead County because there may be some fire districts that may not be able to provide service to buildings with the additional height, however the RA-1 zoning is intended for urban/suburban environments where fire departments who can provide service and properties currently zoned RA-1 appear to have available emergency services.

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

Increasing the maximum height of structures has the potential to negatively affect view sheds, impact provisions of light and air, and cause incongruous development if height limitations do not align with those of the surrounding area. In this case, the proposed text amendment would increase the height of structures by 10 feet which would allow buildings to be 28% taller than almost all other zoned areas which allow for a maximum of 35 feet. Only the BR-4, I-1, I-1H, I-2 and P zoning classifications in Flathead County allow for building heights taller than 35 feet. Because the increase in building height is relatively minimal, impacts to congestion as a result of additional human and vehicular traffic is expected to be minimal. Additionally, the RA-1 zone requires a 20 foot setback from the front and rear and 5 feet from the sides for single family/duplexes and 15 feet from the sides for 3-plexes or larger. The additional setback for multi-family dwellings would probably affect those types of structures most likely to take advantage of the additional height allowance. RA-1 zoned properties also have a maximum lot coverage of 35%. The 10 additional feet should not impact provisions of light and air because setbacks and lot coverage requirements prevent impacts to health or safety as a result of reduced light or air. Finally, the additional height is not likely to create inconsistent development because the majority of zoned districts have a 35 foot building height maximum and the additional 10 feet will not be

substantially different from surrounding heights. This is especially true if the additional building height will be used for architectural features and not additional building stories. It would appear that the increase in building height will not significantly impact public health, safety, or general welfare because of the relatively small change.

Finding #2: The 10 feet increase in the maximum height of buildings is not likely to negatively impact public health and safety or general welfare because the lot coverage and setbacks in the RA-1 zoning would prevent impact to view sheds, provisions of light and air, or create incongruous development because the surrounding properties have maximum heights of 35 feet.

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

According to the Flathead County Zoning Regulations, the RA-1 district is “*a district to provide areas for multi-family use and for non-residential uses, which support or are compatible with the primarily residential character. The district is intended as a buffer between residential districts and other non-residential districts. This district shall be served by community water and sewer and have immediate access to fire, police, refuse and park facilities.*” Because the zoning district has uses and densities that require urban/suburban amenities, it is expected that the 10 feet of additional height will not affect the provision of water, sewerage, schools or parks if these services are already available. The additional 10 feet may allow for additional density in multi-family dwellings or other commercial/office uses allowed in the zoning district, however these uses require a Conditional Use Permit which will review each proposal for impact on local public services. The 9 permitted use, including single family dwellings, duplexes, day care home, and parks are not likely to impact local services if the height of buildings is increased from 35 to 45 feet.

Finding #3: Impacts to local transportation, water, sewerage, schools, parks, and other public requirements will not likely be affected by the 10 additional feet because the RA-1 zoning district is intended to be located in urban/suburban areas with established public services and all uses that may cause impacts to these services, such as multi-family dwellings and offices, require a Conditional Use Permit and will be reviewed and conditioned individually to ensure adequate provision of these services.

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

1. The reasonable provision of adequate light and air;

Increasing the height of structures can affect the provision of light and air if adequate setbacks are not provided between buildings or roadways. In the RA-1 zoning district, buildings must be setback 20 feet from the front, rear, and side corner and 5 feet from the sides or 15 feet for a 3-plex or larger. Additionally, only 35% of the lot is allowed to be covered by structures. The 20 foot setback from the front of the lot would increase the angle from the

property line or right-of-way to the top of the building by only 6° for the 10 additional feet. The proposed text amendment would therefore not appear to affect the reasonable provision of adequate light and air.

Finding #4: The proposed text amendment would not affect the reasonable provision of adequate light and air because the setbacks and maximum lot coverage requirements would ensure buildings are adequately spaced from adjacent lots, buildings, and roadways.

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

Because the RA-1 zone is intended to be a buffer between residential and commercial districts and require established public services, the effect on motorized transportation systems will be minimal if the zoning district is appropriately placed within the county. The additional 10 feet may allow for additional density in multi-family dwellings or other commercial/office uses allowed in the zoning district, however these uses require a Conditional Use Permit which will review each proposal for impact on local public services. The 9 permitted uses, including single family dwellings, duplexes, day care home, and parks are not likely to significantly impact the local transportation system if the height of buildings is increased from 35 to 45 feet.

Finding #5: Impacts to motorized and non-motorized transportation systems will be minimal due to the text amendment because the zoning district should be located in urban areas with adequate transportation infrastructure and impacts as a result of potential density or intensity will be minimal as conditional uses will be reviewed and approved on a case-by-case basis.

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

The RA-1 zoning permits higher density residential and non-residential uses intended to buffer neighborhood residential and commercial districts and therefore is likely to exist in urban/suburban areas of Flathead County. Because of the typical proximity of this zoning district to urban centers, it would appear that a height of 45 feet would be compatible with the commercial and industrial zoning districts within the county and three cities that allow for heights between 40-60 feet.

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

The proposed text amendment would only affect the height of buildings and therefore no change in use or character of the district is expected.

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

The applicants proposed this text amendment to accommodate architectural features to a proposed apartment complex in Evergreen along Interstate Lane. With the additional height the developer would be able to incorporate pitched roofs with multiple hips. The additional height would therefore allow for architectural details that would add value to the structures and preserve value of surrounding buildings than if the additional height was not allowed.

However, the text amendment does not require that the additional height be used for architectural features and therefore could be used to allow an additional floor to a residential or non-residential building. This may result in some additional density/intensity of multi-family or office buildings but the combination of minimum lot size, lot coverage, and parking requirements would prevent densities incompatible with surrounding uses.

Finding #6: Increasing the maximum building height appears to be compatible with urban growth in the vicinity and would conserve the value of surrounding buildings because the allowed uses and character of the RA-1 zoning district will not change and the additional height appears to be similar to that of surrounding municipalities and could allow developers to incorporate architectural features that will increase the value of the building.

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

The RA-1 zoning is higher density residential zone intended to buffer neighborhood residential and commercial districts and therefore is likely to exist in urban/suburban areas of Flathead County. Since the county's RA-1 zoning could reasonably be located within the vicinity of the three incorporated cities the county's RA-1 height limit should be similar. Kalispell's RA-1 zoning designation allows for a maximum 40 foot height while Columbia Fall's CRA-1 and Whitefish's WR-4 both allow 35 foot maximum building height. As indicated earlier in this report, the additional 10 feet should not cause impacts to public health, public safety, and general welfare if the equipment of the local fire department can accommodate the additional height.

Finding #7: The proposed text amendment would be compatible with the zoning ordinances of nearby municipalities because the comparable zoning districts in Kalispell, Whitefish and Columbia Falls all allow buildings to be 35 to 40 feet high.

V. SUMMARY OF FINDINGS

Finding #1: The proposed text amendment may impact fire and emergency services in some rural areas of Flathead County because there may be some fire districts that may not be able to provide service to buildings with the additional height, however the RA-1 zoning is intended for urban/suburban environments where fire departments who can provide service and properties currently zoned RA-1 appear to have available emergency services.

Finding #2: The 10 feet increase in the maximum height of buildings is not likely to negatively impact public health and safety or general welfare because the lot coverage and setbacks in the RA-1 zoning would prevent impact to view sheds, provisions of light and air, or create incongruous development because the surrounding properties have maximum heights of 35 feet.

Finding #3: Impacts to local transportation, water, sewerage, schools, parks, and other public requirements will not likely be affected by the 10 additional feet because the RA-1 zoning district is intended to be located in urban/suburban areas with established public

services and all uses that may cause impacts to these services, such as multi-family dwellings and offices, require a Conditional Use Permit and will be reviewed and conditioned individually to ensure adequate provision of these services.

Finding #4: The proposed text amendment would not affect the reasonable provision of adequate light and air because the setbacks and maximum lot coverage requirements would ensure buildings are adequately spaced from adjacent lots, buildings, and roadways.

Finding #5: Impacts to motorized and non-motorized transportation systems will be minimal due to the text amendment because the zoning district should be located in urban areas with adequate transportation infrastructure and impacts as a result of potential density or intensity will be minimal as conditional uses will be reviewed and approved on a case-by-case basis.

Finding #6: Increasing the maximum building height appears to be compatible with urban growth in the vicinity and would conserve the value of surrounding buildings because the allowed uses and character of the RA-1 zoning district will not change and the additional height appears to be similar to that of surrounding municipalities and could allow developers to incorporate architectural features that will increase the value of the building.

Finding #7: The proposed text amendment would be compatible with the zoning ordinances of nearby municipalities because the comparable zoning districts in Kalispell, Whitefish and Columbia Falls all allow buildings to be 35 to 40 feet high.

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: RE