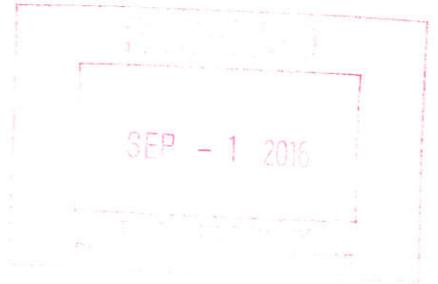




Flathead County

Planning & Zoning

1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 1,278

APPLICANT/OWNER:

1. Name: Donovan & Debi Bergeson Phone: 253-7719(Donovan's cell #)
2. Mail Address: 255 Scenic Ridge Road
3. City/State/Zip: Kalispell, MT 59901
4. Interest in property: Owner

Check which applies:



Map Amendment



Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

Name: Andy Hyde - Carver Engineering Phone: 257-6202
 Mailing Address: 1995 3rd Ave E
 City, State, Zip: Kalispell, MT 59901
 Email: drjekyll@carvereng.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment?

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: NHN Highway 93N & 255 Scenic Ridge Road, Kalispell

- B. Legal Description: Tract 5D
(Lot/Block of Subdivision or Tract #)

01 - 29 - 22
 Section Township Range *(Attach sheet for metes and bounds)*

- C. Total acreage: 11.8 acres

- D. Zoning District: Highway 93 North

- E. The present zoning of the above property is: SAG-10

- F. The proposed zoning of the above property is: I-1H

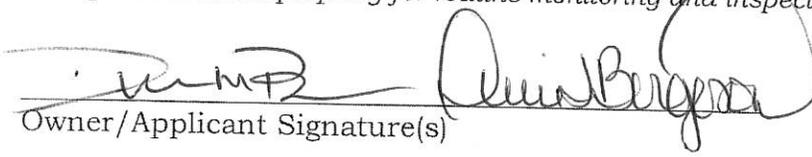
- G. State the changed or changing conditions that make the proposed amendment necessary: The current property owner wishes to use the part of the tract fronting the highway as an RV sales lot, which is more consistent with other adjacent uses rather than present

suburban agricultural zoning designation. Zoning of other nearby property also fronting the highway recently was changed to I-1H zoning. An additional commercial use (dog kennel) was built this year on property to the south that fronts Highway 93.

THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?
2. Is the proposed amendment designed to:
 - a. Secure safety from fire and other dangers?
 - b. Promote public health, public safety and the general welfare?
 - c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?
3. Does the proposed amendment consider:
 - a. The reasonable provision of adequate light and air?
 - b. The effect 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?
 - d. The character of the district and its peculiar suitability for particular uses?
 - e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area?
4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.


Owner/Applicant Signature(s)

8-31-14
Date

SEP - 1 2016

**REVIEW CRITERIA FOR ZONING AMENDMENT
BERGESON PROPERTY
Tract 5D in Section 01, T29N, R22W**

1. *Is the proposed map amendment in accordance with the Growth Policy/Neighborhood Plan?*

Yes, the proposed zoning map amendment is in accordance with the Flathead County Growth Policy, which anticipates that land uses will change over time as Flathead County grows. The proposed conversion of use meets many of the stated goals and policies defined within the Growth Policy. Those goals and policies are discussed as follows.

Goal 2: Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.

This change is initiated by the property owners. They presently reside in a home located on the east side of the tract. The proposed industrial-highway zoning will allow the owners to utilize the highway frontage of their property for their RV sales firm, which they presently operate on property much further away along Highway 40. Moving their place of business to this property will allow them to enjoy a much shorter commute and improve security and access by locating the RV sales lot so close to where they live.

The proposed zoning designation contains specific requirements such as increased setbacks, landscaping buffering, low impact industrial uses, access control and signage limits to mitigate adverse effects to the highway corridor and adjacent property. The proposed zoning designation is suitable for the area and protects the rights of all property owners.

Goal 5: Adequate industrial land in areas that are close enough for goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.

Policy 5.2: Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent lands uses.

The proposed change will create an industrial zone adjacent to Highway 93, a major transportation corridor providing a high level of service. Most of the adjacent property across the highway is owned by Flathead County for the County Landfill. Other nearby privately owned property is a restaurant and a small business park with tenants that provide a variety of services. Allowed uses within the proposed zone, as described in the zoning regulations, are those “that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the limits of the lot.” The required setback from the highway of 100 feet, the required landscape buffer of 25 feet minimum, signage restrictions and the natural

screening provided by existing road bank along the west edge of the property will mitigate visual impacts of the proposed use as seen from the highway. Topography of the tract also isolates the adjacent residential parcels located further east along Scenic Ridge Road from the proposed use on the lower west side of the parcel. Impacts of the proposed zone change on adjacent uses will be minimal.

Goal 14. Solid waste collection facility operation and landfill expansion free from land use conflicts with adjacent property owners.

Policy 14.1. Identify a 1,320 foot buffer surrounding the landfill and designate this area only for those land uses compatible with current and future landfill activities. Compatible uses such as industrial should be encouraged in this buffer.

At its northern end, the western boundary of Tract 5D is contiguous with the Flathead County Landfill property, which is located directly across Highway 93 (the former Fenders Restaurant/pawn shop, Tract 4ACA). Tract 5D measures roughly 1,006 feet east to west at its widest point (south boundary), and consequently the entire tract is within the recommended ¼ mile landfill buffer area.

The proposed light industrial – highway use is compatible with current and future landfill activities. The manager of the Flathead County landfill is aware of this proposed zone change and indicated that it is highly probable that he would offer comments in support of the proposed zone change similar to other letters of support written previously for other nearby zone changes after he reviews the formal application and staff report. Hopefully such a letter of support will be sent during the public agency comment phase of review. Industrial uses are preferred over residential uses adjacent to landfills because industrial users complain about landfills far less than residents.

The proposed new zoning of I-1H is in accordance with the industrial use that is encouraged by the Growth Policy and with the industrial zoning districts recommended within the buffer area.

Other goals and policies of the Growth Policy support the proposed amendment. Some of these are mentioned briefly as follows.

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

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

The proposed zone will allow the owners to undertake an entrepreneurial venture by relocating their RV sales lot closer to home. The desired result is a more sustainable and vibrant establishment for them.

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

Access to Tract 5D is off of Highway 93 at an existing approved approach. The site is centrally located in the Flathead Valley, almost equidistant from both Kalispell and Whitefish. Access to the site is good; taking advantage of existing transportation infrastructure. The property is close to both population centers.

The proposed zoning amendment is located adjacent to the Flathead County Landfill. Industrial uses will reduce the likelihood of other incompatible uses being located near the landfill.

The Land Use Map of the Growth Policy identifies that the present use of the property at the time the map was made was suburban agricultural. This use is actually at odds with the stated goal of the Growth Policy to provide a buffer around the landfill and to designate within the buffer only uses compatible with landfill activities. The change to industrial highway land use designation would better meet the goals, policies and text of the Growth Policy.

2. *Is the proposed amendment designed to:*

a. *Secure safety from fire and other dangers?*

Yes, the proposed amendment would secure safety from fire and other dangers.

Aside from the landscaping trees and windbreaks around the house site on the eastern part of the tract, the property is not in a forested area and is mostly native grasses.

Combustible items currently on the property are limited to structures and their contents, and the grasses and trees that cover the surfaces of the parcel. These structures are situated within the eastern half of the property. Distance between the main structures around the house and Scenic Ridge Road is 200 feet or more. Fires within these existing structures can be maintained without undue risk to neighboring property.

Access to the proposed new industrial use would be directly off Highway 93, a paved four lane state highway. Access to the east end of the property would be directly off of Scenic Ridge Road, a gravel county road.

Either road is available full time for fire and emergency vehicles.

The parcel is located within the West Valley Fire District, whose Station No. 2 is located at 2399 Whitefish Stage Road, about 4.1 road miles away to the approach off the highway. Fire and emergency medical response would come from this and other stations as necessary.

The property is a sloping hillside and is not within any designated floodways or floodplains.

Slopes approach 25% on steepest part of the parcel that separates the more gently sloped top side, where the existing residence has been developed, and the west side along the highway, where the new industrial use is proposed. A more level site for the RV sales building and lot would be created by cutting the sloping hillside. Grade and location of the cut slopes will be set to provide a stable finished ground surface that does not encroach or endanger proposed improvements or adjacent property.

b. Promote the public health, public safety and general welfare?

Proposed new I-1H zoning classification allows low intensity industrial uses producing little traffic, noise, dirt, odors, light, glare, heat, or other objectionable by-products.

Access to the property is off both Highway 93 and Scenic Ridge Road. Law enforcement is provided by the Flathead County Sheriff's Office. Fire protection and emergency medical services are provided by the West Valley Volunteer Fire and Rescue Department.

Development on the property will conform to I-1H standards, which protect and promote public health, safety and general welfare.

The owners are proposing to create an RV sales lot on the west end of the parcel in conformance with all applicable standards of the I-1H zoning classification.

The proposed zoning amendment will promote public health/safety and general welfare by reducing the likelihood of residential development within the landfill buffer area while encouraging other uses that are more compatible with the adjacent landfill.

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

The property is presently served by adequate transportation infrastructure as previously described, with a gavel County roadway along the east boundary and Highway 93 along the west boundary. No off site public roadway improvements are necessary. Future development to the north on the adjacent tract is possible and would be accessed from the same existing highway approach that serves the subject property, which is consistent with the goal of minimizing individual approaches off of Highway 93. The existing paved approach to both the subject parcel and the parcel to the north (also owned by the Bergesons) was constructed by MDOT during the most recent 2009 highway reconstruction project. A shared private approach to both parcels is presently permitted by MDOT.

Public roadway improvements through the subject tract are not necessary to provide adequate access to future development on adjacent property.

There are no nearby public water supply & sewage treatment & disposal systems, and consequently private on-site water supply & sewage treatment & disposal systems are utilized by the sparse development in the

general area. The proposed use on the subject tract – RV sales – requires both water supply and sewage treatment/disposal for the sales and service staff and uses. A new private on-site water supply well and septic tank and drainfield are proposed. The new well would be drilled by a licensed well driller in conformance with Montana State regulations for water supply wells. A permit from the Flathead County Sanitarians Office would be required for the septic system.

Other more water intensive uses could require water supply or sewage systems with greater capacity than the small systems necessary for the proposed initial use. New or expanded sewer systems would require coordination with the Flathead County Sanitarians Office and and/or Montana Department of Environmental Quality. New or expanded water supply systems could require coordination and permitting with the Flathead County Sanitarians Office, Montana Department of Environmental Quality and/or Montana Department of Natural Resources and Conservation. Any expanded or new systems necessary to meet the needs of other uses would be required to obtain approval from the pertinent authorities at the time of construction. Conformance with the applicable regulations would insure that these systems are proper and adequate.

The proposed use will not contribute to increased demands on schools and parks. Since residential development within the landfill buffer area is discouraged, the proposed zoning map amendment will not increase the number of school children or loads on the park system.

To the extent that amending the zoning from an agricultural to industrial designation increases the taxable value of the property, there will be a revenue increase for any public activity that receives funding through the property tax system. Schools and parks are two such public activities. Even though the proposed zoning amendment will not result in greater demands on the school or parks systems, both schools and parks should see an increase in revenue due to the zone change, which would help budgeting of system maintenance, operation and/or improvements.

3. *Does the proposed amendment consider:*

a. *The reasonable provision of adequate air and light?*

Present zoning (SAG-10) allows for front, rear and side setbacks of 20 feet for principal structure and lesser side & rear setbacks of 5 feet for accessory structures.

Setbacks allowed in the proposed new zone (I-1H) are greater on the sides abutting county roads, 50 feet, and sides directly accessing highways, 100 feet, while side setbacks are 10 feet and rear setbacks are 20 feet. There is no differentiation between setbacks for principal and accessory structures.

The I-1H zoning includes additional design standards for access, building design, landscape buffer and signage that exceed the requirements of the SAG-10 zone.

A greater maximum building height (40 feet) is allowed in the I-1H zone than in the SAG-10 zone (35 feet). This greater building height is mitigated by the greater setback and other more stringent design standards.

In general, the I-1H zoning requirements will result in the provision of equal or better air & light than the existing SAG-10 zoning requirements.

b. *The effect on motorized and non-motorized transportation systems?*

Adequate access by vehicles to the tract is provided by the existing developed roadways previously described. The proposed use does not generate high traffic volumes and the existing transportation system has adequate capacity to handle any increased traffic produced by this zoning map amendment. Effects on the motorized transportation system will be negligible.

There are no existing bike or pedestrian paths along Highway 93 or Scenic Ridge Road. Foot and bicycle traffic can move along the shoulders of Highway 93, although bicyclists may experience some discomfort due to proximity of high speed motor vehicle traffic. Highway shoulders are wide enough that so foot traffic is not similarly affected. Since Scenic Ridge Road is presently a dead end route, there is little, if any, through foot or bicycle traffic. If a non-motorized path linking Kalispell and Whitefish is constructed in the future, there are much better routes than parallel to and directly adjacent to Highway 93 due to the proximity to relatively heavy, high speed motorized traffic; open, straight alignment; and lack of interesting topographic features compared with those that exist elsewhere nearby. A better route would be along Scenic Ridge Road, which offers the benefits of lower traffic volume and speed and more interesting scenery, but this road is a dead end. Extension southward would require easements across private property and for this reason a continuous route would be hard to create.

The owners of the subject property are willing consider granting easement(s) along either Highway 93 or Scenic Ridge Road for a pedestrian/bike path in the future if plans were to materialize.

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

Due to the adjacent Flathead County Landfill, urban growth consisting of high density residential uses is explicitly discouraged on this tract. The proposed zoning designation, I-1H, is specifically identified as being preferred in the Landfill Buffer zone and is compatible with growth policies for the area.

The Growth Policy Future Land Use Map of the City of Kalispell extends northward to Church Drive, which is located about 1¾ miles south of the subject property.

The Growth Policy Future Land Use Map of the City of Whitefish extends about 1½ miles south of the Highway 93 – Highway 40 intersection. The subject property is located about 3¼ miles further south of the limit of the mapped area.

The subject property is located outside of any city growth policy areas. There are no city plans that pertain to the subject property.

d. *The character of the district and its peculiar suitability for particular uses?*

The property is currently zoned SAG-10. Proposed zoning is I-1H. An RV sales lots is proposed to be constructed on the west end of the tract. This proposed use is not allowed in the SAG-10 zone and is allowed within the I-1H zone.

The proposed zoning designation allows for creation of lots with a minimum lot size of 1 acre. Directly across the highway from the subject property is a B-2 zone which allows for minimum lot areas of 7,500 square feet (0.172 acres). Lots sizes range from close to ½ acre to 3.7 acres. Past and present uses of this business property are restaurants, pawn shop, engineering office, yoga studio, and diving shop. Further south, another I-1H zone exists. This property is used for boat storage.

Land adjacent to and further west is owned by the Flathead County Landfill. Directly to the south, the land is vacant and arguably agricultural. Further south is a recently constructed commercial dog kennel establishment. Along the west side of the highway and southward are both the Majestic Valley Arena and Montana Raceway Park.

Directly east of the subject tract are rural residential lots approximately 10 acres or larger. The east side of the subject parcel is presently used as the owners' residence. No change to this present use is current proposed or contemplated in the foreseeable future.

Again, in general, a light industrial designation is in keeping with the recommended uses for the Landfill Buffer area.

The character of the nearby land uses of property along the highway are generally a mix of commercial uses. The proposed zone change would allow uses that are compatible with these existing adjacent uses.

The proposed zoning designation contains specific requirements such as increased setbacks, landscaping buffering, low impact industrial uses, access control and signage limits to mitigate adverse effects to the highway corridor and adjacent property. The proposed zoning designation is suitable for the area and will preserve the character neighborhood.

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

The proposed zoning map amendment will encourage the type of development that has been identified as the most appropriate for property adjacent to the landfill. The property is within the recommended ¼ mile landfill buffer area. Allowed uses are industrial, which are compatible with the nearby landfill. These types of uses will allow continued operation and future expansion of the landfill without creating conflicts with adjacent property owners.

The proposed zoning map amendment would not alter the character of the district but rather would allow uses of the property that are consistent with other existing uses within the area. The specific requirements within the zoning regulations for this light industrial – highway zoning designation are intended to mitigate adverse impacts. The character of the neighborhood will not change, so little change, if any, in property values would be expected.

4. *Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?*

The nearest municipality is the City of Kalispell. The part of the City of Kalispell that is closest to the subject property is an undeveloped parcel associated with the Silverbrook subdivision. This parcel, Tract 1 of Section 13, T29N, R22W, is 71 acres in size and is zoned B-1/PUD. It is situated about 1½ mile to the south at the southwest corner of Highway 93 and Church Drive. Further south and west, away from the corner lot, other parcels within the subdivision are zoned R-2/PUD or R-4/PUD. A small number of these parcels are developed while most are currently vacant.

In the Kalispell Zoning Regulations, the B-1 zone is called a “Neighborhood Buffer District”. The intent of the zone is described as follows:

“A business district to provide certain commercial and professional office uses where such uses are compatible with the adjacent residential areas. This district should serve as a buffer between residential areas and other commercial districts. This district is also intended to provide goods and services at a neighborhood level. The district is not intended for those businesses that require the outdoor display, sale and/or storage of merchandise, outdoor services or operations to accommodate large-scale commercial operations.”

The B-1 area is a buffer between residential areas and commercial districts, and the I-1H zone is a light industrial area serving as a buffer between the landfill and residential areas. The two zones would be compatible even if they were situated side by side. In this case, with the two zones over a mile apart and the intervening property a mix of agricultural and commercial uses, the buffer function of both zones is effective and does and will achieve the intended outcome.