

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-22-05)
MONTARISE DEVELOPMENTS, LLC
APRIL 28, 2022

I. GENERAL INFORMATION

A. Project Description

This a report to the Flathead County Planning Board and Board of Commissioners regarding a request by APEC Engineering, on behalf of Montarise Developments, LLC, for a zoning map amendment within the Prairie View and Highway 93 North Zoning Districts. The proposed amendment, if approved, would change the zoning of the subject properties from ‘SAG-5 Suburban Agricultural’ to ‘R-1 Suburban Residential.’

B. Application Personnel

1. Owner

Montarise Developments, LLC
704 E. 13th Street Ste 200
Whitefish, MT 59937

2. Technical Representation

APEC Engineering, Inc
75 Somers Road
Somers, MT 59932

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

This property is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on June 8, 2022, at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

The Commissioners will hold a public hearing on the proposed zoning map amendment. Prior to the Commissioner’s public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

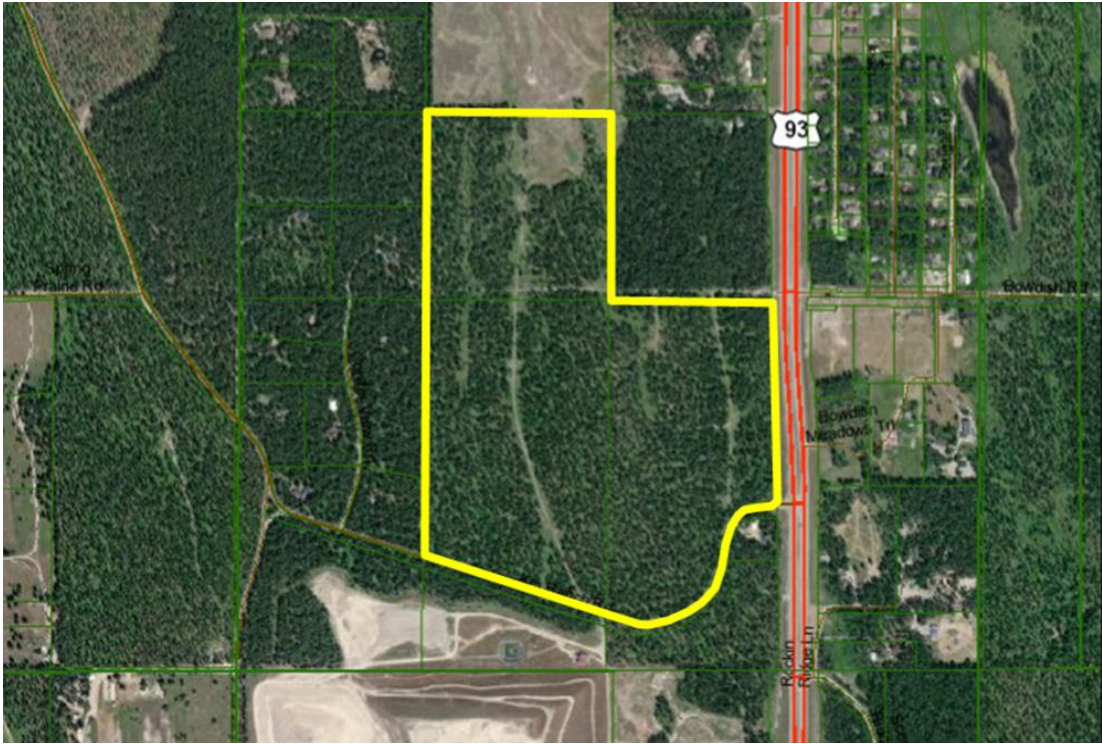
II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The properties are located along Highway 93 and KM Ranch Road south of Whitefish (see Figure 1 below) and total approximately 155.9 acres. The properties are legally described as:

Parcel A of Correction Certificate of Survey No. 17161, located and being in a portion of Section 36, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

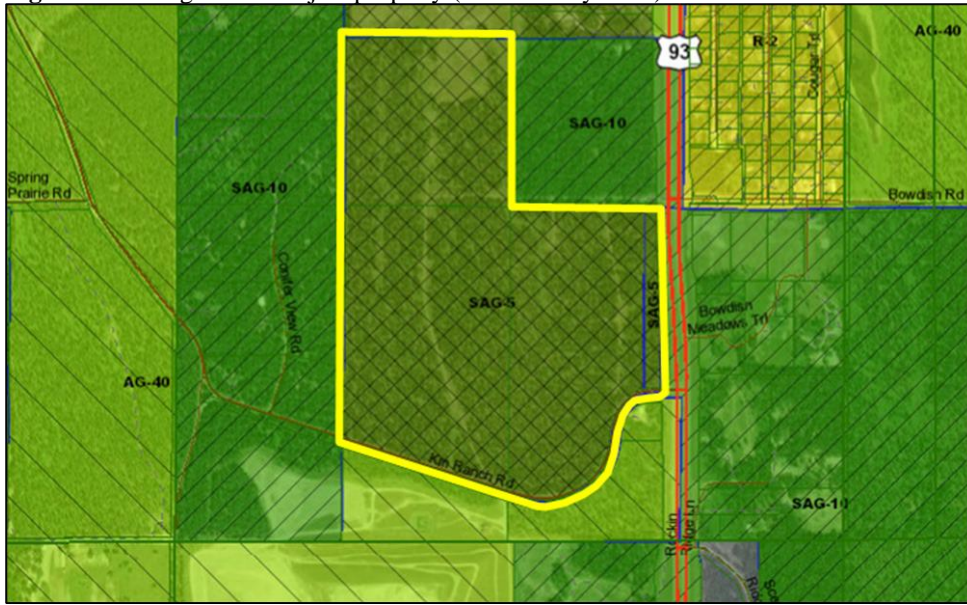
Figure 1: Subject property (outlined in yellow)



B. General Character of and Reason for Amendment

The subject property is located along the Highway 93 North corridor with much of the acreage also fronting KM Ranch Road. The land is heavily and evenly forested aside from a small patch on the north of the property that is void of trees. Currently the property is undeveloped. The application states the reason for the zone change as, “To allow for greater residential density and for a small percentage of commercial development pertinent to a Residential Mixed-use PUD, at an appropriate location, adjacent to the county transportation network. This proposed R-1 zoning change allows more density per acre and the proposed PUD Plan provides more housing options, and more housing inventory, in response to a sharp increase in housing demand in Flathead Valley.” The applicant submitted a preliminary plat application and Planned Unit Development (PUD) application in conjunction with this zoning map amendment application.

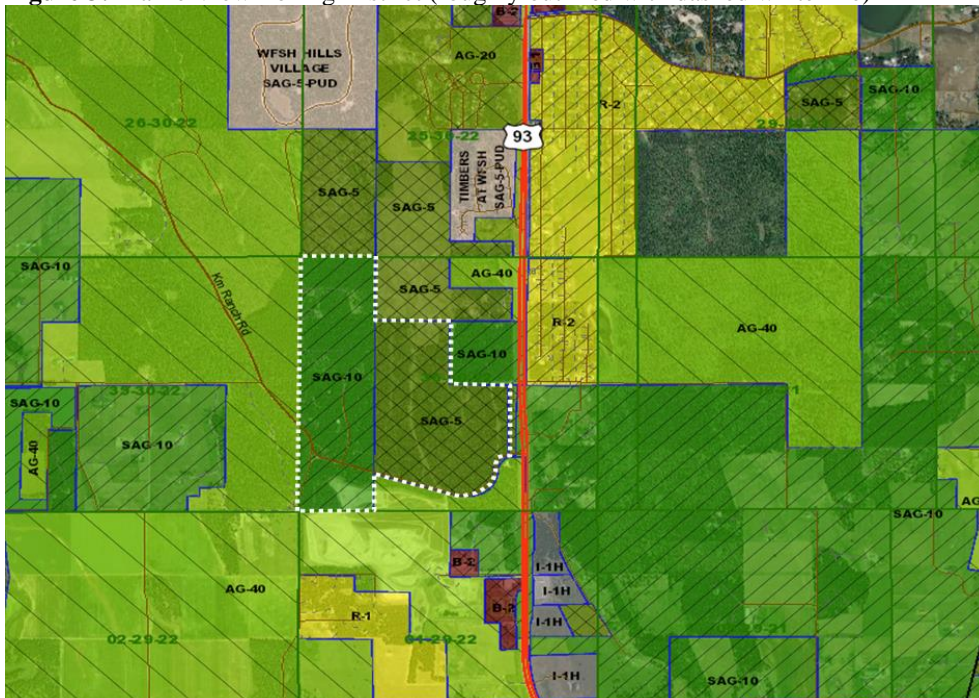
Figure 2: Zoning on the subject property (outlined in yellow)



C. Adjacent Zoning and Character of the Overall Zoning District

The property is located in the Prairie View Zoning District with a small portion being located within the Highway 93 North Zoning District. The character of the surrounding zoning districts is generally low density residential as well as agricultural. Across Highway 93 North is a portion of the Happy Valley Homesites Subdivision which falls within the Highway 93 North Zoning District and offers higher density. To the south of the property across KM Ranch Road is property owned by the Flathead County Landfill. To the north of the property is SAG-5, to the east is SAG-10, to the south is AG-80 and to the west is SAG-10. The Prairie View Zoning District is comprised of SAG-5 and SAG-10 zoning.

Figure 3: Prairie View Zoning District (roughly outlined with dashed white line)



D. Public Services and Facilities

Sewer: N/A
Water: N/A
Electricity: Flathead Electric Cooperative
Natural Gas: Northwestern Energy
Telephone: CenturyTel
Schools: School District #44
Fire: Whitefish Rural Fire District
Police: Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on March 4, 2022:
 - Flathead County Sheriff
 - Whitefish Rural Fire District
 - Flathead County Road and Bridge Department
 - Flathead County Solid Waste District
 - Flathead City-County Health Department
 - Flathead County Weeds and Parks Department
 - Bonneville Power Administration
 - Montana Fish, Wildlife and Parks
 - Whitefish High School District
 - Whitefish School District
 - MDT
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
 - Bonneville Power Administration
 - Comment: *“At this time, BPA does not object to the request, as the property is located approximately 5.09 miles away from the nearest BPA transmission lines or structures.”* Email dated March 7, 2022.
 - Montana Department of Transportation (MDT)
 - Comment: *“MDT has been contacted by APEC Engineering regarding two approach permits onto US 93 for the referenced development. This request has been sent for review through MDT’s System Impact Action Process and analysis is currently ongoing. MDT has no further comments at this time.”* Email dated March 25, 2022.
 - Comment: *“Montarise Development, LLC will need permits from MDT if rezoning is passed and the Access Controlled approaches of KM Ranch Road and Bowdish Road off US93, or other MDT facilities are impacted. Please have the owner contact Justun Juelfs, the Kalispell Area Maintenance, Chief. They will work with the owner on the MDT requirements.”* Email received April 22, 2022
 - Flathead County Road & Bridge Department

- Comment: *“After completing a review of the zone change request we do not have any concerns on the requested change. However, we will be interested to see the Traffic Impact Study prepared by Abelin Traffic Services when it is available. The estimated daily trip count of 3,066 is a sizeable increase to the road network. Until we see the traffic using KM Ranch as compared to Hwy 93 it is difficult to know of any potential impacts.”* Letter dated March 21, 2022.
- Flathead County Solid Waste District
 - Comment: *“In the Flathead County Growth policy there is discussion regarding a 1,320 ft buffer around the landfill for compatible uses with landfilling activities. At this time, we do not know if this is addressed since this is only the Zoning Map Amendment but wanted to bring it to your attention for this application.*

The District requests all solid waste generated at the proposed location be hauled by a private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission private hauler in this area. Their business phone number is 406-257-1739.” Letter dated March 21, 2022.
- Flathead City-County Health Department
 - Comment: *“Environmental health offers no comment on this proposal.”* Letter dated March 8, 2022.

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on May 18, 2022. Legal notice of the Planning Board public hearing on this application was published in the April 24, 2022, edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for June 8, 2022, and/or the Commissioner’s Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

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

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.08 of the Flathead County Zoning Regulations (FCZR), SAG-5 is defined ‘*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’

The R-1 designation is defined in Section 3.10 FCZR as, ‘*A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).*’

The permitted uses and conditional uses for the proposed and existing zoning varies. The amendment would decrease the number of permitted uses from 16 to 15 and decrease the number of conditional uses from 28 to 23. There are eight permitted and conditional uses in SAG-5 not allowed in R-1:

- Animal hospital, veterinary clinic
- Class B manufactured home
- Cluster housing
- Extractive industry
- Kennel, commercial
- Recreational facility
- Recreational vehicle park
- Riding academy and rodeo arena

There are no permitted uses listed within SAG-5 that are listed as conditional uses in R-1.

There are two conditional uses listed within the R-1 but not allowed in SAG-5

- Dwelling, cluster development
- Radio and television broadcast station

The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For SAG-5 the permitted lot coverage is 25% (Residential Uses) and maximum height is 35 feet and for R-1 the permitted lot coverage is 40% and maximum height of 35 feet.

The existing zoning requires a minimum lot area of five acres. The subject property totals 155.9 acres, therefore approximately 30 additional lots could be created under the existing zoning, though that number would likely be fewer once utilities and infrastructure are accounted for. The proposed zoning requires a minimum lot area of one acre, therefore approximately 154 additional lots could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar but the amendment would reduce the number of permitted and conditional uses and increase potential density.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed R-1 zoning classification would appear to contrast with the current designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.”

Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved, the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

Part 4 of Chapter 2 of the Growth Policy states, *‘It is clear that agriculture plays a vital role in both the economy and culture of Flathead County. The custom and culture of*

agriculture in Flathead County is one of the features that is contributing to rapid growth and development. Lands that have traditionally been used for agriculture are being converted increasingly to residential uses as residents seek rural living.'

Part 7 of Chapter 2 the Growth Policy states, *'The change in land uses from agriculture and timberlands to residential and the accompanying impacts of that change, create some of the greatest growth challenges to the county.'*

Currently the property is undeveloped and forested. Many of the properties in the surrounding area are low-density residential. There is higher density residential to the east of the subject property, across Highway 93. The Flathead County Landfill is located directly to the south and there are industrial and commercial uses nearby along Highway 93. The proposed R-1 zoning would continue to allow for agricultural and silvicultural uses.

The introduction to Part 7 of Chapter 2 states, *'The density of residential developments is an issue raised throughout the public involvement process [...] Residential development, including the subdivision of land, is not inherently problematic. However, residential development at a density that is not compatible with existing local services and neighborhood character is likely to be contentious.'* It goes on to say that, *'Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads are a match, but medium or high density land uses on low capacity roads create problems.'*

The proposed zoning would allow for both agriculture and silviculture on the property. The R-1 zone is a suburban residential zone with a one-acre minimum lot size. The R-1 zone does not require public water and sewer and the lots would generally be large enough to accommodate a septic system with a drainfield while providing separation for a well. The proposed change would allow for 154 additional lots which would result in approximately 3,066 average daily trips. Further discussion regarding access and transportation is contained below in this report.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The amendment would allow the owner to subdivide but would also allow for the continuation of the existing use on the property.
- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
 - **P.3.3** – *Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.*
 - The property is not currently used for agriculture however, the proposed R-1 zoning would continue to allow for agricultural and silvicultural uses, similar to the existing zone.

- **P.3.5** – *Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.*
 - The property is located in a relatively urbanized area of the County, adjacent to a State highway. Further discussion regarding public health and safety is contained below in this report.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
 - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)*
 - **P.4.5** – *Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.*
 - The proposed zoning would allow for agricultural and silvicultural use on the subject property while providing additional flexibility to the landowner to subdivide the property and sell off smaller lots. Further discussion regarding public services is contained below in this report.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The R-1 designation would allow for densities of one dwelling unit per one acre for single family. One dwelling unit per acre would not require public water and sewer. Further discussion on public utilities is contained later in this report.
- **P.8.2** – *Identify required criteria for various densities that support the seven elements of the public’s vision outlined in Chapter 1.*

The Seven Elements of the Public’s Vision include:

 - *Protect the Views*
The vision states, ‘*One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. “Scenic resources” are valued throughout the county regardless of age, gender or location.*’ The proposed zone change would likely have minimal impact on views because additional lots created through future subdivision would be required to meet the bulk and dimensional requirements of the proposed R-1 zone.
 - *Promote a Diverse Economy*
The vision states, ‘*The cost of living and home ownership should be affordable to the median income.*’ The proposed zone change would allow for approximately 154 additional lots to be created through future subdivision, and the R-1 zone would continue to allow for single-family dwellings and accessory dwelling units (ADU), which could increase the housing supply and make homeownership more affordable.

- *Manage Transportation*
Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.
 - *Maintain the Identity of Rural Communities*
The vision states, *'Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.'* The proposed R-1 zoning is a suburban residential zoning district that would allow for additional single-family residential development.
 - *Protect Access to and Interaction with Parks and Recreation*
This report contains a discussion on parks and recreation below.
 - *Preserve the Rights of Private Property Owners.*
The amendment would allow the owner to subdivide the property, but would also allow for many of the same uses that currently existing on surrounding properties.
- ❖ **G.14** – *Solid waste collection facility operation and landfill expansion free from land use conflicts with adjacent property owners.*
 - **P.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 use types such as industrial should be encouraged in this buffer.*
 - The subject property is located directly north of the Flathead County Landfill. According to the preliminary plat application submitted with this zoning amendment application, the proposed subdivision would incorporate a buffer along KM Ranch Road, between residential development and the landfill.
 - ❖ **G.15** – *Promote a diverse demographic of residents.*
 - **P.15.1** – *Encourage housing, employment, education and recreation to attract, support and maintain young families.*
 - The R-1 zone would allow for single family dwellings, Class A manufactured homes, and accessory dwelling units (ADUs) as a permitted use, all of which has the potential to make housing more affordable for young families.
 - ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
 - **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - Primary access to the property would be from KM Ranch Road, which is a County road, and Highway 93, which is a State highway. Future subdivision of the property would not result in individual approaches onto the roads. All

lots would be accessed by internal subdivision roads. Further discussion regarding access and transportation is contained below in this report.

- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal’s potential burden on schools below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the R-1 zoning would continue to allow for agricultural and silvicultural uses, and the R-1 zone would allow for single-family dwellings, manufactured homes, and ADUs at a higher density which has the potential to create affordable housing options.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The subject property is located within the Whitefish Rural Fire District and the Whitefish Volunteer Fire Department is located approximately 3.6 driving miles northeast of the property, along Hodgson Road. Additionally, the Whitefish Fire Department is located approximately 5.9 driving miles north of the property within the City of Whitefish and would respond in the event of a fire or medical emergency. The property is located within the Wildland Urban Interface (WUI) and a ‘High’ County-wide priority area. Highway 93 is a paved, five-lane, State-maintained highway within right-of-way of varying widths. KM Ranch Road is a paved, two-lane, county road within a 60-foot-wide right-of-way. The roads appear capable of providing access for emergency vehicles. No comment was received from the local fire district regarding this proposal.

According to FEMA FIRM Panel 30029C1405J, the property is located within an unshaded Zone X, an area determined to be outside the 0.2% annual chance flood hazard.

Finding #2: The proposed zoning map amendment would secure safety from fire and other dangers because although the property is within the WUI and a ‘High’ County-wide priority area, the property is served by the Whitefish Rural Fire District and is located approximately 3.6 miles from the nearest fire station, access is from a paved, State highway and a paved County road, and the property is not located within a Special Flood Hazard Area.

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

As previously stated, the subject property is located within the Whitefish Rural Fire District and the nearest fire station is approximately 3.6 driving miles from the property. The Whitefish Volunteer Fire Department and the City of Whitefish Fire Department would respond in the event of a fire or medical emergency and the

Flathead County Sheriff's Office provides police services to the subject property. Highway 93 and KM Ranch Road appear adequate to provide ingress and egress for emergency vehicles which would help to ensure adequate public health and safety.

The R-1 zoning classification would allow for similar uses to what already exists in the area, therefore, the zone change is not anticipated to adversely impact public health, safety, or welfare.

Finding #3: The proposed zoning map amendment would have a minimal impact on public health, safety and general welfare because the property is served by the Whitefish Rural Fire District and Flathead County Sheriff's Office, and future development would comply with the permitted and conditional uses in the R-1 zone which are similar to the existing surrounding uses.

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

Primary access to the subject property is via Highway 93 and KM Ranch Road. Highway 93 is a paved, five-lane, State-maintained highway within right-of-way of varying widths. The most recent traffic counts for Highway 93 in the vicinity of the properties were collected in 2020 and indicated 16,112 average daily trips (ADT). Comments from MDT indicate, *"MDT has been contacted by APEC Engineering regarding two approach permits onto US 93 for the referenced development. This request has been sent for review through MDT's System Impact Action Process and analysis is currently ongoing. MDT has no further comments at this time."*

"Montarise Development, LLC will need permits from MDT if rezoning is passed and the Access Controlled approaches of KM Ranch Road and Bowdish Road off US93, or other MDT facilities are impacted. Please have the owner contact Justun Juelfs, the Kalispell Area Maintenance, Chief. They will work with the owner on the MDT requirements."

KM Ranch Road is a paved, two-lane, county road within a 60-foot right-of-way. The most recent traffic counts for KM Ranch Road in the vicinity of the properties were collected in 2019 and indicated 1,152 average daily trips (ADT). Comments from the County Road and Bridge Department state, *"After completing a review of the zone change request we do not have any concerns on the requested change. However, we will be interested to see the Traffic Impact Study prepared by Abelin Traffic Services when it is available. The estimated daily trip count of 3,066 is a sizeable increase to the road network. Until we see the traffic using KM Ranch as compared to Hwy 93 it is difficult to know of any potential impacts."*

The proposed traffic study for the subdivision on this property indicates the proposal would generate approximately 3,066 ADT. Approximately 55% of that traffic would utilize KM Ranch Road most of which would go east Highway 93 and 85% of the traffic would end up on Highway 93. The zoning map amendment has the potential to increase traffic by 16% on Highway 93 and 120% increase on KM Ranch near the intersection of Highway 93. According to the traffic study intersection improvements will likely be needed at the Bowdish and 93 and the KM

Ranch and 93 intersections. MDT would likely require intersection improvements and the subdivision will be conditioned for MDT approval.

The application indicates lots created through future subdivision would be served by community public water and community sewer systems. The Flathead City-County Health Department had no comment regarding the proposal. The property owners would be required to undergo review and approval from the Flathead City-County Health Department and the Montana Department of Environmental Quality, as applicable, if the properties are further subdivided or developed.

According to the 2019 Census Data, there are 49,531 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2021 states there are 17,331 students enrolled in County schools. The total students (17,331) divided by the total households (49,531) equals approximately 0.35 students per household. The proposal has the potential to create 154 additional lots in the future and therefore would generate approximately 54 school-age children. The Whitefish School District did not provide comment on this proposal. It is anticipated that the schools would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The proposed amendment from SAG-5 to R-1 would reduce the minimum lot size from 5 acres to 1 acre. It is anticipated subsequent future development would require subdivision review and parkland dedication requirements would be determined at that time. There are numerous parks, natural areas, and recreational opportunities accessible in the vicinity of the proposal.

Finding #4: The proposed zoning map amendment could have a negative impact on the transportation system because access to the property currently exists via Highway 93 and KM Ranch Road, the proposal has the potential to increase traffic on KM Ranch Road by approximately 120%, future development would require approach permits from the Montana Department of Transportation and will require review through MDT’s System Impact Action Process.

Finding #5: The proposed zoning map amendment would facilitate the adequate provision of water and sewer services, schools, and parks because future development of the property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, as applicable, the proposal has the potential to generate 54 school-age children, no comment was received from the local school district, and parkland dedication would be considered during subdivision review.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

As indicated in the application, “*Although the density ratio is 2 dwelling units per acre, the layout of the different neighborhoods within the R-1 Mixed Use PUD contributes [approximately] 38 acres... of shared open space*” and that over all “*the lot coverage will be well below the permitted 40% lot coverage [permitted in R-1].*” The bulk and dimension requirements of the zoning regulations is one of the primary factors in establishing adequate light and air for any given zoning district.

While the proposed PUD overlay of the R-1 district will encroach upon the bulk and dimensions some, the lot coverage would generally fall under the permitted 40% coverage with “*only 3 multi-family lots approaching the... limit*”. Any additional lots created or structures constructed would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the PUD overlay R-1 zoning classification. The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For SAG-5 the permitted lot coverage is 25% (residential uses) and maximum height is 35 feet and for R-1 the permitted lot coverage is 40% and maximum height of 35 feet. The bulk and dimensional requirements for the R-1 and SAG-5 are very similar, with the exception of lot size and permitted lot coverage. While the increased density would decrease the availability of light and air, an R-1 zoning would still provide adequate measures as well as meet the definition of R-1 which denotes low density development in rural areas. The requirements have been established to provide for a reasonable provision of light and air.

Finding #6: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed R-1 designation.

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

As previously stated, primary access to the subject property is via Highway 93 and KM Ranch Road. Highway 93 is a paved, five-lane, State-maintained highway within right-of-way of varying widths. The most recent traffic counts for Highway 93 in the vicinity of the properties were collected in 2020 and indicated 16,112 average daily trips (ADT). Comments from MDT indicate, “*MDT has been contacted by APEC Engineering regarding two approach permits onto US 93 for the referenced development. This request has been sent for review through MDT’s System Impact Action Process and analysis is currently ongoing. MDT has no further comments at this time.*”

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KM Ranch Road is a paved, two-lane, county road within a 60-foot right-of-way. The most recent traffic counts for KM Ranch Road in the vicinity of the properties were collected in 2019 and indicated 1,152 average daily trips (ADT). Comments from the County Road and Bridge Department state, “*After completing a review of the zone change request we do not have any concerns on the requested change.*”

However, we will be interested to see the Traffic Impact Study prepared by Abelin Traffic Services when it is available. The estimated daily trip count of 3,066 is a sizeable increase to the road network. Until we see the traffic using KM Ranch as compared to Hwy 93 it is difficult to know of any potential impacts.”

The proposed traffic study for the subdivision on this property indicates the proposal would generate approximately 3,066 ADT. Approximately 55% of that traffic would utilize KM Ranch Road most of which would go east Highway 93 and 85% of the traffic would end up on Highway 93. The zoning map amendment has the potential to increase traffic by 16% on Highway 93 and 120% increase on KM Ranch near the intersection of Highway 93. According to the traffic study intersection improvements will likely be needed at the Bowdish and 93 and the KM Ranch and 93 intersections. MDT would likely require intersection improvements and the subdivision will be conditioned for MDT approval.

The Flathead County Trails Plan identifies Highway 93 as a proposed connector trail. It is anticipated there would be minimal impact on non-motorized traffic because subdivision review of the properties would require an easement for a bicycle and pedestrian trail along Highway 93.

Finding #7: The proposal would have a negative impact on the motorized transportation systems because access to the subject property currently exists via Highway 93 and KM Ranch Road, the proposal has the potential to increase traffic on KM Ranch Road by approximately 120%, future development would require approach permits from the Montana Department of Transportation and will require review through MDT’s System Impact Action Process.

Finding #8: Effects on non-motorized transportation systems will be minimal because future subdivision of the property would require an easement for a bicycle and pedestrian trail along Highway 93.

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

The subject property is located about midway between the cities of Kalispell and Whitefish. The subject property is located approximately 2.25 miles north of the Kalispell city limits, 4.0 miles south of the Whitefish city limits and outside the boundary of both cities Growth Policy.

Finding #9: The proposed zoning map amendment would not have an impact on the urban growth in the vicinity of cities and towns because the closest incorporated city is located approximately 2.25 miles south of the subject property.

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

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a

review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. ***The zoning allows a use that differs significantly from the prevailing use in the area.***

The property is located in the Prairie View Zoning District with a small portion being located within the Highway 93 North Zoning District. The character of the surrounding zoning districts is generally low density residential as well as agricultural. Across Highway 93 North is a portion of the Happy Valley Homesites Subdivision which falls within the Highway 93 North Zoning District and offers higher density R-2 zoning. To the south of the property across KM Ranch Road is property owned by the Flathead County Landfill. To the north of the property is SAG-5, to the east and west is SAG-10, and to the south is AG-80.

The permitted uses and conditional uses for the proposed and existing zoning are similar as demonstrated in the build-out section above. The amendment would decrease the number of permitted uses from 16 to 15 and decrease the number of conditional uses from 28 to 23. The property is located adjacent on the southwest to existing R-2 the R-2 zoning allows for a smaller lot sizes than the existing and proposed zoning and also allows for similar residential uses to the proposed R-1 zoning.

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

The zoning map amendment would apply to three tracts for the benefit of one owner, however the kitty-corner to R-2 zoning on the northeast corner of the property. The R-2 zone allows for larger lots than the neighboring R-2 zoning. The proposal would change the subject property to R-1 which would allow for lot sizes between the existing SAG-5 zoning and the neighboring R-2 zoning currently.

Using standard ArcGIS software staff was able to determine the subject property is located within approximately 283.0 acres SAG-5 district and to the northeast is a R-2 zone that is approximately 359.0 acres. To the north is also a AG-40 district that is approximately 25 acres. The adjacent SAG-10 district is approximately 4,000.0 acres. South of the subject property there are B-2 districts 7.0 and 16.0 acres, and a SAG-10 district approximately 39.0 acres in size. Also to the south is an R-1 zoning district approximately 88.0 acres. Directly west of the property is a SAG-10 district approximately 166 acres. The property is 155.9 acres in size and would be larger than many of the existing zoning districts in the area.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

Although the proposal only includes one landowner, it would not result in special legislation at the expense of the surrounding landowners or general public because the permitted and conditional uses listed within the proposed R-

1 zone are similar to the permitted and conditional uses in the current SAG-5 20, as discussed in the build-out analysis section of this report.

Finding #10: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zoning does not allow uses that differ significantly from the prevailing use in the area, the R-1 zone would allow for a lot size larger than the neighboring R-2 but less than the existing SAG-5 and the acreage of the proposed zone change is similar in size to the acreage of the nearby zoning districts.

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

The adjacent properties primarily contain rural residential, open space and the land fill. Previous sections of this report have discussed the differences between permitted and conditional uses in the existing SAG-5 zoning and the proposed R-1 zoning designation. Many of the land uses listed as permitted uses in the proposed R-1 zone exist in the vicinity of the subject property such as single-family residential and agricultural uses. The permitted and conditional uses would likely not impact the value of buildings and would be appropriate land uses throughout the area of the proposed zone change because they already exist in the area.

Finding #11: This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the R-1 designation allows for similar uses to the surrounding zones and would be less dense than existing neighboring zones.

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

The subject property is located about midway between the cities of Kalispell and Whitefish. The subject property is located approximately 2.25 miles north of the Kalispell city limits and 4.0 miles south of the Whitefish city limits. Both cities were sent an agency referral but have yet to provide comment on this proposal. Since there are no nearby municipalities, the proposal will have no impact on compatibility of zoning ordinances of nearby municipalities.

Finding #12: The proposed zoning map amendment would not have an impact on the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 2.25 miles south of the subject property.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the R-1 zoning would continue to allow for agricultural and silvicultural uses, and the R-1 zone would allow for single-family dwellings, manufactured homes, and ADUs at a higher density which has the potential to create affordable housing options.
2. The proposed zoning map amendment would secure safety from fire and other dangers because although the property is within the WUI and a 'High' County-wide priority area, the property is served by the Whitefish Rural Fire District and is located approximately 3.6

miles from the nearest fire station, access is from a paved, State highway and a paved County road, and the property is not located within a Special Flood Hazard Area.

3. The proposed zoning map amendment would have a minimal impact on public health, safety and general welfare because the property is served by the Whitefish Rural Fire District and Flathead County Sheriff's Office, and future development would comply with the permitted and conditional uses in the R-1 zone which are similar to the existing surrounding uses.
4. The proposed zoning map amendment could have a negative impact on the transportation system because access to the property currently exists via Highway 93 and KM Ranch Road, the proposal has the potential to increase traffic on KM Ranch Road by approximately 120%, future development would require approach permits from the Montana Department of Transportation and will require review through MDT's System Impact Action Process.
5. The proposed zoning map amendment would facilitate the adequate provision of water and sewer services, schools, and parks because future development of the property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, as applicable, the proposal has the potential to generate 54 school-age children, no comment was received from the local school district, and parkland dedication would be considered during subdivision review.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed R-1 designation.
7. The proposal would have a negative impact on the motorized transportation systems because access to the subject property currently exists via Highway 93 and KM Ranch Road, the proposal has the potential to increase traffic on KM Ranch Road by approximately 120%, future development would require approach permits from the Montana Department of Transportation and will require review through MDT's System Impact Action Process.
8. Effects on non-motorized transportation systems will be minimal because future subdivision of the property would require an easement for a bicycle and pedestrian trail along Highway 93.
9. The proposed zoning map amendment would not have an impact on the urban growth in the vicinity of cities and towns because the closest incorporated city is located approximately 2.25 miles south of the subject property.
10. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zoning does not allow uses that differ significantly from the prevailing use in the area, the R-1 zone would allow for a lot size larger than the neighboring R-2 but less than the existing SAG-5 and the acreage of the proposed zone change is similar in size to the acreage of the nearby zoning districts.
11. This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the R-1 designation allows for similar uses to the surrounding zones and would be less dense than existing neighboring zones.

12. The proposed zoning map amendment would not have an impact on the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 2.25 miles south of the subject property.

VI. CONCLUSION

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

Planner: LS/EM/EA/ZM