

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
GARRY D. SEAMAN AND MICHAEL V. SEAMAN
ZONING MAP AMENDMENT REPORT (#FZC-16-18)
FEBRUARY 22, 2017**

I. GENERAL INFORMATION

A. Project Description

This a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Garry D. Seaman and Michael V. Seaman, for a zoning map amendment within the Evergreen Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from ‘*R-1 Suburban Residential*’ and ‘*R-3 One Family Residential*’ to ‘*R-4 Two-Family Residential*.’

B. Application Personnel

1. Owner/Applicants

Michael Seaman/Garry Seaman
4000 Highway 2 East
Kalispell, MT 59901

2. Technical Assistance

Sands Surveying
2 Village Loop
Kalispell, MT 59901

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 or Community Council.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on March 8, 2017 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.

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

3. Commission

In accordance with Montana law, 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.

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

II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The total acreage of the subject property is approximately 34.09 acres. The property is located at 74 West Evergreen Drive in Evergreen, MT (see Figure 1 below). The property consists of four tracts and are legally described as:

Tract 1: The Tract of Land in Government Lot 4 of Section 4, Township 28 North Range 21 West, P.M.M., Flathead County, Montana Described as Follows:

Beginning at the Northeast Corner of the Northwest Quarter of Said Section 4; Thence Running Due West on the Township Line a Distance of 1326.4 Feet to a Point; Thence South a Distance of 445.7 feet to the Point of Beginning of the Tract Described Herein; Thence West a Distance of 1000 Feet to a Point; Thence South a Distance of 435.6 Feet to a Point; Thence East a Distance of 1000 Feet to the Northeast Corner of a Tract Heretofore Sold to Anthony Zimmerman; Thence North a Distance of 435.6 Feet to the Place of Beginning.

Tract 2: The Tract of Land in Government Lot 4 of Section 4, Township 28 North Range 21 West, P.M.M., Flathead County, Montana Described as Follows:

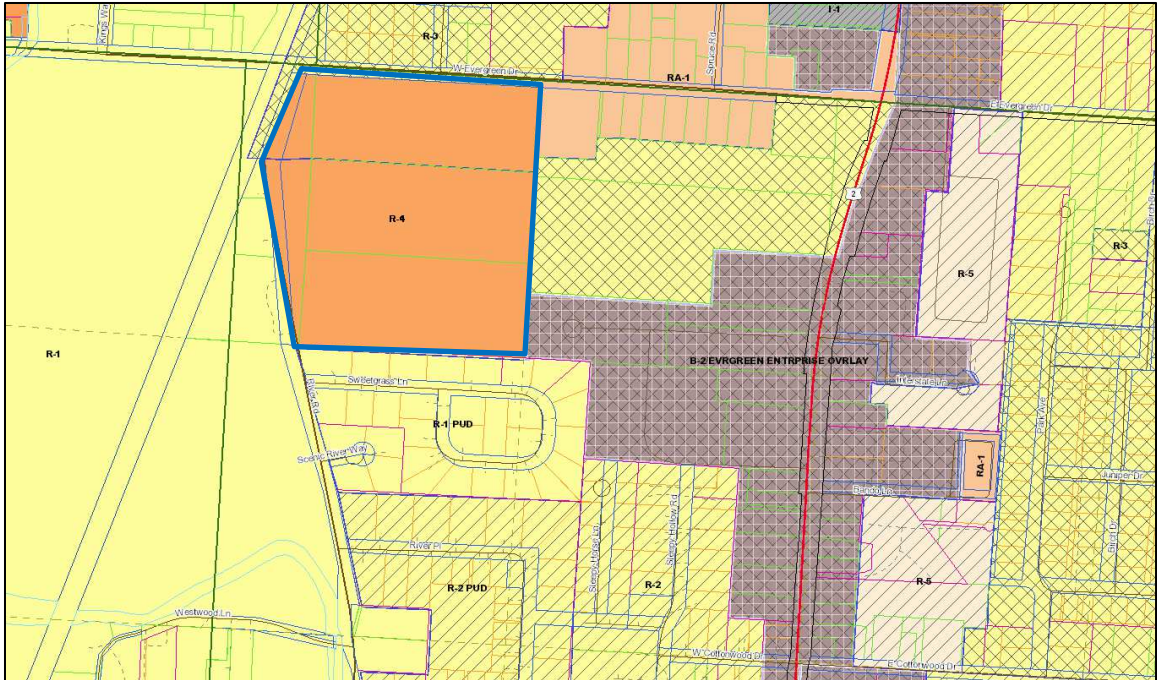
Beginning at a Point 1325.5 Feet West of the Center of the road on the Quarter Section Line at the Southeast Corner of the Northeast Quarter of the Northwest Quarter of Said Section 4; Thence North a Distance of 435.6 Feet to a Point; Thence West a Distance of 1000 Feet to a Point; Thence South a Distance of 435.6 Feet to a Point; Thence East a Distance of 1000 Feet to the Place of Beginning.

Tract 3: The Tract of Land in Government Lot 4 of Section 4, Township 28 North Range 21 West, P.M.M., Flathead County, Montana Described as Follows:

Commencing at the Point of Intersection of the Easterly Boundary Line of the Railroad Right of Way with the Northerly Boundary Line of Said Lot 4; Thence East Along the North Boundary Line of Said Lot 4 a Distance of 37 Feet More or Less to the Northwest Corner of a Tract of Land Theretofore Conveyed to H.H., Langeli; Thence Southerly Along the Westerly Boundary Line of Land Heretofore Conveyed to Other Parties, a Distance of 1296 feet 6 inches, More or Less, to the South Line of Said Lot 4; Thence Westerly along Said Subdivision Line a Distance of 22 feet More or Less, to the Easterly Boundary Line of a Private Highway Crossing Said Lot 4; Thence Northwesterly a Distance of 840 Feet More or Less to the Easterly Boundary Line of a Private Highway Crossing Said Lot 4; Thence Northeasterly Along Said Boundary Line a Distance of 467 Feet 7 inches, More or Less, to the Place of Beginning.

Tract 4: The Tract of Land in Government Lot 4 of Section 4, Township 28 North Range 21 West, P.M.M., Flathead County, Montana Described as Follows:

Beginning at the Northeast Corner of the Northwest Quarter of the Northwest Quarter of Said Section 4; Thence West a Distance of 1000 Feet to a Point; Thence South a Distance of 406 Feet to a Point; Thence East a Distance of 1000 Feet to a Point; Thence North a Distance of 406 Feet to the Place of Beginning.



As previously stated the property is currently zoned R-1 and R-3 and the applicants are proposing R-4. The application states, “The applicant has owned the property for more than 20-years and would like to create a mobile home park on the property to provide affordable house option in the Flathead Valley.”

C. Adjacent Zoning and Character of the Overall Zoning District

The property is located in the Evergreen Zoning District. The character of the zoning district in the vicinity of the subject property is mostly residential, agricultural and commercial.

Directly to the east of the subject property are three zones, B-2/EEO, R-3 and RA-1. The properties to the east contain a school, single family and multi-family residential and an undeveloped business center. To the west of the property the zoning is R-1 zoning with a few single family dwellings and open space along the Whitefish River. South of the property is R-1 and R-2 zoning both are PUDs. There are single family residential lots in both of the PUDs. To the north of the property is R-3 zoning with single family residential lots.

Figure 3: Evergreen Zoning District (outlined with dashed black line & subject property outlined in blue)

- Evergreen Fire District
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: “BPA does not have any objections to the approval of this request at this time.” Email dated January 6, 2017.
 - Evergreen Water and Sewer District
 - Comment: “The District’s water and sewer services are available to Mike Seaman’s 4 parcels on River Road and West Evergreen, Tract 1E Tract 1I Tract 1J and Tract 1G. Depending on what Mike plans on doing, main extensions may be required.
 - “The developer will pay to provide the services and they must be installed to meet District specifications and all applicable fees must be paid. Mike will also have to pay sewer treatment impact fees to the City of Kalispell.”
 - Flathead Environmental Health Department
 - Comment: “By definition MCA 76-4-102(16), the proposed mobile home park creates a subdivision which is subject to review under Sanitation in Subdivisions Act. This review will consist of review of the proposed potable water supply, wastewater treatment, storm drainage, and solid waste disposal for the proposed subdivision.

“Operation of a mobile home park or trailer court requires licensure with the State of Montana, Food and Consumer Safety Section, under MCA 50-52-103. Operation of the mobile home park must be compliant with ARM 73.111.2. Licensure and inspections of the park are conducted by Flathead County Health Department, Environmental Health Services on a yearly basis. Before the park can be licensed, a plan review must be completed.

“This property lies within the Kalispell Air Pollution Control District. Development of the mobile home park must be in compliance with Chapter VIII, Sub-Chapter 5 of Flathead County Air Pollution Control Regulations (FCAPCR). Please refer to FCAPCR for a complete list of requirements.” Letter dated January 20, 2017.
 - Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated January 9, 2017.

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 February 17, 2017. Legal notice of the Planning Board public hearing on this application was published in the February 19, 2017 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 will 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 March 8, 2017 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 3.09 of the Flathead County Zoning Regulations (FCZR), R-1 Suburban Residential is defined 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.'*

Per Section 3.11 of the Flathead County Zoning Regulations (FCZR), R-3 One Family Residential is defined as, *'A district to provide adequate lot size for urban residential development; should have good thoroughfare access, and be in proximity to community and neighborhood facilities, i.e., schools, parks, shopping areas. This district will normally require all public utilities.'*

Per Section 3.12 of the Flathead County Zoning Regulations (FCZR), R-4 Two-Family Residential is defined as, *'A district to provide lot areas for urban residential development. Development within the district will require all public utilities and all community facilities. A duplex is allowed in this district.'*

The permitted uses and conditional uses between the R-1, R-3 and R-4 are fairly similar with the main difference being R-1 allows for a few rural uses and R-4 allows for a few urban uses. The R-1 zone has six more permitted uses than the R-4 zone while the R-3 zone has one less. The number of conditional use is the same between R-3 and R-4 but the uses are slightly different and the R-1 has six more conditional uses. Class B Manufactured Homes are the only permitted use in the R-4 zone that is not allowed in the R-3 or R-1. An Accessory Dwelling Unit is permitted in R-1 but requires a CUP in both R-3 and R-4 zones. The R-2 and R-4 zones have a Day Care Center listed as conditional use but is not allowed in the R-1 zone. There are six permitted uses listed in R-1 not allowed in R-4, they include:

- Agricultural/horticultural/silvicultural use.
- Guest house.
- Livestock.
- Nursery, landscaping material.
- Produce stand.
- Stable, private.

The following are conditional uses within the R-1 and R-3 zones but not allowed in R-4:

- Airfield.
- Aircraft hangar.
- Camp and retreat center.
- Caretaker's facility.
- Cemetery, mausoleum, columbarium, crematorium
- Dwelling, family hardship.
- Golf driving range.
- Radio and television broadcast station.
- Stable, public.
- Water and sewage treatment plant.

The conditional uses allowed within the R-4 zone but not allowed in R-3 or R-1 zones are:

- Beauty salon and barbershop.
- Mini-storage, RV storage.

The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, side-corner and rear boundary line for principal structures. The side setback for R-1 is 20 feet, for R-3 it is 10 feet and for R-4 the side setback is 5 feet. All three of the zones require the same setbacks for accessory structures of 20 feet from the front and side corner and 5 feet from the side and rear. 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 the proposed R-4 and existing R-1 the permitted lot coverage is 40% and the maximum height is 35 feet and in the existing R-3 the permitted lot coverage is 30% and maximum height of 35 feet.

The R-1 zoning requires a minimum lot area of 1 acre and the R-3 zoning has a minimum lot area of 10,000 square feet. The subject property totals 34.09 acre, of that

approximately 10.69 acre is currently zoned R-3 and 23.40 acres is currently zoned R-1. Development standards anticipate approximately 30% of the total land area being allocated to infrastructure. Thus under the proposed zoning the subject property could potentially be divided in a manner resulting in approximately 48 single family lots under the current zoning.

The proposed zoning requires a minimum lot area of 6,000 square feet for single family dwelling and 7,500 square feet for duplexes. If the property was developed with single family residential approximately 173 total dwellings could be create and if the property is developed with all duplexes the property could be developed with 276 dwellings (138 duplexes). And a manufactured home park shall not exceed the density of the residential district.

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 from the existing R-1 while adding a permitted use over the R-3.

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 property is located within the Kalispell City-County Master Plan 2010, adopted on February 6, 1986 by the Flathead County Commissioners (Resolution #578A).

a. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Residential.’ The proposed R-4 zoning classification would appear to be consistent with the current designations. 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. [...]” 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 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.'

The property for the proposed zone change is located in an urbanized area of the county between the community of Evergreen and the City of Kalispell and has access to public water and sewer, thus making the continuation of farming on the property a less viable option. The property is located adjacent to a middle school and less than a half mile from U.S. Highway 2.

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 the continuation of agriculture on the property as a grandfathered use. The proposal would allow for a density that would require being served by public sewer and water, is in a fire district, and located on a county collector road capable of handling an increased volume of traffic.

Part 9 of Chapter 2 states, *'Prohibiting development on a property just because a historic farmstead is there would be unreasonable. Allowing the destruction of a historic farmstead structure to make way for new town homes would also be unreasonable. In keeping with the vision principals outlined by the residents of Flathead County, development should seek to incorporate and highlight the cultural significance of historic places and artifacts.'* The property does not contain any old agricultural structures.

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 proposed zoning would allow for the continuation of agricultural uses on the subject property as a grandfathered use and is located in an urbanized area of the county served by sewer and water.
- ❖ **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.4.5** – *Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.*
 - The proposed zoning would allow for the continued use of agriculture on the subject property as a grandfathered use while providing additional flexibility to the landowner to subdivide the property.
- ❖ **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 proposal is located in an area with public water and sewer in an urbanized area of the county. The property is located close to the Evergreen Fire Station and in close proximity to the Sheriff’s office.
 - **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 if approved would likely have minimal impact on views because it is located near an urbanized area of the county but has the chance of reducing open space views.
 - *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 if approved could allow for additional single family residential, duplexes and manufacture homes adding to the housing supply which has the potential to 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 property is located in the urbanized area of Evergreen near the Evergreen Middle School and within the Evergreen Water and Sewer District and would be considered infill.

- *Protect Access to and Interaction with Parks and Recreation*

This report contains a discussion on parks and recreation below.

- *Properly Manage and Protect the Natural and Human Environment*

The vision states, *‘Air and water quality were mentioned frequently as well as co-habitation of people and wildlife being qualities that make Flathead County unique and desirable. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air for future generations.’* The property does not contain any surface waters or groundwater which would be impacted by this proposal. And the increased residential density is likely to have a minimum impact on air quality

- *Preserve the Rights of Private Property Owners.*

As previously stated, the amendment would allow the owner to subdivide the property, but would also allow for the continuation of agricultural on the property as a grandfathered use.

- ❖ **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 proposed zoning would allow for single family dwellings, duplexes, manufactured homes and would also allow for accessory dwelling units as a permitted use on smaller lots, all of which has the potential to make housing more affordable for young families.

- **P.23.6** – *Support land use patterns along transit corridors that reduce vehicle dependency and protect public safety.*

- This report contains discussion on the adequacy of motorized and non-motorized transportation below.

- ❖ **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.*

- West Evergreen Drive and River Road are paved county collectors. Any development would likely require internal subdivision roads thus eliminating direct driveway access onto either road.

- ❖ **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.
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.*
 - The subject property is located within the Kalispell City-County Master Plan. This report contains further discussion on the compliance with the neighborhood plans below.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the proposal would allow for further subdivision of land, single family, duplexes and manufactured homes, it is located next to the Evergreen Middle School, within the Evergreen Water and Sewer District, and is located in urbanized area of the county between the community of Evergreen and the City of Kalispell.

b. Kalispell City-County Master Plan

The Kalispell City-County Master Plan (Master Plan) serves as a planning tool for the area surrounding the City of Kalispell. The Master Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level. The Master Plan is composed of three major components, the text, the map and the goals and objectives. According to the Master Plan, *“Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan.”* This report contains discussion on compliance with all three components of the Master Plan.

The Kalispell City-County Master Plan Year 2010 currently designates the land use of the subject property as *‘Suburban Residential.’* *‘Suburban Residential’* designation states, *“A residential district which provides for two or less units per acre. Such areas typically do not have access to a community sewer or water system, have only limited police and fire protection, and may have a limited carrying capacity due to site or soil limitations, floodplain or other natural constraints which preclude higher density.”*

The R-4 zoning would likely require public utilities upon build-out. The proposed R-4 designation would allow for a density of 1 dwelling unit per 6,000 square feet and a duplex on 7,500 square foot lots. The density of the proposed zone would be approximately seven to twelve units per acre, which would be greater than what the *‘Suburban Residential’* calls for.

The proposal would be compatible with the “*High Density Urban Residential*” which states, “*A residential district which provides for a density of 8—40 units per gross acre. Areas must be served by community sewer and water and have immediate access to police and fire protection as well as access to other community services including garbage disposal, schools, park and open areas, and be located adjacent to or near a collector or arterial street.*”

Since the time of the designation the area is now served by sewer and water, is served by the Evergreen Fire District and only a small portion of the property is located within the floodplain. The property is located on West Evergreen Drive and River Road both classified as county collectors. Any new development would be able to have a contract hauler for solid waste disposal and the property is located adjacent to the Evergreen Middle School.

The application states, “As this Land Use Plan is now thirty years old it is dated and passed its useful life as a long range planning document. [...]. When the Kalispell Master Plan was adopted in 1986, Evergreen had no Public Sewer transmission or treatment system and a small Public water system. All homes and businesses were served by individual septic systems and many homes were on individual wells.”

The following goals and objectives of the Master Plan appear applicable to the proposed Master Plan map amendment, and generally indicate consistency with the proposal:

3. ***Environment*** – *Air, water, open space and scenic vistas unhindered by pollution, blight or other factors.*
 - a. *Establish strict standards for all development which occurs in environmentally sensitive or critical areas such as floodplains, lakeshores, drainage ways or excessive slope areas.*
 - b. *Where appropriate, preserve areas within the 100 year floodplain in a natural state as parkland, wildlife habitat, open space or agriculture.*
 - A portion of the property is located within the 100-year floodplain and the proposed zone change if approved would likely have minimal impact on the floodplain because if the property is built out to an R-4 density subdivision review would be required at such time the floodplain could be dedicated as open space.
4. ***Housing***
 - d. *Provide areas and institute appropriate site design for mobile home and manufactured home parks.*
 - f. *Coordinate the designation and development of higher density neighborhoods with adequate parklands and adjacent open space.*
 - The proposed zoning would allow for a manufactured home park which the applicant has stated he would like to create a manufactured home park. The property is located adjacent to a school where roughly 14.5 acres of the school's 22 acres remains open space/parkland.
5. ***Economy***

- g. *Identify and conserve prime farm lands in order to retain farming as a viable sector of the economy.*
 - The proposed zoning does not list agriculture as a permitted use but the use would be grandfathered and continue in agricultural production until the property is developed.
6. ***Land Use*** – *The orderly development of the planning jurisdiction with ample space for future growth while, at the same time, ensuring compatibility of adjacent land uses.*
- f. *Concentrate medium and high density residential units in areas close to commercial services, good traffic access and open space specifically to provide efficient access to these amenities for the occupants and to provide a suitable buffer between commercial and high traffic areas and low density residential areas.*
 - The subject property is located on two county collectors, less than a half mile from Highway 2 and the commercial strip on the highway and is located next to R-1, R-3 and RA-1 zoning, helping to serve as a buffer between RA-1 and the commercial strip of Highway 2 and the R-1 to the west.
8. ***Public Facilities*** – *An economical, balanced distribution of public facilities and services throughout the planning jurisdiction for present and anticipated future residents.*
- a. *Designate areas of future development which are already serviced or area in areas which can be economically serviced by water and sewer, police and fire protection, etc.*
 - b. *Coordinate sewer, water, and street planning and development with the land development process.*
 - This report contains discussion on the adequacy of emergency service and public facilities below.
12. ***Agriculture***
- d. *Recognize that agricultural lands are important to the aesthetic and wildlife quality of the county and as such are an integral part of the county's tourism industry as well as its quality of life.*
 - As stated above, the proposed zoning does not list agriculture as a permitted use but the use would be grandfathered and continue in agricultural production until the property is developed.
 - i. *Direct growth to already established urban areas and rural areas which are not environmentally sensitive or productive agricultural lands.*
 - The subject property is located in an area that has seen significant growth since the adoption of the Master Plan.

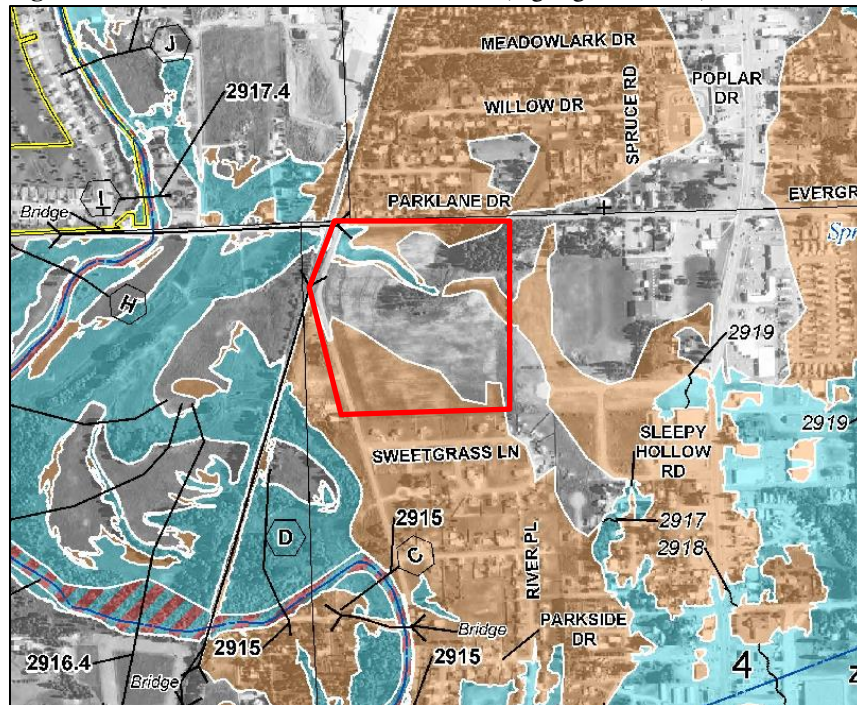
Finding #2: The proposed zoning map amendment appears to comply with the Kalispell City-County Master Plan because the property would allow for a manufactured home park, is in an area that is now served by public water and sewer, is located on a county collector, is located next to the middle school and contains open space in compliance with the text and the goals and objectives.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The subject property is located within the Evergreen Fire District and the nearest fire station is located approximately a half mile northeast of the property on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency. The subject property is not located within the Wildland Urban Interface (WUI) or within a fire district priority area and the Evergreen Fire Department did not provide comments on this proposal.

Figure 4: FEMA FIRM Panels 30029C1810J (highlighted in red)



The subject property is located at the intersection of West Evergreen Drive and River Road. West Evergreen Drive a paved two lane county collector within a 60 foot easement and River Road a paved two lane county collector within a 40 foot easement. Both roads appear adequate to provide ingress and egress for emergency services.

According to FEMA FIRM Panels 30029C1810J the property is contains Zone AE, and both shaded and unshaded Zone X. Zone AE is defined as special flood hazard areas with a base flood elevation determined. Shaded Zone X is defined as 0.2% annual chance floodplain and unshaded Zone X is determined to be outside the 0.2% annual chance floodplain. The Zone AE is located on the northwest corner of the property as shown in Figure 4 below.

Finding #3: The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI or fire district priority area, is located on two county collector both of which are capable of providing emergency access and only a portion of the property is located within the 100 year floodplain.

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

As previously stated, the Evergreen Fire Department would respond in the event of a fire or medical emergency. The Flathead County Sheriff's Department currently provides and will continue to provide police services to the subject property. The permitted uses and conditional uses between the R-1, R-3 and R-4 are fairly similar with the main difference being R-1 allows for a few rural uses and R-4 allows for a few urban uses. The R-1 zone has six more permitted uses than the R-4 zone while the R-3 zone has one less than the R-4. The number of conditional use is the same between R-3 and R-4 but the uses are slightly different and the R-1 has six more conditional uses. Class B Manufactured Homes are the only permitted use in the R-4 zone that is not allowed in the R-3 or R-1. An Accessory Dwelling Unit is permitted in R-1 but requires a CUP in both R-3 and R-4 zones. The R-2 and R-4 zones have a Day Care Center listed as conditional use but is not allowed in the R-1 zone. There are six permitted uses listed in R-1 not allowed in R-4, 10 conditional uses within the R-1 and R-3 zones not allowed in R-4 and two conditional uses allowed within the R-4 zone but not allowed in R-3 or R-1 zones.

As previously stated, the subject property could potentially be divided in a manner resulting in approximately 48 single family lots under the current zoning. If the property was developed under the R-4 zoning with single family residential approximately 173 total dwellings could be created and if the property is developed with all duplexes the property could be developed with 276 dwellings (138 duplexes). The higher density could increase demand on emergency services but as it is similar in character to the existing uses in the area the proposal is not likely to negatively impact public health, public safety or general welfare.

Finding #4: The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the property is served by the Evergreen Fire Department and the Flathead County Sheriff, and the proposed R-4 zoning would allow for similar uses to what already exist in the area.

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

As previously stated, the subject property is located at the intersection of West Evergreen Drive and River Road. The Flathead County Road Department comment indicates no concerns regarding this proposal. West Evergreen Drive a paved two lane county collector within a 60 foot easement and River Road a paved two lane county collector within a 40 foot easement. The most recent traffic counts (taken in 1999 by the Flathead County Road and Bridge Department) for West Evergreen Drive indicate an Average Daily Traffic (ADT) of 4,258 east of River Road and the most recent traffic counts for River Road south of West Evergreen Drive indicate an ADT of 1,093.

Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential while manufactured home parks would generate 5 vehicle trips per day. As previously stated, if the property was developed with single family residential approximately 173 total dwellings could

be create and if the property is developed with all duplexes the property could be developed with 276 dwellings (138 duplexes). The proposed zoning could allow for approximately 173 additional single family lots which has the potential to generate an increase of approximately 1,730 ADT but a mobile home park with 173 units would generate half that (865 ADT). Duplexes would generate roughly 6 vehicle trips per day per unit so if the entire property is developed with duplexes the total ADT would be 1,656. If current traffic trends continue the proposed zoning has the potential to increase traffic by 32% on West Evergreen Drive and 32% on River Road with single family dwelling and less if duplexes or manufactured homes are placed on the property.

The application states, “The parcels are within the Evergreen Water and Sewer District and any development on the property would utilize the District services.”

Comments from the Evergreen Water and Sewer District state, “The District’s water and sewer services are available to Mike Seaman’s 4 parcels on River Road and West Evergreen, Tract 1E Tract 1I Tract 1J and Tract 1G. Depending on what Mike plans on doing, main extensions may be required.

“The developer will pay to provide the services and they must be installed to meet District specifications and all applicable fees must be paid. Mike will also have to pay sewer treatment impact fees to the City of Kalispell.”

The subject property is located within the Flathead High School District and Evergreen School District. The proposed zoning has the potential to generate school children and has the potential to impact both school districts. Evergreen Elementary Schools have seen a decrease of 11% in student enrollment over the last 10 years and a decrease of 7% between 2015 and 2016. Flathead High School District has seen an increase of 11% in student enrollment over the last ten years and a 1% increase between 2015 and 2016.

According to census data for Flathead County, the average household size is 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. The proposal has the potential to generate anywhere from 173 to 276 additional dwellings and therefore could generate between 70 and 112 school age children. The increase in school age children that could result from this proposal is not likely to impact the schools as no comments were received from the Evergreen School District or Flathead High School District.

Parkland dedication would likely be required for the property if developed at R-4 densities. In addition to park land dedication, the property is located adjacent to the school which has open fields and park on the south and west side. There are many parks, natural areas, and recreational opportunities within a short drive and the property is not likely to effect the adequate provision of parkland.

Finding #5: The proposed amendment would facilitate the adequate provision of transportation because it has the potential to increase traffic by 32% on West Evergreen Drive and 32% on River Road with single family dwelling and less if duplexes or manufactured homes are placed on the property but the property is

located on two county collectors, and the Road and Bridge Department had no concerns with the proposal.

Finding #6: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because comments from Evergreen Sewer and Water state water and sewer service is available to serve the property, the property is located adjacent to the school with open fields and parkland and the proposal has the potential to generate between 70 and 112 school age children and no comments were received from either school district.

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

a. The reasonable provision of adequate light and air;

The proposed zoning requires a minimum lot area of 6,000 square feet for single family dwelling and 7,500 square feet for duplexes. The bulk and dimensional requirements within both the current and proposed zoning require a 20 foot setback from front, side-corner and rear boundary line for principal structures. The side setback for R-1 is 20 feet, for R-3 it is 10 feet and for R-4 the side setback is 5 feet. All three of the zones require the same setbacks for accessory structures of 20 feet from the front and side corner and 5 feet from the side and rear. 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 the proposed R-4 and existing R-1 the permitted lot coverage is 40% and the maximum height is 35 feet and in the existing R-3 the permitted lot coverage is 30% and maximum height of 35 feet. The bulk and dimensional requirements for the R-4 designation have been established to provide for the reasonable provision of light and air.

Finding #7: The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements within the proposed R-4 designation.

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

As previously stated, the subject property is located at the intersection of West Evergreen Drive and River Road. The Flathead County Road Department comment indicates no concerns regarding this proposal. West Evergreen Drive a paved two lane county collector within a 60 foot easement and River Road a paved two lane county collector within a 40 foot easement. The most recent traffic counts (taken in 1999 by the Flathead County Road and Bridge Department) for West Evergreen Drive indicate an Average Daily Traffic (ADT) of 4,258 east of River Road and the most recent traffic counts for River Road south of West Evergreen Drive indicate an ADT of 1,093.

Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential while manufactured home parks would generate 5 vehicle trips per day. As previously stated, if the property was developed with single family residential approximately 173 total dwellings could

be create and if the property is developed with all duplexes the property could be developed with 276 dwellings (138 duplexes). The proposed zoning could allow for approximately 173 additional single family lots which has the potential to generate an increase of approximately 1,730 ADT but a mobile home park with 173 units would generate half that (865 ADT). Duplexes would generate roughly 6 vehicle trips per day per unit so if the entire property is developed with duplexes the total ADT would be 1,656. If current traffic trends continue the proposed zoning has the potential to increase traffic by 32% on West Evergreen Drive and 32% on River Road with single family dwelling and less if duplexes or manufactured homes are placed on the property.

There is currently no bike/pedestrian path located on either River road or West Evergreen Drive. West Evergreen Drive is proposed as a connector trail. The applicant would be required to provide an easement at the time of development.

The subject property is located adjacent to the Evergreen Middle School. Children from a future development would likely walk to school. Evergreen Drive is a two lane with no shoulder which leaves no room for pedestrian traffic form the property to the school. Given the close proximity to the school, if a bike/pedestrian path was not constructed along West Evergreen Drive between the subdivision and the school or between a future subdivision and the school property, pedestrian traffic could potentially impact motorized and non-motorized traffic.

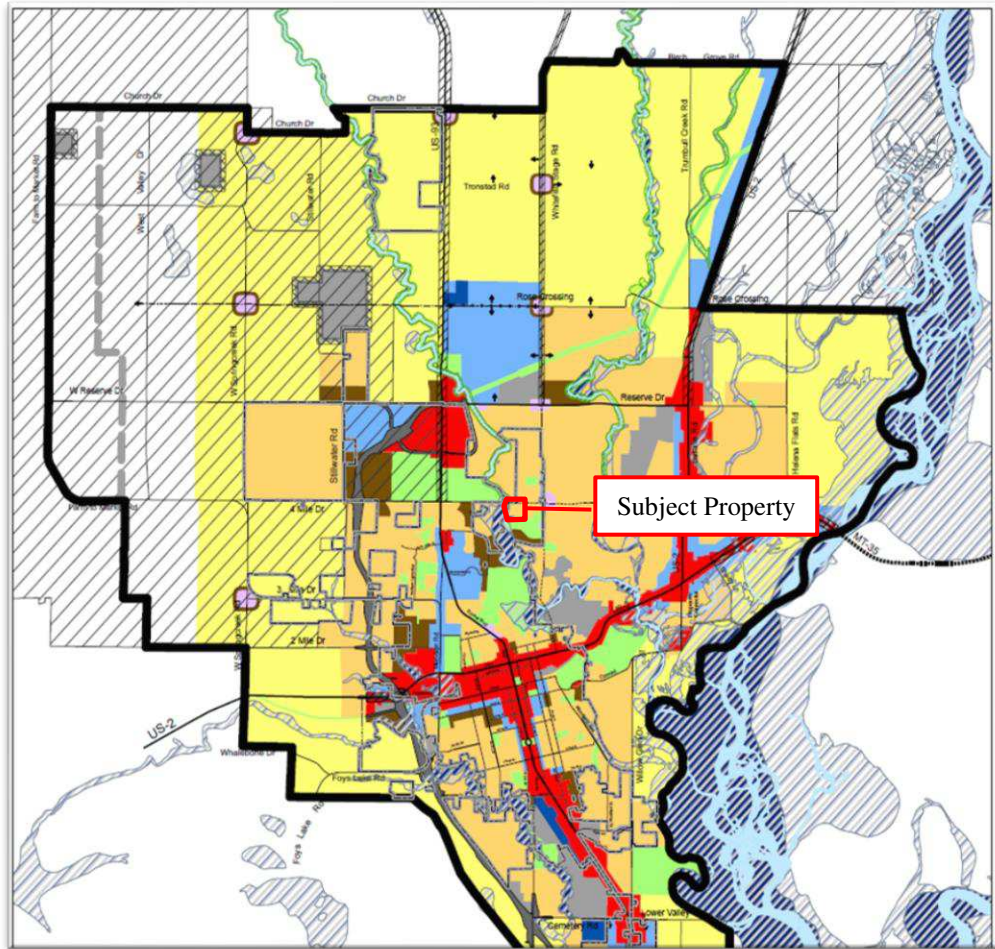
Finding #8: Effects on the motorized transportation systems will be minimal because the proposal has the potential to increase traffic by 32% on West Evergreen Drive and 32% on River Road with single family dwelling and less if duplexes or manufactured homes are placed on the property but the property is located on two county collectors, and the Road and Bridge Department had no concerns with the proposal.

Finding #9: The proposed zone change has the potential to impact the non-motorized transportation systems if no bike/pedestrian path is constructed along West Evergreen Drive or between the school and the property because the proposal is likely to generate school children which would walk to school from the property on a two lane road with no existing shoulders or pedestrian paths.

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

Kalispell is the nearest municipality to the subject property and the city limits are located approximately a quarter of a mile to the west. An agency referral was sent to the Kalispell planning department but staff has not received any comments from the City as of the date of this report.

Figure 4: City of Kalispell Growth Policy Future Land Use Map



The subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated a majority of the property as ‘Urban Residential.’ ‘Urban Residential’ states, ‘Typical densities are four to twelve dwellings per gross acre. Single-family houses are the primary housing type, but duplexes, guest houses, accessory apartments, and small dispersed areas of multi-family housing are also anticipated. Urban and high density residential areas should be fully served by urban infrastructure and municipal services, including paved streets, curbs, sidewalks, landscaped boulevards and public sewer and water.’

The R-4 zoning would likely require public utilities upon build-out. The proposed R-4 designation would allow for a density of 1 dwelling unit per 6,000 square feet and a duplex on 7,500 square foot lots. If the property is build-out with duplexes or single family dwellings the density would fall between the 4 to 12 dwelling units per gross acre and would therefore be compatible with urban growth of the City of Kalispell.

Finding #10: Consideration has been given to the proposal’s compatibility with the City of Kalispell growth and the proposal appears compatible because the R-4

zone would require public services and the density would be between 4 to 12 dwelling units per acre in-line with the Kalispell Growth Policy 'Urban Residential' designation.

- 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.***

Directly to the east of the subject property are the B-2/EEO, R-3 and RA-1 zoning districts. The properties to the east contain a school, single family and multi-family residential and an undeveloped business center. To the west of the property the zoning is R-1 with a few single family dwellings and open space along the Whitefish River. South of the property is R-1 and R-2 zoning both are PUDs with single family residential lots. To the north of the property is R-3 zoning with single family residential lots.

The property is surrounded by single family homes, multi-family apartment, a middle school, a fire station and two churches. The R-4 zone would allow for single family and duplexes as permitted uses and churches and schools would be conditional uses. The proposed zoning would not allow for uses that are significantly different than the uses in the area.

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

The zoning map amendment would apply to four tracts of land owned by two landowners and covering approximately 34.09 acres. Using standard ArcGIS software it can be determined that a portion of the subject property is located within an approximately 90 acre R-3 district. The rest of the property is located in a 541.0 acre R-1 zone. There is an RA-1 zone to the east that is roughly 16.6 acres. There is a city R-4 zoning district a quarter mile to the west that is 120.9 acres. Also in the vicinity there is 523.5 acre B-2/EEO zoning district, 7.0 acre I-1 zoning district and 137.2 acre I-2 zoning district.

The zoning map amendment would apply to a small number of landowners but would be larger than the nearby RA-1 zone and I-1 zone while slightly less than half the size of the existing R-3 zone and 6.7% of the existing R-1 zone. The area of the proposed zone change would be between the sizes of 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.***

As stated above, the permitted uses and conditional uses between the R-1, R-3 and R-4 are fairly similar with the main difference being R-1 allows for a few rural uses and R-4 allows for some urban uses. The R-1 zone has six more permitted uses than the R-4 zone while the R-3 zone has one less. The number of conditional use is the same between R-3 and R-4 but the uses are slightly different and the R-1 has six more conditional uses.

The character of the area is mostly residential, agricultural and commercial. Directly to the east of the subject property are three zones, B-2/EEO, R-3 and RA-1. The properties to the east contain a school, single family and multi-family residential and an undeveloped business center.

To the west of the property the zoning is R-1 with a few single family dwellings and open space along the Whitefish River. South of the property is R-1 and R-2 zoning both are PUDs. There are single family residential lots in both of the PUDs. To the north of the property is R-3 zoning with single family residential lots. The uses allowed in the R-4 zone are similar to what is currently permitted on the property and would be very similar to the existing uses in the area.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #11: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing on the neighboring properties so the uses would not differ significantly from the prevailing use in the area and the size of the proposed zone change is similar to the existing zones in the area.

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

The application states, “The subject property is located in an area serviced by Public Sewer and Water and is a location suited for urban scale residential development. Residential uses in the general area of the applicant’s property include single family homes, multi-family apartment buildings, mobile home parks. Non-residential uses in the vicinity include a couple of churches, a public school, a Moose Lodge, and retail commercial. The proposed zone change is an appropriate use given the infrastructure and varied zoning patter.”

As the applicant states, the property is surrounded by single family homes, multi-family apartment, a middle school, a fire station and two churches. The R-4 zone would allow for single family and duplexes as permitted uses and churches and schools would be conditional uses. The uses allowed within the R-4 zone would help to conserve the value of the buildings and encourage the most appropriate use of land as the uses allowed within the proposed zone are similar to the existing uses in the area.

Finding #12: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the allowed uses in the proposed zone are similar to the uses that already exist in the vicinity of the subject property.

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

The location of the proposed zoning map amendment is not directly adjacent to any city but it is located within a quarter mile of the City of Kalispell. As previously stated, the subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003.

The nearest City of Kalispell zoning (R-4) is located a quarter mile to the west of the subject property. The City of Kalispell states the intent of the '*R-4 Residential*' as, '*This district is comprised of primarily single-family and duplex dwellings. Development within the district will require all public utilities, and all community facilities. This zoning district would typically be found in areas designated as urban residential on the Kalispell Growth Policy Future Land Use Map.*' The R-4 minimum lot size is 6,000 square feet and allows for very similar uses to the proposed county R-4 zoning with the addition of 3 or more attached townhomes with a conditional use permit and the city R-4 does not allow for Class A or B manufactured home on a single lot.

Finding #13: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone is very similar to the neighboring city R-4 zone in terms of density and permitted and conditional uses.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment generally complies with the Flathead County Growth Policy because the proposal would allow for further subdivision of land, single family, duplexes and manufactured homes, it is located next to the Evergreen Middle School, within the Evergreen Water and Sewer District, and is located in urbanized area of the county between the community of Evergreen and the City of Kalispell.
2. The proposed zoning map amendment appears to comply with the Kalispell City-County Master Plan because the property would allow for a manufactured home park, is in an area that is now served by public water and sewer, is located on a county collector, is located next to the middle school and contains open space in compliance with the text and the goals and objectives.
3. The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI or fire district priority area, is located on two county collector both of which are capable of providing emergency access and only a portion of the property is located within the 100 year floodplain.
4. The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the property is served by the Evergreen

Fire Department and the Flathead County Sheriff, and the proposed R-4 zoning would allow for similar uses to what already exist in the area.

5. The proposed amendment would facilitate the adequate provision of transportation because it has the potential to increase traffic by 32% on West Evergreen Drive and 32% on River Road with single family dwelling and less if duplexes or manufactured homes are placed on the property but the property is located on two county collectors, and the Road and Bridge Department had no concerns with the proposal.
6. The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because comments from Evergreen Sewer and Water state water and sewer service is available to serve the property, the property is located adjacent to the school with open fields and parkland and the proposal has the potential to generate between 70 and 112 school age children and no comments were received from either school district.
7. The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements within the proposed R-4 designation.
8. Effects on the motorized transportation systems will be minimal because the proposal has the potential to increase traffic by 32% on West Evergreen Drive and 32% on River Road with single family dwelling and less if duplexes or manufactured homes are placed on the property but the property is located on two county collectors, and the Road and Bridge Department had no concerns with the proposal.
9. The proposed zone change has the potential to impact the non-motorized transportation systems if no bike/pedestrian path is constructed along West Evergreen Drive or between the school and the property because the proposal is likely to generate school children which would walk to school from the property on a two lane road with no existing shoulders or pedestrian paths.
10. Consideration has been given to the proposal's compatibility with the City of Kalispell growth and the proposal appears compatible because the R-4 zone would require public services and the density would be between 4 to 12 dwelling units per acre in-line with the Kalispell Growth Policy '*Urban Residential*' designation.
11. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing on the neighboring properties so the uses would not differ significantly from the prevailing use in the area and the size of the proposed zone change is similar to the existing zones in the area.
12. This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the allowed uses in the proposed zone are similar to the uses that already exist in the vicinity of the subject property.
13. The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone is very similar to the neighboring city R-4 zone in terms of density and permitted and conditional uses.

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: EKM