

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-16-15)
(May 10, 2017)

A report to the Flathead County Planning Board and Board of Commissioners regarding a publicly initiated request for a zoning map amendment in the Blanchard Lake and rural Whitefish Zoning Districts. The proposed amendment would rezone approximately 0.2 acres from R-2.5 (Rural Residential) to B-2A (Secondary Business), approximately 36.2 acres from SAG-5 (Suburban Agricultural) to B-2A (Secondary Business), approximately 79.2 acres from SAG-5 (Suburban Agricultural) to BSD (Business Service District), and approximately 145.2 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural). In addition, this request proposes to place approximately 490 acres in the SWO (Highway 93 South Whitefish Overlay), extending approximately 1.5 miles south of the southern boundary of the City of Whitefish and approximately ¼ mile east and ¼ mile west of the Highway 93 right-of-way in Sections 12 and 13, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on May 10, 2017 in the 2nd Floor Conference Room of the Earl Bennet Building located at 1035 First Avenue West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed zoning map amendments at a date and time yet to be determined. Documents pertaining to the zoning map amendments are available for public inspection in the Flathead County Planning and Zoning Office, South Campus Building, 40 11th Street West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed amendment is not within the jurisdiction of any local land use advisory committee or local land use council.

B. Planning Board

The Flathead County Planning Board held a public hearing on the proposed amendment on January 11, 2017. At that hearing, the Board heard comments from the public that ranged from full support of the text amendment along with the accompanying zoning map amendment to calls to conduct a comprehensive corridor study before any land use decisions were made in the area. At the conclusion of the hearing, the Planning Board unanimously approved a motion to hold a workshop to solicit more comments. The Board also directed the technical representative, Land Solutions, to address the issues brought forth at the hearing with an amended plan. At the Planning Board workshop held on March 8, 2017, the Board heard additional comments regarding, primarily, the associated zoning map amendment request. At the conclusion of the workshop, the Planning Board instructed staff to prepare a new staff report to reflect the proposed changes to the original request and further instructed staff to schedule this request for the May 10, 2017 Planning Board meeting.

UPDATE: The Flathead County Planning Board held a public hearing on May 10, 2017. After hearing testimony, the Board closed the public hearing and discussed the merits of the request. Ultimately, the Board passed on a favorable recommendation to the Board of County Commissioners on a unanimous vote. This report will include the changes to the Findings of Fact and any other related analysis. These changes will be identified by either a strike through (~~strike through~~) for language deleted or bold and underlined (**bold and underlined**) for

language the Planning Board added. Additional information and staff analysis as a result of the May hearing will be highlighted in bold italics (***bold italics***). Details of the Board's actions and the recommended Findings of Fact are included in the attached Planning Board Addendum to this report.

C. Commission

The Flathead County Commissioners will hold a public hearing on the proposed amendment on a date to be determined. This space is reserved for a summary of the Commission's discussion and decision.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

Flathead County Planning Board

ii. Technical Assistance

Land Solutions
36708 Leon road
Charlo, MT 59824

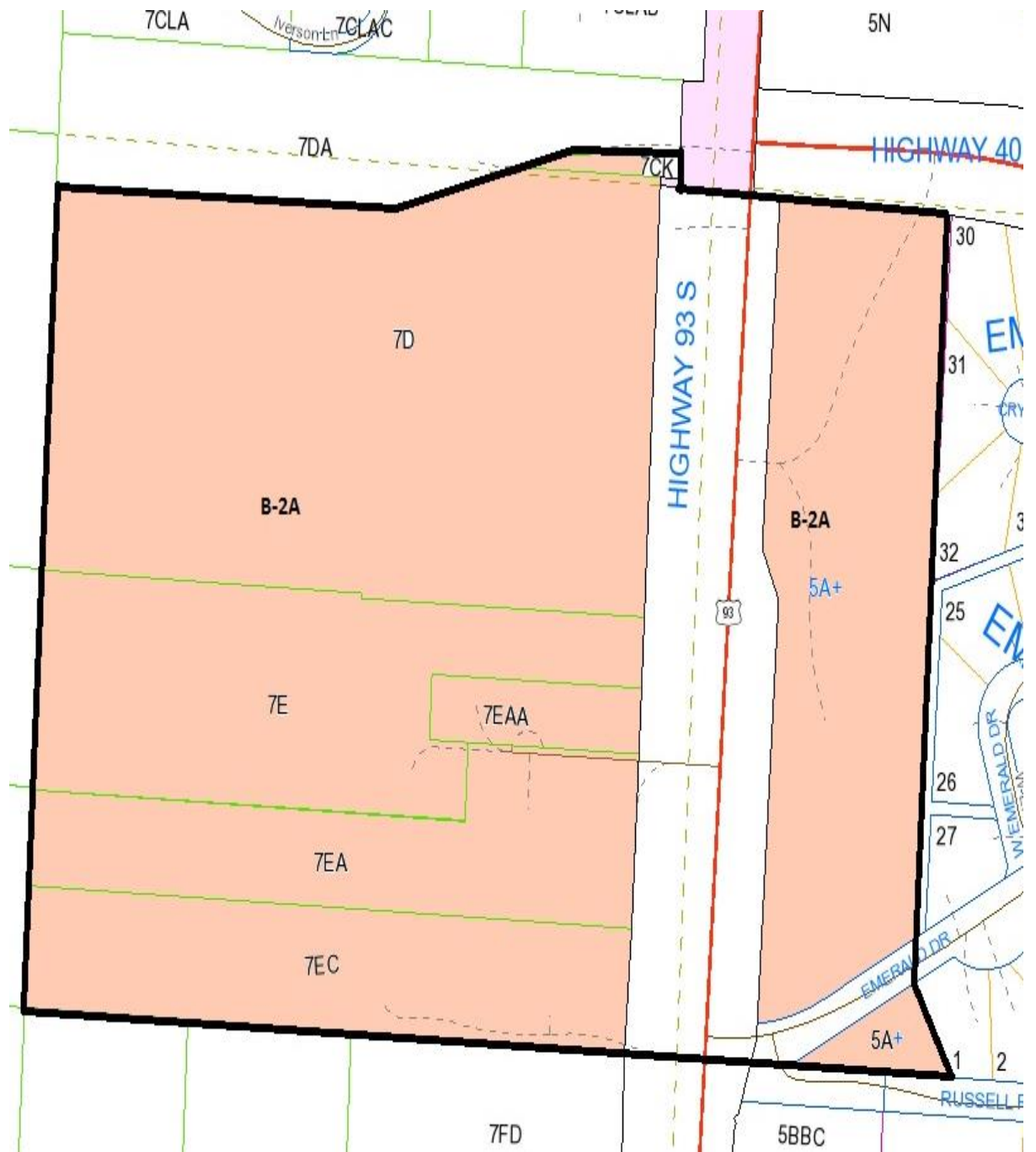
B. Subject Property Location and Legal Description

The extent of the B-2A request includes six parcels totaling 36.2 acres and is located south of the intersection of Highway 93 and MT Highway 40 on both the east and west sides of Highway 93, extending south approximately .3 miles. The properties can be described as a portion of the east ½ of Section 12, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana. The extent of the BSD request is located approximately .3 miles south of the intersection of Highway 93 and MT Highway 40 on both the east and west sides of Highway 93, extending south approximately .6 miles. The properties can be described as a portion of the east ½ of Section 13, Township 30 North, Range 22 West, P.M.M., Flathead County Montana. The extent of the SAG-5 is located approximately one mile south of the intersection of Highway 93 and MT Highway 40 on both the east and west sides of Highway 93, extending south approximately ½ mile. The properties can be described as a portion of the east ½ of Section 13, Township 30 North, Range 22 West, P.M.M., Flathead County Montana. The extent of the SWO rezone request is located adjacent to the southern boundary of the City of Whitefish, extending south approximately 1.5 miles and approximately ¼ of a mile east and west of the right-of-way of Highway 93. The properties can be described as generally a portion of the eastern ½ of Section 12 and the entire eastern ½ of Section 13 all in Township 30 North, Range 22 West, P.M.M. Flathead County, MT.

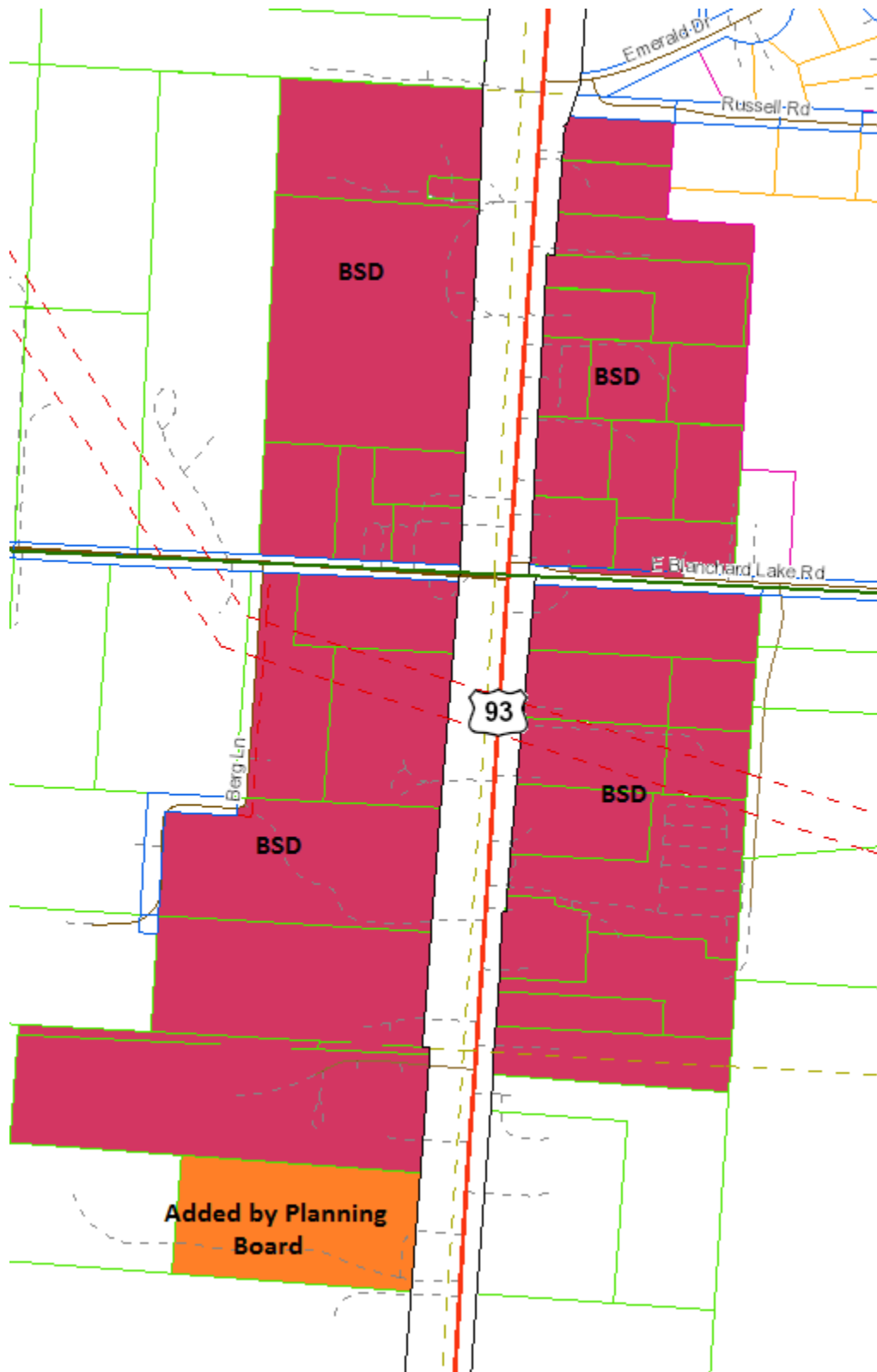
Area of SWO rezone request outlined in red



Area of the B-2A request



Area of the BSD request



Area of the AG-20 to SAG-5 request



C. Proposed Zoning Map Amendment

The properties are located within the Rural Whitefish Zoning District and the Blanchard Lake Zoning District

The SAG-5 designation is defined in Section 3.08 of the Flathead County Zoning Regulations (FCZR) as, *‘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-2.5 designation is defined in Section 3.43 of the FCZR as, *A district intended for rural, primarily residential areas where larger, estate-type lot sizes are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agricultural (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing agricultural/silvicultural/horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein.*

The AG-20 designation is defined in Section 3.06 of the FCZR as, *'A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.'*

The B-2A designation is defined in Section 3.46 of the FCZR as, *'The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.'*

The BSD designation is defined in Section 3.49 of the FCZR as, *'The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.'*

The SWO (Highway 93 South Whitefish Overlay) is proposed to be defined as, *'A district intended to maintain and improve the visual quality of this gateway to the City of Whitefish that addresses landscaping, buffering, signage, lighting, building design, and parking. Until public water and sewer are extended along the corridor, the scale of development will be limited to that which can be supported by onsite water and wastewater facilities.'*

D. General Character of and Reason for Amendment

The majority of the area is located within the Blanchard Lake Zoning District which was established in 1993. At that time, the predominant land use in the area was rural residential with some limited small scale agricultural activities. The SAG-5 zoning reflected the land use in the area when Highway 93 was a two lane highway, the population of Flathead County as well as the City of Whitefish was considerably less, and the Whitefish City limits did not extend to Highway 40.

Since that time, Highway 93 has been widened to four lanes, traffic volumes in the area have increased to over 20,000 vehicle trips per day, the City of Whitefish has extended the city limits to Highway 40, jurisdictional control over land use has gone back and forth between Flathead County and the City of Whitefish, and the current zoning appears to no longer reflect much of the land use in the area. Multiple Conditional Use Permits have been issued for the non-residential uses that now populate the area, and the corridor has grown in importance as the major southern gateway into the growing City of Whitefish.

It should be noted that a group of property owners have addressed both the City of Whitefish while the area was under their jurisdiction and Flathead County to study the zoning in the area to see if there were ways in which more development opportunities could be created. According to some reports from affected property owners, they have been waiting for at least ten years for the zoning in this area to be addressed. For the past several years, the zoning in this area has been incorporated into the Flathead County Planning and Zoning strategic plan of projects to accomplish. Now that the land use jurisdiction appears to be solidly with Flathead County, this group of property owners, with the assistance of a private land use consultant, has submitted this request for consideration. And because addressing the zoning in this area has been part of the Department's strategic plan, it is being considered a publicly initiated request.

These proposed map amendments have several parts. One part includes rezoning six parcels totaling 37.2 acres from SAG-5 to B-2A. The uses on these parcels include two that are undeveloped, one parcel is developed with medical offices, and another parcel is the location of Cross Fit. The other two parcels have been developed with single family residences. These parcels are located on either side of Highway 93 adjacent to the south of the southern border of the City of Whitefish. The adjacent zoning to the north is also B-2A.

Another part of this request includes rezoning approximately 79 acres from SAG-5 to BSD. This portion of the request would affect 36 tracts of record, most of which have direct access onto Highway 93. The area of the proposed BSD is developed with a mixture of residential and non-residential uses. The non-residential uses are either legal, nonconforming or have been issued Conditional Use Permits by the City of Whitefish when the City had land use authority in the area or by Flathead County. These uses include an auto body business, mini-storage, medical offices, an animal hospital, coffee roaster, fly shop, a screen door and decorative hardware business, garden and homebrew supply business, a church, a marine propeller business, a real estate home occupation, and a small manufactured home park. Most of these non-residential uses are located in the area of the Blanchard Lake Road and Highway 93 intersection. The concentration of these commercial uses presents a distinct commercial look to this area contrary to the stated definition of the Suburban Agricultural zone in which these properties are located. It should be noted that while the requested area of the BSD zoning amendment contains 36 tracts of record, there are only 25 different owners. Of those 25 separate owners, at least 14 properties are being used for some kind of non-residential use.

The third part of this request includes rezoning 15 tracts of record and approximately 145 acres from AG-20 to SAG-5. The final part of this request is to include the entire area, beginning at the southern boundary of the City of Whitefish south approximately 1.5 miles and generally ¼ a mile east and west of the Highway 93 right-of-way in the SWO (Highway 93 South Whitefish Overlay).

It appears the primary reason for these map amendments is to amend the zoning in the area to better reflect the existing uses. As mentioned above, the area does not appear particularly suited for the kinds of rural residential and agricultural uses contemplated when the area was

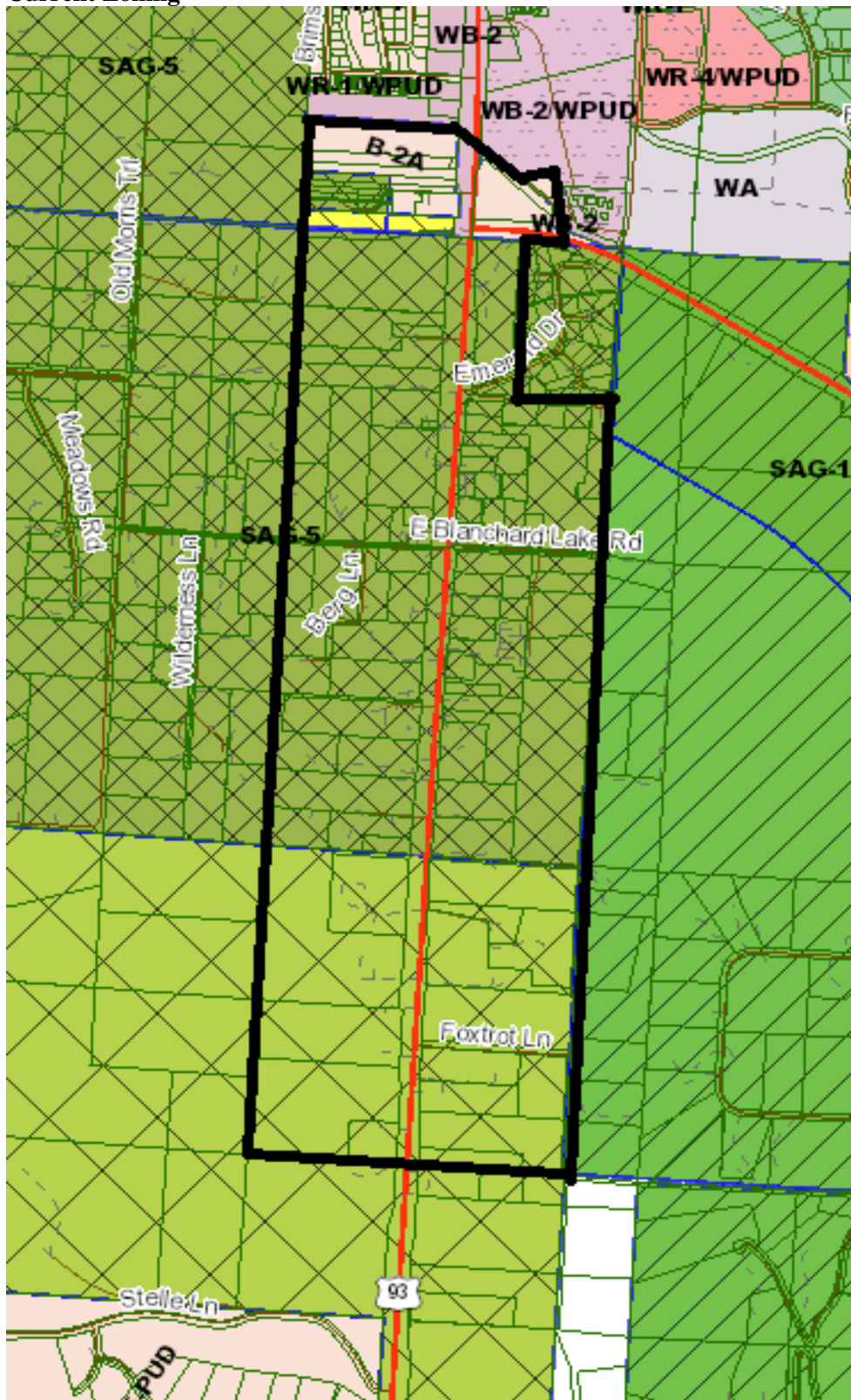
initially zoned. The multitude of non-residential uses, the improvements to Highway 93 and the high magnitude of daily traffic does not appear conducive to residential uses. The parts of this request that propose to change the SAG-5 zoning to either B-2A or BSD would provide property owners with more development options and would better reflect the existing land uses in the area.

Having said that however, encouraging even more non-residential development in the Highway 93 corridor could lead to an appearance of strip commercial development. The part of this request that proposes to add the SWO (see report FZTA-16-03) appears to be designed to prevent the appearance of strip development which is described in the *Flathead County Growth Policy* as “a pattern of commercial development located along one or both sides of a street which is generally one lot in depth and is characterized by multiple and relatively closely spaced driveways, visually dominant parking schemes, low landscaping ratios and high floor area ratios within the development.” The additional landscaping standards, requiring additional landscaping between structures and the Highway 93 right-of-way, buffering to create a visual separation between residential and non-residential uses, requiring 40% of the required parking to be at the sides or rear of structures, architectural standards, increased signage and lighting standards that are identical to the City of Whitefish, and allowing more than one structure on a property in order to share access and parking as well as other development requirements should prevent the appearance of strip commercial development.

E. Adjacent Zoning and Character of the Overall Zoning District

The proposed area of the map amendments are located within the Blanchard Lake and Rural Whitefish Zoning Districts. The northern part of these requests is adjacent to property within the limits of the City of Whitefish. The city property is zoned WB-2 and WB-2/PUD. These designations are very similar the B-2A designation. To the west of the proposed area, property is generally zoned SAG-5, and to the east, the surrounding property is all zoned SAG-10. The southern part of the proposed area is surrounded by property generally zoned AG-20.

Current Zoning



F. Public Services and Facilities

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

G. Criteria Used for 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 amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

For the January Planning Board hearing, property owners within the proposed area of the map amendments as well as adjacent property owner notification within 150 feet of the area was sent on December 23, 2016. Legal notice of the Planning Board hearing was published in the December 25, 2016 addition of the *Daily Interlake* for the January Planning Board hearing. The same notice requirement is applicable to the May Planning Board hearing. Property owner notification was sent on April 23, 2017, and notice of the Planning Board hearing was published in the April 23, 2017 edition of the *Daily Interlake*.

Public notice of the Board of County Commissioners' public hearing regarding the zoning map amendments will be physically posted in the area and within the zoning districts 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 changes, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendments.

I. Agency Referrals

Referrals for comment on the proposed zoning map amendment were sent to the following agencies:

Flathead County Sheriff
Flathead County Road and Bridge Department
Flathead County Solid Waste Department
Flathead City-County Environmental Health Department (inter-office mail)
Flathead County Weeds & Parks Department
Bonneville Power Administration
Whitefish School District
Whitefish High School District
Whitefish Rural Fire District
Whitefish Planning Department
Montana Fish, Wildlife and Parks
Montana Department of Natural Resources and Conservation
Montana Department of Transportation

III. COMMENTS RECEIVED

A. Public Comments

- Don Spivey, 117 Park Knoll Place, Whitefish
 - Comment: The comment mostly centers around the increased area of the B-2A zoning and the extended of the requested BSD zoning in the area. Mr. Spivey also referenced comments submitted to the Whitefish City Council submitted by the Citizens for a Better Flathead as well as comments from the City of Whitefish Planning & Building Department. It should be noted that this specific comment nor the comments included made by the Citizens for a Better Flathead made any reference to the proposed SWO.
- There were a multitude of comments submitted just prior to and at the January Planning Board hearing. These comments were all in opposition of the proposed zone change request. Copies of these comments will be provided to the Planning Board and are available for review.
- Bohnsack Trust, 301 Lupfer Avenue, Whitefish
 - Comment: The comment expresses the concern that the original zone change request included the property which is the home of The Potting Shed in the BSD request. The amended proposal which the Planning Board is currently considering omits this particular property. The BSD rezone request includes the adjacent property to the north but does not include The Potting Shed. Mr. Bohnsack is asking for this property to be included in the BSD zone change request.

B. Agency Comments

- David Taylor, City of Whitefish Planning & Building Director
 - Comment: This 10 page comment letter includes comments on many aspects of this request. To summarize, the City of Whitefish has made a Highway 93 south corridor study a priority for 2017. The City would like the County to participate in this study for the parts of the area outside the city limits. Mr. Taylor also expressed concern regarding the lack of public participation for this request to date. He further stated that the City is extremely concerned that the Highway 93 corridor be developed “tastefully and in keeping with the City of Whitefish aesthetics. Further, expanding commercial zoning will have a negative impact on the City’s undeveloped commercial property. He suggests a more in depth commercial capacity study be conducted prior to contemplating expanding commercial zoning in this area. Moreover, the expansion of commercial zoning is contrary to the City’s Growth Policy as well as the Future Land Use Map. Mr. Taylor made other, in depth, comments on the City’s concern over the expansion of the B-2A and the BSD zoning. However, Mr. Taylor did state that the City does support the standards outlined in the proposed text amendment. Also submitted with the City comments were the minutes from the November 17, 2016 City Planning Board workshop and the December 5, 2016 minutes of the City Council workshop along with written comments submitted at the workshop.
 - *Mr. Taylor submitted additional comments for the Planning Board to consider for the May hearing. These comments included concern regarding the consideration of commercial zoning south of Highway 40. It appears from the comments that the City of Whitefish supports the SWO request, did*

not appear to comment on the SAG-5 request and opposes the B-2A and the BSD request.

- Dustin Smith, Realty Specialist, Bonneville Power Administration (Letter dated March 29, 2017)
 - “Portions of the properties are encumbered by rights-of-way for high voltage transmission lines owned by Bonneville Power Administration (BPA). BPA acquired rights for these rights-of-way that limit the landowner’s use of these areas. **All activities planned within the BPA easements, including additional landscape standards, design standards, vegetative buffers between structures and adjacent roadways and residential uses, architectural standards, and other requirements for the development of new structures and uses to mitigate the impact along the Highway 93 corridor need to be reviewed by BPA. However, NO vegetation or structures will be allowed. BPA will need to be contacted prior to any activities in BPA right-of-way.**”
- David Prunty, Public Works Director (Letter dated March 21, 2017)
 - Comment: “At this time point the County Road Department does not have any comments on this request.
- Jon Burnett, Systems Impact Coordinator, Montana Department of Transportation (Email dated April 14, 2017)
 - Comment: “The Montana Department of Transportation (MDT) has received your letter dated 3/15/2017 requesting review and comment on the proposed Highway 93 South Whitefish Overlay Zoning District. We have the following comments:
 - MDT is concerned with the impact new development will have on the highway system. The number of approaches and the additional vehicular trips the development will generate are the specific concerns. No information concerning impacts to the highway was included in the document. MDT must be contacted early in the development review process for any access onto the highway system.
 - Approaches to the highway system should be kept to a minimum to help facilitate safe traffic flow along US93 by reducing conflict points.
 - As property continues to develop, there should be planning to reduce the number of existing approaches by providing for a roadway network both east and west of US93 to facilitate traffic movements.
 - In order to preserve the capacity and safety of the US93 corridor south of MT40, the installation of new traffic signals would not seem to be appropriate mitigation of traffic impacts from land use changes along the corridor.
 - It is not clear if there is interest in connecting this area to the greater Whitefish community via non-motorized infrastructure. MDT encourages you to plan for it so that it can be addressed as development occurs. Given MDT’s new policies concerning facilities in our right-of-way, it will be challenging to put these amenities in the right-or-way.”
- Kenneth Breidinger, Fisheries Biologist, Jessy Coltrane, Area Wildlife Biologist, Montana Fish Wildlife & Parks (Letter dated April 21, 2017)
 - Comment: “Montana Fish, Wildlife & Parks has no comment regarding the Highway 93 South Whitefish Overlay Zoning District.”

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a zone is applied in a certain area, landowners have certain land uses and densities that are allowed “by-right” or subject to some additional review. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses and densities. Build-out analyses are objective and are not “best-case” 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, future demands for public services and facilities, the environment and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zone change to the future of the community to allow for the best possible review today.

The request map amendment to B-2A is approximately 36 acres in size and involves six existing parcels. Two of the parcels are currently undeveloped, two of the parcels appear to be residential, and the remaining two parcels have non-residential uses—a medical office and Cross Fit. Under the current SAG-5 zoning, two additional 5 acre lots could be created. The proposed B-2A zone does not require a minimum lot size so it would be speculation to determine the extent of any build-out analysis. However, because the area is not served by a public wastewater system, it should be reasonable to expect that any new lot created in the proposed B-2A zone would not be smaller than two (2) acres in size in order to develop an individual water system and an on-site sewage disposal system. Taking a two acre minimum lot size into consideration for a build-out analysis in the area and the size of the current parcels, 15 new lots could be created in the proposed area.

The traffic generated from the uses in this area currently access a section of Highway 93 that experiences approximately 20,000 vehicle trips per day. According to the Institute of Traffic Engineers (ITE) *Trip Generation Manual*, the average daily trips generated by the existing uses which includes a fitness center, medical offices and single family residential is 99 average daily trips (ADT). Examining the ADT for potential likely uses for the properties included in the B-2A rezone request, it appears reasonable to speculate uses could include a gas station/convenience store, boat and RV sales, or professional offices. Combined, these uses would generate an additional 400 ADT which is approximately a 2.5% increase in the ADT.

The proposed area of the BSD rezone contains 37 tracts of record and includes approximately 79 acres. This area includes many of the non-residential uses currently in operation along the corridor, including an auto repair business, mini-storage, a bed and breakfast, medical offices, veterinarian clinic, coffee roaster, a fly shop, a church, a screen door and decorative hardware business, a garden and homebrew supply business, a marine propeller repair business, a four space manufactured home park and a home based business. Under the current SAG-5 zoning, no additional lots could be created. There are only 4 out of the 37 parcels that are five acres or more in size. No lots within this area exceed 10 acres.

The minimum lot size in the BSD zone is one acre. While the current lot sizes and configurations could allow for the creation of 33 additional lots, this area, like the proposed B-2A area, is not served by public water or wastewater systems. Therefore, it seems more likely that any new lot in the area would need to be at least two acres in size to accommodate individual water and wastewater systems. Taking that into consideration, the area of the BSD proposal could allow for the creation of 10 additional two acre lots.

The current uses in the area of the BSD proposal generates approximately 473 ADT, or an average of approximately 12 ADT per parcel. This represents approximately 2.3% of the total vehicle trips along that section of the corridor. The permitted uses in the BSD do not appear

to be ones that generate significant amounts of daily vehicle trips. It is anticipated that any new commercial uses in the area would not exceed the current average of approximate 12 ADT which would be an increase of approximately 2.3%

The AG-20 to SAG-5 part of this request is much more straightforward. This area includes approximately 145 acres and 15 tracts of record. The minimum lot size in the AG-20 zone is 20 acres. Currently in the area, only two parcels exceed 20 acres in size. The minimum lot size for the proposed SAG-5 zone is five acres. With the current parcel configuration, there are four parcels that do not meet the five acre minimum lot size. With a change to a five acre minimum lots size, the current configuration of the parcels in this area could lead to the creation of 10 additional five acre lots. If each of the newly created lots were to be developed residentially, the 10 new lots would result in an increase of 100 ADT using the standard 10 ADT for each residential lot. This would represent a .05% increase to current traffic along the corridor.

Because the SWO is an overlay district which does not contemplate adding additional uses beyond what is allowed in each of the underlying zones, it is not anticipated the SWO will have any negative impacts as development occurs.

I. B-2A Request

Current Zoning:

The requested map amendment includes 0.2 acres of property zoned R-2.5 on a 17.5 acre parcel that is primarily zoned SAG-5 and is proposed to be rezoned to B-2A. The R-2.5 zoning on the parcel is located along Highway 93 on the very northeast part of the property, and the size and shape of the R-2.5 area cannot accommodate any kind of development. An evaluation of the impacts of changing the zone on this piece would be meaningless except for the fact that if this request is approved, the parcel will only have one zoning designation.

The remaining property included in the map amendment to B-2A consists of approximately 362 acres and is zoned SAG-5. The SAG-5 zone is defined as, '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 following is a list of permitted uses in the SAG-5 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A and Class B manufactured home (See Chapter VII – Definitions).*
3. *Cluster housing (See Chapter V – Performance Standards).*
4. *Day care home.*
5. *Dwelling, single-family.*
6. *Dwelling unit, accessory (ADU).*
7. *Guest house.*
8. *Home occupation (See Chapter V- Performance Standards and Chapter VII – Definitions).*
9. *Homeowners park and beaches.*
10. *Livestock*
11. *Nursery, landscaping materials.*
12. *Park and publicly owned recreational facility.*
13. *Produce stand.*
14. *Public transportation shelter station.*
15. *Public utility service installation.*

16. *Stable, private.*

The following uses are listed as conditional uses in the SAG-5 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.**
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center (See Chapter IV – Conditional Use Standards and Chapter VII – Definitions).*
6. *Caretaker's facility.**
7. *Cellular tower.**
8. *Cemetery, mausoleum, columbarium, crematorium.*
9. *Church and other place of worship.*
10. *Community center building operated by a non-profit agency.*
11. *Community residential facility.***
12. *Contractor's storage yard (See Chapter IV – Conditional Use Standards).**
13. *Dwelling, family hardship.**
14. *Electrical distribution station.*
15. *Extractive industry.*
16. *Golf course.*
17. *Golf driving range.*
18. *Kennel, commercial (See Chapter IV-Conditional Use Standards).*
19. *Manufactured home park.*
20. *Recreational facility, high-impact.*
21. *Recreational facility, low-impact.*
22. *Recreational vehicle park.*
23. *Riding academy and rodeo arena.*
24. *School, primary and secondary.*
25. *Stable, public.*
26. *Temporary building or structure.**
27. *Water and sewage treatment plant.*
28. *Water storage facility.*

The bulk and dimensional standards for the SAG-5 zone include a minimum lot area of 5 acres, permitted lot coverage is 25% for residential uses and the maximum building height is 35 feet. The minimum setback requirements for principal structures are 20 feet from all property lines and from streams, rivers and unprotected lakes which do not serve as property boundaries. Detached accessory structures are required to be setback 20 feet from front and side corner property lines and 5 feet from the side and rear property lines. The setback requirements may be reduced for legal, nonconforming lots.

Proposed Zoning

This portion of the map amendment request includes approximately 36.2 acres and is proposed to be rezoned to B-2A. The B-2A zone is defined as, *'The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial*

amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.'
The following is a list of permitted uses in the B-2A zone:

1. *Antique, gift and card retail sales and auction barn.*
2. *Automobile (new and used) and accessory sales.*
3. *Automobile repair shop.*
4. *Automobile service station.*
5. *Beauty Salon and Barbershop.*
6. *Bed and breakfast establishment.*
7. *Boat and RV sales, new and used.*
8. *Boat and RV repair shop*
9. *Bowling alley.*
10. *Bus depot.*
11. *Churches and other places of worship.*
12. *Clinic, medical and dental.*
13. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
14. *Convenience store.*
15. *Daycare centers (13 or more individuals).*
16. *Dwelling, single family.*
17. *Feed, seed and farm supply.*
18. *Financial institution.*
19. *Food store, supermarket, and delicatessen.*
20. *Frozen food lockers, not including slaughtering.*
21. *Funeral Home and crematorium.*
22. *Furniture and floor covering store.*
23. *Heavy equipment sales, rental and service.*
24. *Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.*
25. *Hotel and motel (including restaurants, lounges or bars integral to the facilities).*
26. *Household appliance and electronics store.*
27. *Laundromat or dry cleaner.*
28. *Lumber yard, building supply.*
29. *Military surplus store.*
30. *Pack-n-ship.*
31. *Professional offices.*
32. *Public building.*
33. *Recreational facility, high impact.*
34. *Recreational facility, low impact.*
35. *Restaurant.*
36. *Small animal veterinarian clinic (no outside activity).*
37. *Theater.*
38. *Wholesale trade and warehousing.*

The following uses are listed as conditional uses in the B-2A zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Accessory Apartment.*
2. *Amusement park or zoo.*

3. *Animal hospital.*
4. *Any new building greater than 15,000 square feet, existing buildings where an addition would cause the total footprint to be 15,000 square feet or greater, and additions to buildings where the footprint already is 15,000 square feet or greater.*
5. *Bar, lounge and tavern.*
6. *College, business school, trade school, music conservatory, dance school.*
7. *Community residential facility (See Chapter V- Performance Standards and Chapter VII- Definitions).***
8. *Light assembly and manufacturing.*
9. *Manufactured home park.*
10. *Microbrewery.*
11. *Mini-storage, RV storage.*
12. *Recreational vehicle park.*
13. *Truck stop.*

The bulk and dimensional requirements of the B-2A zone require no minimum lot size as well as no maximum lot coverage requirements. The maximum building height for all structures is 35 feet. The minimum setback requirements for the B-2A zone are 20 feet from front and side corner property lines. There are no setbacks from side and rear property lines unless the property abuts a residential district. When this is the case, the rear and side setbacks are 20 feet.

The area proposed to be rezoned to B-2A is part of the larger SWO request. If approved, the SWO will required heightened design standards that will include landscaping, buffering, signage, lighting, architectural design and traffic improvements. In many cases, new non-residential development in this area will be required to increase building setbacks in order to comply with the standards of the SWO.

II. BSD Request

Current Zoning:

The current zoning of the property proposed to be rezoned to BSD is SAG-5. (See above for the definition of the SAG-5 zone along with the permitted uses, conditional uses and the bulk and dimensional requirements).

The proposed BSD zone is defined as, *'The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.'* The following is a list of permitted uses in the BSD zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant*
3. *Animal hospital, veterinary clinic.*
4. *Contractors' storage yard and building supply outlet.*

5. *Dance, drama, and music school.*
6. *Dwelling, single family.*
7. *Farm equipment sales.*
8. *Feed, seed and farm supply, including grain elevators.*
9. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
10. *Homeowners park.*
11. *Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.*
12. *Livestock.*
13. *Nursery, landscaping materials.*
14. *Parcel delivery service.*
15. *Park and publicly owned recreational facility.*
16. *Personal services with incidental retail sales.*
17. *Print and copy shop.*
18. *Produce stand.*
19. *Professional offices.*
20. *Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).*
21. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines, (no outdoor storage permitted).*
22. *Riding academy, rodeo arena.*
23. *Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).*
24. *Stable, public and private.*
25. *Wholesale trade and warehousing, including offices and showrooms.*

The following uses are listed as conditional uses in the B-2A zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Accessory apartments.*
2. *Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.*
3. *Churches and other place of worship.*
4. *College, business school, trade school.*
5. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.**
6. *Convention hall facility.*
7. *Day care center.*
8. *Kennel.*
9. *Mini-storage.*
10. *Research laboratory and institution.*
11. *When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or*

greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.

The bulk and dimensional requirements of the BSD zone include a minimum lot size of 1 acre, permitted lot coverage of 40% and the maximum height of principal structures is 35 feet and the maximum height accessory structures is 24 feet. Setbacks for all structures in the BSD zone are 30 feet from the front and side corner property lines, 10 feet to side property lines and 15 from the rear property line. When property abuts either agricultural or residential use or zoning, the setbacks increased to 30 feet from all property lines.

The area proposed to be rezoned to BSD is part of the larger SWO request. If approved, the SWO will require heightened design standards that will include landscaping, buffering, signage, lighting, architectural design and traffic improvements. In many cases, new non-residential development in this area will be required to increase building setbacks in order to comply with the standards of the SWO.

An issue that was raised in the May Planning Board hearing deals with the application requirements for property proposed for a BSD map amendment. The specific language of Section 3.49 states:

3.49.015 Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review. The site plan, vicinity map and building concepts will address each of the following:

- 1. The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.***
- 2. The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.***
- 3. The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.***
- 4. Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.***

3.49.017 Implementation of Site Plan and Vicinity Map:

- 1. Once the site plan and vicinity map have been adopted, they shall be considered zoning and***

shall serve as the guidelines for the development.

- 2. Prior to any site development, a detailed site plan shall be submitted to the zoning administrator to demonstrate compliance with the approved site plan and vicinity map. Any desired subsequent changes shall be submitted for approval as an amendment to the site plan.*
- 3. Minor deviations to the site plan shall be allowed which do not involve more than ten percent (10%) of the building site for a single building. This would include, but is not limited to, the location and/or expansion of the building, parking lot location, signage, number of parking spaces and landscaping. Minor deviations to the site plan shall be reviewed and approved by the zoning administrator.*
- 4. Substantial modifications to the site plan will be required to be reviewed and approved by the County Commissioners. Substantial changes would include, but not be limited to, an increase in the number of buildings, major changes in access or circulation, an increase in building size by more than ten percent (10%), major changes to signage and major changes to landscaping design and location.*

It appears the intent of this language deals with properties that are undeveloped and the applicant is requesting to change the zoning to BSD. In this case, there appears to be only one of the 37 parcels that is undeveloped. The application included information showing the location of buildings, access as well as other information required of undeveloped properties requesting a map amendment to BSD. The emphasis that resulted in the current BSD request was directed to the existing and conditional uses outlined in the BSD zone. All of the existing uses are permitted in the BSD and all but three of the property meet the minimum lot size of the BSD. Moreover, because the BSD request hinges on the adoption of the SWO, the proposed increased design standards for new non-residential development, additions to existing non-residential development, and changes of use for non-residential development appear to require a higher degree of mitigation than what is outlined in Section 3.49.

It should be noted that all new development, additions to existing development, and changes of use in the proposed BSD rezone will be required to submit a site plan, showing the development meets all design standards of the SWO, including landscaping, signage, lighting, parking, access and architectural design requirements. As mentioned, staff considers this review more robust and appears the requirements adequate mitigate impacts associated with development along this important corridor.

III. SAG-5 Request

Current Zoning

The southern approximately 145 acres of this request is currently zoned AG-20. The AG-20 designation is defined as, ‘A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.’ The following is a list of the permitted uses in the AG-20 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Cellular tower.*
3. *Class A and Class B manufactured home (See Chapter VII – Definitions).*
4. *Cluster housing (See Chapter V – Performance Standards).*
5. *Dairy products processing, bottling, and distribution.*
6. *Day care home.*
7. *Dwelling, single-family.*
8. *Dwelling unit, accessory (ADU).*
9. *Guest house.*
10. *Fish hatchery.*
11. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
12. *Homeowners park and beaches.*
13. *Kennel.*
14. *Livestock*
15. *Nursery, landscaping materials.*
16. *Park.*
17. *Produce stand.*
18. *Public transportation shelter station.*
19. *Public utility service installation.*
20. *Ranch employee housing.*
21. *Riding academy, rodeo arena.*
22. *Stable, public and private.*

The following uses are listed as conditional uses in the B-2A zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airport.*
2. *Animal farm (See Chapter VII – Definitions).*
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center (See Chapter IV – Conditional Use Standards and Chapter VII – Definitions).*
6. *Caretaker’s facility.**
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Communication tower/mast.*
10. *Community center building operated by a non-profit agency.*
11. *Contractor’s storage yard (See Chapter IV – Conditional Use Standards).**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Feed and seed processing and cleaning.*

16. *Feed lot: cattle, swine, poultry.*
17. *Radio and television broadcast studio.*
18. *Recreational facility, low-impact.*
19. *School, primary and secondary.*
20. *Temporary building or structure.**
21. *Water and sewage treatment plant.*
22. *Water storage facility.*

The bulk and dimensional requirements of the AG-20 zone include a minimum lot size of 20 acres, permitted lot coverage of 20%, and a maximum building height of 35 feet. Setbacks for principal structures are 20 feet from all property lines as well as 20 feet from streams, rivers or unprotected lakes. Setbacks for detached accessory structures are 20 feet from the front and side corner property lines and 5 feet from the side and rear property lines. These setbacks are reduced for legal nonconforming lots.

The area proposed to be rezoned to SAG-5 is part of the larger SWO request. If approved, the SWO will require any approved Conditional Use Permit development to comply with heightened design standards that will include landscaping, buffering, signage, lighting, architectural design and traffic improvements. In many cases, new non-residential development in this area will be required to increase building setbacks in order to comply with the standards of the SWO.

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

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

The proposed zoning map amendments fall within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2017 (Resolution 2015 R).

The Flathead County Growth Policy Designated Land Uses Map identifies the area of the map amendments as Commercial, Residential, Suburban Residential, and Agricultural. Much of the proposed map amendments appear to contrast 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. 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 policies, rather than maps in the document.

The proposed map amendment, including the overlay district, is located along the Highway 93 South corridor from the southern boundary of the City of Whitefish south approximately 1.5 miles. The map amendment is intended to establish appropriate zoning that reflects the existing uses within the corridor. As previously mentioned, there are a multitude of non-residential uses in the area. This request appears to offer regulatory certainty to the current and future owners in order for appropriate investment in the affected properties. The SWO appears to be an essential component of this request because the additional design standards should mitigate the impacts of additional non-residential development.

The following are the goals and policies of the Flathead County Growth Policy that pertain to the proposed text amendment:

- ❖ **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 supporting documents associated with the proposed map amendment identifies the purpose of the request as a means “to provide opportunities that address increasing demand for development options in the planning area while minimizing visual and traffic safety impacts along the southern gateway to Whitefish.”
- ❖ **G.5** – *Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.*
 - **The area of the requested commercial rezones are in an area populated with numerous commercial uses. If approved, adequate potential industrial land will be provided with development impact mitigating design standards that should offset objectionable impacts to both humans and the environment.**
- ❖ **G.6** – *Adequate commercial land that is safely accessible and efficiently serviceable.*
 - **The requested B2-A and BSD rezone requests should provide adequate commercial land that will be safely accessible with the access requirements and recommendations outlined in the proposed overlay.**
- **P.6.1** – *Encourage internal, interconnected roads for commercial development and frontage roads where appropriate.*
 - **The requested SWO will require the development of backage and frontage roads where feasible, access easement to facilitate commercial development on adjacent properties, and the elimination and consolidation of existing approaches onto Highway 93.**
- **P.6.3** – *Provide ample commercial land designation to promote affordability.*
 - **The B-2A and BSD request will provide an additional 115 acres of commercially zoned property. However, it should be noted that approximately half of that acreage have existing commercial uses that are either legal, nonconforming uses or have been issued a Conditional Use Permit.**
- **P.6.4** – *Require traffic impact analysis for all major commercial projects on major highways and arterials.*
 - The map amendments along with the concurrent text amendment request have the potential to provide additional industrial and commercial areas. With the proposed landscaping and other design standards, the effects of new commercial and industrial development should be mitigated.

Moreover, the proposed text amendment encourages alternative access strategies to increase safety along the corridor.

- The proposed B-2A and BSD map amendments, because of the scope of the request, appear to promote more strip like development of commercial areas. The potential for strip commercial development appears to contradict what many county residents feel is appropriate commercial development in the County. However, the additional design requirements of the proposed overlay district and the limited amount of public services available for future development appear to prevent the kind of “big box” strip commercial development opposed by much of the Flathead County population.
- ❖ **G.7** – *Consider existing community character in commercial land development.*
- **P.7.2** – *Develop regulations that promote the seven elements of the Flathead County Vision and mitigate the negative impacts of commercial development.*
- **P.7.4** – *Identify existing areas that are suitable for impact-mitigating commercial uses.*
- **P.7.5** – *Encourage commercial development that is visually and functionally desirable.*
 - The proposed map amendment along with the concurrent text amendment recognizes the importance of maintaining and enhancing this southern gateway to the City of Whitefish by attempting to establish impact-mitigating landscaping, design, and traffic safety standards.
- ❖ **G.11** – *Protection of scenic resources available to both residents and visitors.*
- **P.11.1** – *Identify critical gateway areas that provide lasting impressions of Flathead County to both residents and visitors.*
 - ***The proposed B-2A, BSD and SAG-5 rezone request, alone, do not necessarily recognize this critical gateway area. However, the SWO and the related increased design standards should create an attractive southern gateway into Whitefish, leaving both residents and visitors a positive impression.***
- **P.11.2** – *Identify development impacts that threaten gateway areas and develop land use guidelines that mitigate these impacts without prohibiting development.*
 - ***The added design requirements of the SWO appear to mitigate the impacts of development because the proposed design requirements are applicable to all new development, additions to existing development and any change of use to existing non-residential development.***
- **P.11.5** – *Develop guidelines to ensure that lighting should not destroy the reasonable enjoyment by all residents of the night skies.*
 - The proposed map amendment along with the concurrent text amendment identifies the area as an important gateway into the City of Whitefish. The proposed overlay requires increased landscaping, architectural standards, and buffering to maintain and enhance the scenic quality of this important gateway. Moreover, the overlay also recognizes the negative impact unregulated lighting has on the enjoyment of the night skies.
- ❖ **G.21** – *A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector employment.*
- **P.21.1** – *Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*

- The proposed map amendment coupled with the concurrent text amendment request has the potential to provide additional commercial and industrial zoned property.
- ❖ **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.*
 - The proposed overlay encourages the elimination of access points on Highway 93, increasing traffic safety along the corridor. Moreover, the proposed area of the overlay appears to be sufficient to accomplish traffic safety improvements as development occurs.
- ❖ **G.24** – *Develop a quality transportation network to meet the present and future needs of the public.*
- **P.24.3** – *Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.*
 - ***The proposed SWO identifies future locations of backage roads that will provide access to the properties subject to the B-2A and BSD rezone request. When developed, it appears that this proposed network of backage roads will eliminate many of the existing approaches onto Highway 93 within the proposed corridor.***
- **P.24.4** – *Require road easement dedications for identified areas of future connectivity as subdivision developments are proposed, to serve present and future needs of the county residents.*
 - The proposed overlay will require road easement dedications in order to provide access to future development.
- ❖ **G.25** – *Identify and support alternative modes of transportation.*
- **P.25.2** – *Identify and prioritize areas for a predictable regional and interconnected bicycle path network and require pedestrian/bicycle easements on both sides of county roads. Encourage developments that aid and/or connect to this network.*
 - The proposed overlay zone will require the dedication of easements for pedestrian/bicycle trails.
- ❖ **G.36** – *Protect water quality in lakes, rivers, aquifers and streams from existing and potential pollution sources.*
- ❖ **G.37** – *Prevent untreated storm water from entering into any surface water, stream, river, or lake.*
 - Limited access to public wastewater treatment facilities will limit development in the area of the proposed map amendments to those uses that can adequately handle sanitation needs on-site. New and upgraded septic systems will be reviewed and approved by Flathead City-County Environmental Health and Montana Department of Environmental Quality as applicable. In addition to sanitary review, new development as well as the creation of new lots through the subdivision process will require review and approval of adequate storm water systems.
- ❖ **G. 39** – *Preserve and protect wetlands and riparian areas to prevent degradation of natural resources, including but not limited to water quality and critical wildlife habitat.*
 - There is a small area within the B-2A request that has been identified as wetlands. Development in this area will be prohibited. The proposed map amendments are adjacent to a populated urban area. Additional development in the area will further reduce the existing wildlife habitat.
- ❖ **Goal 49** – *Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and*

services that protect and preserve the health, safety, and welfare of the natural and human environment.

- **P.49.1** – *Promote representation by county officials of those residents outside of the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.*
 - **P.49.2** – *Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of the city limits and give consideration to those comments during the county review process.*
 - The proposed map amendment and concurrent text amendment recognizes the fact that the affected area is adjacent to the City of Whitefish and requires design standards similar to the City’s in order to protect this important gateway.
- **Whitefish City-County Growth Policy (2007)**
 - The Whitefish City-county Growth Policy (2007) addresses the location of the proposed text amendment in this manner: *“Hwy 93 South is characterized by a number of commercial establishments of various kinds. Many are legal non-conforming uses, but most are legal permitted and conditional uses under the SAG-5 Flathead County zoning district (administered by the City of whitefish within the jurisdictional area). Most of this corridor is heavily timbered, and many of the commercial buildings are of high quality. These two factors make the corridor for less visually distracting than many commercial strips in unincorporated Flathead County. Still, the corridor suffers from a lack of screening and landscaping, and from multiple uncontrolled highway approaches. Widening of the highway and growth in traffic have made the residential environment increasingly hostile. Because of this factor, there has been disinvestment in residential property, resulting in some of those properties taking on a rundown appearance. ADT is approximately 15,000. (ADT in 2015 for Highway 93 and E. Blanchard Lake Road was 20,140). While the issues facing the Hwy 93 South corridor are complex and will be difficult to solve, the Whitefish community has long history of discouraging this area from becoming a ‘commercial strip.’”* The Growth Policy further outlines the following issues which need to be addressed and satisfied for future growth and development within the corridor:
 - ✓ **Commercial growth:** Commercial growth will continue to be discouraged by the City of Whitefish.
 - It should be noted that some of the existing commercial activities within the corridor have Conditional Use Permits obtained from the City of Whitefish. ***In addition, it also appears that all of the existing commercial uses were established when the City’s Growth Policy was adopted in 2007.***
 - ✓ **Scale:** The existing modest scale of commercial and residential structures should be maintained. No “big box” retail or office buildings should be proposed.
 - ✓ **Architectural standards:** Any successful plan must include high standards of architectural design that is compatible with the wooded environs of the corridor.

- ✓ **Landscaping/screening:** The corridor plan must include standards for replacement of existing forest stands, on-site landscaping, and screening of parking and service areas.
- ✓ **Utilities:** Water and sewer services must be provided, or, the corridor plan should support no more development than can be served by well and septic systems without adversely affecting water quality or wells on neighboring properties.
- ✓ **Trip generation:** With growing traffic volumes on Hwy 93 already, additional nonresidential uses should not be of a nature that attracts large numbers of additional vehicle trips. The corridor plan must include a traffic impact and access analysis.
- ✓ **Traffic safety, circulation, and access:** Traffic safety will be a major concern with any new growth in this corridor. The proliferation of access points can cause both safety and traffic access problems. An access and circulation component must be a product of the over-all corridor plan.
- ✓ **Bike/pedestrian facilities:** Bicycle and pedestrian ways must be provided within the corridor itself, and should link to the existing commercial areas north of Hwy 40.
 - The proposed map amendment along with the concurrent text amendment provides opportunities for development within the corridor while recognizing the concerns outlined in the Whitefish City-County Growth Policy. The amendment proposes landscaping, buffering, architectural, and other design standards similar to those required by the City of Whitefish. Furthermore, the amendment proposes additional traffic safety features, encourages the elimination of existing approaches on Highway 93 and requires appropriate road easements for future development and bicycle/pedestrian easements.

Finding #1: The proposed map amendments appear to be supported by numerous goals and policies of the Flathead County Growth Policy because the amendments preserve the rights of the property owners within the entire area while mitigating development impacts; they provide additional commercial and industrial property that will be visually and functionally desirable; the overlay amendment mitigates development impacts along the Highway 93 corridor that is an important gateway to the City of Whitefish; the proposed overlay and BSD zoning designations discourage strip development in favor of clustering non-residential uses which could share aspects of the development such as access and parking; by consolidating and eliminating individual approaches onto Highway 93, requiring road easements to adjacent properties, and encouraging backage and frontage roads, the map amendments should mitigate traffic concerns and improve safety along the corridor; the overlay requires the dedication of bicycle/pedestrian easements; and it will respect the cultural, geographic and historic heritage of the City of Whitefish with architectural, sign, and lighting standards very similar to those of the City.

Finding #2: While the definition of the BSD district appears to promote properties to be “developed as an island rather than as a strip,” the size, scope, and configuration of the proposed map amendments requesting B-2A and BSD could promote strip commercial development. This promotion of strip commercial development appears to contradict the comments from many members of the community on “the need to prevent strip

development.” However, the inclusion of this property within the SWO which will require all new development, *expansion of existing development*, and any change of use of existing uses to provide additional landscaping between structures and the Highway 93 right-of-way, vegetative buffering between commercial and residential uses, parking standards that will require at least 60% of required parking to be located on the side or the back of structures, lighting and signage standards that are almost identical to the standards required by the City of Whitefish, and architectural standards should mitigate the appearance of strip development.

Finding #3: While the B-2A and BSD proposal does appear to promote additional commercial growth along the Highway 93 corridor south of Whitefish which is contrary to the City’s plans for the area, the proposed map amendment, especially with the proposed overlay, appears to be supported by many other goals and policies of the Whitefish City-County Growth Policy (2007) because it requires that the modest scale of development be maintained; it requires additional architectural standards very similar to the City of Whitefish; it requires additional landscaping and screening; it encourages the elimination of highway approaches and requires the dedication of road easements for future development; and it requires the dedication of bicycle/pedestrian easements.

Finding #4: The proposed amendment from AG-20 to SAG-5 appears to be support by many of the goals and policies of the Growth Policy because the area remains predominantly rural residential, the permitted and conditional uses in each zone are similar, and the requested SAG-5 zone would provide a buffer between the more commercial uses to the north and the unlimited agricultural uses in close proximity.

ii. Whether the proposed map amendment is designed to:

1. Secure safety from fire and other dangers;

The entire area of the proposed map amendments are located is within the Rural Whitefish Fire District. The nearest fire station is approximately 1.5 road miles from the area. The area is also located within the Wildland Urban Interface and is classified as a high County wide priority area. The area does contain areas of heavy vegetation, including dense timber areas. However, the proposed overlay district requires increased landscaping and buffering standards that will require a developer to take a reasonable amount of care in order for the trees and plants to remain viable. This means that areas around structures and parking lots will be sufficiently irrigated which should reduce the dangers of a wildland fire causing damage to structures. Moreover, because the proposed map amendments, along with the concurrent SWO text amendment, tend to promote the development of non-residential uses and structures, building permits will be required by the State of Montana. Along with the required building permits, the structures will be required to meet commercial building codes which, in most cases, require an interior sprinkler system. Because there is a real potential for any new non-residential structures to be sprinkled, the possibility that a structure fire could lead to a wildland fire diminish.

The B-2A, BSD, and SAG-5 map amendments will require all structures to meet the bulk and dimensional requirements for each respective zone. These requirements are designed to provide adequate building separation which aids in preventing the spreading of fire from one structure to another.

The area is not located in a Special Flood Hazard Area, and according to the supporting documents, there does not appear to be any other dangers associated with the area considered for the proposed overlay.

Finding #5: The proposed map amendments are designed to help secure safety from fire and other dangers because the area is served by the Rural Whitefish Fire District; new development will be required to meet bulk and dimensional requirements, landscaping and buffering requirements which will require irrigation; the non-residential development will require State building permits which will require, in most cases, an interior sprinkler systems; and there are no other dangers in the area.

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

Without the addition of the SWO overlay zone, the B-2A and BSD request does little to promote public health, safety and general welfare. However, the proposed SWO zoning district is specifically designed to mitigate development impacts along the Highway 93 corridor south of the City of Whitefish. The design standards proposed by the text amendment, including landscaping, buffering signage, lighting, parking and building design should result in an attractive gateway into Whitefish. In addition, the proposed overlay zone recommends and encourages the elimination of individual access approaches on to Highway 93 and outlines alternative access for future development such as backage and frontage roads as well as easement dedication for access as development occurs.

Generally speaking, the area of the proposed overlay is not necessarily a suburban residential area anymore. As outlined by the City of Whitefish in 2007, the residential development along the corridor has suffered from “disinvestment.” While there may be non-residential opportunities for individual property owners to pursue under the current regulations, this kind of approach would only continue the piecemeal commercial development that has occurred along the corridor in the past. Further, the proposed overlay would enhance the visual quality of the corridor by requiring additional landscaping, buffering, parking and architectural design standards.

Because of the distance from the Whitefish City limits, the proposed SAG-5 amendment appears to promote public health, safety and general welfare because the intent of the SAG-5 zone is similar to the AG-20 zone in that it is a zone the maintains and enhances agricultural uses in Flathead County. The reduction in the minimum lots size should enhance the general welfare of the area if only because many more of the current parcels will meet the minimum lot size for the zone and the current or any future lot owners will not need to be concerned with the fact that their parcels are nonconforming as to minimum size.

Finding #6: The proposed text amendment will promote public health, public safety, and general welfare because the SWO is specifically designed to mitigate development impacts; it will increase traffic safety along the corridor as development occurs; and with the landscaping, buffering, parking, lighting, and architectural design standards, make the gateway into the City of Whitefish more visually appealing.

Finding #7: The proposed B-2A and BSD zones ~~may not adequately promote public health, safety, and general welfare because the proposed zones would~~ might introduce more commercial development opportunities into the area which would further diminish traffic safety along Highway 93. However, the proposed overlay

would require development to implement alternative access strategies that would increase safety and appear to alleviate traffic safety effectively *and would be compatible with the City of Whitefish zoning.*

Finding #8: The proposed SAG-5 amendment appears to not have a negative impact on public health, safety and general welfare because the property is served by the Rural Whitefish Fire District and the Flathead County Sheriff and the SAG-5 zoning would provide a buffer between the more intense land uses to the north and unlimited agricultural uses to the south.

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

While there is not currently public water or sewer service available in the proposed area of the map amendments, all new or replacement on-site sewage disposal systems will be reviewed and approved by the Montana Department of Environmental Quality and the Flathead City-County Health Department. Any requests for a new water right or an increase in the current water right will be reviewed and approved by the Department of Natural Resources and Conservation.

The proposed map amendments along with the concurrent text amendment request identifies specific traffic improvements that are required prior to developing or redeveloping a particular piece of property in the proposed B-2A and BSD zones. These improvements include, but are not necessarily limited to surrendering existing approaches and utilizing shared approaches, developing backage or frontage roads, and dedicating easements to adjacent properties to facilitate safe traffic movement along the corridor. In some cases, development could trigger the construction of dedicated turning lanes, acceleration and deceleration lanes the cost of which should be the responsibility of the developer.

Much of the area of the proposed map amendment has experienced an extended period of disinvestment in residential development in the past decade. Because of this disinvestment, it is anticipated there will be no impact on local schools nor will there be a need to provide additional parks to accommodate residential development. The proposed text amendment does facilitate the provision of other public requirements such as bicycle/pedestrian easements adjacent to Highway 93 in the entire proposed overlay area.

The area of the SAG-5 amendment continues to be characterized by suburban, agricultural development. The reduction in the minimum lot size could result in the creation of 10 additional lots in the area which should not have a negative impact on local schools. The creation of any new lots will be required to go through the subdivision process where the provision for water, wastewater, transportation, schools, parks and other public requirements will be reviewed and approval will be conditioned to meet all applicable requirements.

Finding #9: The proposed B-2A and BSD as well as the overlay district amendment will facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because water and sewer will be adequately reviewed and approved by the applicable agency; the emphasis toward non-residential development of the proposed text amendment will have a minimal impact on schools

and parks; the proposed amendment will require transportation improvements and will require the dedication of bicycle/pedestrian easements.

Finding #10: The proposed SAG-5 amendment would facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because the properties are accessed via Highway 93, any new development would require review through the Sanitation in Subdivision Act, it is anticipated that the school districts would have capacity and 5 acre lots would not require parkland dedication during the subdivision review process.

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

1. The reasonable provision of adequate light and air;

The reasonable provision of adequate light and air typically is achieved through bulk and dimensional requirements included in the underlying zoning districts. Restrictions on setbacks, building and fence heights, minimum lot size, and lot coverage requirements serve to prevent structures from blocking light or preventing the circulation of air to adjoining property. The proposed overlay amendment is designed to overlay proposed rezoned property along the Highway 93 corridor south of the City of Whitefish.

Finding #11: The proposed map amendments will reasonably provide for adequate light and air because the SWO will only overlay on zoned property that will have bulk and dimensional requirements, including building and fence height restrictions, setbacks from property lines, minimum lot size requirements, and lot coverage requirements. These provisions protect access to light and circulation of air.

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

The existing transportation system in the area, both motorized and non-motorized, presents an increasing safety concern. The current uses along the corridor gain access via multiple individual approaches directly on the Highway 93. Moreover, the speed limit in much of the area is 65MPH which results in potentially dangerous situations when motorists enter and exit the highway. There is no bicycle/pedestrian path adjacent to Highway 93 south of the Whitefish city limits. Non-motorized travel along the corridor requires users to travel on the shoulder of the highway.

The proposed overlay amendment recommends the development of frontage or backage roads, requires the dedication of easements to adjacent properties to facilitate future access, vacating and consolidating existing approaches, and dedicated turning lanes as appropriate to increase traffic safety along the Highway 93 corridor. In addition, the proposal will require the dedication of easements for bicycle/pedestrian paths as property is developed or redeveloped. The overlay design requirements will be in addition to other requirements of the B-2A and BSD zones as well as on any Conditional Use requested on the proposed SAG-5 zone.

Finding #12: The proposed map amendments are expected to improve the transportation system along the corridor for both motorized and non-motorized users because the proposal will require backage or frontage roads, require connected development, reduce the number of approaches onto Highway 93, potentially reduce the maximum speed limit, and will require the dedication of bicycle/pedestrian easements along the corridor.

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

The proposed area of the B-2A and SWO map amendments are adjacent to the south boundary of the City of Whitefish. The proposed overlay includes additional design standards for all new non-residential development within the proposed area. Comments from the City of Whitefish Director of Planning & Building, David Taylor state that additional landscaping standards proposed in the text amendment are “superior to Flathead County landscaping standards and are welcome.” However, he further comments that perhaps some additions to the parking lot landscaping standards would better match those of the City. In addition, Mr. Taylor also appears to support the additional sign standards, lighting restrictions, and, while not as extensive as the City’s, also appears to support the proposed architectural design standards. Finally, it appears the City of Whitefish also supports the transportation improvements, including backage and frontage roads, connected development, access control, vehicle speeds, and bicycle/pedestrian facilities.

However, it appears the proposed expansion of the B-2A zone and the addition of BSD zoning may not be compatible to the urban growth adjacent to this request. The City of Whitefish has expressed concerns with the expansion of zoning that would include commercial uses. The adjacent municipality is concerned with the effects on expanded commercial areas negatively impacting undeveloped commercial properties within the City of Whitefish, the lack of public water and sewer services in the proposed area, and, if approved, the zoning would promote strip development.

At the same time, however, it might appear the City of Whitefish did not take into full consideration the numerous non-residential uses within the area when developing their Growth Policy and Future Land Use Map. Research indicates that the commercial uses were fully established when the Rural Residential designation was established.

Finding #13: The proposed overlay amendment appears to be compatible with the urban growth in the vicinity and in the vicinity of the City of Whitefish because the City of Whitefish has commented that much of the proposed design standards, including landscaping, buffering, architectural design, signage, lighting, and the proposed transportation improvements mirror the regulations addressing these items of the City of Whitefish.

Finding #14: The proposed B-2A and BSD amendments appear to ~~not~~ be compatible with urban growth in the area ~~because the City of Whitefish Future Land Use Map designates the area as Rural Residential, water and sewer services are not available in the area, the commercial uses along the corridor will increase traffic congestion, and the added permitted commercial uses could promote strip development. At their May 10, 2017 meeting, the Planning Board voted to remove most of the language of this finding without explaining how the proposed B-2A and BSD zoning are compatible with urban growth in the area. It was apparent during the Board’s discussion that they were confident that the proposed rezoning requests were compatible with the urban growth in the area. Staff recommends considering the following language:~~ **Finding #14: The proposed B-2A and BSD amendments appear to be compatible with urban growth in the area because all new non-residential development, additions to existing non-residential development, and a change of use of existing non-residential development will be required to comply**

with the increased design standards proposed in the SWO. Moreover, most, if not all, of the existing non-residential development subject to this rezone request were in existence when the City of Whitefish adopted the current Growth Policy and Future Land Use Map, and the Rural designation appears to have ignored the many non-residential uses within this corridor.

Finding #15. The proposed SAG-5 map amendment appears to be compatible with the urban growth in the vicinity because the City of Whitefish Future Land Use Map designates this area as Rural and SAG-5 zoning is considered a rural zone.

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

The area of the proposed B-2A and BSD amendment and the overlay can be characterized as the primary southern gateway into the City of Whitefish. Moreover, it could, perhaps, be easily argued that the current conditions along that corridor no longer reflect the current zoning of the area. For the most part, the area is zoned SAG-5 Suburban Agricultural. This zone permits agricultural uses as well as single family dwellings. There are some non-residential and non-agricultural uses allowed in this zone with an approved Conditional Use Permit. In past years, areas of the corridor have utilized the conditional use process to allow uses that include a coffee roaster, a fitness facility, a medical clinic, mini-storage to name a few. There also appears to be some legal, nonconforming uses along the corridor as well that are not residential.

What has been lacking in this important gateway area by permitting piecemeal commercial development via the conditional use process are consistent mitigation measures to ensure the scenic nature of the Highway 93 corridor is maintained. Because the volume of traffic on the highway has increased to over 20,000 vehicle trips per day, it appears to be unreasonable to expect to continue to encourage agricultural and residential development in an area that is burdened with a sharp increase in traffic. It also seems unreasonable to expect that any kind of traffic safety measures, landscaping standards, architectural design standards, and signage and lighting standards can be implemented by approving individual lot development one parcel at a time. Therefore, it appears to be very appropriate at this time to develop design standards like the ones proposed in the overlay amendment so that the non-residential development that appears to be the appropriate use in the area can occur while maintaining the scenic value of the corridor. The proposed overlay amendment appears to be particularly suitable for this area, especially considering the type of non-residential and non-agricultural uses that are existing as well as any future non-residential and non-agricultural uses that will be drawn to the area.

The variety of uses in the B-2A and the BSD zones appear to be suitable for this area as well, especially when the overlay amendment is included. These two zones allow single family dwellings and also seem to limit the size of future development, preventing a “big box” appearance. In addition, the area of the proposed BSD request would render the existing commercial uses that are either are legal, nonconforming uses or were approved through the Conditional Use process permitted uses. The area of the proposed B-2A and BSD zoning could also be characterized as a mixed use area with an emphasis on non-residential development. Along with the additional requirements of the proposed overlay, the proposed zoning appears suitable for the area.

The area SAG-5 request can be characterized as a rural residential and limited agricultural area that is in close proximity to an area of the County that is transitioning towards a more commercial and mixed use area. The proposed amendment would address the fact that only two of the current parcels meet the minimum lot size of the AG-20 zone. And while this is not an insurmountable problem in most aspects, having property that meets the bulk and dimensional requirements of the zoning district in which it is located can prevent problems in the future.

Finding #16: The character of the area of the proposed B-2A, BSD, and overlay amendment appears to be particularly suitable for the potential uses because the overlay will require additional design standards, including landscaping, buffering, architectural design, signage, lighting, and traffic safety requirements in an important gateway area to the City of Whitefish and the area currently has a number of commercial uses.

Finding #17: The proposed SAG-5 amendment appears to adhere to the character of the area and is suitable for the allowed uses because many of the allowed uses in the AG-20 are also allowed in the SAG-5 zone and the bulk and dimensional requirements of the SAG-5 better reflect the sizes of the existing parcels.

- a) The character of a district and its peculiar suitability for particular uses can also be addressed by using the “three part test” established for spot zoning by legal precedent in the case, *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 an evaluation of the three-part test in relation to this request and the character of the district and its peculiar suitability for particular uses.
- ***The zoning allows a use that differs significantly from the prevailing use in the area:*** Staff reviewed the zoning within a half mile of the proposed area. The character of the Highway 93 corridor adjacent to the City of Whitefish is a mixture of small scale commercial and suburban residential. There is B-2A zoning adjacent to the area proposed to be rezoned to B-2A as well as SAG-5 zoning to the east and west. The zoning surrounding the proposed BSD request is SAG-5 to the west and north, SAG-10 to the east and AG-20 to the south. The SAG-5 request is adjacent to other AG-20 to the south, east, and west and is adjacent to SAG-5 zoning to the north.

As mentioned, there are numerous commercial developments along the corner that are either legal, nonconforming uses or have gone through the Conditional Use process. There are other commercial uses in the proposed BSD request that are allowed uses in the SAG-5 zone such as plant nurseries. A change in a zoning district that offers more commercial development options does not appear to be out of place along much of the Highway 93 corridor. However, the current commercial development has occurred essentially without any requirements for landscaping, buffering, signage or traffic mitigation. The proposed new zoning benefits immensely from the proposed overlay that is designed to mitigate the impacts of development along this important transportation corridor and gateway into the City of Whitefish. It could be argued that without the proposed overlay, the proposed B-2A and BSD request could be considered spot zoning and, therefore, not allowed. With the proposed overlay, however, all future development within the corridor and any commercial development within the requested SAG-5 area will be required to adhere to the requirements of the SWO.

These requirements would appear to make the commercial development compatible to the commercial development within the City of Whitefish.

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

The proposed B-2A and BSD map amendments would affect approximately 48 tracts of record. Some property owners own more than one tract, but it is safe to say that this request would directly affect around 46 different property owners. After review of County zoning, staff was able to determine the requested B-2A zoning is adjacent to or within close proximity of a B-2A district that is 36.5 acres in size. (This does not include the almost identical WB-2 Whitefish zoning which is approximately 250 acres in size). The request is to expand the B-2A area by 36.2 acres. This would be a 100% increase of the County B-2A zoning but only an approximate 15% increase when the WB-2 City zoning is included.

The increase in BSD is much more significant. Currently there is approximately 41 acres in the County zoned BSD. This request proposes to add approximately 79.2 acres of BSD zoning which is about a 180% increase. This increase may appear to benefit the land owners within the proposed area; however, because there currently exists numerous commercial uses in the area, and that all new development would be required to meet the requirements of the SWO, if approved, this request would also benefit the general public because the design standards would mitigate development impacts and protect and enhance the scenic quality of this important gateway into the City of Whitefish, and the required traffic improvements will improve the safety of all who drive this section of Highway 93.

The SAG-5 amendment is contiguous to an area of SAG-5 zoning that is approximately 530 acres in size. Because the purpose and uses of the SAG-5 zone are similar to those of the AG-20 zone, and the fact that lowering the minimum lot size to 5 acres, this change would also benefit more than just the current property owners.

- ***The zoning is designated 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:***

Without the inclusion of the SWO zoning, it would appear that much, if not all, of this request would benefit only a few landowners at the expense of the general public. However, the SWO, if approved, will require all new development and any change of use in the B-2A and the BSD area and any commercial use in the SAG-5 to meet the design requirements of the overlay. The requirements are specifically crafted to maintain and enhance the aesthetic quality of this important gateway and to mitigate development impacts along the corridor. Most importantly, the requirements of the SWO should increase traffic safety.

Finding #18: The proposed map amendments, especially with the SWO included appear suitable for the area and do not appear to be spot zoning because the design standards of the SWO will mitigate the impacts of increased development along the Highway 93 corridor and will maintain and enhance the scenic quality of this important gateway into the City of Whitefish.

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

While the proposed map amendments, including the overlay may not necessarily conserve the value of many existing buildings in the area, it does appear that the proposal, with the concurrent text amendment request, encourages the most appropriate use of the land throughout the Highway 93 corridor south of Whitefish. As mentioned above, it appears the current zoning with, essentially, no design standards, may not be appropriate. As stated in the Whitefish Growth Policy, the residential development as far back as 2007 was experiencing “disinvestment,” leading to many of the residential uses visible from the highway “taking on a rundown appearance.” Moreover, it also appears there is very little investment in agricultural development within the area of the proposed overlay.

Because the proposed overlay will require increased landscaping and buffering requirements, will require architectural standards that are designed to be compatible with the physical setting, will require signage and lighting standards that take into consideration the area’s importance as a gateway to the City of Whitefish, and will require increased traffic safety requirements and a bicycle/pedestrian easement, the value of the existing buildings as well as any future buildings should increase. Also, the existing suburban agricultural zoning along most of the Highway 93 corridor appears to be no longer viable considering the highway experiences over 20,000 vehicle trips per day. The proposed text amendment and overlay with the mitigation requirements proposed appears to encourage the most appropriate use of the land.

It may be important to point out the proposed B-2A and BSD requests alone have the potential to result in the kind of strip commercial development that most Flathead County residents oppose. In addition, the lack of sewer and water services in the area could negatively affect the value of the existing development. Furthermore, the proposed addition of more commercial options in this area may also negatively affect the planned commercial development in the City of Whitefish.

The SAG-5 map amendment should have no effect on the value of buildings, and, since the uses allowed in the SAG-5 zone and its purpose are similar to the uses and purpose of the AG-20 zone, the SAG-5 request should encourage the most appropriate uses in this area.

Finding #19: The proposed SWO appears to conserve the value of existing buildings as well as future buildings and encourages the most appropriate use of the land because the design standards proposed, including landscaping, buffering, architectural design, signage, lighting and transportation improvements will mitigate the impacts of non-residential development in the area, will improve traffic safety along the Highway 93 corridor, will require easements for bicycle/pedestrian facilities. Moreover, the proposed amendment, with the required design standards should maintain and enhance the aesthetic value of this important gateway into the City of Whitefish.

Finding #20: Alone, the B-2A and BSD request does not necessarily conserve the value of the buildings in the area and encourage the most appropriate use of the land because the proposed map amendments have the potential to encourage strip commercial development, have limited access to important public service, may negatively impact planned commercial development within the City of Whitefish, and may exacerbate the current traffic issues along the corridor.

Finding #21: The SAG-5 amendment appears to conserve the value of buildings and encourage the most appropriate use of the land because of the similarities of the SAG-5 and the AG-20 should result in no noticeable changes in the area.

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

The SWO Highway 93 South Whitefish Overlay zoning proposes to add additional design standards for all new non-residential development and any change of non-residential use along the Highway 93 corridor south of the City of Whitefish. These design standards include landscaping, buffering, architectural design standards, signage and lighting standards, and the dedication of bicycle/pedestrian easements. While there are some differences between the proposed text amendment's design standards and the similar standards required by the City of Whitefish, the comment letter from the City appears to support many of the requirements outlined in the SWO.

It should be noted that while Montana Code Annotated 76-2-203 states in part, "Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities," the code does not state that the County regulations need to be identical to those of nearby municipalities. For many years, the proposed area of the overlay has been either adjacent to the City or in close proximity to the city limits. Non-residential development has been allowed to occur in this area by the granting of Conditional Use Permits either by Flathead County or by the City of Whitefish. All of these permits were approved on an individual lot by lot basis with little apparent concern with how this non-residential development could affect the aesthetics of this important gateway into the City and especially how the encouragement of these commercial uses could affect traffic safety along the corridor. By proposing additional landscaping, buffering, architectural, signage, lighting, and access standards, it appears the proposed text amendment is very "compatible" with the standards required by the City of Whitefish.

The comment letter from the City of Whitefish expressed concerns about the scope of the commercial zoning request. Mr. Taylor noted that the commercial zoning request is not consistent with the City's Growth Policy or Future Land Use Map. While the Growth Policy along with any associated maps are not "zoning ordinances," an effective argument can be made that a Growth Policy is the foundation of zoning regulations and if a zoning map amendment request is not consistent with a municipality's Future Land Use Map, it does not appear to be compatible with that municipality's zoning regulations.

At the same time, however, the fact that there are currently numerous commercial uses along the corridor cannot be ignored. It also appears that another factor regarding this area that cannot be ignored is that this not an area where residential or agricultural development should be encouraged. The increase in population and the number of visitors that utilize this section of Highway 93 has rendered the existing zoning obsolete. With realistic design standards in place, which the proposed SWO appears to accomplish, the requested commercial zoning could attract and encourage commercial development that is not strip development and also attract the kinds of commercial uses that would not have a negative impact on either the downtown core of the City or the planned commercial development within Whitefish.

The comments from the City of Whitefish did not appear to reference the SAG-5 request. The City's Future Land Use Map designates that area as rural and the rural zone the City utilizes is the WA Agricultural zone for rural designations which has a minimum lot size

of 15 acres. The permitted and conditional uses of the WA are similar to those in the SAG-5 zone. It appears the SAG-5 designation is compatible to the City of Whitefish regulations.

Finding #22: The proposed SWO amendment is, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish because the addition of landscaping, buffering, architectural, signage, lighting standards “mirror” those of the City of Whitefish in many instances, and transportation improvements outlined in the proposed text amendment are supported by the City of Whitefish.

Finding #23: The B-2A and BSD amendments are ~~questionable as to whether they are~~, as nearly as possible, compatible with the City of Whitefish regulations. ~~because the City has concerns with the lack of water and sewer services, that the request does not appear to be consistent with the City’s Growth Policy and Future Land Use Map, that the requested commercial expansion will result in strip commercial development and that expanded commercial opportunities in the area will decrease traffic safety along the corridor. Again, the Planning Board modified this finding without considering any justification. Staff recommends the Board of Commissioner consider the following language:~~ ***Finding #23: The B-2A and BSD amendments are, as nearly as possible, compatible with the City of Whitefish regulations because the properties are contiguous to other property zoned B-2A and are in close proximity to properties within the City that are zoned WB-2A and this request appears to be a logical extension of the B-2A zoning. In addition, the existing uses within the proposed BSD amendment appear to be consistent with the permitted uses outlined in the BSD zoning and this zone appears to be identical to the WBSD zoning outlined in the City of Whitefish zoning regulations.***

Finding#24: The SAG-5 request appears to be compatible with the City of Whitefish regulations because the allowed permitted and conditional uses are similar to those in the City’s rural zoning designation.

Staff Analysis

The B-2A and the BSD map amendment requests without the inclusion of the SWO would appear to have a difficult time gaining approval. Without the additional requirements outlined in the SWO, the commercial development permitted in these two zones would undoubtedly create the kind of strip development that the *Growth Policy* mentions should be avoided. It could be argued that the current pattern of development that has permitted non-residential uses within the corridor has the appearance of strip development. This has occurred primarily because many of the existing commercial uses have been permitted through the conditional use process one parcel at a time. By requiring all new commercial development and any change of use of existing commercial development to adhere to the landscape, buffering, signage, lighting and architectural standards outlined in the SWO, the impacts of additional commercial development, including the appearance of strip development, can be avoided. Moreover, the proposed BSD zone appears to encourage uses that are more able to share certain infrastructure like access and parking.

While the inclusion of the SWO is an important factor to allow the requested B-2A and BSD requests to move forward, a critical missing component to this request, and indeed, to the future of the corridor as a whole is a firm grasp of how the increasing traffic safety concerns can be mitigated. As written, the SWO offers some requirements like establishing access easements as properties are developed, but only offers recommendations for the reduction of existing approaches and establishing backage or frontage roads.

V. SUMMARY OF FINDINGS

Finding #1: The proposed SWO overlay map amendments appears to be supported by numerous goals and policies of the Flathead County Growth Policy because the amendments preserves the rights of the property owners within the entire area while mitigating development impacts; they provide additional commercial and industrial property that will be visually and functionally desirable; the overlay amendment mitigates development impacts along the Highway 93 corridor that is an important gateway to the City of Whitefish; the proposed overlay and BSD zoning designations discourage strip development in favor of clustering non-residential uses which could share aspects of the development such as access and parking; by consolidating and eliminating individual approaches onto Highway 93, requiring road easements to adjacent properties, and encouraging backage and frontage roads, the map amendments should mitigate traffic concerns and improve safety along the corridor; the overlay require the dedication of bicycle/pedestrian easements; and it will respect the cultural, geographic and historic heritage of the City of Whitefish.

Finding #2: While the definition of the BSD district appears to promote properties to be “developed as an island rather than as a strip,” the size, scope, and configuration of the proposed map amendments requesting B-2A and BSD appear to promote strip commercial development. This promotion of strip commercial development appears to contradict the comments from many members of the community on “the need to prevent strip development.”

Finding #3: While the B-2A and BSD proposal does appear to promote additional commercial growth along the Highway 93 corridor south of Whitefish which is contrary to the City’s plans for the area, the proposed map amendment, especially with the proposed overlay, appears to be supported by many other goals and policies of the Whitefish City-County Growth Policy (2007) because it requires that the modest scale of development be maintained; it requires additional architectural standards very similar to the City of Whitefish; it requires additional landscaping and screening; it encourages the elimination of highway approaches and requires the dedication of road easements for future development; and it requires the dedication of bicycle/pedestrian easements.

Finding #4: The proposed amendment from AG-20 to SAG-5 appears to be support by many of the goals and policies of the Growth Policy because the area remains predominantly rural residential, the permitted and conditional uses in each zone are similar, and the requested SAG-5 zone would provide a buffer between the more commercial uses to the north and the unlimited agricultural uses in close proximity.

Finding #5: The proposed map amendments are designed to help secure safety from fire and other dangers because the area is served by the Rural Whitefish Fire District; new development will be required to meet bulk and dimensional requirements, landscaping and buffering requirements which will require irrigation; the non-residential development will require State building permits which will require, in most cases, an interior sprinkler systems; and there are no other dangers in the area.

Finding #6: The proposed text amendment will promote public health, public safety, and general welfare because the SWO is specifically designed to mitigate development impacts; it will increase traffic safety along the corridor as development occurs; and with

the landscaping, buffering, parking, lighting, and architectural design standards, make the gateway into the City of Whitefish more visually appealing.

Finding #7: The proposed B-2A and BSD zones ~~may not adequately promote public health, safety, and general welfare because the proposed zones would~~ *might* introduce more commercial development opportunities into the area which would further diminish traffic safety along Highway 93. However, the proposed overlay would require development to implement alternative access strategies that would increase safety and appear to alleviate traffic safety effectively *and would be compatible with the City of Whitefish zoning.*

Finding #8: The proposed SAG-5 amendment appears to not have a negative impact on public health, safety and general welfare because the property is served by the Rural Whitefish Fire District and the Flathead County Sheriff and the SAG-5 zoning would provide a buffer between the more intense land uses to the north.

Finding #9: The proposed B-2A and BSD as well as the overlay district amendment will facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because water and sewer will be adequately reviewed and approved by the applicable agency; the emphasis toward non-residential development of the proposed text amendment will have a minimal impact on schools and parks; the proposed amendment will require transportation improvements and will require the dedication of bicycle/pedestrian easements.

Finding #10: The proposed SAG-5 amendment would facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because the properties are accessed via Highway 93, any new development would require review through the Sanitation in Subdivision Act, it is anticipated that the school districts would have capacity and 5 acre lots would not require parkland during the subdivision review process.

Finding #11: The proposed map amendments will reasonably provide for adequate air because the SWO will only overlay on zoned property that will have bulk and dimensional requirements, including building and fence height restrictions, setbacks from property lines, minimum lot size requirements, and lot coverage requirements. These provisions protect access to light and circulation of air.

Finding #12: The proposed map amendments are expected to improve the transportation system along the corridor for both motorized and non-motorized users because the proposal will require backage or frontage roads, require connected development, reduce the number of approaches onto Highway 93, potentially reduce the maximum speed limit, and will require the dedication of bicycle/pedestrian easements along the corridor.

Finding #13: The proposed overlay amendment appears to be compatible with the urban growth in the vicinity and in the vicinity of the City of Whitefish because the City of Whitefish has commented that much of the proposed design standards, including landscaping, buffering, architectural design, signage, lighting, and the proposed transportation improvements mirror the regulations addressing these items of the City of Whitefish.

Finding #14: The proposed B-2A and BSD amendments appear to **not** be compatible with urban growth in the area ~~because the City of Whitefish Future Land Use Map~~

~~designates the area as Rural Residential, water and sewer services are not available in the area, the commercial uses along the corridor will increase traffic congestion, and the added permitted commercial uses could promote strip development. At their May 10, 2017 meeting, the Planning Board voted to remove most of the language of this finding without explaining how the proposed B-2A and BSD zoning are compatible with urban growth in the area. It was apparent during the Board's discussion that they were confident that the proposed rezoning requests were compatible with the urban growth in the area. Staff recommends considering the following language: Finding #14: The proposed B-2A and BSD amendments appear to be compatible with urban growth in the area because all new non-residential development, additions to existing non-residential development, and a change of use of existing non-residential development will be required to comply with the increased design standards proposed in the SWO. Moreover, most, if not all, of the existing non-residential development subject to this rezone request were in existence when the City of Whitefish adopted the current Growth Policy and Future Land Use Map, and the Rural designation appears to have ignored the many non-residential uses within this corridor.~~

Finding #15: The proposed SAG-5 map amendment appears to be compatible with the urban growth in the vicinity because the City of Whitefish Future Land Use Map designates this area as Rural and SAG-5 zoning is considered a rural zone.

Finding #16: The character of the area of the proposed B-2A, BSD, and overlay amendment appears to be particularly suitable for the potential uses because the overlay will require additional design standards, including landscaping, buffering, architectural design, signage, lighting, and traffic safety requirements in an important gateway area to the City of Whitefish and the area currently has a number of commercial uses.

Finding #17: The proposed SAG-5 amendment appears to adhere to the character of the area and is suitable for the allowed uses because many of the allowed uses in the AG-20 are also allowed in the SAG-5 zone and the bulk and dimensional requirements of the SAG-5 better reflect the sizes of the existing parcels.

Finding #18: The proposed map amendments, especially with the SWO included appear suitable for the area and do not appear to be spot zoning because the design standards of the SWO will mitigate the impacts of increased development along the Highway 93 corridor and will maintain and enhance the scenic quality of this important gateway into the City of Whitefish.

Finding #19: The proposed SWO appears to conserve the value of existing buildings as well as future buildings and encourages the most appropriate use of the land because the design standards proposed, including landscaping, buffering, architectural design, signage, lighting and transportation improvements will mitigate the impacts of non-residential development in the area, will improve traffic safety along the Highway 93 corridor, will require easements for bicycle/pedestrian facilities. Moreover, the proposed amendment, with the required design standards should maintain and enhance the aesthetic value of this important gateway into the City of Whitefish.

Finding #20: Alone, the B-2A and BSD request does not necessarily conserve the value of the buildings in the area and encourage the most appropriate use of the land because the proposed map amendments have the potential to encourage strip commercial development, have limited access to important public service, may negatively impact planned

commercial development within the City of Whitefish, and may exacerbate the current traffic issues along the corridor.

Finding #21: The SAG-5 amendment appears to conserve the value of buildings and encourage the most appropriate use of the land because of the similarities of the SAG-5 and the AG-20 should result in no noticeable changes in the area.

Finding #22: The proposed SWO amendment is, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish because the addition of landscaping, buffering, architectural, signage, lighting standards “mirror” those of the City of Whitefish in many instances, and transportation improvements outlined in the proposed text amendment are supported by the City of Whitefish.

Finding #23: The B-2A and BSD amendments are ~~questionable as to whether they are~~, as nearly as possible, compatible with the City of Whitefish regulations. ~~because the City has concerns with the lack of water and sewer services, that the request does not appear to be consistent with the City’s Growth Policy and Future Land Use Map, that the requested commercial expansion will result in strip commercial development and that expanded commercial opportunities in the area will decrease traffic safety along the corridor. Again, the Planning Board modified this finding without considering any justification. Staff recommends the Board of Commissioner consider the following language:~~ *Finding #23: The B-2A and BSD amendments are, as nearly as possible, compatible with the City of Whitefish regulations because the properties are contiguous to other property zoned B-2A and are in close proximity to properties within the City that are zoned WB-2A and this request appears to be a logical extension of the B-2A zoning. In addition, the existing uses within the proposed BSD amendment appear to be consistent with the permitted uses outlined in the BSD zoning and this zone appears to be identical to the WBSD zoning outlined in the City of Whitefish zoning regulations.*

Finding#24: The SAG-5 request appears to be compatible with the City of Whitefish regulations because the allowed permitted and conditional uses are similar to those in the City’s rural zoning designation.

VI. RECOMMENDATION

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 amendments to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposed SWO Highway 93 South Whitefish Overlay to comply with the review criteria, the SAG-5 map amendment to generally comply with the review criteria, and the B-2A and BSD map amendments to comply with most of the review criteria. Staff would recommend more discussion regarding strip development issues, traffic safety issues, compatibility with the City of Whitefish Future Land Use Map, and the lack of water and sewer services.

MM