

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
ZONING TEXT AMENDMENT REPORT #FZTA-09-03  
JUNE 30, 2010**

**(UPDATE TO STAFF REPORT #FZTA-09-03 COMPLETED SEPTEMBER 28, 2009)**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by this office for an amendment to the text of the Flathead County Zoning Regulations. The proposed amendment would create a new use district, designated “Large Tract Rural (L-T-R)”, to include within the regulations. Additional text amendments to other applicable sections of the regulations have been proposed, to cross reference the L-T-R use district should it be approved and adopted into the zoning regulations. A new definition has also been proposed to correspond with language in the L-T-R text.

The Flathead County Planning Board will conduct a public hearing on the proposed text amendment on July 14, 2010 in the 2<sup>nd</sup> Floor Conference Room of the Earl Bennett Building, located at 1035 1<sup>st</sup> Ave West in 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 amendment at a date and time yet to be determined. Documents pertaining to the proposed text amendment are available for public inspection in the Flathead County Planning and Zoning Office on the 2<sup>nd</sup> floor of the Earl Bennett Building, at 1035 First Avenue West in Kalispell. Prior to the Commissioner’s public hearing, documents pertaining to the text amendment will also be available for public inspection in the Flathead County Clerk and Records Office, located at 800 South Main Street in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

The proposed text amendment does not impact the advisory jurisdiction of a specific local land use advisory committee or local land use council. However, due to the potential general applicability of zoning text amendments, all Land Use Advisory Committees have been notified of the amendment(s) and the public hearing date.

**B. Planning Board**

The Flathead County Planning Board will hold a public hearing on July 14, 2010 in the 2<sup>nd</sup> Floor Conference Room of the Earl Bennett Building to review the proposed text amendment and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board’s discussion and recommendation.

**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/Petitioner**

Flathead County Planning and Zoning Office

#### **ii. Technical Assistance**

Flathead County Planning Board – Regulatory Committee (Sub-Committee B)

### **B. Section(s) Proposed for Amendment**

The primary text amendment would create a new use district classification to the Flathead County Zoning Regulations (FCZR). The new zoning classification, named Large-Tract-Rural (L-T-R), would be incorporated into the zoning regulations as Section 3.44.

If the primary text amendment is approved, amendments to other sections of the regulations will also be required, to cross-reference the new use district. Amendments would be made to the following sections:

- Section 2.06.045 to include L-T-R as an Administrative Conditional Use;
- Section 2.07.040(7) to include L-T-R for side yard setbacks;
- Section 3.03.020(3) to allow one principal use in L-T-R;
- Section 3.03.020(9) to include L-T-R as a non-residential zone for gravel extraction operations;
- Section 4.03.030 to include L-T-R for a camp or retreat center;
- Section 4.04.010 to include L-T-R for a caretaker’s facility;
- Section 5.01.020(1) to include L-T-R for permitted accessory uses;
- Section 5.04.050 to include L-T-R for fencing;
- Section 5.06.020(2) to include L-T-R for home occupations;
- Section 5.11.040(1) to include L-T-R for signs;
- Section 7.12.030 to exclude L-T-R from net lot easement computations.

A new definition is proposed as part of this text amendment, to address the permitted use of “Low impact mineral extraction” within the proposed L-T-R district. If approved, the new definition would be added to the regulations as Section 7.13.075 and would read as follows:

“Mineral Extraction – Low impact: Low impact mineral extraction and rock picking includes weekday site mining operations that result in removal of less than 10,000 cubic yards of material. No more than 10 acres of active mining area is permitted at any given time (reclaimed areas excluded). Operational hours shall be confined to Monday through Friday 7:00 A.M. to 7:00 P.M. No on-site asphalt batching or concrete plant is permitted without a Conditional Use Permit.”

### **C. General Character of and Reason for Amendment**

The Flathead County Zoning Regulations offer a variety of use designations ranging from agricultural to residential to commercial to industrial, in addition to more neighborhood specific zoning districts designed to implement certain elements of a neighborhood plan or the County growth policy. Currently, agricultural zoning use designations offer the best option for property owners wishing to continue traditional resource-based operations on their property; however these agricultural zones offer little flexibility for the landowner, should they choose to utilize their land for other purposes. Furthermore, there is very little incentive for property owners in unzoned areas to utilize the use designations currently available and most applicable to their agricultural, silvicultural or extractive operations, to request zoning for their district. Most of Flathead County remains unzoned, particularly land beyond the developing valley floor and outside of urban areas like Kalispell, Columbia Falls and Whitefish. While this lack of zoning allows property owners limitless options, it can also result in a lack of continuity and predictability for property owners during the development process. Additionally, uncontrolled development beyond the County's service areas results in increased cost of public utilities and services, an economic burden borne by all taxpayers in Flathead County.

The premise of the L-T-R district is to provide a better option for landowners in remote, rural areas of the County, incorporating those traditional resource based uses so important to large-acreage landowners while allowing for greater flexibility for future use. The use district would incentivize limited growth in areas where public services and utilities are available and encourage open space be set aside, not only to retain the natural landscape so important to the community but to encourage continued recreational opportunities as well. The L-T-R use district proposed would be most applicable in unincorporated areas of the county where traditional natural resource based uses include timber harvesting, agricultural production and mineral resource related activities. These traditional uses often involve long hours and equipment operations that generate noise, heavy truck traffic and dust over large expanses of land; however, these traditional uses have historically been the backbone of the local economy.

Opportunities for outdoor recreation are also prevalent in many areas of the county appropriate for the application of L-T-R zoning. Much of the land used for traditional resource-based applications also incorporates an element of public access, allowing for camping, hunting, fishing, hiking, snowmobiling and other recreational activities which benefit the public. Maintaining and protecting the traditional uses on these lands so they may continue to provide an element of open space and recreation possibilities to the public, is important to both the local economy and the customs of county residents.

Providing County and other public services including emergency response, fire protection and road maintenance to remote areas of Flathead County is costly; costs which property tax payers' help pay for. While the district would protect and encourage the continuation of traditional resource related uses, it recognizes that

property owners may desire to subdivide and develop their lands in the future. L-T-R zoning is flexible and provides direction for development which would minimize incompatibilities with existing traditional resource use operations through appropriate site location and design. Public service delivery tax inequities would be off-set by encouraging development in areas close to existing public services.

**D. Proposed Amendment(s):**

The primary text amendment would create a new use district classification to the Flathead County Zoning Regulations (FCZR). The new zoning classification, named Large-Tract-Rural (L-T-R), would be incorporated into the zoning regulations as Section 3.44. The new use district is intended to protect continued traditional natural resource based uses in rural locations while providing a certain level of development flexibility for landowners that would also encourage the preservation of open space. It is recognized that most traditional resource uses generate noise, dust and heavy truck operation as part of the normal operations. As more intensive development occurs throughout the county, traditional resource based uses (e.g. timber, agriculture, mineral resource activities, etc.) may become threatened due to nuisance and other implications of after-the-fact growth and development. The incentives placed on preserving open space identified in the use district classification serve as a mechanism for maintaining buffers between traditional resource uses and future development.

The base density unit in the L-T-R district is one single family residence per 40 acres. This is the starting point; base density can be increased by meeting the required criteria for site location selection and site design (see attached draft proposal for further detail). Density can also be increased by setting off-site open space under permanent conservation easement as part of a development project, transferring the adjusted density units into a project site. The size of an actual lot is dependent on meeting the average base density permitted for a site, meaning lots can vary in size and area per the site design. The development cap for a single family subdivision is an average of one single family residential unit per 2.5 acres. The cap for an overall development plan (ODP) is one single family residential unit per 1 acre. Landowners would have flexibility to develop single family residential subdivisions or develop planned communities by choosing to complete an ODP.

The full text for the proposed amendment, creation of an L-T-R use district, can be found in the draft document accompanying this report. It is important to note that *no new physical zoning districts* will be created as result of this text amendment. Should L-T-R be approved and adopted, the text for the use district would be added to the zoning regulations as an *option* for landowners in the future.

**E. Criteria Used for Evaluation of Proposed Amendment:**

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

#### **F. Compliance With Public Notice Requirements:**

Legal notice of the Planning Board public hearing on the proposed text amendment was published in the June 27, 2010 edition of the Daily Interlake, in compliance with Section 2.08.020(5) of the zoning regulations.

Following the Planning Board hearing on July 14, 2010, public notice of the zoning text amendment will be physically posted in at least five public places throughout the County according to statutory requirements found in Section 76-2-205 M.C.A and according to Section 2.08.020(7) of the zoning regulations. 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 date, time and location of the public hearing before the Flathead County Commissioners on the proposed text amendment.

#### **G. Agency Referrals**

No agency referrals were sent regarding this text amendment because the amendment would simply add a new zoning use district to the text of the regulations, not create a physical zoning district on the ground in a particular area of the County. However, the L-T-R zoning use district could be applied to a large area of the County in the future, should a property owner(s) apply for the creation of a zoning district following the process outlined in Section 2.08 of the zoning regulations. The areas of the County most appropriate for the application of L-T-R are typically adjacent to or encompass state lands, national forests and other areas managed by public agencies. It was therefore important these agencies were aware of and involved in the L-T-R use district creation process. The following is a list of agencies that have been actively involved in the L-T-R process since October 2009. Over the past nine months these agencies have submitted numerous comments on L-T-R drafts, attended sub-committee meetings and public workshops, met with Planning and Zoning staff and have provided a significant amount of input on the working document. The current L-T-R draft is, in part, a product of this significant agency interaction; copies of individual agency comments are available for review within the L-T-R file.

Agencies involved in the L-T-R process:

- U.S. Forest Service – Northern Region
- Montana Fish, Wildlife and Parks (FWP)
- Montana Department of Natural Resources (DNRC)
- Montana Department of Natural Resources – State Lands Division
- Flathead Conservation District (FCD)

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

During the initial public hearing regarding the creation of an L-T-R use district held on October 21, 2009, it was evident many members of the public had concerns regarding the proposal and wished to learn more about the L-T-R use district and have more involvement in the public process surrounding its creation. The Board

therefore postponed consideration of the request pending further discussion and evaluation by the sub-committee as well as input from members of the public. Over the past nine months the Planning Board Sub-Committee ‘B’ held 9 meetings regarding the L-T-R draft document. These meetings were properly noticed on the County’s website and members of the public were encouraged to attend. A public workshop on the proposal was held on April 21, 2010 as an opportunity for the full Board to discuss progress made and hear public comment on the modified draft document.

The following is a list of groups who submitted written comment and/or provided input regarding the L-T-R proposal over the past nine months. This list should not be considered exhaustive and does not include individual public comment made during the public hearing in October or during the public workshop held in April.

- Citizens for a Better Flathead
- Flathead Land Trust
- F.H. Stoltze Land & Lumber Company
- Plum Creek Timber
- Montana Smart Growth Coalition
- Applied Communications, LLC
- Flathead Lakers
- Swan View Coalition

The Planning and Zoning Office has received numerous written and verbal comments from members of the public regarding the L-T-R working draft(s) over the past nine months. All comments received were thoroughly reviewed and, when appropriate, concepts incorporated into the draft L-T-R document by members of the sub-committee. All written comment has been included in the L-T-R file and is available for review.

#### **IV. EVALUATION OF PROPOSED AMENDMENT**

##### **A. Analysis of Potential Impact**

This staff report evaluates the primary text amendment creating a new zoning district entitled Large-Tract Rural (L-T-R), amending the zoning regulations to include Section 3.44 as an option for future use. There would be no impact resulting from the mere creation of a new use district option, as the proposed amendment would not create a physical district but would offer another ‘tool’ in the toolbox of zoning regulations. Were the L-T-R use district to be utilized in the future, impacts resulting from the creation of a physical district would be reviewed by the same criteria this text amendment has been reviewed under, and potential impacts specific to an area of the County would be evaluated at that time.

If this new use district were approved, subsequent text amendments to cross reference “L-T-R” under applicable sections of the zoning regulations would be considered housekeeping and necessary to provide continuity throughout the regulations as a whole. Likewise, the new definition for “Mineral extraction – Low Impact” provides clarity for implementing the L-T-R zoning district but should not have any impact

beyond the use district itself. In any event, if the text amendment is not approved there is no need for any of the related text amendments to the zoning regulations.

**B. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

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

The Flathead County Growth Policy is founded on five fundamental community characteristics identified and valued by the residents of the County. These five characteristics were used to drive the development of the policy. Three of these principles (Pages 1 thru 3) provide guidance and support to the creation of the L-T-R zoning use district:

- Promote a Diverse Economy – The second guiding characteristic discusses the need to establish and maintain a diverse economy geared towards seeking the “western rural lifestyle”. The proposed L-T-R’s primary intent is to protect the traditional natural resource uses and economy in rural areas of the County. These historic uses (including timber management, mineral resource extraction, etc.) have driven the economy of the County over the last 100 years. Recently, land and real estate speculation and eco-tourism resulting in area growth and development have encroached into the areas historically used for natural resource based businesses.
- Maintain the Identity of Rural Communities – The fourth guiding characteristic deals with preserving the rural lifestyle of the County. The ability to own land in a safe and quiet environment is greatly valued. This proposed zoning district sets up requirements where development would be required to provide buffers against adjacent lands. Larger scale planned communities as well as subdivisions could be developed within the district, however these developments would be expected to develop in ways to protect adjacent property owners and encouraged to incorporate open space to maintain the rural character of the area. This would serve individuals purchasing into these developments as well as adjacent landowners.
- Properly Manage and Protect the Natural and Human Environment – Responsible management of the natural and human environment was a positive value most residents expressed during scoping meetings. Among the most important is the protection of cultural resources and heritage of the County, including the continued commercial use of timber harvesting.

The growth policy contains 50 Goals and several hundred policies. The text amendments would implement or partially implement the following Goals and Policies, although not exhaustive:

- 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. (Land Uses)
  - P.2.1 Flathead County should create land use regulations that are directly linked to the vision outlined in the Growth Policy.
- G.3 Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County. (Land Uses)
  - P.3.3 Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.
  - P.3.4 Develop equitable and predictable impact-mitigation for converting rural timber and agriculture lands to residential real estate.
  - P.3.6 Identify and maintain benefits of private forest lands, including harvesting natural resources, water quality protection, wildlife habitat and traditional recreational values and ensure that conversion of private forest lands preserves as many of these benefits as is possible.
  - P.3.7 Adopt techniques that mitigate the threat to public health and safety created by various developments near the Wildland Urban Interface (WUI).
- G.8 Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services. (Land Uses)
  - P.8.1 Create reasonable, flexible and predictable development guidelines based on accurate, fair and reasonable criteria.
- G.9 Define, identify and list desirable characteristics of open space preservation.
  - P.9.2 Create regulatory incentives for the preservation and protection of open spaces during the development process.
  - P.9.3 Consider and develop specifications for various buffers to protect open spaces.



- G.12 Mineral resource extraction that is safe, carefully planned, environmentally sound and appropriately segregated from incompatible land uses. (Land Uses)
  - P.12.3 Create land use policies that segregate existing and future gravel extraction operations from incompatible land uses.
  - P.12.5 Designate areas where mineral resource extraction is most appropriate and will have the least impact on other resources and land uses.
  
- G.19 To create partnerships with common interest groups and the people within our community. (Parks and Recreation)
  - P.19.4 Riparian buffers should be recognized for their recreational value and their ability to protect the quality of water along major streams and rivers in the County to enhance recreational opportunities, protect the quality of water (reduce erosion; surface runoff containing pesticides, fertilizers, etc.; stream bank depredation/defoliation; etc.) and their ability to protect the natural aesthetics of waterways.
  
- 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 investment. (Flathead Economy)
  - P.21.2 Develop methods to enhance a sustainable agricultural and timber industry through community-based incentives.
  - P.21.6 Support the continuation of traditional and existing industries to maintain economic diversity.
  
- G.32 Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs. (Public Facilities and Services)
  - P.32.3 Subdivisions outside of existing rural fire districts should be annexed into the nearest district if possible.
  
- G. 42 Recognize and manage Flathead County’s rich heritage of hunting, fishing, timber, agricultural and mineral activities that provide economic benefits while utilizing and protecting our natural resources.
  - P.42.2 Encourage agricultural practices and uses which protect natural resources and allow for productive use.

Chapter 9 of the growth policy identifies Timberlands zoning as one implementation strategy. The L-T-R achieves the intent of a timberlands zoning district.

**Finding #1** – The proposed text amendment(s) to create a Large Tract Rural (L-T-R) use district would be made in accordance and comply with the Flathead County Growth Policy because the text amendment(s) is supported by three of the five fundamental community characteristics upon which the Growth Policy was based and because the text amendment(s) would implement numerous goals and policies identified within the text of the Growth Policy document.

**ii. Whether the proposed text amendment is designed to:**

**1. Secure safety from fire and other dangers;**

Provisions within the L-T-R use district specific to overall development plans require a wildfire hazard risk assessment and wildfire fuels treatment plan be completed for a development project. Development proposed outside of an ODP would similarly be required to meet the regulatory requirements of subdivision review for wildfire risk assessment and mitigation. Furthermore, site location selection criteria found in Section 3.44.060 (3) of the proposed text amendment incentivizes development in areas within a rural fire district boundary, where ground ambulance service is also provided. These incentives are meant to encourage future development in areas deemed appropriate to handle a density greater than 1 unit per 40 acres, having adequate emergency response times and service available.

**Finding #2** – The proposed text amendment would secure safety from fire and other dangers for future development because there are requirements for wildfire risk assessment and fuels mitigation incorporated into the text of the proposed use district, future development would be required to go through subdivision review and because the L-T-R district would provide density incentives for development located within a rural fire district having reasonable response times and the ability to provide service.

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

These text amendments set in place a zoning use district appropriate for implementation in rural areas of Flathead County, most of which are currently unzoned and have little guidance regarding public health and safety. This district would provide for compatible uses and intensities designed to protect existing natural resource based uses into the future. The uses and intensities are based on existing public service delivery including fire and emergency response and availability and location of public utilities and facilities. The proposed L-T-R district incorporates bulk and dimensional requirements as well as subdivision performance standards to address and mitigate potential conflict between uses that may occur within an L-T-R district and affect public health, safety and welfare.

**Finding #3** – The proposed text amendment would promote public health, safety and general welfare because the L-T-R district would provide land use guidance and direction applicable to rural and remote areas of the County that currently have no guidance on these issues; and because the use district

proposed establishes compatible uses, intensities of use based on service delivery and emergency response, and incorporates performance standards and bulk and dimensional requirements intended to mitigate impacts resulting from future development, if implemented.

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

As discussed above, the text amendment provides for compatible uses and intensities of use in rural areas of the County based in large part on a development's proximity to public facilities and service delivery, including proximity to paved public roads and location within a fire district boundary where emergency ground response is readily available. The use district also offers development incentives for incorporating open space on site and/or preserving open space offsite through conservation easements.

**Finding #4** – The text amendment proposed would facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements because provisions within the L-T-R use district directly require consideration of, and offer incentives for locating development in close proximity to these services and facilities.

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

**1. The reasonable provision of adequate light and air;**

The text amendment would provide for adequate light and air by establishing a base density of one dwelling unit per 40 acres. Development density is also capped at one unit per 2.5 acres and one unit per one acre for subdivisions and overall development plans, respectively. While the minimum density does not restrict lot sizes within an L-T-R district, all lots existing or created under L-T-R zoning would be required to meet the minimum bulk and dimensional requirements of the district (proposed Section 3.44.040), further ensuring the intent of the district as "Large Tract Rural" be maintained.

**Finding #5-** The proposed text amendment would provide for adequate light and air because the L-T-R use district establishes a base density of one unit per 40 acres, there are density caps in places for subdivisions and overall development plans, and lots existing when an L-T-R district is implemented or created following implementation would be required to adhere to the bulk and dimensional requirements of the district.

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

The creation of the L-T-R use district should have no impact on motorized and non-motorized transportation systems, as the addition of the use district would not apply to a specific area of the County until such time an application for a physical L-T-R zoning district is made in the future. At that time, the physical district proposed and its potential impact on traffic in a particular

area of the County would be reviewed under the same criteria as this text amendment.

However, if an L-T-R zoning district were implemented in the future it would be anticipated to have a positive effect on transportation systems in the County. Existing uses in the district (at the time of implementation) would continue, resulting in no net impact to motorized or non-motorized transportation than what currently exists. In the case of new development, having a zoning district to provide land use parameters and opportunity for public review would allow for traffic congestion impacts related to specific projects be identified and adequately mitigated at that time. Furthermore, site location incentives established by the zoning use district encourage future development be located near existing infrastructure, specifically paved public roads.

**Finding #6** – The proposed text amendment considers the effect on motorized and non-motorized transportation systems throughout the County because the use district encourages future development to be located near existing infrastructure, and the additional review process required in creating a new zoning district, subdivision or overall development plan would ensure traffic impacts resulting from future development are adequately reviewed and mitigated at that time.

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

The proposed text amendment is not intended for use in or around urban areas, and is not intended to promote an urban type or scale of growth. Including L-T-R as a new use district within the County zoning regulations is intended to offer rural landowners with large amounts of acreage an additional zoning option in the future, should they decide to create a new zoning district or apply for a zone change (where appropriate). This criterion is not directly applicable to the text amendment proposed.

**Finding #7-** This criterion is not directly applicable to the proposed text amendment; the L-T-R use district does not consider urban growth in areas around municipalities because the district is intended for application in rural areas of the County and would not be appropriate for use within the vicinity of cities and towns.

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

The proposed text amendment would add a new use district to the County zoning regulations; therefore the text amendment would technically apply to all of Flathead County. However, based on the proposed definition of the use district, L-T-R would be most applicable in rural, remote areas of Flathead County currently being uses for traditional natural resource based uses

including but not limited to timber management, agricultural production, rock picking and other extractive industries. The text amendment recognizes the importance of these uses and offers an option (through zoning) to preserve their continuation while providing a variety of additional uses that may be utilized in future development and would not conflict with traditional resource based uses. The amendment to include L-T-R as a new use district within the County zoning regulations would be particularly suitable for the rural, remote area(s) of the County it is intended for, as the implementation of such a district would not change the inherent character of the area to which it were applied but rather encourage the continued rural character of areas intended for traditional natural resource based uses. The permitted and conditional uses proposed by this text amendment are consistent with those uses appropriate in rural areas with large acreage requirements, and the minimum district area requirements ensure that a physical L-T-R district, if implemented in the future, would be applied in areas of the County characterized as rural, remote and meeting the definition and intent of the L-T-R use district.

**Finding #8** - The text amendment proposed considers the character of the district and its suitability for particular uses because although the text amendment would generally apply to all of Flathead County the definition of L-T-R identifies its intended application in rural areas of the County to protect traditional natural resource based uses, and the application of the use district would ensure rural types of uses and be limited to areas meeting the minimum district size requirements.

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

The primary use identified in the text amendments is to protect and retain the existing natural resource land uses and activities in remote rural areas of the County. Public service delivery to these areas is logistically difficult and costly to provide for more intense land uses. The text amendment to add L-T-R as a new use district is intended to protect these traditional natural resource based uses in rural areas of the County, should landowners opt to create a physical L-T-R zoning district in the future. There is also flexibility to transition to more intensive development uses which would not conflict with these existing traditional resource based uses and would be appropriate for remote, rural areas. As previously discussed, bulk and dimensional requirements as well as performance standards for subdivisions and overall development plans are in place to ensure the most appropriate use of land and limit potential impacts resulting from future development.

**Finding #9-** The text amendment would conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area by encouraging the continued operation of traditional natural resource based uses in rural areas of the County, and by incorporating bulk and dimensional

requirements and performance standards to limit potential impacts resulting from future development upon these traditional uses.

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

Large Tract Rural zoning is intended for implementation in areas of the County far from cities or established municipalities with zoning ordinances intended for urban and suburban type development. This criterion is not directly applicable to the proposed text amendment; however, the creation of an L-T-R use district would meet the general intent of the criterion because it would establish a use option in addition to the standard “Agricultural” zoning designations that is appropriate for rural areas of the County but prioritizes traditional natural resource based uses in addition to strictly agriculture. The creation of this use district would fill a void that currently exists in County zoning but is not necessary or compatible with other municipal zoning ordinances.

**Finding #10-** This criterion is not directly applicable to the proposed text amendment; however the proposed text amendment to create an L-T-R use district would increase compatibility with existing ‘Agricultural” designations within the existing County zoning regulations but would not be compatible with municipal zoning because the use district is intended for application in rural areas of the County.

## **V. SUMMARY OF FINDINGS**

1. The proposed text amendment(s) to create a Large Tract Rural (L-T-R) use district would be made in accordance and comply with the Flathead County Growth Policy because the text amendment(s) is supported by three of the five fundamental community characteristics upon which the Growth Policy was based and because the text amendment(s) would implement numerous goals and policies identified within the text of the Growth Policy document.
2. The proposed text amendment would secure safety from fire and other dangers for future development because there are requirements for wildfire risk assessment and fuels mitigation incorporated into the text of the proposed use district, future development would be required to go through subdivision review and because the L-T-R district would provide density incentives for development located within a rural fire district having reasonable response times and the ability to provide service.
3. The proposed text amendment would promote public health, safety and general welfare because the L-T-R district would provide land use guidance and direction applicable to rural and remote areas of the County that currently have no guidance on these issues; and because the use district proposed establishes compatible uses, intensities of use based on service delivery and emergency response, and

incorporates performance standards and bulk and dimensional requirements intended to mitigate impacts resulting from future development, if implemented.

4. The text amendment proposed facilitates the adequate provision of transportation, water, sewerage, schools, parks and other public requirements because provisions within the L-T-R use district directly require consideration of, and offer incentives for locating development in close proximity to these services and facilities.
5. The proposed text amendment would provide for adequate light and air because the L-T-R use district establishes a base density of one unit per 40 acres, there are density caps in places for subdivisions and overall development plans, and lots existing when an L-T-R district is implemented or created following implementation would be required to adhere to the bulk and dimensional requirements of the district.
6. The proposed text amendment considers the effect on motorized and non-motorized transportation systems throughout the County because the use district encourages future development to be located near existing infrastructure, and the additional review process required in creating a new zoning district, subdivision or overall development plan would ensure traffic impacts resulting from future development are adequately reviewed and mitigated at the time.
7. This criterion is not directly applicable to the proposed text amendment; the L-T-R use district does not consider urban growth in areas around municipalities because the district is intended for application in rural areas of the County and would not be appropriate for use within the vicinity of cities and towns.
8. The text amendment proposed considers the character of the district and its suitability for particular uses because although the text amendment would generally apply to all of Flathead County the definition of L-T-R identifies its intended application in rural areas of the County to protect traditional natural resource based uses, and the application of the use district would ensure rural types of uses and be limited to areas meeting the minimum district size requirements.
9. The text amendment would conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area by encouraging the continued operation of traditional natural resource based uses in rural areas of the County, and by incorporating bulk and dimensional requirements and performance standards to limit potential impacts resulting from future development upon these traditional uses.
10. This criterion is not directly applicable to the proposed text amendment; however the proposed text amendment to create an L-T-R use district would increase compatibility with existing ‘Agricultural’ designations within the existing County

zoning regulations but would not be compatible with municipal zoning because the use district is intended for application in rural areas of the County.

**VI. RECOMMENDATION**

Upon review, the proposed text amendment to create a new use district called Large Tract Rural (L-T-R), cross reference that district throughout applicable sections of the zoning regulations and add a definition of “low impact mineral extraction” to the appropriate section of the regulations, meets the review criteria required of a zoning text amendment under M.C.A. Section 76-2-203 M.C.A. and Section 2.08.040 of the Flathead County Zoning Regulations. Based on the 10 Findings of Fact above, staff recommends the Flathead County Planning Board adopt staff report FZTA-09-03 as findings of fact and recommend approval of the zoning text amendment(s) to the Flathead County Commissioners.