

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
WINTER PARKS VENTURES AND MAJESTIC VALLEY, LLC
ZONING MAP AMENDMENT REPORT (#FZC-15-07)
JANUARY 27, 2016**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Sand Surveying, Inc. on behalf of Winter Parks Ventures and Majestic Valley, LLC for a zoning map amendment in the Highway 93 North Zoning District. The proposed amendment would change the zoning of the subject property from ‘SAG-5 Suburban Agricultural’ to ‘B-3 Community Business.’

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 10, 2016 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 1st 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 hold a public hearing on the proposed zoning map amendment. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue 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 at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Riverdale Land Use Advisory Committee

Update January 21, 2016

The Riverdale Land Use Advisory Committee (LUAC) held a public hearing regarding the proposal on January 19, 2016 at 6:30 P.M. at the Majestic Valley Arena. The LUAC voted (4-0) to recommend approval of the proposed zoning map amendment within the Highway 93 North Zoning District.

B. Planning Board

This space will contain an update regarding the February 10, 2016 Flathead County Planning Board review of the proposal.

C. Commission

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

II. GENERAL INFORMATION

A. Application Personnel

i. Applicants

Winter Parks Ventures
C/o Jan and Bob Parker
PO Box 1028
Winter Park, FL 32790

ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

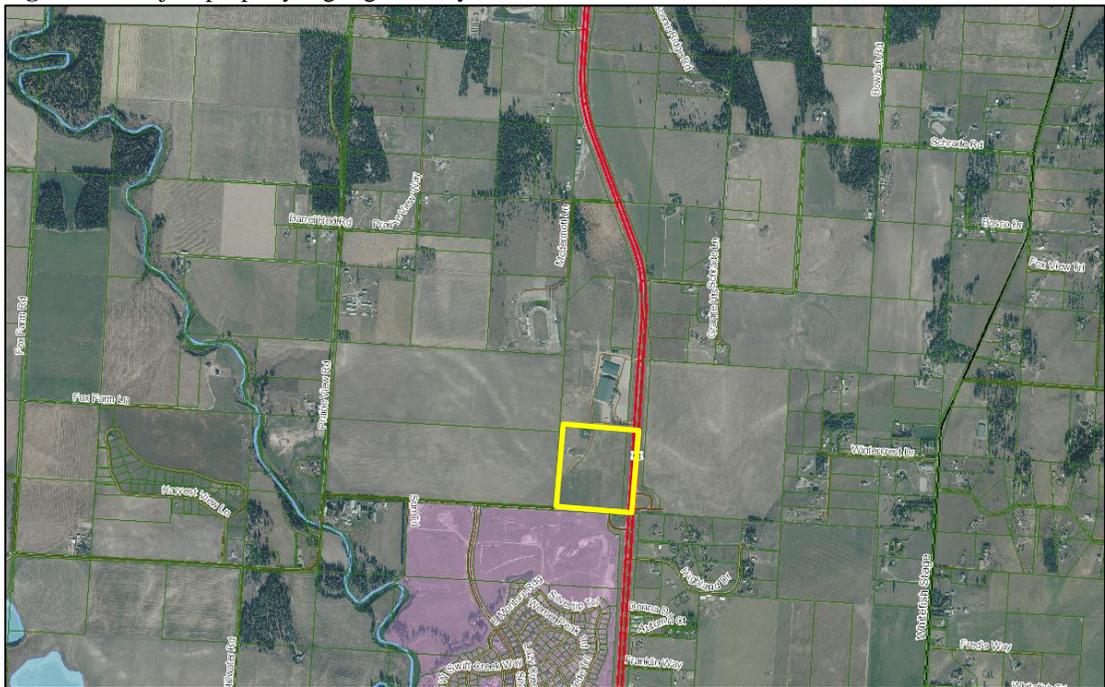
B. Subject Property Location and Legal Description

The subject property consists of one tract totaling approximately 37.633 acres. The parcel is located at 3630 Highway 93 North near Kalispell, MT, just north of Church Drive and can legally be describes as follows:

Tract 3: Lot 2 of Patterson Tracts, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

EXCEPTING THEREFROM that portion deeded to the State of Montana as described in Bargain and Sale Deed recorded January 14, 1992 as Document #199201411120, records of Flathead County, Montana (Also shown as Lot 2 of Retracement Certificate of Survey No. 17246, records of Flathead County, Montana).

Figure 1: Subject property highlighted in yellow



C. Proposed Zoning Map Amendment

The subject property is located within the Highway 93 North Zoning District and is currently zoned 'SAG-5 Suburban Agricultural' (see Figure 2 below). The applicant originally submitted an application on November 4, 2015 to do a zone change on the subject property and two additional lots to the north. The original request was to change the zoning on approximately 137 acres from SAG-5 to 'B-2 General Business.' After receiving agency comments from the City of Kalispell, the applicant revised the application to include only one tract of 37.633 acres and request a B-3 zone, as opposed to the original B-2 request.

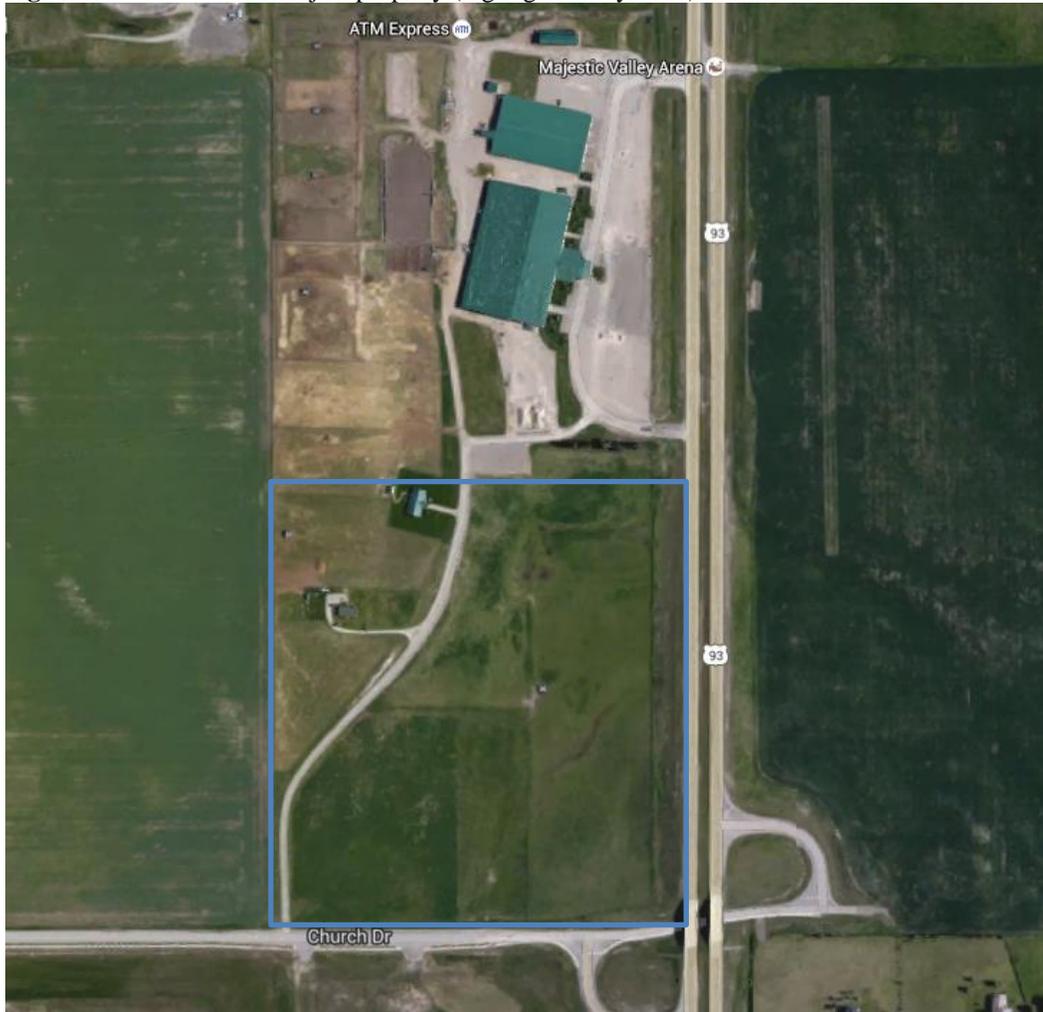
The SAG-5 designation is defined in Section 3.08.010 FCZR as, 'A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.'

D. General Character of and Reason for Amendment

The property is located north of Kalispell, at the northwest corner of the U.S. Highway 93 and Church Drive intersection. The property is located on rolling hills, does not contain any trees, and contains horse pastures and agricultural buildings that are used in association with Majestic Valley Arena on the property to the north.

The application states, “The owners of the property would like to supplement the arena’s facilities with complementary uses such as a restaurant, a hotel and additional signage.” The proposed B-3 zone would allow for a hotel with a conditional use permit and a restaurant would be allowed as a permitted use.

Figure 4: Aerial view of subject property (highlighted in yellow)

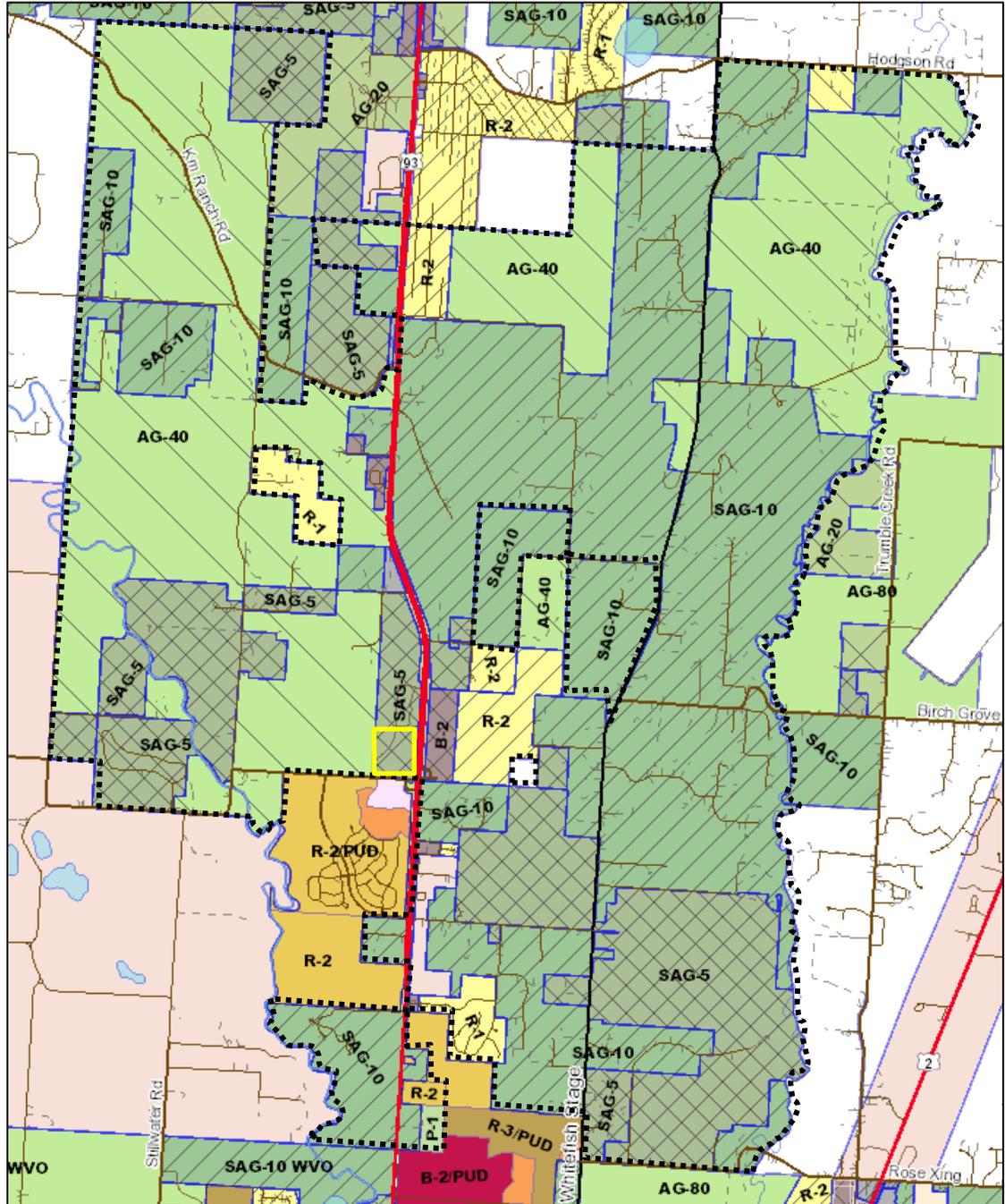


E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Highway 93 North Zoning District and surrounded by suburban agricultural, agricultural, industrial, business and residential zones (see Figure 2). The subject property is bordered to the north by ‘SAG-5 Suburban Agricultural,’ the west by ‘AG-40 Agricultural and to the east by ‘B-2 General Business.’ South of the property is the City of Kalispell and the properties are zoned ‘B-1/PUD,’ ‘R-4/PUD’ and ‘R-2/PUD.’

The character of the area surrounding the subject property is a mixture of residential, agricultural, commercial and industrial. The neighboring properties contain Montana Raceway Park and boat storage. Directly to the south is Silverbrook, a residential and commercial subdivision. Also in the vicinity of the property is the Flathead County Landfill. Many of the commercial properties in the area are not developed and remain in agricultural production.

Figure 5: Highway 93 North Zoning District (outlined with dashed black line)



When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of Little v. Board of County

Commissioners is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a brief review of the three-part test in relation to this application.

i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.

The intent of the currently existing ‘SAG-5 Agricultural’ zone is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses. The proposed ‘B-3 Community Business’ is a business district to provide areas for the development of congregated community shopping areas, to serve the range of a number of neighborhoods of a major segment of the Planning Area. A substantial difference between the existing and proposed zoning regards the allowed uses.

The property to the east, across U.S. Highway 93, is currently zoned B-2 and the property directly to the south is B-1/PUD within the City of Kalispell. Property directly to the north is zoned I-1H. The commercial zoning in the area is not built-out and much of the area is still in agricultural production.

The City’s B-1 zone would allow for neighborhood businesses, and is defined as, *“A business district intended to provide certain commercial and professional office uses where such uses are compatible with adjacent residential areas. This district would typically serve as a buffer between residential areas and other commercial areas. Development scale and pedestrian orientation are important elements of this district. This district is also intended to provide goods and services at a neighborhood level. This district is not intended for those businesses that require the outdoor display, sale and/or storage of merchandise, outdoor services or operations to accommodate large-scale commercial operations. [...]”*

The County’s B-2 zone is defined as, *“A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.”*

ii. The Zoning Applies To A Small Area Or Benefits A Small Number Of Separate Landowners.

The zoning map amendment would apply to one tract of land which is owned by one landowner. Using standard ArcGIS software the subject property is located within an approximately 134.78 acre SAG-5 district of which approximately 27.9% is being proposed for a zoning map amendment. To the south of the subject property is a B-1/PUD district of approximately 30.0 acres. To the east of the subject property are B-2 district approximately 25.3 acres in size, a SAG-5 district 35.0 acres and a SAG-10 district approximately 3562.6 acres in size. To the north of the subject property is an I-1H district 10.8 acres in size and to the west of the subject property is a AG-40 district approximately 417.3 acres in size. The new B-3 zoning district would apply to one landowner but would be similar

in size to the existing B-2, B-1/PUD and SAG-5 districts neighboring the property at 37.633 acres.

iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.

The subject property is located within the Riverdale Neighborhood Plan and is designated as 'Mixed Use' on the Future Land Use Map. The Riverdale Neighborhood Plan states, *"The Mixed Use land use category is intended to provide flexibility in design and to promote a mixed of commercial and housing options. This category permits retail and general commercial uses that serve the broader community and tourist economy. Mixed residential-commercial uses where the commercial portion is compatible with the residential is appropriate. This category permits a range of commercial development such as hotels, banks, restaurants, professional office centers and mix of residential use including apartment complexes, single family attached and detached, duplexes, town homes, and accessory apartments at an average density of six (6) dwelling units per one (1) acre. Commercial developments should be configured as centers or nodes. Strip commercial configurations should be avoided. Development density in the Mixed Use land use category may be increased with the creation of community or public water and sewer systems or annexation into a municipal water and sewer district. Commercial development such as shopping malls or large box retail stores (e.g. Super Wal-mart) is neither appropriate nor contemplated in this land use category."*

"All mixed use projects should be planned and processed as PUD Overlays and then hard zoned as a PUD. This plan recommends that new mixed use PUD zoning districts be created to facilitate combinations of commercial and residential land uses."

The applicant is proposing a zone change from SAG-5 to B-3 and not a PUD at this time. The proposed B-3 zone would allow for commercial development such as hotels, banks, restaurants and professional office. The B-3 zone would also allow for duplexes, multi-family and resort dwellings with a conditional use permit. The Riverdale Neighborhood Plan is the result of a comprehensive planning effort of the Riverdale residents to plan for future growth to promote efficient and coordinated development in their neighborhood plan area. The proposed zone change does not specifically comply with the Riverdale Future Land Use Map and could therefore be considered special legislation designed to benefit only one landowner at the expense of the surrounding landowners or general public.

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

Finding #1: The proposed zoning map amendment to SAG-5 from B-3 does not appear to be at risk of spot zoning because all three criteria must be met for the application to potentially be considered spot zoning, the new B-3 zoning district

would be similar in size to the existing B-2, B-1/PUD and SAG-5 districts neighboring the property and would therefore not apply to a small area and the proposed B-3 would allow for similar uses to uses allowed in the neighboring B-1/PUD and B-2.

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 (K-12)
Fire: Whitefish Rural Fire District
Police: Flathead County Sheriff's Office

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

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on January 22, 2016. Legal notice of the Planning Board public hearing on this application was published in the January 24, 2016 edition of the Daily Interlake.

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

I. Agency Referrals

Referrals were sent to the following agencies on November 10, 2015 and resent on December 31, 2015 with the revised request:

- Bonneville Power Administration
- City of Kalispell Planning Department
- Montana Fish, Wildlife, and Parks
- Flathead City-County Health Department
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Montana Department of Transportation (MDT)
- West Valley Fire District

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. The Riverdale LUAC did hold a public hearing regarding this request on January 19, 2016 at which public comment was received. Concerns with the request center on the permitted uses, specifically a shopping mall or big box retail and the Riverdale Neighborhood Plan calls for mixed use. The LUAC discussion focused on what would be required for a shopping mall on the property in order to obtain sewer and water.

It is anticipated any member of the public wishing to provide further comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for February 10, 2016 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- City of Kalispell Planning Department
 - Comment: "Thank you for the opportunity to comment on the proposed zone change. We would recommend the proposed zone change of B-3 be denied based on the following issues and concerns: [...]." The letter dated January 13, 2016, goes onto address 8 issues and concerns with the proposed zone change. Those concerns that are related to the review process will be addressed in the applicable sections of this report. The applicant revised the original application to address some of the concerns from the City of Kalispell original letter dated November 30, 2015.
- Flathead City-County Health Department
 - Comment: "We have no comment for the proposed zone change at this time. Applicants should be aware that further development must be in accordance with the Sanitation in Subdivisions Act should development include further division of the properties into parcels less than 20 acres in size. Proposed development must also comply with Flathead County Regulations for Onsite Sewage Treatment Systems and Flathead County Air Pollution Control Regulations." Letter dated January 12, 2016.
- Flathead County Solid Waste
 - Comment: "The Solid Waste District views no negative impact with solid waste issues at this time. The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. [...]." Letter dated January 8, 2016.
- Flathead County Weed District

- Comment: “No noxious weeds found to be present and we will not need a soil disturbance management plan to be returned before final approval. We have also sent these comments to Sands Surveying.” Email dated January 11, 2016.
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request. For your information we would like to note that Church Drive in this location is under the City of Kalispell’s jurisdiction and not a Flathead County Road.” Letter dated January 5, 2016.
- Montana Fish, Wildlife and Parks
 - Comment: “Montana Fish, Wildlife & Parks has no comments with regard to the Winter Park Ventures zone change request.” Letter received January 7, 2016.
- Montana Department of Transportation
 - Comment: “We do not have any comments regarding this proposal. Feel free to contact me if you have any questions.” Email dated November 30, 2015.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a zoning classification is applied in a certain area, landowners have land uses that are allowed by-right. A build-out analysis is completed to determine potential impacts of full build-out of a property. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems.

i. Current Zoning

As previously stated, the subject property is currently zoned ‘SAG-5 Suburban Agricultural’ zoning. SAG-5 is defined in Section 3.08.010 FCZR as a, “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 an 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. Guest house.
7. Home occupation.

8. *Homeowners park and beaches.*
9. *Livestock*
10. *Nursery, landscaping materials.*
11. *Park and publicly owned recreational facility.*
12. *Produce stand.*
13. *Public transportation shelter station.*
14. *Public utility service installation.*
15. *Stable, private.*

The following uses are listed as conditional uses in an ‘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.*
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.*
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 within the SAG-5 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner for the principal structure and a setback for accessory structures of 20 feet for the front and side-corner and 5 feet from the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers

and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The SAG-5 zoning requires a minimum lot area of 5 acres. The subject property totals 37.633 acres and under the SAG-5 zoning additional 6 lots could be created.

ii. Proposed Zoning

The proposed zoning map amendment would change the zoning designation on the subject property to ‘B-3 Community Business.’ B-3 is defined in Section 3.18.010 FCZR as a, “*business district to provide areas for the development of congregated community shopping areas, to serve the range of a number of neighborhoods of a major segment of the Planning Area. This district should be a business center and not a strip development.*” The following is a list of permitted uses in a ‘B-3 Community Business’ zone:

1. *Accessory apartments.*
2. *Assembly hall, coliseum, stadium.*
3. *Automobile parking, commercial enterprise.*
4. *Automobile service station.*
5. *Car washing and waxing facility.*
6. *Caretaker apartment (See Chapter VII – Definitions).*
7. *Cellular tower.*
8. *Church and other place of worship.*
9. *Clinic, medical and dental.*
10. *College, business school, trade school, music conservatory, dance school; provided that no students reside on campus.*
11. *Day care center.*
12. *Drug store.*
13. *Food store, super market, delicatessen.*
14. *Financial institution.*
15. *Laundromat.*
16. *Laundry pick-up station.*
17. *Library, museum, and art gallery.*
18. *Lodge, fraternal and social organization, provided that any such establishment shall not be conducted primarily for gain.*
19. *Museum.*
20. *Offices, public and private.*
21. *Park and publicly owned recreational facility.*
22. *Pharmacy.*
23. *Public transportation shelter station.*
24. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*
25. *Radio and television broadcast station.*
26. *Restaurant.*
27. *Recreational facility, low-impact.*
28. *Retail sales and service.*
29. *Shopping mall.*

30. *Storage, within the building, of goods intended for retail sales on the premises.*
31. *Theater, housed in permanent indoor structures.*

The following uses are listed as conditional uses in an 'B-3 Community Business' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Bowling alley.*
2. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.**
3. *Commercial recreation area.*
4. *Convention hall facility.*
5. *Dwelling, duplex and multi-family.*
6. *Dwelling, resort.*
7. *Dwellings in mixed-use building.*
8. *Electrical distribution station.*
9. *Health club.*
10. *Hotel, motel.*
11. *Lumber yard.*
12. *Quasi-public building, non-profit.*
13. *Recycling drop-off station.*
14. *Tavern.*
15. *Taxidermist.*
16. *Temporary building or structure.**
17. *Water storage facility.*

The bulk and dimensional requirements for the B-3 zoning requires a minimum yard requirement of 20 feet from the front and side-corner yards, 5 feet from the side and 15 feet from the rear. When a property abuts the following features, the abutting setback shall be increased to the following: county road 10 feet and from streams, rivers and unprotected lakes, which do not serve as property boundaries 20 feet. The maximum allowable building height is 35 feet for all structures there is no restricted lot coverage.

It is difficult to determine the number of lots that could be created from the proposed zoning as there is no minimum lot size. Furthermore, multiple principal uses may be allowed on a single lot in a B-3 zoning district upon the issuance of a Conditional Use Permit, per Section 3.03.020(3).

In summary, the requested zone change from SAG-5 to B-3 has the potential to increase density through subsequent division in the future. The zoning map amendment would introduce uses to the subject property and general area that are typical of commercial zoning districts and which are not similar to uses that are allowed under the existing suburban agricultural zoning on the property.

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 amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally, the property is located within the Riverdale Neighborhood Plan, adopted on November 28, 2007 by the Flathead County Commissioners (Resolution #2015 D).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed business zoning classification would appear to contrast with the current ‘Suburban Agricultural’ designation.

However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular use. 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 plan. 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.” Therefore, 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.

❖ *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.*

❖ *G.6 – Adequate commercial land that is safely accessible and efficiently serviceable.*

- The property is located on U.S. Highway 93, between the cities of Kalispell and Whitefish, with primary access via Church Drive, making the property safely accessible and efficiently serviceable.

- *P.6.3 – Provide ample commercial land designation to promote affordability.*

- If approved this zoning map amendment would add 37.633 acres to the land currently designated commercial in the County.
- ❖ **G.7** – *Consider existing community character in commercial land development.*
 - A discussion of the character of the community can be found in Section IV.B.iii.4.
 - **P.7.3** – *Encourage small-scale, impact-mitigated and compatible commercial developments in accessible, developing rural areas with good access and away from urban areas.*
 - The proposed B-3 zone would allow for commercial development on a larger scale in a semi-rural area with good access off Highway 93 via Church Drive.
- ❖ **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 investments.*
 - **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.*
 - Approval of this zoning map amendment would support the continuation of tradition and the existing facilities and aid in the expansion of the business while providing additional land area designated for commercial use.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the ability of the school district to provide quality education.*
 - Discussion on how the proposed zoning map amendment furthers the provision of schools and other public requirements can be found in Section IV.B.ii.3 later in this report.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains additional discussion on the adequacy of emergency service in Section IV.B.ii.1 and IV.B.ii.2 below.
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.*
 - The Riverdale Neighborhood Plan identifies the subject property as ‘Mixed Use’ on the Future Land Use Map. The ‘Mixed Use’ specifically contemplates using a Planned Unit Development (PUD) when developing. This report contains further discussion on the Riverdale Neighborhood Plan below.

Finding #2: The proposed zoning map amendment from SAG-5 to B-3 generally complies with the Flathead County Growth Policy Designated Land

Use Map because the ‘Suburban Agricultural’ land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created and is not a future land use map.

Finding #3: The proposed zoning map amendment appears to be made in accordance with the Flathead County Growth Policy goals, policies and text because the zoning map amendment would support the continuation of tradition and the existing facilities and aid in the expansion of the business while providing additional land area designated for commercial use, would allow for commercial development on a larger scale in a semi-rural area with good access off Highway 93 via Church Drive and the property is safely accessible and efficiently serviceable.

2. Riverdale Neighborhood Plan

The subject property is located within the Riverdale Neighborhood Plan (Neighborhood Plan) which is primarily composed of the text, goals & policies and map. The Neighborhood Plan serves as a localized planning tool for the Riverdale area, and the Neighborhood Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level.

The Riverdale Neighborhood Plan states, “The Mixed Use land use category is intended to provide flexibility in design and to promote a mixed of commercial and housing options. This category permits retail and general commercial uses that serve the broader community and tourist economy. Mixed residential-commercial uses where the commercial portion is compatible with the residential is appropriate. This category permits a range of commercial development such as hotels, banks, restaurants, professional office centers and mix of residential use including apartment complexes, single family attached and detached, duplexes, town homes, and accessory apartments at an average density of six (6) dwelling units per one (1) acre. Commercial developments should be configured as centers or nodes. Strip commercial configurations should be avoided. Development density in the Mixed Use land use category may be increased with the creation of community or public water and sewer systems or annexation into a municipal water and sewer district. Commercial development such as shopping malls or large box retail stores (e.g. Super Wal-mart) is neither appropriate nor contemplated in this land use category.”

“All mixed use projects should be planned and processed as PUD Overlays and then hard zoned as a PUD. This plan recommends that new mixed use PUD zoning districts be created to facilitate combinations of commercial and residential land uses.”

The applicant is proposing a zone change from SAG-5 to B-3 and is not requesting a PUD at this time. The application states, “As this proposal is at the zoning map amendment only, there is no development plans at this time. Should the owners (or future developers) of the property decide to pursue the hotel/restaurant component to the facility, a PUD overlay will be submitted.”

The proposed B-3 zone would allow for commercial development such as hotels, banks, restaurants, professional office and residential uses such as duplexes, multi-family dwellings and resort dwellings. The Riverdale Neighborhood Plan is the result of a comprehensive planning effort of the Riverdale residents to plan for future growth to promote efficient and coordinated development in their neighborhood plan area. The proposed zone change does not specifically comply with the Riverdale Future Land Use Map, as no PUD has been proposed.

A variety of goals and policies within the text of the Neighborhood Plan have been found to apply to the requested zoning map amendment.

- ❖ **Goal A** – *Implement a comprehensive neighborhood plan by promoting development that is compatible with adjacent land uses, the natural environment, and is well integrated with appropriate circulation systems, services and facilities.*
- **Policy A.1** – *Encourage growth and development patterns to take advantage of existing and expanding infrastructure while protecting natural amenities and resources.*
 - The application states, “Encouraging growth and development of the Majestic site versus not letting it live up to its fullest potential, by the nature of that the facility has thrived and succeeded for twelve years bringing thousands of dollars into the Valley with their competitors/performers spending money at local hotels, restaurants, gas stations, bars and retail establishments, takes advantage of existing infrastructure and improvements.”
 - The proposed B-3 zone would be similar to the existing B-2 located on the eastside of U.S. Highway 93 and would be compatible with the neighboring B-1/PUD zoning to the south. This report will also contain discussion on circulations systems, services and facilities.
- **Policy 1.1** – *Permit townhomes, duplexes, and multi-family housing types in areas designated for mixed-use.*
 - The proposed B-3 zone would allow for townhomes, duplexes or multi-family housing as a conditional use.
- **Policy 1.2** – *Permit mixed use structures that allow ground level neighborhood commercial and residential dwelling units on the upper level in the mixed use land use category. Each commercial unit/space shall count as a unit for density calculation.’*
 - The application states, “When submitting a PUD, the base zoning is considered first, and in the case of a PUD in a Commercial/Industrial Mixed Use zoned area, the Flathead County Zoning Regulations note; ‘The uses appropriate to a Mixed Use PUD shall be determined by the County Commissioners on the basis of (a) their compatibility with the surrounding land uses, and (b) their compatibility with one

- another.*’ This is a bit of an unusual situation that the Commissioners would be determining compatibility on a case by case basis, but in the case of Majestic Valley Arena, should the owners decide to move forward with further development plan, residential housing based on the proximity of an arena might have the same appeal to some as much as those who prefer to live on a golf course or near a marina.”
- It is true that the B-3 zone does allow for residential in a mixed use building.
 - ***Policy 2.1*** – *Neighborhood commercial areas should be no more than four acres.*
 - The proposed zone change is for an area of approximately 37.633 acres.
 - ❖ ***Goal 3*** – *General Commercial development to sustain the viability of business operations within the Highway 93 corridor.*
 - The proposed B-3 zone would allow for community commercial along Highway 93 whether or not the proposal would sustain the viability or hinder it is difficult to determine during a zone change process.
 - ***Policy 3.1*** – *Permit commercial business development within the corridor of U.S. Highway 93 as part of the Planned Unit Development process.*
 - Comments from the Kalispell Planning Department state, “There has not been a PUD submitted with this application. [...]. The vision and policies of the plan suggest that all development of the site should be comprehensive in nature.”
 - The applicant is not proposing any development at this time but they are requesting a zone change to a B-3 General Business without an accompanying PUD.
 - ***Policy 3.2*** – *Require site landscaping and architectural building styles suited to a particular site.*
 - Comments from the Kalispell Planning Department state, “The only way this policy can be implemented is through a master plan and PUD Zoning Overlay.”
 - The B-3 zone does not require landscaping and architectural building styles for new development nor does the existing SAG-5 zoning.
 - ***Policy 3.3*** – *Plan 150 foot building setback with an average 50-foot landscaped and bermed beautification zone to be dedicated and planted along U.S. Highway 93. The landscaped zone will be dedicated at the time of development and the width shall depend upon lot size and shape, site design, topography, landscaping, and vegetation, among other site specific characteristics.*

- The proposed B-3 zone does not require a 150 foot building setback, any landscaping buffers or berming.
- Comments from the Kalispell Planning Department state, “Without a master plan and a PUD Overlay Zone in place all the standards required by this policy are not possible. If the zone change is approved, any B-3 land use permitted by the right would be allowed to proceed on the property without special consideration to any of the aforementioned requirements.”
- **Policy 3.4** – *Encourage creative and exceptional site design and landscaping plans.*
 - No site design or landscaping plans would be required for uses allowed within the B-3 zone.
 - Comments from the Kalispell Planning Department state, “There are no creative and exceptional site/landscape designs submitted because no plan has been submitted for development of the subject property. A B-3 zone requires none of these things yet allows significantly intense commercial development in a neighborhood (65 mph traffic corridor) that does not need or cannot safely access such services and goods.”
- **Policy 5.5** – *Encourage the creation of Planned Unit Developments (PUD).*
 - The applicant has not submitted a PUD with this request; however this policy just states that the creation of a PUD is encouraged.
- ❖ **Goal 7** – *Provide opportunities for mixed-use development within the Riverdale area*
 - The applicant is not proposing any development at this time; the requested zone would allow for a mixed use development.
 - **Policy 7.2** – *Allow options for creative mixed use developments which will provide a compatible mix of higher residential densities and commercial uses through innovative site planning.*
 - **Policy 7.3** – *Intense mixed-use developments should be sited in proximity to U.S. Highway 93. All residential and commercial developments should be mutually supportive in the Mixed Use Development area and, neighborhood plan.*
 - **Policy 7.5** – *Mixed use developments should have a residential component to enhance the supporting compatible general commercial uses.*
 - City of Kalispell comments state, “The proposed zoned change to B-3 has no plan in place to provide for a mixed use development. [...]. There is no plan in place that would suggest the proposed rezone to B-3 would be mutually supportive to residential. [...]. The subject property is within the Mixed Use land use category, but provides no plan for mixed use.”

- The proposed B-3 zone would allow for mixture of uses. Commercial uses, such as restaurant, medical clinic, or laundromat, are permitted uses within the B-3 zone and duplexes, multi-family dwellings, resort dwellings and dwellings in a mixed use building are allowed with a conditional use permit.
- **Policy 7.7** – *Requests for a zone change appropriate for the mixed-use land use area will be considered if accompanied with a request for a Planned Unit Development (PUD) Overlay. Once approved, the PUD Overlay will become the permanent zoning.*
 - The applicant states, “As this is not a request for a new development there is no PUD Overlay that is coming with this application.” This is however, a request for a zone change and the request is not accompanied by a PUD as the policy states.
- **Policy 15.2** – *Permit commercial business development within the corridor of U.S. Highway 93 as part of the Planned Unit Development process.*
- **Policy 15.8** – *Requests for zone changes appropriate for Mixed Use land use area will be considered if accompanied with a request for a Planned Unit Development (PUD) Overlay. Once approved, the PUD Overlay will become the permanent zoning district.*
 - The applicant has not submitted a PUD with this request; however this policy just states that the creation of a PUD is encouraged.

Finding #4: The proposed zoning map amendment does not appear to comply with all the goals and policies of Riverdale Neighborhood Plan because the future land use map designation of ‘Mixed Use,’ which states, “Requests for zone changes appropriate for Mixed Use land use area will be considered if accompanied with a request for a Planned Unit Development (PUD) Overlay,” the applicant is not proposing a PUD, the B-3 zone does not require a 150 foot building setback, any landscaping buffers or berming nor does the B-3 zone require creative and exceptional site design and landscaping plans.

ii. Whether the proposed map amendment is designed to:

1. Secure safety from fire and other dangers;

The subject property is located within the West Valley Fire District and the nearest fire and emergency response center is located approximately 2.5 miles southeast of the property on Whitefish Stage Road halfway between Rose Xing and Tronstad Road. The subject property is not located in the Wildland Urban Interface (WUI). And the subject property does not contain many trees that would contribute to a wildfire. The application states, “There is a fire station planned but not yet constructed at this time, within the Stillwater development, which is also just moments away in response time, and the City of Kalispell has a station located at Reserve Loop, near the Costco building.” The West Valley Fire Department would likely respond in the event of a fire or medical emergency.

Primary access to the property is via Church Drive and U.S. Highway 93. U.S. Highway 93 is a paved four lane divided highway and Church Drive is a paved road classified as a future minor arterial by the City of Kalispell and currently maintained by the City of Kalispell.

The subject property appears to be mapped as Zone X, an area determined to be outside the 0.2% annual chance floodplain, according to FEMA FIRM Panel 30029C 1415G.

Finding #5: The proposed map amendment would secure safety from fire and other dangers because the properties are located within the West Valley Fire District and is about 2.5 road miles from the nearest fire station, the subject property would provide access for emergency vehicles via a paved public road and a secondary emergency access via Highway 93, the property is not located in the WUI or 100 year floodplain and is devoid of trees.

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

The property is located within the West Valley Fire District which provides fire and emergency medical services and the Flathead County Sheriff's Department provides police services to the subject property. The applicant states, "There are paved state highways and paved county roads that access the subject properties, allowing for fire, ambulance, police, mail and other services to the property safely." Permitted and conditional uses in B-3 zone would serve to protect and promote public health, safety and general welfare.

Finding #6: The proposed zoning map amendment appears to have no negative impacts on public health, safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and future development would comply with the permitted and conditional uses in the B-3 zone.

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

While potential additional industrial development on the subject property may be accomplished through a subsequent process, it is anticipated substantial future development would require additional review, at which time specific impacts to transportation, water and sewer services, would be considered and mitigated as determined to be appropriate. However, this zone change request is also an opportunity to assess if the property could handle impacts associated with the proposed zone change.

Comments from the City of Kalispell planning Department state, "MDT has already indicated in the last several Transportation Impact Studies for users along this stretch of Highway 93 that full access approaches for commercial use are not available. Anything less than a full access approaches onto Highway 93 would hinder future business access and success and if approved will hinder the free flowing capacities of Highway 93, a 4 lane road that the greater Flathead has worked hard to develop, and work harder to maintain in a free flowing configuration."

The subject properties primary access is via Church Drive not via Highway 93. The property to the north that is occupied by the arena is accessed off Highway 93 and is not included in this request. Church Drive has an interchange with Highway 93 that allows for full access to the 37.633 acre property and would help maintain the free flow of traffic on the highway. Comments from MDT indicate no concerns with this proposal. Comments from the Flathead County Road and Bridge Department state, "For your information we would like to note that Church Drive is this location is under the City of Kalispell's jurisdiction and not a Flathead County Road."

The City of Kalispell classifies Church Drive as a future minor arterial. A minor arterial is defined as a road that, *"Interconnects with and augments the Principal Arterial system. It also provides access to lower classifications of roads on the system and may allow for traffic to directly access destinations. They provide for movement within sub-areas of the city, whose boundaries are largely defined by the Principal Arterial road system. They serve through traffic, while at the same time providing direct access for commercial, industrial, office and multifamily development but, generally, not for single-family residential properties. The purpose of this classification of road is to increase traffic mobility by connecting to both the Principal Arterial system and also providing access to adjacent land uses."*

The applicant has stated that some potential uses on the property could include a hotel, gas station, a restaurant and cabins. The B-3 zone would allow for several other uses as well including multi-family. If five acres is set aside for commercial and the rest is single family at a density of two to four acres per lot (as discussed below). The single family dwellings could potentially generate 450 to 900 average daily trips at build out. Staff utilized the Institute of Transportation Engineers 5th Edition of Trip Generation to determine the average daily trip (ADT) generation for the commercial uses. According to the Trip Manual the average trip generation rate on a Saturday for hotel is 10.50 trips per occupied hotel room (Saturday would generate the most traffic). The applicant has stated that it would be a smaller hotel estimating roughly 20 units, this would account for an ADT of approximately 210. A gas station would generate 11.16 ADT per gas pump at AM peak and 15.18 at PM peak; if the gas station had 8 pumps the traffic generated would be at a minimum 210 ADT. Between those three uses the property has the potential to generate 1,320 ADT.

The 2014 Montana Traffic Flow Map indicates an average annual daily traffic to be 15,784 vehicle trips per day on U.S. Highway 93 between Kalispell and Whitefish. The City of Kalispell Transportation Plan does not have traffic counts for Church Drive. The most recent traffic counts for Church Drive by the Flathead County Road and Bridge Department for Church Drive are from July 21st through July 27th 2006. The average daily trips were 790. The potential traffic generated would more than double the most recent traffic count on Church Drive and increase traffic on Highway 93 by 7.7%. Given the Church Drive is a two lane arterial with an interchange at Highway 93 and

given the limited access onto Highway 93 which would allow for free flow of traffic on Highway 93, the traffic generated by the proposal would appear to have minimal impact on motorized transportation.

The City of Kalispell commented, “However, if the county grants the zone change, a future developer would be faced with the reality of hooking up to city services, which would require city annexation. Upon an annexation request, a County B-3 Zone would not comply with the city’s growth policy.”

The application states, “Soils are compatible with those required for proper functioning of individual septic systems, and the existing structures utilize a well and septic system currently. There appears to be an adequate supply of water resources to access for individual wells. Additionally, when the extension of the public water and sewer facilities were completed at Silverbrook, the infrastructure was stubbed out at the property line of the subject properties. According to the owner of the properties, there is a letter issued from the City of Kalispell that would allow them use of water and sewer lines should the need arise.”

A previous memo (letter referred to by the applicant) from the City of Kalispell, dated September 12, 2011 states, “The site is not conducive to immediate annexation. The site could be considered for extension of services and waiver of protest to annexation; however using this method would allow the site to be planned and developed typically under county review and county rural standards. [...]. A possibility would be to enter into an MOU with the county allowing the city to take lead in the design review process. The site could be considered for an annexation district where the planning and design would happen at the city level and the provision of urban services could be times and orchestrated between the city and current rural service providers. It would also allow for building inspection and the payment of impact fees.” The memo also states that no action would not be beneficial unless the city council so determined that the city will never grow north of Church Drive.

Comments from the Environmental Health Department state, “Applicants should be aware that further development must be in accordance with the Sanitation in Subdivisions Act should development include further division of the properties into parcels less than 20 acres in size. Proposed development must also comply with Flathead County Regulations for Onsite Sewage Treatment Systems and Flathead County Air Pollution Control Regulations.”

If the applicant chooses to develop the property in the future they would likely need to either connect to city services or an on-site public water and sewer system. At the time of future development, if the applicant chooses to utilize city services, a Planned Unit Development could be completed to meet the requirements of the City. If the applicant does not choose to use city services, review would be required by the Montana Department of Environmental Quality and the Flathead City-County Environmental Health Department.

The subject property is located within the Whitefish School District. Whitefish Elementary Schools have seen an increase of 6% in student

enrollment over the last ten years and increase of 8% between 2014 and 2015. Whitefish High School has decreased 31% in student enrollment over the last ten years and a decrease between 2014 and 2015. Additionally, Central School recently completed a major remodel and voters recently approved a bond to renovate the High School. It is anticipated that the school would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The proposed amendment from ‘SAG-5 Suburban Agricultural’ to ‘B-3 Community Business’ would reduce the 5-acre minimum lot size to none, it is anticipated subsequent future development would require review and park area required would be determined at that time. The applicant states, “There are no publically owed/maintained parks within Riverdale Plan or in the general area, however, the very nature of the land within the vicinity is open rural landscape.” There are numerous parks, natural areas, and recreational opportunities accessible in the vicinity of the proposal.

Finding #7: The subject property appears to facilitate the adequate provision of transportation because the traffic generated by the zoning map amendment would flow onto U.S, Highway 93 a four lane highway able to accommodate the increase of traffic, no comment from MDT indicates MDT has no problems with the proposal, Church Drive is a paved two lane arterial and adequate spaces appears available for a future proposed bike/pedestrian facility on Highway 93 and Church Drive.

Finding #8: The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools and parks and other public requirements because the applicant could join an annexation district with Kalispell for water and sewer services or undergo review through Montana DEQ and the Flathead County Environmental Health Department, there are numerous parks, natural areas, and recreational opportunities accessible in the vicinity of the proposal and it is anticipated that the school would have capacity should any residential growth occur.

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

1. The reasonable provision of adequate light and air;

Currently the property within the proposed zoning map amendment is not developed, much of the property remains pasture/grazing land. While the proposed zoning map amendment has the potential to increase development density on the subject property, any additional lots created would be required to meet the bulk and dimensional requirements of the B-3 zoning classification. The application states, “The proposed zone change is from a five acre minimum lot size to no minimum lot size, however, yard requirements apply. As the use of the facility is not intended to change, no overcrowding of the land is anticipated. The livestock for various events are moved in and out of the property as needed and pasture component will always be needed for a facility holding horse-based events such as this. [...]. Residential development is encouraged in this ‘Mixed Use’ designation, and

several dwelling types are allowed in the B-3 zone as permitted and conditional uses.”

The bulk and dimensional requirements for the proposed B-3 zone are not similar to the bulk and dimensional requirements for the existing SAG-5. The proposed B-3 zoning sets permitted lot coverage is not applicable and there is no minimum lot size. The proposed zoning map amendment has the potential to increase development density on the subject property. The minimum setback requirements in the B-3 are 20 feet for the front, and side-corner yards, 5 feet for side yards and 15 feet for rear yards. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 10 foot setback is required from county roads classified as collector or major/minor arterials. These bulk and dimensional requirements within the B-3 designation have been established to ensure a reasonable provision of light and air.

Finding #9: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the B-3 designation.

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

The subject property is located at the intersection of U.S. Highway 93 and Church Drive. U.S. Highway 93 is a paved four lane divided highway, and the City of Kalispell classifies Church Drive as a future minor arterial. Church Drive is currently a paved two lane road adjacent to the subject property. The primary access will be via Church Drive and with a secondary access off U.S. Highway 93. There is an interchange between Church Drive and U.S. Highway 93, which would likely be used by traffic generated from future development of the property. Comment received from the Montana Department of Transportation states, “We do not have any comments regarding this proposal. Feel free to contact me if you have any questions.”

Comments from the City of Kalispell planning Department state, “MDT has already indicated in the last several Transportation Impact Studies for users along this stretch of Highway 93 that full access approaches for commercial use are not available. Anything less than a full access approaches onto Highway 93 would hinder future business access and success and if approved will hinder the free flowing capacities of Highway 93, a 4 lane road that the greater Flathead has worked hard to develop, and work harder to maintain in a free flowing configuration.”

The subject property’s primary access is via Church Drive not via Highway 93. The property to the north that is occupied by the arena is accessed off Highway 93 and is not included in this request. Church Drive has an interchange with Highway 93 that allows for full access to the 37.633 acre property. Comments from the Flathead County Road and Bridge Department state, “For your information we would like to note that Church Drive is this

location is under the City of Kalispell's jurisdiction and not a Flathead County Road."

The City of Kalispell classifies Church Drive as a future minor arterial. A minor arterial is defined as a road that, "Interconnects with and augments the Principal Arterial system. It also provides access to lower classifications of roads on the system and may allow for traffic to directly access destinations. They provide for movement within sub-areas of the city, whose boundaries are largely defined by the Principal Arterial road system. They serve through traffic, while at the same time providing direct access for commercial, industrial, office and multifamily development but, generally, not for single-family residential properties. The purpose of this classification of road is to increase traffic mobility by connecting to both the Principal Arterial system and also providing access to adjacent land uses."

The applicant has stated that some potential uses on the property could include a hotel, gas station, a restaurant and cabins. The B-3 zone would allow for several other uses as well including multi-family. If five acres is set aside for commercial and the rest is single family at a density of two to four acres per lot (as discussed below). The single family dwellings could potentially generate 450 to 900 average daily trips at build out. Staff utilized the Institute of Transportation Engineers 5th Edition of Trip Generation to determine the average daily trip (ADT) generation for the commercial uses. According to the Trip Manual the average trip generation rate on a Saturday for hotel is 10.50 trips per occupied hotel room (Saturday would generate the most traffic). The applicant has stated that it would be a smaller hotel estimating roughly 20 units, this would account for an ADT of approximately 210. A gas station would generate 11.16 ADT per gas pump at AM peak and 15.18 at PM peak; if the gas station had 8 pumps the traffic generated would be at a minimum 210 ADT. Between those three uses the property has the potential to generate 1,320 ADT.

The 2014 Montana Traffic Flow Map indicates an average annual daily traffic to be 15,784 vehicle trips per day on U.S. Highway 93 between Kalispell and Whitefish. The City of Kalispell Transportation Plan does not have traffic counts for Church Drive. The most recent traffic counts for Church Drive by the Flathead County Road and Bridge Department for Church Drive are from July 21st through July 27th 2006. The average daily trips were 790. The potential traffic generated would more than double the most recent traffic count on Church Drive and increase traffic on Highway 93 by 7.7%. Given the Church Drive is a two lane arterial with an interchange at Highway 93 and given the limited access onto Highway 93 which would allow for free flow of traffic on Highway 93, the traffic generated by the proposal would appear to have minimal impact on motorized transportation.

While there are no existing bike/pedestrian facilities currently located along U.S. Highway 93 or Church Drive in the vicinity of the subject property, potential future development may result in development of a bike/pedestrian trail along the highway or Church Drive as they are both identified in the

Flathead County Trails Plan as proposed connectors. There appears to be adequate space for a future bicycle and pedestrian trail on the subject property.

Finding #10: Effects on motorized and non-motorized transportation systems appear acceptable because the traffic generated by the zoning map amendment would flow onto U.S. Highway 93 a four lane highway able to accommodate the increase of traffic, no comment from MDT indicates MDT has no problems with the proposal, Church Drive is a paved two lane arterial and adequate spaces appears available for a future proposed bike/pedestrian facility on Highway 93 and Church Drive.

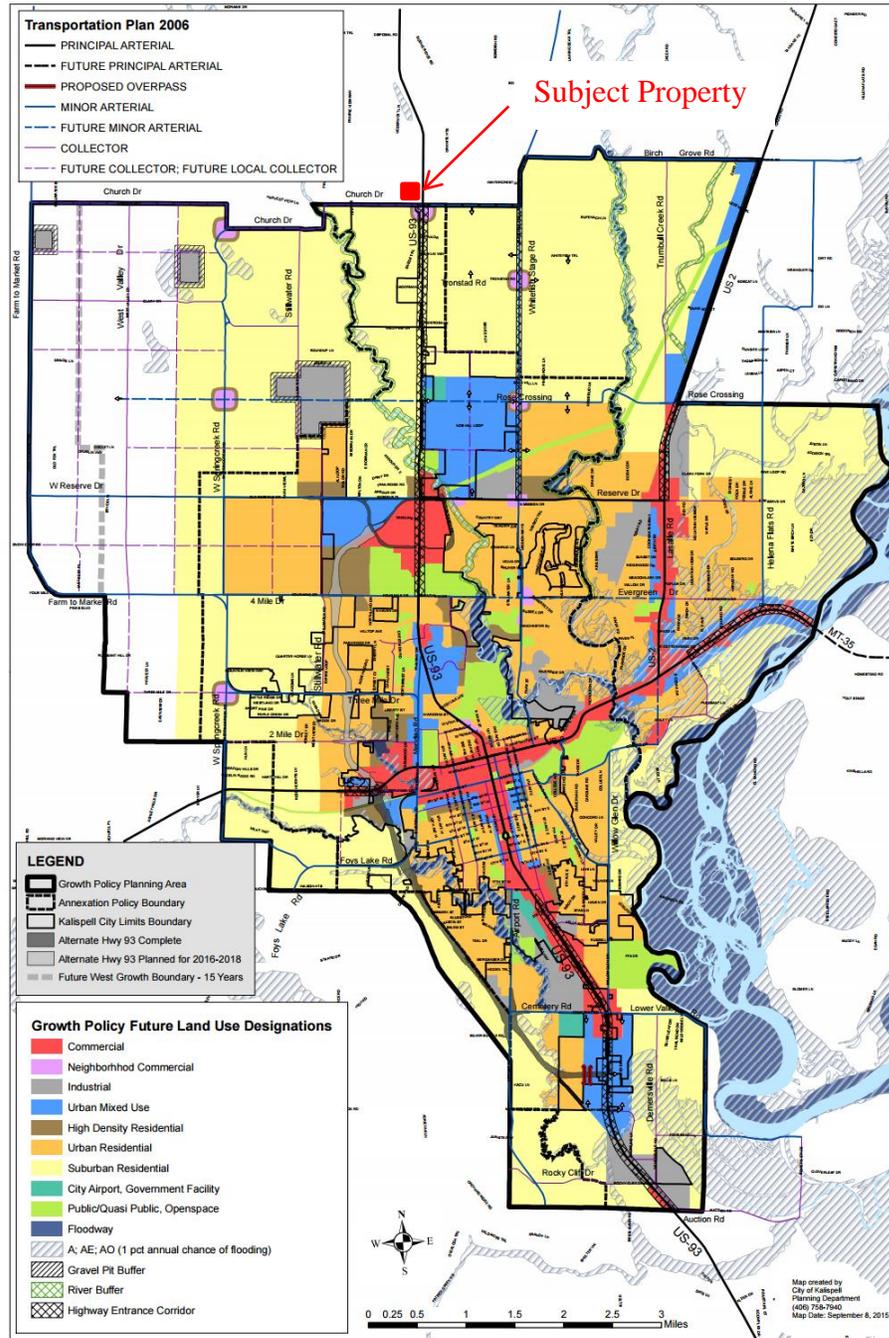
3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The location of the proposed zoning map amendment is directly adjacent to the City of Kalispell, but is located outside of the City growth policy area. The City of Kalispell is located directly south of the subject property on Church Drive. The Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009, does not extend north of Church Drive on U.S. Highway 93 and does not included the property on the future land use map.

According to the applicant, “In 2011, the applicants did approach the City of Kalispell to see if annexation would be possible and they were turned down. The City did say (see attached letter) that perhaps an Annexation District could be developed where the subject parcel utilized only a few city-provided services (sewer and water), but did not come fully into the City.” The applicant also states, The City of Kalispell often designates commercial ‘nodes’ at major intersection of county roads/highways. As this property is directly adjacent to a major highway and a cloverleaf interchange, this is an ideal ‘commercial node’.”

Staff received comments from the City of Kalispell regarding this zone change. The City of Kalispell Planning department states, “This type of speculative zoning pits the city against the county in a bidding war for zoning. [...]. Upon an annexation request, a County B-3 zone would not comply with the city’s growth policy. The city would anticipate this area as being within the suburban residential land use category. At most, a neighborhood commercial land use component may be permitted with approved master plan/PUD.”

Figure 7: City of Kalispell Growth Policy Future Land Use Map



While it is true that the property is located outside the City of Kalispell Growth Policy map, it can be assumed that a commercial node would be designated on the north side of the Highway 93 and Church Drive intersection to match the south side of the intersection if City of Kalispell Growth Policy Future Land Use Map is expanded to include the subject property. The Kalispell Growth Policy *Neighborhood Commercial Areas* designation states, “*Neighborhood commercial areas should generally be three to five acres in*

size and be spaced one-half to one mile apart. Sites should be configured to enable clustering of neighborhood commercial businesses, encouraging bike and pedestrian access where practicable.”

To the south of the subject property is a B-1/PUD district located within the City of Kalispell and designated as “*Neighborhood Commercial Area*’ of approximately 30.0 acres. The subject property is approximately 37.633 acres which is much larger than the three to five acres of a ‘*Neighborhood Commercial Areas.*’ However the B-3 zone would also allow for residential with a conditional use permit including; ‘*dwelling, duplex and multi-family,*’ ‘*dwelling, resort*’ and ‘*dwellings in a mixed-use building.*’ The proposed B-3 could allow for both a three to five acre commercial node and residential densities in line with a ‘*Suburban Residential*’ land use of two to four dwellings per acre.

Finding #11: Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell’s urban growth and it has been determined that while the map amendment is located beyond the northern extent of Kalispell’s urban growth, as shown on the Kalispell Growth Policy Future Land Use Map, a portion of the subject property could be designated ‘*Neighborhood Commercial Area*’ and the remainder of the property would be designated ‘*Suburban Residential*’ if the future land use map is extended to the subject property, the proposed B-3 zone would allow for more commercial than three to five acres but residential on the subject property could comply with the two to four dwellings per acre of the ‘*Suburban Residential*’ designation and the subject property is similar in size to the B-1/PUD district within the City of Kalispell.

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

The property is currently being used for pasture for the Majestic Valley Arena, and is mostly open space with a few accessory buildings. The properties to the south and east are zoned for commercial use but do not presently contain any commercial uses. The applicant has stated that they would like to develop a hotel, restaurant, gas station or another commercial uses, in the future, that would complement the existing arena. The application also states, “There appears to be a market demand for this type of facility and the Riverdale Master Plan has anticipated this use.”

North of the subject property is a SAG-5 and I-1H zone the property zoned I-1H currently contains boat storage. To the west of the subject property is the Montana Raceway Park and many of the neighboring properties are in agricultural use. Montana Fish, Wildlife and Parks commented, “Montana Fish, Wildlife & Parks has no comments with regard to the Winter Park Ventures zone change request.”

As previously stated the property is located outside the City of Kalispell Growth Policy map but it can be assumed that a commercial node would be designated on the north side of the Highway 93 and Church Drive intersection

to match the south side of the intersection if City of Kalispell Growth Policy Future Land Use Map is expanded to include the subject property. The B-1/PUD zoning with in the commercial designation is approximately 30 acres in size and the subject property is about 37.633 acres.

Finding #12: The character of the district appears suitable for the proposed zoning map amendment because Fish, wildlife and Parks had no concern with this proposal, there are existing commercial properties and commercial zoning within the vicinity and the City of Kalispell designates the area south of the Church Drive and Highway 93 intersection as ‘*Neighborhood Commercial Area.*’

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

Previous sections of this report have detailed the differences between permitted and conditional uses in the existing SAG-5 zoning and the proposed B-3 zoning. Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. According to the applicant, “The proposal is consistent with the surrounding neighborhood and will be a benefit to the community. The Riverdale Plan supported and encouraged just this type of project.”

Many of the land uses listed as permitted uses in the proposed B-3 zoning are already permitted in the neighboring B-1/PUD and B-2 zoning in the area of the proposed zoning map amendment, or would not be out of character at all with the existing uses including; a race track and boat storage. These uses would not impact the value of buildings and would be appropriate land uses at the intersection of Highway 93 and Church Drive.

Many of the land uses listed in the B-3 zoning with the most potential to impact neighbors and the value of buildings if not developed appropriately are listed as conditional uses which would require further review. Additionally many of the uses listed as permitted uses would require City water and waste water at which point the City could request a PUD and site plan review through an annexation district (as discussed in the previous City memo).

Both the review process for a conditional use permit and a PUD could ensure the mitigation of negative impacts, or potentially the outright denial of a proposed land use if it is deemed by the Board of Adjustment or the City to be not in compliance with review criteria.

Finding #13: The proposed zoning map amendment would likely conserve the value of buildings and encourage the most appropriate use of land because the B-3 zone would allow many of the uses allowed as permitted and conditional uses in the neighboring B zones, uses listed as conditional uses or a PUD would undergo a public process of review to ensure development is appropriate to the particular property at the time and in the manner it is proposed.

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

The location of the proposed zoning map amendment is directly adjacent to city B-1/PUD zoning, but is located outside of the city growth area. The northernmost limits of the Kalispell planning area ends at Church Drive on U.S. Highway 93 (see Figure 7 below), directly south of the subject property. The applicant states, “The City of Kalispell has a B-1 zone that is very similar to that of the County B-3 designation.”

The City of Kalispell defines B-1/PUD as, “*A business district intended to provide certain commercial and professional office uses where such uses are compatible with the adjacent residential areas. This district would typically serve as a buffer between residential areas and other commercial districts. Development scale and pedestrian orientation are important elements of this district. This district is also intended to provide goods and services at a neighborhood level. The district is not intended for those businesses that require the outdoor display, sale and/or storage of merchandise, outdoor services or operations to accommodate large-scale commercial operations. This zoning district would typically be found in areas designated as neighborhood commercial or urban mixed use on the Kalispell Growth Policy Future Land Use Map.*”

The proposed B-3 zoning is defined as, “*A business district to provide areas for the development of congregated community shopping areas, to serve the range of a number of neighborhoods of a major segment of the Planning Area. This district should be a business center and not strip development.*”

The neighboring B-1/PUD within the City allows for ‘*dwellings, townhouse (3 or more attached units) and multi-family*’ with a conditional use permit and ‘*dwellings single family, duplex and townhouse (2 attached units)*’ as a permitted use. The proposed B-3 would similarly allow for ‘*dwelling, duplex and multi-family,*’ ‘*dwelling, resort*’ and ‘*dwellings in a mixed-use building*’ with the issuance of a conditional use permit. Some of the uses allowed within the proposed B-3 zone would not be allowed within the City’s B-1 zone. The proposed B-3 zone would allow retail and restaurants without limitations whereas the existing B-1 to the south limits retail and restaurants to no larger than 4,000 square feet. However the B-3 zone is one of the most compatible County zones with the City’s B-1 zone to the south as the County does not have a zone that would mimic the City’s B-1 zone.

Finding #14: The proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of the City of Kalispell because the County does not have a zone that mimics the City of Kalispell’s B-1 zone and the proposed B-3 is the most similar County zone to the neighboring City B-1 zone.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment to SAG-5 from B-3 does not appear to be at risk of spot zoning because all three criteria must be met for the application to potentially be

considered spot zoning, the new B-3 zoning district would be similar in size to the existing B-2, B-1/PUD and SAG-5 districts neighboring the property and would therefore not apply to a small area and the proposed B-3 would allow for similar uses to uses allowed in the neighboring B-1/PUD and B-2.

- 2) The proposed zoning map amendment from SAG-5 to B-3 generally complies with the Flathead County Growth Policy Designated Land Use Map because the 'Suburban Agricultural' land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created and is not a future land use map.
- 3) The proposed zoning map amendment appears to be made in accordance with the Flathead County Growth Policy goals, policies and text because the zoning map amendment would support the continuation of tradition and the existing facilities and aid in the expansion of the business while providing additional land area designated for commercial use, would allow for commercial development on a larger scale in a semi-rural area with good access off Highway 93 via Church Drive and the property is safely accessible and efficiently serviceable.
- 4) The proposed zoning map amendment does not appear to comply with all the goals and policies of Riverdale Neighborhood Plan because the future land use map designation of 'Mixed Use,' which states, "*Requests for zone changes appropriate for Mixed Use land use area will be considered if accompanied with a request for a Planned Unit Development (PUD) Overlay,*" the applicant is not proposing a PUD, the B-3 zone does not require a 150 foot building setback, any landscaping buffers or berming nor does the B-3 zone require creative and exceptional site design and landscaping plans.
- 5) The proposed map amendment would secure safety from fire and other dangers because the properties are located within the West Valley Fire District and is about 2.5 road miles from the nearest fire station, the subject property would provide access for emergency vehicles via a paved public road and a secondary emergency access via Highway 93, the property is not located in the WUI or 100 year floodplain and is devoid of trees.
- 6) The proposed zoning map amendment appears to have no negative impacts on public health, safety and general welfare because the property is served by the West Valley Fire Department, Flathead County Sheriff and future development would comply with the permitted and conditional uses in the B-3 zone.
- 7) The subject property appears to facilitate the adequate provision of transportation because the traffic generated by the zoning map amendment would flow onto U.S, Highway 93 a four lane highway able to accommodate the increase of traffic, no comment from MDT indicates MDT has no problems with the proposal, Church Drive is a paved two lane arterial and adequate spaces appears available for a future proposed bike/pedestrian facility on Highway 93 and Church Drive.
- 8) The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools and parks and other public requirements because the applicant could join an annexation district with Kalispell for water and sewer services or undergo review through Montana DEQ and the Flathead County Environmental Health Department, there are numerous parks, natural areas, and recreational opportunities accessible in the vicinity

of the proposal and it is anticipated that the school would have capacity should any residential growth occur.

- 9) The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the B-3 designation.
- 10) Effects on motorized and non-motorized transportation systems appears acceptable because the traffic generated by the zoning map amendment would flow onto U.S. Highway 93 a four lane highway able to accommodate the increase of traffic, no comment from MDT indicates MDT has no problems with the proposal, Church Drive is a paved two lane arterial and adequate spaces appears available for a future proposed bike/pedestrian facility on Highway 93 and Church Drive.
- 11) Consideration has been given to the compatibility of the proposed zoning map amendment to the City of Kalispell's urban growth and it has been determined that while the map amendment is located beyond the northern extent of Kalispell's urban growth, as shown on the Kalispell Growth Policy Future Land Use Map, a portion of the subject property could be designated '*Neighborhood Commercial Area*' and the remainder of the property would be designated '*Suburban Residential*' if the future land use map is extended to the subject property, the proposed B-3 zone would allow for more commercial than three to five acres but residential on the subject property could comply with the two to four dwellings per acre of the '*Suburban Residential*' designation and the subject property is similar in size to the B-1/PUD district within the City of Kalispell.
- 12) The character of the district appears suitable for the proposed zoning map amendment because Fish, wildlife and Parks had no concern with this proposal, there are existing commercial properties and commercial zoning within the vicinity and the City of Kalispell designates the area south of the Church Drive and Highway 93 intersection as '*Neighborhood Commercial Area.*'
- 13) The proposed zoning map amendment would likely conserve the value of buildings and encourage the most appropriate use of land because the B-3 zone would allow many of the uses allowed as permitted and conditional uses in the neighboring B zones, uses listed as conditional uses or a PUD would undergo a public process of review to ensure development is appropriate to the particular property at the time and in the manner it is proposed.
- 14) The proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of the City of Kalispell because the County does not have a zone that mimics the City of Kalispell's B-1 zone and the proposed B-3 is the most similar County zone to the neighboring City B-1 zone.

VI. CONCLUSION

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

require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM