

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**ZONING MAP AMENDMENT REPORT (#FZC-10-08)**  
**FEBRUARY 23, 2011**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Faith Baptist Church for a zoning map amendment in the Evergreen zoning district. The proposed amendment would change the zoning on the subject property from “R-2 One Family Limited Residential” and “B-2 General Business” to all “B-2 General Business”.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on March 9, 2011 at 6:00 PM in the 2<sup>nd</sup> Floor Conference Room, 1035 1<sup>st</sup> Ave West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed zoning map amendment at a date and time yet to be determined. Documents pertaining to the zoning map amendment are available for public inspection at the Flathead County Planning and Zoning Office in the Earl Bennett Building located at 1035 First Avenue West, in Kalispell. Prior to the Commissioner’s public hearing, documents pertaining to the zoning map amendment will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

**I. APPLICATION REVIEW UPDATES**

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

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

**B. Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed amendment on March 9, 2011 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 at a date and time 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**

Clint Theline  
c/o Faith Baptist Church  
108 West Reserve Drive  
Kalispell, MT 59901

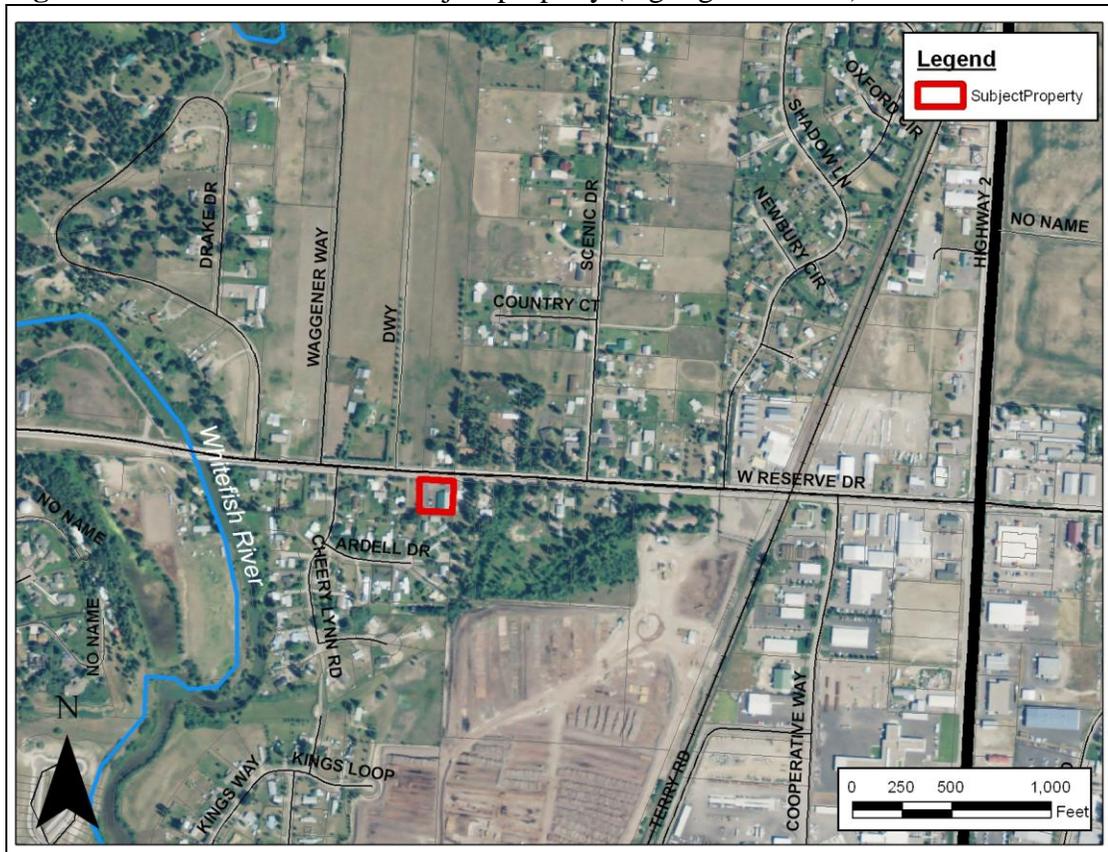
**ii. Technical Assistance**

Marquardt & Marquardt Surveying, Inc.  
201 3<sup>rd</sup> Avenue West  
Kalispell, MT 59901  
[msurvey@mmsurvey.net](mailto:msurvey@mmsurvey.net)

**B. Subject Property Location and Legal Description**

The subject property can be legally described as Tract 3AB (or Parcel A of COS #18835) in Sections 32 & 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. The property is located at 108 West Reserve Drive in Kalispell, on the south side of the roadway and approximately ½ mile west of the intersection of West Reserve Drive and US Highway 2 East.

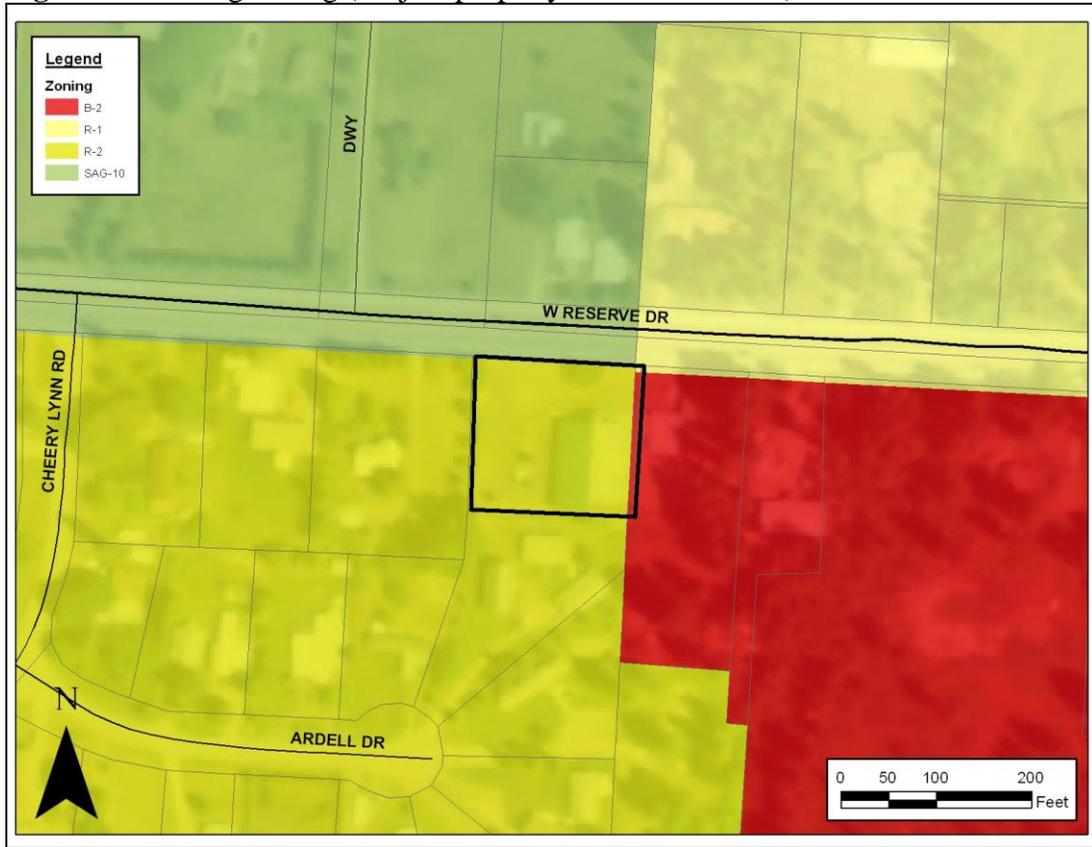
**Figure 1:** General location of subject property (highlighted in red)



**C. Proposed Zoning Map Amendment**

The subject property is currently split between zoning designations, with the majority of the 0.65 acre parcel zoned “R-2 One Family Limited Residential” and a small portion of the parcel (approximately 0.02 acres) along the east property boundary zoned “B-2 General Business” (see Figure 2 below). The zoning map amendment requested would change the current zoning on the property to entirely “B-2 General Business”.

**Figure 2:** Existing zoning (subject property outlined in black).



**D. General Character of and Reason for Amendment**

The requested zoning map amendment would change the zoning on the subject property from “R-2 One Family Limited Residential” and “B-2 General Business” to entirely “B-2 General Business”. The subject property is currently owned by Faith Baptist Church and has an approved conditional use permit (#FCU-05-26) to operate a church or place of worship, in conformance with the uses listed under Section 3.10.030 (4) of the Flathead County Zoning Regulations.

A boundary line adjustment realigning the eastern edge of the property was completed in 2009, in conjunction with a lot aggregation required as a condition of permit approval. The boundary line adjustment enabled the subject property to comply with the side setback requirements of the R-2 zoning in place, and resulted in the subject property being split by two zoning districts, R-2 and B-2. While the existing structure complies with the front and side yard setbacks, the building does encroach upon the rear yard setback requirement of 20 feet. Having applied for and been denied a zoning variance, the applicant is pursuing a zone change on the property to reduce the rear yard setback requirement from 20 feet to 15 feet, thereby reducing the extent of the encroachment. Even with the zoning map amendment, the building would remain in violation, and Faith Baptist Church has acknowledged the rear portion of the structure would need to be altered to comply with the setback requirements of the B-2 zoning requested.

While the setback issue is one reason for the requested zoning map amendment, the change to “B-2 General Business” would enable the church to continue operating as a permitted use instead of a conditionally permitted, non-residential entity in a residential zone. In light of the changing character of the area, and the church’s desire to operate as a permitted use in conformance with the zoning in place, the applicant is requesting a zoning map amendment to convert the entire property to “B-2 General Business”.

**E. Adjacent Zoning and Character of the Overall Zoning District**

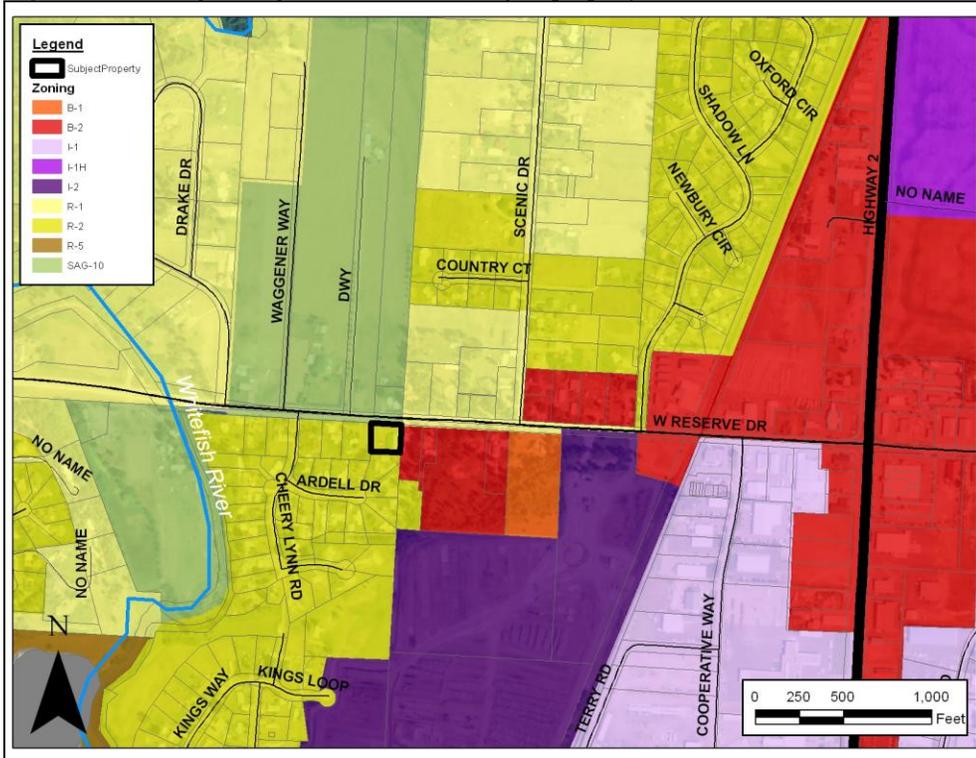
As shown by Figure 3 below, current zoning surrounding the subject property is a mix of suburban agricultural, residential and commercial. More specifically, properties immediately north of the church and across West Reserve Drive are zoned “SAG-10 Suburban Agricultural” and “R-1 Suburban Residential”; property to the south and west is zoned “R-2 One Family Limited Residential”, and property to the east is zoned “B-2 General Business”.

Looking at the character of the broader community along West Reserve Drive, there are a variety of existing land uses and zoning classifications in place that result in the area feeling more like a transitional, mixed-use corridor than a predominantly residential neighborhood. An established commercial and industrial hub is located to the east of the railroad tracks, at the intersection of West Reserve Drive and U.S. Highway 2. Zoning in this area includes “B-1 Neighborhood/Professional Business” and “B-2 General Business”, “I-1 Light Industrial” and “I-2 Heavy Industrial” as well as some “I-1H Light Industrial Highway” zoning located further north along the highway. As commercial and industrial uses have expanded over time to serve the growing Evergreen community, traffic has increased along West Reserve Drive, further influencing the character of the general area. Flathead County has identified West Reserve Drive as an urban principal arterial<sup>1</sup>, and the Montana State Department of Transportation maintains the roadway as a state secondary thoroughfare. As one crosses the railroad tracks along West Reserve Drive and heads toward the Whitefish River, residential development becomes more prevalent but is still mixed with non-residential uses; this is especially true for those properties having frontage and direct access along West Reserve Drive. A number of properties north and east of the church have applied for - and received - zoning map amendments from residential to commercial designations, precipitating a more formal transition from residential to commercial uses along this corridor (refer to Figure 4 below).

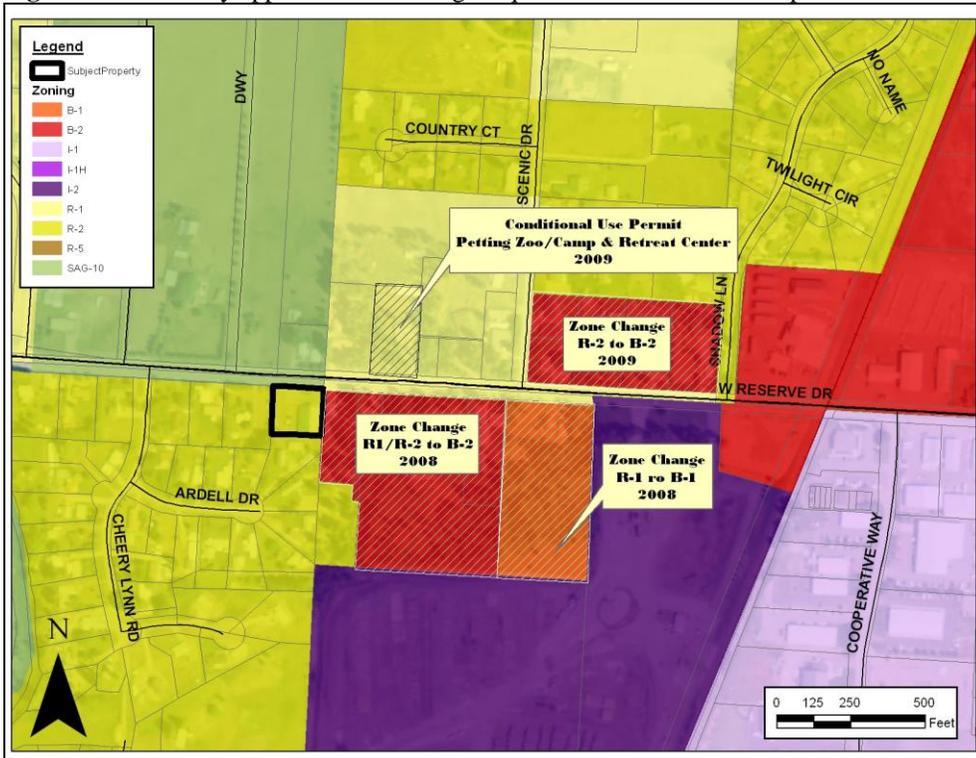
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<sup>1</sup> Chapter 7 - Kalispell City-County Master Plan 2010; “Kalispell Area Transportation Plan (adopted 1993)

**Figure 3:** Existing zoning, overall district (subject property outlined in black).



**Figure 4:** Previously approved zone change requests and conditional use permits.



When an application appears to have the potential for spot zoning, a “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested zoning 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. The three part test establishes whether the zoning requested would allow a use that differs significantly from the prevailing use(s) in the area, would apply to a small area or benefit a small number of separate landowners, and is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public.

Upon review, the requested zoning map amendment would apply to a relatively small area - 0.65 acres - for the benefit of one property owner, Faith Baptist Church. Although areas west and south of the subject property are zoned for predominantly residential activities, a number of commercial and industrial uses are present along the West Reserve corridor, extending from the existing commercial hub located at the intersection of West Reserve Drive and U.S. Highway 2 East. Properties to the east and northeast have applied for and have had approved similar zoning map amendments to “B-2 General Business”. The proposed zone change would therefore not be at the expense of surrounding landowners, as many currently utilize their property for uses other than residential and have been approved to do so through similar requests. While the request does appear to meet certain elements of the spot zoning review criteria, it fails to meet all three criteria established by the three part test.

**F. Public Services and Facilities**

Water:	Evergreen Water & Sewer District
Wastewater:	Evergreen Water & Sewer District
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Evergreen School District (K-8); Flathead School District (9-12)
Fire:	Evergreen Fire Department
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. This application for a zoning map amendment was privately initiated by the property owner, and a fee of \$875 was paid for the administration and processing of the map amendment request.

## **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 February 16, 2011. Legal notice of the Planning Board public hearing on this application will be published in the February 20, 2011 edition of the Daily Interlake.

Following the Planning Board hearing on March 9, 2011, public notice of the zoning map amendment will be physically posted on the subject properties 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 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 January 20, 2011:

- Flathead County Public Works/Flathead County Road Department
  - Reason: Future commercial development on the subject property has the potential to impact public infrastructure.
- Flathead City/County Health Department
  - Reason: A change in land use to commercial development may require review by this department.
- Montana Department of Transportation
  - Reason: The subject property has direct driveway access onto West Reserve Drive, a designated state secondary road maintained by the Department of Transportation.
- Department of Energy - Bonneville Power Administration
  - Reason: BPA has requested to receive agency comment for all applications received by our office.
- Evergreen Volunteer Fire Department
  - Reason: The subject property is located within the fire department's jurisdiction.
- Evergreen Water and Sewer District
  - Reason: The subject property is currently served by the water and sewer district.
- City of Kalispell Planning Department
  - Reason: The subject property is in close proximity to the City of Kalispell planning jurisdiction, and land use on the property is guided by the Kalispell City County Master Plan 2010.

## **III. COMMENTS RECEIVED**

### **A. Public Comments**

As of the date of the completion of this staff report, no written public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment will do so at the Planning Board public hearing scheduled for March 9,

2011. Written comments received following the completion of this report will be provided to 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:

- Dave Prunty, Flathead County Road & Bridge Department
  - At this time we have no comment on the application.
- James Freyholtz, Montana Department of Transportation
  - The property has two existing approaches which directly access West Reserve Drive (State Secondary #548).
  - MDT has no comments regarding this proposal.
- Glen Gray, Flathead City-County Health Department
  - This property is served by public water and sewer service provided by the Flathead County Water & Sewer District #1 – Evergreen. This office has no objection to the proposed zone change.
- Jamie C. Murray, Department of Energy - Bonneville Power Administration
  - In reviewing the proposed plan, we have found that this proposal will not impact any BPA transmission line corridors located within this area. BPA does not have any objections to the approval of this request at this time.
- Sean Conrad, City of Kalispell Planning Department
  - The Kalispell City-County Master Plan designates Tract 2AB as Suburban Residential, which is not consistent with the B-2 zoning requested.
  - The Kalispell Growth Policy designates the tract of land as Urban Residential which would also not be appropriate for a commercial zoning district unless there is an amendment to the master plan map.
  - The Kalispell Area Transportation Plan Update (2006) gives this section of West Reserve Drive a functional classification of principal arterial; this functional classification may make the case that commercial zoning should continue to expand along West Reserve Drive.
  - Concern that proposed B-2 zoning may not interact harmoniously with adjacent residential uses to the west and south, especially if the property is utilized for a use other than a church.
  - Refers back to the comments made regarding the proposed master plan map amendment (October 2010; see attached). This letter outlines concerns with additional commercial development along this section of West Reserve Drive, and the concerns expressed in that letter should also be considered in light of this current request.

## IV. EVALUATION OF PROPOSED AMENDMENT

### A. Build Out Analysis

Once a zone is applied in a certain area, landowners have certain land uses and densities that are allowed “by-right” (permitted) or subject to some additional review (conditional). A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses and densities. Build-out analyses are objective and are not “best-case” or “worst case” scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, future demands for public services and facilities, the environment and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zone change to the future of the community to allow for the best possible review today.

#### Current Zoning

The subject property is currently zoned “R-2 One Family Limited Residential”, a use district “*to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines*” (Section 3.10.010 FCZR). The following is a list of permitted uses in an R-2 zone:

1. Class A manufactured homes.
2. Day care homes.
3. Dwellings, single-family.
4. Guest houses.
5. Home occupations (See Chapter V – Performance Standards and Chapter VII - Definitions).
6. Homeowners parks and beaches.
7. Parks and publicly owned recreational facilities.
8. Public transportation shelter stations.
9. Public utility service installations. (A minimum of five feet of landscaped area shall surround such building or structure.)

The following uses are listed as conditional uses in an R-2 zone; an asterisk designates conditional uses that may be reviewed administratively:

1. Bed and breakfast establishments.
2. Cellular antennas & monopoles.
3. Cemeteries, mausoleums, columbariums, crematoriums.
4. Churches and other places of worship.
5. Community center buildings operated by a non-profit agency.
6. Community residential facilities.\*\*
7. Dwellings, cluster development (See Chapter IV – Conditional Use Standards).
8. Dwellings, family hardship.\*
9. Electrical distribution stations.
10. Golf courses.
11. Golf driving ranges.
12. Manufactured home parks.
13. Schools, primary and secondary.
14. Temporary buildings or structures.\*

15. Water and sewage treatment plants.
16. Water storage facilities.

Minimum lot size in an R-2 zone is 20,000 sq. ft., or approximately ½ an acre. The subject property is approximately 28,300 sq. ft. in size, or 0.65 acres. Given the current tract size and restrictions of the existing zoning, the subject parcel would be unable to further subdivide under R-2 zoning.

Cluster development is an option available under the existing R-2 zoning, through the issuance of a conditional use permit and subject to development guidelines and performance standards found in Section 4.05 of the Zoning Regulations. However, the subject property's current configuration and size would not allow a cluster development based on the two acre minimum development area required (Section 4.05.010(1)). While Planned Unit Developments (PUD) are also possible under the existing R-2 zoning, in accordance with Section 3.31 of the zoning regulations, a minimum two acres of developable area is required, similar to clustering standards. The subject property would be unable to utilize either of these options to increase density on the subject property under current conditions.

Bulk and dimensional standards under R-2 zoning require minimum setbacks of 20 feet from the front, rear and side-corner property boundaries and 10 feet from side property boundaries for all principal structures; accessory structures require 20 foot setbacks from front and side-corner property boundaries and 5 foot setbacks from side and rear property boundaries. Additional setbacks of 20 feet are required from streams, rivers and unprotected lakes that do not serve as property boundaries, and from County roads classified as collector or major/minor arterials. The maximum allowable building height is 35 feet for principal structures and 18 feet for accessory structures, and the permitted lot coverage is 30%.

#### Proposed Zoning

The proposed zoning map amendment would change the zoning on the subject property to "B-2 General Business", a use district intended 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"* (Section 3.17.010 FCZR). The following uses are permitted in a B-2 zone:

1. Accessory apartments.
2. Art foundries.
3. Automobile (new and used) and accessory sales.
4. Automobile service stations.
5. Boat sales, new and used.
6. Bus stations.
7. Car washes.
8. Cellular towers.
9. Churches and other places of worship.

10. Day care centers.
11. Farm equipment sales.
12. Financial institutions.
13. Food stores, supermarkets, and delicatessens.
14. Health clubs.
15. Hotels, motels.
16. Lodges and fraternal and social organizations, provided that any such establishment shall not be conducted primarily for gain.
17. Lumber yards, building materials; storage and sales.
18. Manufactured home sales and storage.
19. Nurseries, landscaping materials.
20. Offices.
21. Parks and publicly owned recreational facilities.
22. Public transportation shelter stations.
23. Public utility service installations. (A minimum of five feet of landscaped area shall surround such building or structure.)
24. Quasi-public buildings. (fire stations, government offices, etc.)
25. Radio and television broadcast stations.
26. Recreational facilities, high-impact.
27. Recreational facilities, low-impact.
28. Recreational vehicle parks.
29. Recycling drop-off stations.
30. Rental yards.
31. Retail sales and services.
32. Restaurants.
33. Theaters, housed in permanent indoor structures.
34. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture in an enclosed facility.

The following uses are listed as conditional uses in a B-2 zone; once again, an asterisk designates conditional uses that may be reviewed administratively:

1. Animal hospitals, veterinary clinics.
2. Automobile repair shops.
3. Colleges, business schools, trade schools, music conservatories, dance schools.
4. Commercial caretaker's facility in a detached accessory building in conjunction with a business.\*
5. Commercial recreation areas.
6. Convention hall facilities.
7. Electrical distribution stations.
8. Golf driving ranges and putting courses.
9. Mini-storage, RV storage.
10. Mortuaries.
11. Taverns.
12. Temporary buildings or structures.\*
13. Water storage facilities.

Minimum lot size in a B-2 zone is 7,500 sq. ft., or approximately 1/5 of an acre. Given the current size of the subject property – 28,300 sq. ft. – there is the potential for up to three additional lots to be created through subdivision under the proposed zoning. Future subdivision would be required to undergo review and adhere to all applicable regulations; the existing configuration of the lot as well as parking and circulation requirements for future commercial development has the potential to limit the subject property from obtaining maximum build-out capacity based solely upon lot size. Cluster development is not an option available under the proposed B-2 zoning, and the subject property would not be eligible for a planned unit development (PUD) because of the minimum development size requirements previously discussed.

Bulk and dimensional standards under B-2 zoning require minimum setbacks of 20 feet from the front and side-corner property boundaries, 5 feet from side property boundaries and 15 feet from rear property boundaries for all structures. Additional setbacks of 20 feet are required from streams, rivers and unprotected lakes that do not serve as property boundaries, and additional setbacks of 10 feet are required from County roads classified as collector or major/minor arterials. The maximum allowable building height is 35 feet for all structures, and there are no lot coverage restrictions applicable to property zoned B-2.

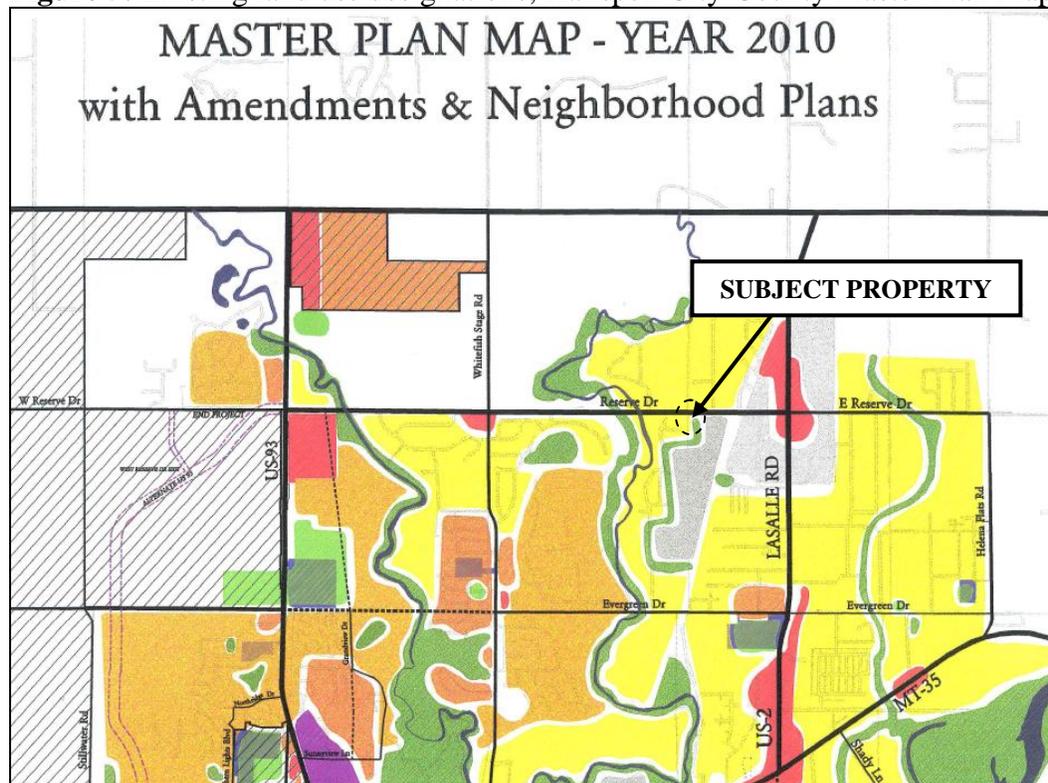
**B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

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

Kalispell City County Master Plan 2010 and Designated Land Use Map

The subject property is located in an area of the County under the jurisdiction of the Kalispell City County Master Plan 2010, which was adopted by Flathead County through Resolution #578A on February 6, 1986. The Master Plan was then incorporated as an addendum to the Growth Policy upon its adoption March 19, 2007 through Resolution #2015A (see Table 10.1 of the Flathead County Growth Policy).

**Figure 5:** Existing land use designations; Kalispell City-County Master Plan Map



As seen in Figure 5 above, the designated land use map identifies the subject property as “Suburban Residential”, a land use designation described in the Master Plan as:

*“A residential district which provides for two or less units per acre. Such areas typically do not have access to a community sewer or water system, have only limited police and fire protection, may have limited carrying capacity due to site or soil limitations, floodplain or other natural constraints which preclude higher density. Suburban residential districts are typically located in two areas: on the periphery of the urbanizing community where they serve as a transitional development pattern between the urban area and the timber and agricultural areas beyond; and in aesthetically attractive areas such as foothills, lakeshore, or river frontage not suitable for agriculture or timber production. Suburban residential districts provide large lot, estate, ranchette or resort housing opportunities where limited farming/gardening and raising of animals is common and/or privacy, aesthetic consideration and preservation of natural surroundings are paramount. Detached single family houses and manufactured homes on individual lots would constitute the major land use pattern.”*

While the “Suburban Residential” land use designation may have been appropriate when the Plan was originally written, current conditions indicate this designation may not be accurate today. The subject property is located in an urban area of the County, served by public water and sewer, absent the environmental constraints described and adjacent to a principal arterial roadway

maintained by the state Department of Transportation. The property is within a fire district, served by the County Sheriff's department and in proximity to a major medical facility. The West Reserve corridor is no longer on the periphery of the "urbanizing community", but located soundly within an urban area and served by urban scale public facilities and infrastructure.

Although the proposed zoning map amendment is not compliant with the underlying land use map, the City-County Master Plan is unique in that it stresses the importance of all three major components – the plan text, designated land use map, and goals and objectives – when interpreting or implementing the document. The following goals and objectives, supplemented by text and found within the Master Plan document, appear to support the proposed zoning map amendment from R-2 to B-2, and have supported similar zoning map amendment requests in the area in the past:

### **Land Use**

*6.a Designate adequate areas for a variety of business and commercial uses such as neighborhood oriented businesses and services, highway-commercial oriented activities and general commercial uses.*

*6.b. Set standards for the designation or expansion of commercial areas based on a compact development pattern designed to meet the needs of the intended service area and not the desires or speculation of strip developers.*

- The proposed zoning map amendment would accommodate general commercial uses, identified as compact retail sales, service and offices normally associated with a central business district. Off-street localized parking and pedestrian access are important components of this use district; the subject property currently accommodates all parking off-street, and sidewalks along West Reserve would provide pedestrian access to businesses and residences along this corridor. In Chapter 5, text of the Plan specifically identifies the anticipated need for additional land suitable for commercial development over the next 25 years, and suggests locating future commercial development near existing commercial areas, as expansion or infill.

*6.g Maintain the character of the single-family neighborhood.*

- The subject property is currently used for non-residential purposes, and it is unlikely the property would ever revert to residential use in the future. The character of the West Reserve corridor between U.S. Highway 2 and the Whitefish River has been transitioning from single-family residential uses over time, and will likely continue to do so as growth and development pressures continue to impact this area of the County.

*6.f Establish standards for buffering incompatible land uses and for mitigating impacts caused by such arrangements.*

- Section 5.05 of the Zoning Regulations currently requires fencing or greenbelts/vegetative buffers between areas zoned for residential and

commercial use; should the proposed zoning map amendment be approved, these standards would be applicable to the subject property.

### **Transportation**

*7.g Require off-street parking to meet the needs of new construction.*

- The subject property currently accommodates all parking related to the church and its activities off-street. Should the proposed zoning map amendment be approved, it is anticipated future commercial development would have adequate space to accommodate required off-street parking, pursuant to applicable parking and loading requirements found in Chapter 6 of the Zoning Regulations.

### **Public Facilities**

*8.a Designate areas of future development which are already serviced or are in areas which can be economically serviced by water and sewer systems, police and fire protection, etc.*

*8.b Coordinate sewer, water and street planning and development with the land development process.*

- The subject property is currently served by the public facilities and infrastructure necessary to accommodate commercial use. Future commercial development could be more economically served here than further north along U.S. Highway 2, outside the boundary of a public water and sewer district and beyond the urbanized Evergreen area. Encouraging infill development close to existing population centers reduces the cost of extending utilities in the future; reduces response times (for fire and emergency services); and serves population centers more efficiently by reducing the number and distance of vehicle trips traveled, thereby reducing wear and tear on County infrastructure. Future infrastructure improvements anticipated along West Reserve could support additional commercial development.

### Flathead County Growth Policy

The adoption of the Kalispell City County Master Plan 2010 as an addendum to the Flathead County Growth Policy ensured the Plan, as originally adopted, was consistent with the 2007 Growth Policy pursuant to G.45 and P.45.1 found in Chapter 10. However, specific goals and policies related to land use, transportation, public facilities and services, natural resources, demographics, housing and the Flathead economy correspond to goals and objectives identified in the Kalispell City County Master Plan 2010 and discussed in the preceding section of this report. The following is a list of Growth Policy goals and policies that support the proposed zoning map amendment:

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

*P.6.2 Restrict commercial development in unsafe, inaccessible, remote rural areas.*

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

*P.6.5 Conserve resources and minimize transportation demand by encouraging redevelopment and infill of existing commercial areas in the County.*

- The proposed zoning map amendment would result in additional land being designated for commercial use in an urbanized area of the County, adjacent to existing commercial and industrial land uses and accessible from West Reserve Drive, a principal arterial road maintained by the Montana Department of Transportation.

*G.7 Consider existing community character in commercial land development.*

*P.7.4 Identify existing areas that are suitable for impact-mitigated commercial uses.*

- The West Reserve corridor has been transitioning from single family residential to uses more commercial in nature. The overall character of the area would support the proposed amendment because the subject property is adjacent to commercial zoning, as well as commercial and industrial uses, and because the subject property is suitable for the type and scale of development potential as a result of the proposed zone change request.

*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.*

*G.22 Available, accessible and adequate business infrastructure including facilities, utilities, services and transportation networks to facilitate new businesses and relocation of existing businesses to the County.*

*P.22.2 Promote business centers and industrial parks in areas served by sufficient infrastructure with consideration to proximity to population densities.*

- The proposed zoning map amendment is located in an area of the County served by public utilities, an adequate transportation network and is in close proximity to the City of Kalispell and community of Evergreen, both areas of high population density. The map amendment would increase the acreage available for future commercial development and encourage infill.

*G.23 Maintain safe and efficient traffic flow and mobility on county roadways.*

*P.23.1 Manage land use and the transportation system as a unified and coordinated system to ensure that one does not outpace the other.*

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

- Future plans<sup>2</sup> for West Evergreen Drive indicate maintenance and improvements will ensure safe and efficient traffic flow, consider future development – be it residential or commercial – and support land use

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<sup>2</sup> Chapter 7 - Kalispell City-County Master Plan 2010; “Kalispell Area Transportation Plan (adopted 1993)

patterns that protect public safety and encourage modes of transportation other than car travel.

*P.34.3 Promote land use patterns that permit logical, predictable and effective extension and integration of utilities.*

*P.40.2 Promote development in areas with public facilities or appropriate depth to groundwater to preserve water quality and water supply.*

- Public facilities and utilities exist in place to serve the subject property, and can adequately accommodate commercial uses in the future.

**Finding #1** – The proposed zoning map amendment would be made in accordance with the Kalispell City-County Master Plan 2010 because although the Designated Land Use Map classifies the subject property as “Suburban Agricultural” and therefore not supportive of commercial zoning, the text of the plan as well as numerous goals and objectives related to land use, transportation, and public utilities and facilities support the zone change from residential to commercial use, and all three components identified in Chapter 1 of the City-County Master Plan must be weighed equally when evaluating an amendment request.

**Finding #2** – The proposed zoning map amendment would be in accordance with the Flathead County Growth Policy because goals and policies related to commercial land use, transportation, public facilities and services support the requested amendment to B-2 General Business.

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

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

The subject property is located in an area of the County served by the Evergreen Volunteer Fire Department (Evergreen Fire Rescue); the closest fire station is located approximately 1 mile from the subject property at 2236 U.S. Highway 2 East. Although solicited, no comments have been received from the Fire Department to indicate the zone change request would have a negative impact on fire safety or response times. The Kalispell Regional Medical Center is roughly 4 road-miles from the subject property, and the area is served by the Flathead County Sheriff’s Department. Given the property’s proximity to the population center of Evergreen and present availability of fire and medical response services, the proposed zoning map amendment from residential to commercial would not require additional service or impact existing levels of service for the area.

**Finding #3** – The proposed zoning map amendment would secure safety from fire and other because it would increase the intensity of land use in an area served by the Evergreen Volunteer Fire Department and response times in the event of a fire, medical emergency or other incident would be minimal due to the it’s close proximity to fire and medical emergency facilities.

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

As previously stated, the subject property is located in an urbanized area of Flathead County, in close proximity to the population center of Evergreen and with access to a paved, principal arterial road in good condition and maintained by the Montana Department of Transportation (MDT). The church currently accesses West Reserve Drive using a circular driveway with two approaches. Should the zoning map amendment be approved and the use of the property change in the future, the existing driveway approaches would be required to undergo review and approval at the state level to ensure additional traffic generated could be safely accommodated to and from West Reserve Drive.

The property is currently located outside of designated 100 or 500 year floodplain, has no evidence of high groundwater, is managing stormwater drainage through absorption and containment onsite and is served by public water and sewer facilities. As previously discussed, the property would continue to be served by the Evergreen Volunteer Fire Department, Flathead County Sheriff and is relatively close to emergency medical services in the event they are needed. The proposed zoning map amendment would not affect the availability of these services for commercial use.

**Finding #4** - The proposed zoning map amendment would promote public health, safety and general welfare because the property has direct access onto a principal arterial maintained by the MDT, future commercial development that differs from the existing use would require review and approval by the state to ensure the existing approach(es) are suitable for a new use; because there is no evidence of floodplain, groundwater or other environmental constraints onsite, and because public facilities and services are available to serve future commercial uses.

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

The subject property is currently served by the Evergreen Water and Sewer District, and the District would continue to serve future commercial development should the property undergo a change in use. Direct access to the property is from West Reserve Drive, a paved principal arterial maintained by the Montana Department of Transportation, in good condition and able to accommodate increased traffic volumes along the corridor. An increase in traffic associated with any new commercial use on the property would prompt re-review by the state, to ensure the existing access could safely and effectively accommodate the traffic increase.

The change in zoning would have no immediate impact on schools or parks, as the change in designation would not affect land currently set aside for recreation purposes. A map amendment from residential to commercial would theoretically reduce the impact on schools by removing a portion of

land from residential use and (potential) development pressure placed on the school district to accommodate future growth. However, in this instance the property has not been used for residential purposes in years, so changing the zoning to commercial would have no net impact on area schools.

**Finding #5** - The proposed zoning map amendment would facilitate the adequate provision of public facilities and services because the subject property would continue to be served by public water and sewer, has existing access onto a principal arterial able to accommodate increased levels of traffic, would not impact any parkland or areas designated for recreational use, and would have no net impact on existing school facilities.

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

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

Required setbacks, lot coverage and building height restrictions through zoning ensure that adequate light and air is available. The zone change request would reduce the required side and rear yard setbacks on the property by 5 feet, and would also eliminate the minimum lot coverage requirement of 30%. As the property is currently developed, the impacts of these setback and lot coverage reductions would be minimal, and the bulk and dimensional requirements of the B-2 district would limit future commercial uses to similar development patterns and densities as other properties zoned B-2 along the West Reserve corridor.

The previous expansion of the church on the subject property resulted in the building encroaching into the rear yard setback, thus impacting the required provision of adequate light and air under the existing R-2 zoning. The amendment request would enable the church to better comply with zoning by removing a small portion of the rear of the structure to alleviate the setback violation. Property to the east is already zoned “B-2 General Business”, and has the same setback requirements applicable to the subject property should the zoning map amendment request be approved. The western portion of the subject property currently serves as the main parking area for the church, and the existing residence on the adjacent tract of land is located more than 60 feet from the western property boundary of the subject parcel. The existing residence to the south of the church may be the only property moderately affected by the 5 foot reduction, as a result of being constructed within its own rear yard setback of 20 feet. However, as previously discussed the zoning map amendment would enable the church to more easily rectify the existing setback violation, which would in turn lessen the impact of the structure on the adjacent neighbor.

**Finding #6** - The proposed zoning map amendment would support the provision of adequate light and air because the existing building and any future commercial development onsite would be required to adhere to all bulk

and dimensional requirements of the B-2 zoning requested, including removing a portion of the existing structure to comply with required setbacks.

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

The subject property has direct driveway access onto West Reserve Drive via two existing approaches previously reviewed and approved by the Montana Department of Transportation. Comment received by MDT indicates there are no immediate concerns with the proposed zone change request. Should the use on the property change in the future, MDT would require the two approaches undergo review and receive approval for a commercial use different than the existing church.

As a designated state secondary roadway, West Reserve Drive serves as a direct link between Highway 93 and Highway 2, and will become even more integral to the County's transportation system in the future upon completion of the Kalispell by-pass project. In 1993 the average daily traffic count along West Reserve between U.S. Highway 2 and Whitefish Stage was roughly 6,770 vehicle trips; current reports show traffic has nearly doubled, with the average vehicle trips per day numbering 12,640. Agency comment received from the City of Kalispell (specifically comment from October 15, 2010) indicates the updated Transportation Plan (2006) recommends improvements to West Reserve between Whitefish Stage and U.S. Highway 2, to improve traffic flow and encourage safe and effective multi-modal transportation along this important east/west corridor. While Flathead County did not participate in the update of the City's Transportation Plan, these recommended improvements to the West Reserve corridor are similar to the original recommendations found in the 1986 Plan adopted by the County. The County-recognized plan suggests widening West Reserve Drive between U.S. Highway 93 and U.S Highway 2 to four lanes plus a center turn lane, based upon increased vehicle traffic projections into the future. While a zoning map amendment would not require the above-stated improvements be completed, increased commercial development may trigger prioritization of infrastructure upgrades in the future, and projected improvements indicate future infrastructure will be adequate to support additional vehicle traffic and higher intensity uses along the corridor.

**Finding #7** – The proposed zoning map amendment would have minimal impact on motorized and non-motorized transportation systems because the subject property has direct access onto a paved public arterial maintained by the State in good condition and able to adequately serve existing vehicle traffic; and because potential infrastructure improvements could accommodate additional motorized and non-motorized traffic generated by future commercial uses.

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

As previously discussed, the subject property is located on the north end of the Evergreen community with direct access onto a paved public road that is maintained by the state Department of Transportation and serves as a principle arterial for vehicle traffic traveling east to west. The property is served by the public water and sewer district, volunteer fire department and sheriff's office, and is located in a highly populated area of the County in close proximity to a commercial and industrial hub. Over the years, this existing commercial/industrial hub has grown, extending from its original center at the intersection of U.S. Highway 2 to the east and west along the Reserve Drive corridor.

This expansion coincides with additional commercial development that has occurred at the intersection of West Reserve Drive and Whitefish Stage - within the County's jurisdiction - as well as the corner of U.S. Highway 93 and West Reserve Drive which is within the City of Kalispell's jurisdiction. Over the past decade, areas north of the City have experienced significant growth, and MDT's future plans to improve the West Reserve corridor and utilize it as the primary east/west connection upon completion of the by-pass project indicate future growth along this corridor would be more appropriate as commercial, not residential. Additionally, Kalispell's current growth pattern indicates areas north of the city will continue to urbanize, and locating commercial services in areas where adequate infrastructure and public services already exist encourages compatible and economically sound development into the future.

**Finding #8** - The proposed zoning map amendment would encourage compatible urban growth in the vicinity of Kalispell by directing commercial development toward areas of the County that have adequate infrastructure to support such uses and are already experiencing similar growth.

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

As discussed throughout the body of this report, the subject property is located in an area of the County that is experiencing a high level of development pressure as commercial growth extends west from the intersection of U.S. Highway 2 and West Reserve Drive. Existing industrial activities, previous zone change requests for commercial designations, as well as conditional use permit reviews for non-residential activities indicate the area is transitioning from what may once have been predominantly residential to a mixed-use development pattern. Increased traffic volumes and the widening of West Reserve Drive have resulted in properties fronting the principal arterial feeling better suited to commercial instead of residential uses. The requested zoning map amendment would apply to a property that is currently utilized as a church and would likely not revert back to a residential use in the future,

regardless of the zoning in place. The property is served by public facilities and infrastructure well suited for higher-intensity commercial activities found in the B-2 zoning proposed, should the use on the property change in the future.

**Finding #9** – The character of the district in which the property is located is particularly suitable for the proposed zoning map amendment because the area appears to be transitioning away from single-family residential use; many properties have obtained similar zoning map amendments or conditional use permits to operate non-residential uses; and the property is currently served by public facilities and infrastructure that can accommodate higher density uses such as commercial.

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

The subject property is currently developed and utilized for a church, and it is unlikely that use will revert back to residential in the future. Given the location of the property with regard to existing commercial and industrial zoning and uses, the amount of vehicle traffic currently along West Reserve Drive, the scale of the existing structure as well as associated parking onsite, the property appears better suited for continued use as a church or other non-residential activity.

As discussed in Section B(iii)(1) above, the proposed zoning map amendment to “B-2 General Business” would allow the church structure on the subject property to complete minor structural alterations, in order to meet the setback requirements of the district without significantly affecting the site plan or structural integrity of the building. During a previous public hearing regarding the County-initiated master plan map amendment, one neighbor complained that increased commercial development along the corridor would have a negative impact on his residential property value. It should be noted, however, that home-based business activities permitted in residential areas as well as conditional use permits approved in residential zones have had as much of an impact on the character of the corridor as have zoning map amendment requests. Additionally, vehicle traffic has been on the rise over the past ten years, and that influx of cars traveling along West Reserve significantly changes the feel of an area, regardless of what zoning dictates. Should the zone change request be approved, greenbelt requirements between commercial and residential zoning districts would serve as an additional buffer between the distinctive single-family residential neighborhood south of West Reserve, helping conserve the value of existing properties and structures by separating uses as well as reducing impacts from traffic.

**Finding #10** – The proposed zoning map amendment would conserve the value of buildings and property in the area by creating a commercial buffer between existing residential areas and traffic along West Reserve and by

requiring a greenbelt between residential and commercial uses. The zoning map amendment would also conserve the value of the subject property because it could continue to be utilized for something other than residential, which is reasonable based upon the current use and circumstances affecting the property.

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

The subject property is located in relative close proximity to Kalispell, roughly ½ mile “as the crow flies”. Comment from the City of Kalispell Planning Department indicates concern over the requested zone change and its compliance with the underlying land uses designated by the Kalispell City-County Master Plan 2010 and the City of Kalispell Growth Policy. The language which guides the implementation of the City-County Master Plan allows the text, goals and objectives and land use map to be considered equally when interpreting the plan’s intent or evaluating a proposed zoning map amendment. In this case, the proposed zone change is supported through elements of the text as well as specific goals and objectives found within the plan. The Board has approved similar zone change requests in the past along West Reserve Drive, where properties have complied with the Plan’s text, goals and objectives but have not been compliant with the Designated Land Use Map. While the Kalispell Growth Policy designates this area as “Urban Residential”, Flathead County defers to the 2010 Master Plan which was formally adopted by the County’s Growth Policy in 2007. Ultimately, the character of the West Reserve Corridor and existing zoning to the east of the subject property indicate this zone change request would be compatible with the surrounding area, and the City-County Master Plan generally supports the requested change.

**Finding #11** – Although the requested zoning map amendment does not comply with the underlying land use designations identified in either the Kalispell City-County Master Plan 2010 or the City of Kalispell Growth Policy, the amendment would be generally compatible with the zoning ordinances of nearby municipalities because it is supported by two out of three required elements within the 2010 Master Plan, the County has not formally recognized the City of Kalispell Growth Policy at this time, and because the zone change would be similar to existing zoning found east/northeast of the subject property along West Reserve Drive.

**V. SUMMARY OF FINDINGS**

1. The proposed zoning map amendment would be made in accordance with the Kalispell City-County Master Plan 2010 because although the Designated Land Use Map classifies the subject property as “Suburban Agricultural” and therefore not supportive of commercial zoning, the text of the plan as well as numerous goals and objectives related to land use, transportation, and public utilities and facilities support the zone change from residential to commercial use, and all three

components identified in Chapter 1 of the City-County Master Plan must be weighed equally when evaluating an amendment request.

2. The proposed zoning map amendment would be in accordance with the Flathead County Growth Policy because goals and policies related to commercial land use, transportation, public facilities and services support the requested amendment to B-2 General Business.
3. The proposed zoning map amendment would secure safety from fire and other because it would increase the intensity of land use in an area served by the Evergreen Volunteer Fire Department and response times in the event of a fire, medical emergency or other incident would be minimal due to the it's close proximity to fire and medical emergency facilities.
4. The proposed zoning map amendment would promote public health, safety and general welfare because the property has direct access onto a principal arterial maintained by the MDT, future commercial development that differs from the existing use would require review and approval by the state to ensure the existing approach(es) are suitable for a new use; because there is no evidence of floodplain, groundwater or other environmental constraints onsite, and because public facilities and services are available to serve future commercial uses.
5. The proposed zoning map amendment would facilitate the adequate provision of public facilities and services because the subject property would continue to be served by public water and sewer, has existing access onto a principal arterial able to accommodate increased levels of traffic, would not impact any parkland or areas designated for recreational use, and would have no net impact on existing school facilities.
6. The proposed zoning map amendment would support the provision of adequate light and air because the existing building and any future commercial development onsite would be required to adhere to all bulk and dimensional requirements of the B-2 zoning requested, including removing a portion of the existing structure to comply with required setbacks.
7. The proposed zoning map amendment would have minimal impact on motorized and non-motorized transportation systems because the subject property has direct access onto a paved public arterial maintained by the State in good condition and able to adequately serve existing vehicle traffic; and because potential infrastructure improvements could accommodate additional motorized and non-motorized traffic generated by future commercial uses.
8. The proposed zoning map amendment would encourage compatible urban growth in the vicinity of Kalispell by directing commercial development toward areas of the County that have adequate infrastructure to support such uses and are already experiencing similar growth.

9. The character of the district in which the property is located is particularly suitable for the proposed zoning map amendment because the area appears to be transitioning away from single-family residential use; many properties have obtained similar zoning map amendments or conditional use permits to operate non-residential uses; and the property is currently served by public facilities and infrastructure that can accommodate higher density uses such as commercial.
10. The proposed zoning map amendment would conserve the value of buildings and property in the area by creating a commercial buffer between existing residential areas and traffic along West Reserve and by requiring a greenbelt between residential and commercial uses. The zoning map amendment would also conserve the value of the subject property because it could continue to be utilized for something other than residential, which is reasonable based upon the current use and circumstances affecting the property.
11. Although the requested zoning map amendment does not comply with the underlying land use designations identified in either the Kalispell City-County Master Plan 2010 or the City of Kalispell Growth Policy, the amendment would be generally compatible with the zoning ordinances of nearby municipalities because it is supported by two out of three required elements within the 2010 Master Plan, the County has not formally recognized the City of Kalispell Growth Policy at this time, and because the zone change would be similar to existing zoning found east/northeast of the subject property along West Reserve Drive.

## **VI. CONCLUSION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the 11 Findings of Fact cited above.

Planner: AM