

Flathead County Planning & Zoning Office
1035 1st Avenue West
Kalispell, MT 59901
Phone: (406) 751-8200 Fax: (406) 751-8210

PETITION FOR ZONING AMENDMENT
AMENDED

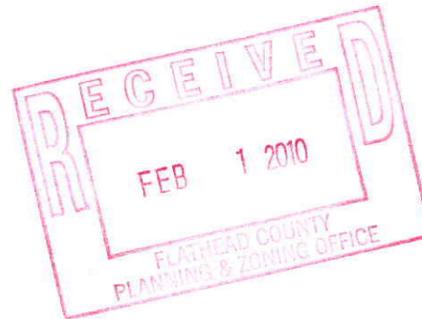
FEE SCHEDULE: \$1062.00

Zone Change:
Base Fee..... \$840
First 80 acres..... \$35/acre
Addition acres above 80..... \$20/acre
Amendment to Zoning Text..... \$500

*Add \$4 per address (see certified list) to cover adjoining landowner mailing costs.

APPLICANTS:

- NAME: A. Rick Clay
 410 Solberg Drive
 Kalispell, MT 59901
- B Richard Cady
 PO Box 2767
 Columbia Falls, MT 59912
- C. MTH, LLC (Russell Swindall)
 65 West Reserve
 Kalispell, MT 59901
- D. Frank Miller
 55 W. Reserve
 Kalispell, MT 59901



4. INTEREST IN PROPERTY: Owners
5. ZONING MAP AMENDMENT: XX ZONING TEXT AMENDMENT: _____

TECHNICAL/PROFESSIONAL PARTICIPANTS:

Name, Address, Phone: Sands Surveying, Inc., 2 Village Loop, Kalispell, MT 59901 755-6481

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment?

CHANGING THE EVERGREEN ZONING FROM AN R-2 DESIGNATION TO A B-2 DESIGNATION.

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

A. Address of the property: A). MTH, LLC

65 W. RESERVE AND 603 SCENIC DRIVE, KALISPELL, MT

Legal Description: **LOTS 1 AND 2 SCENIC TRACTS, S28-T29N, R21W (SCENIC TRACTS , AMENDED LOT 11, BLOCK 1)**

Total acreage: **1.1 acres**

B). **RICK CLAY**

59 W. RESERVE, KALISPELL, MT 59901

Legal Description: **LOT 10, SCENIC TRACTS S28-T29N,R21W**

Total acreage: **1.1 acres**

C) **FRANK MILLER**

55 W. RESERVE, KALISPELL, MT 59901

Legal Description: **LOT 9, SCENIC TRACTS, S28-T29N R21W**

Total acreage: **1.1 acres**

D). **RICHARD CADY**

53 W. RESERVE, KALISPELL, MT 59901

Legal Description: **LOT 8, SCENIC TRACTS S28-T29N,R21W**

Total acreage: **1.1 acres**

TOTAL ACREAGE OF PROPOSAL: 4.4 ACRES

The present zoning of the above properties is the EVERGREEN Zoning District, designated R-2.

E. The proposed zoning of the above property is: **B-2, General Business**

F. State the changed or changing conditions that make the proposed amendment necessary: **With the increased traffic in the area, and the change in character from residential to business in the immediate vicinity of the property, it is no longer suitable for residential use along this secondary highway frontage and a B-2 designation is sought for these five lots. There are existing businesses on four of the lots, one has a home located on it. Two of the businesses have been in operation for some time (Tool Tyme and the Small Engine Repair).**

These businesses have been operating as commercial and paying commercial taxes on the property. However, they are considered by zoning to be non-conforming uses and the use of the property cannot lapse for more than 180 days, there are no expansion provisions for a non-conforming use and they are denied the opportunity should the owner want to

replace an existing building. Most importantly, if the property/business were ever to be put up for sale, operating under the non-conforming status could affect a potential buyers perception of the property and reduce the value significantly. It is owners' intent to match the current use to the proper zoning to retain the value of the property.

The changing conditions in the area are the increased commercial development in the vicinity, recent zone changes from residential to business use on adjacent properties, the increase in the amount of vehicle traffic as well as an overall increase in the amount of business that the existing operations are doing.

These properties no longer fit the definition of an R-2 zone; a district intended to provide for large-tract residential development.

HOW WILL THE PROPOSED CHANGE ACCOMPLISH THE INTENT AND PURPOSE OF:

A. Promoting the Master plan The map (Designated Land Uses 2006) that accompanied the 2007 Flathead County Growth Policy denotes this area as residential. It has been our past experience that the map is just one component to the Growth Policy document and that the text (Goals and Policies) of the Growth Policy are also taken into consideration. Goal 7 in Chapter One of the Growth Policy reads "Consider existing community character in commercial land development", seems to apply best in this situation. As the property is on a busy state secondary highway (W. Reserve), with a train crossing and busy industrial site nearby, as well as existing retail applications on the subject property, consideration of a B-2 zone for this property is consistent with the stated Goal. Policies 7.3, 7.4 and 7.5 could all apply to this application. Chapter 5 of the Growth Policy also lends some support in Goal 21 "A healthy and vibrant Flathead County economy that provides diversity and living wage job opportunities and is comprised of sustainable economic activities and private sector investment". With this go Policies P.21.1, P.21.3 and P.21.6. Goal 22 also might apply reading: "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." With these Goals and Policies in mind, it is our opinion that the zone change application is promoting the 2007 Flathead County Growth Policy.

B. Lessening congestion in the streets and providing safe access There are individual existing accesses onto West Reserve for the subject

properties. At this location, the secondary highway is three lanes.

C. Promoting safety from fire, panic and other dangers **The B-2 zone allows for small lots (7,500 square feet). There are no immediate plans to expand facilities to this location. The limiting factor to businesses at this location will be the availability of approach permits. Currently each business has their own approach, but if the use were to change significantly, they would have to work with MDOT to increase traffic volumes in the area.**

D. Promoting the public interest, health, comfort, convenience, safety and general welfare **By allowing the landowners to marry the actual use of the properties to the zoning, land use planning decisions would be more accurate. The general area in which the zone change is proposed is becoming more commercial/industrial and has changed in character. These properties are in close proximity to other services and transportation corridors. Employees do not have to travel to remote locations to get to work, customers find the convenience of having businesses located along major transportation routes. Commercial enterprise should be encouraged along transportation corridors where the infrastructure allows.**

E. Preventing the overcrowding of land **The existing businesses on 4.4 acres would not create an overcrowding of land. There are still setbacks within the B-2 zone that are similar to those found in residential zones. Due to the siting of some of the existing commercial buildings on the properties it is unlikely that intense commercial expansion could occur immediately on these properties.**

F. Avoiding undue concentration of population **The existing businesses are a tool repair, cabinet making facility, a day care and a small engine repair, all of which do not create a flow of casual shoppers. Minimal amounts of daily customer/consumer traffic would be anticipated, low employee ratios and low to marginal numbers of delivery vehicle trips would be expected.**

G. Facilitating the adequate provision of transportation, water, sewage, schools, parks and other public facilities **This proposal has very little impact on schools and parks as this is a conversion from a residential zone to a commercial zone. The parcels would continue to utilize Evergreen Water and Sewer. These properties front onto an arterial roadway that provides easy access to the cities and services of Kalispell, Columbia Falls and Whitefish.**

H. Giving reasonable consideration to the character of the district **The compelling reason for the zone change request is that the current zone does not match the character of the district. By allowing the zone change, the existing uses will be correctly recognized and not have to operate under the "cloud" of being a non-conforming use. To impose the current zone (R-2), uses are limited to those not in sync with the adjoining properties and the property is significantly devalued.**

I. Giving consideration to the peculiar suitability of the property for particular uses **All of the parcels are level. They all have access to W.Reserve and have adequate sight distances to enter onto the roadway. As the current uses are existing and flourishing, it seems logical that the properties are well suited for their intended uses.**

J. Protecting and conserving the value of buildings **There are the existing commercial enterprises on the properties that are currently being utilized. The zone change will improve the value of the buildings and businesses as the cloud of "non-conforming use" will have been lifted.**

K. Encouraging the most appropriate use of land by assuring orderly growth **Typically, along major transportation routes, there are "nodes" of commercial use, and this is certainly the case here. This general area has seen tremendous increases in traffic and changes in use, and this zone change application reflects the applicant's desire to keep up with the pace of progress.**

The signing of this application signifies approval for FCPZ staff to be present on the property for routine monitoring and inspection during approval process.



Owner Signature Date

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A discussion with the Planning Director or designated member of staff must precede filing of this application. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed zoning application.

C. Application fee per schedule, made payable to the Flathead County Planning & Zoning Office (FCPZ).

D. The application must be accepted as complete by the FCPZ staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

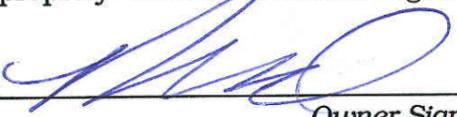
APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application (If submitting a bound copy of the application materials, please also include one **unbound** copy for replication purposes).
2. Petition for zone change signed by at least 50% of the property owners in the area for which the change in zoning classification is sought.
3. A map showing the location and boundaries of the property.
4. A Title Report of the subject property.
5. A **Certified** list of the names and mail addresses of all property owners within 150 feet of the subject property as shown on the Assessor's roll.

DEC 10 2009

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Owner Signature

12-2-09

Date

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Rich Cly _____ 12-8-09
Owner Signature Date

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J. Smith
Owner Signature

8/5/09
Date

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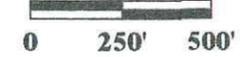
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Vicinity Map for: Cady et al Zone Change

In the SW1/4SW1/4 Section 28, T.29N., R.21W., P.M.,M., Flathead County, Montana

SCALE: 1" = 500'



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