

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
MICHAEL AND SHARON TIKKA
ZONING MAP AMENDMENT REPORT (#FZC-16-05)
JUNE 29, 2016**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Jackola Engineering and Architecture, PC, on behalf of Michael and Sharon Tikka, for a zoning map amendment within the Westside Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from ‘SAG-10 Suburban Agricultural’ to ‘I-1 Light Industrial.’

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on July 13, 2016 at 6:00 P.M. 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. Planning Board

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

B. Commission

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

II. GENERAL INFORMATION

A. Application Personnel

i. Owner

Doris and David Wise
141 4th Ave
Vaughn, MT 59487

ii. Applicants

Michael and Sharon Tikka
294 Stillwater Road
Kalispell, MT 59901

iii. Technical Assistance

Jackola Engineering and Architecture, PC
2250 Highway 93 South
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property is located approximately midway between U.S. Highway 93 and the U.S. Highway 93 Bypass on Cemetery Road near Kalispell, MT (see Figure 1 below). The property is approximately 21.03 acres in size and legally described as:

Parcel D of Certificate of Survey No. 19227, located in the Northwest Quarter of Section 29, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

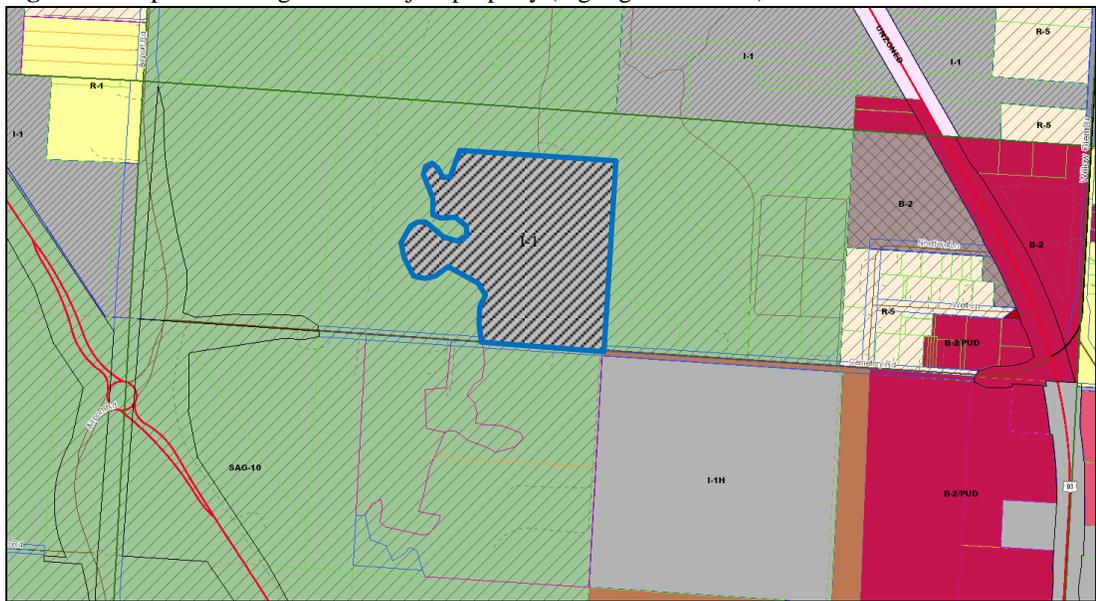
The subject property is located within the Westside Zoning District and is currently zoned 'SAG-10 Suburban Agricultural' (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested the zoning map amendment for the property to zone it 'I-1 Light Industrial.' Per Section 3.07 of the Flathead County Zoning Regulations (FCZR), SAG-10 is 'A district to provide and preserve 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 I-1 designation is defined in Section 3.27 FCZR as, 'A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.'

Figure 2: Current zoning applicable to subject property (highlighted in blue)



Figure 3: Proposed zoning on the subject property (highlighted in blue)

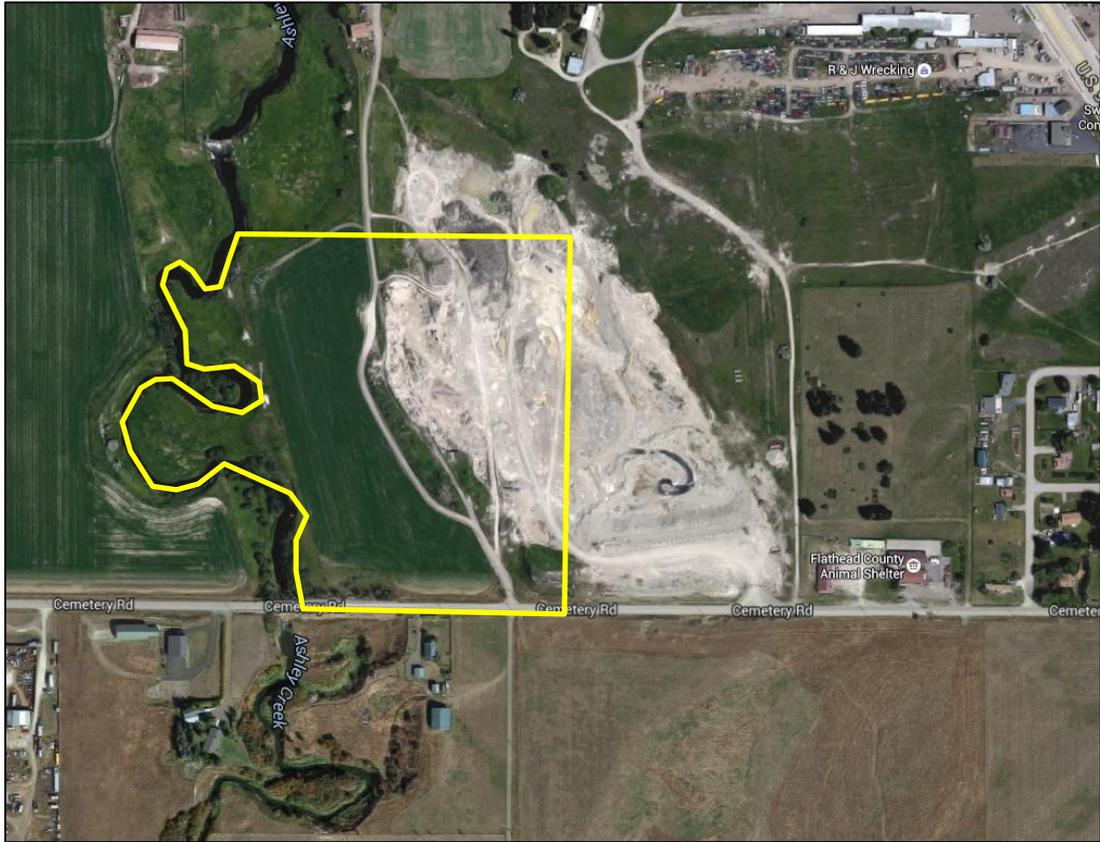


D. General Character of and Reason for Amendment

A portion of the property was formerly a part of a gravel pit. The current owners have begun remediation of the gravel pit with DEQ. The gravel pit extends onto the neighboring properties to the north and east.

The application states, “The applicants would like to relocate their electrical contracting business to the subject property and plan to subdivide the property in the future to create additional lots for similar type of businesses. Although this request is for a zone amendment only, a conceptual plan for the future subdivision is included for reference.”

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



E. Adjacent Zoning and Character of the Overall Zoning District

As previously stated, a portion of the property was formerly a part of a gravel pit. The gravel pit extends onto the neighboring properties to the north and east. Also in the vicinity of the subject property is agricultural, industrial and residential. The property is adjacent to SAG-10, I-1H and I-1 zoning. In the vicinity of the property is County B-2 and R-5 zoning and Kalispell RA-1/PUD, I-1 and B-2/PUD zoning.

The property is located in the Westside Zoning District which is split up by the City of Kalispell. The character of the portion of the district split from the rest of the zoning district is suburban agricultural, industrial and residential with commercial located along Highway 93.

F. Public Services and Facilities

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

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning 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 June 22, 2016. Legal notice of the Planning Board public hearing on this application was published in the June 26, 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 May 10, 2016:

- Bonneville Power Administration
- City of Kalispell Planning Department
- South Kalispell Fire District
- Flathead City-County Health Department
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department

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. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for July 13,

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:

- Bonneville Power Administration
 - Comment: “BPA does not have any objections to the approval of this request at this time.” Email dated May 17, 2016.
- Flathead County Solid Waste District
 - Comment: “The District requests that all solid waste generated at the proposed location be hauled by a private hauler. Evergreen is the licensed (PSC) Public Service Commission private hauler in this area.” Letter dated May 12, 2016.
- Flathead Environmental Health Department
 - Comment: “Further division of the property requires review under the Sanitation in Subdivisions Act (Title 76, Chapter 4, Part 1). This review includes potable water, wastewater, storm water drainage, and solid waste disposal. This parcel is located within the Kalispell Control District. Development must be in accordance with the Flathead County Air Pollution Control Regulations.” Letter dated May 21, 2016.
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated May 10, 2016.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis 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. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

The proposed zoning map amendment would change the zoning designation on the subject property from ‘SAG-10 Suburban Agricultural.’ SAG-10 is defined in Section 3.07.010 FCZR as, ‘A *district to provide and preserve 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-10 zone:

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

The following uses are listed as conditional uses in an SAG-10 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. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Contractor’s storage yard.**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Golf course.*
16. *Golf driving range.*
17. *Kennel, commercial (See Chapter IV – Conditional Use Standards).**

18. *Manufactured home park.*
19. *Recreational facility, low-impact.*
20. *School, primary and secondary.*
21. *Temporary building or structure.**
22. *Water and sewage treatment plant.*
23. *Water storage facility.*

The bulk and dimensional standards under SAG-10 zoning has a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. 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 permitted lot coverage is 20% and a maximum height of 35 feet. And in SAG-10 no parcel or lot shall have an average depth greater than three times its average width unless the average lot width is more than 300 feet.

The SAG-10 zoning requires a minimum lot area of 10 acres. The subject property totals 21.02 acres therefore, approximately 1 additional lot could be created under the existing zoning.

ii. Proposed Zoning

As previously stated, the applicant is proposing ‘*I-1 Light Industrial*’ zoning. I-1 is defined in Section 3.27.010 FCZR as, ‘*A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.*’ The following is a list of permitted uses in an I-1 zone:

1. *Accessory apartments.*
2. *Animal related services such as pet grooming and training, veterinary clinic and animal hospital, taxidermy, aviary and farrier services.*
3. *Art foundry.*
4. *Auction yard, without livestock.*
5. *Automobile, RV, watercraft (new and used) and accessory sales.*
6. *Automobile service station.*
7. *Boat sales, new and used.*
8. *Bus station.*
9. *Car wash.*
10. *Cellular tower.*
11. *Church and other place of worship.*
12. *Contractors’ storage yard and building supply outlet.*
13. *Day care center.*
14. *Direct mailing and telemarketing.*
15. *Farm equipment sales.*
16. *Feed, seed and farm supply, including grain elevators.*
17. *Financial institution.*

18. *Food store, supermarket, and delicatessen.*
19. *Health club.*
20. *Heating, ventilation, air conditioning and plumbing sales, service and repair.*
21. *Heavy equipment sales, rental and service.*
22. *High tech industrial business.*
23. *Hotel, motel.*
24. *Janitorial service.*
25. *Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:*
 - A. *Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.*
 - B. *Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment and boat building.*
 - C. *Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.*
 - D. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.*
 - E. *Storage and warehousing such as mini-storage, boat and vehicle storage.*
26. *Lodge and fraternal and social organization, provided that any such establishment shall not be conducted primarily for gain.*
27. *Lumber yard, building materials; storage and sales.*
28. *Manufactured home sales and storage.*
29. *Nursery and landscape materials, wholesale and retail.*
30. *Office.*
31. *Parcel delivery service.*
32. *Park and publicly owned recreational facilities.*
33. *Public transportation shelter station.*
34. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*
35. *Quasi-public building (fire station, government offices, etc.)*
36. *Radio and television broadcast station.*
37. *Recreational facility, high-impact.*
38. *Recreational facility, low-impact.*
39. *Recreational vehicle park.*
40. *Recycling drop-off station.*
41. *Rental store and yard.*
42. *Research laboratory and institution.*

43. *Retail sales and services.*
44. *Restaurant.*
45. *Security guard service.*
46. *Theater, housed in permanent indoor structures.*
47. *Tire recapping and retreading.*
48. *Truck terminal.*
49. *Wholesale trade and warehousing.*

The following uses are listed as conditional uses in an 'I-1' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Auction yard, livestock.*
2. *Automobile wrecking yard, junkyard, salvage yard.*
3. *College, business school, trade school, music conservatory, dance school.*
4. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.**
5. *Commercial recreation area.*
6. *Communication tower/mast.*
7. *Convention hall facility.*
8. *Electrical distribution system.*
9. *Golf driving range and putting course.*
10. *Landfill, sanitary for disposal of garbage and trash.*
11. *Mini-storage, RV storage.*
12. *Mortuary.*
13. *Radio and television broadcast station.*
14. *Recycling processing plant.*
15. *Small wood product processing with five (5) or less employees.*
16. *Tavern.*
17. *Temporary building or structure.**
18. *Water storage facility.*

The bulk and dimensional standards under I-1 zoning requires a setback from the boundary line of 20 feet for the front, rear and side-corner and 10 feet for the side for any structure. 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 I-1 zone has no permitted lot coverage, a maximum height of 40 feet and a minimum lot width of 75 feet.

The I-1 zoning requires a minimum lot area of 7,500 square feet. The subject property totals 21.02 acres and in typical subdivisions 30% of the lot is dedicated to infrastructure, leaving approximately 70% for lots. Therefore, approximately 122 lots could be created under the proposed zoning.

In summary, the requested zone change from SAG-10 to I-1 has the potential to increase density through subsequent division in the future. The bulk and dimensional requirements vary from SAG-10 to I-1 and the amendment would introduce uses to the subject.

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 Kalispell City-County Master Plan 2010, adopted on February 6, 1986 by the Flathead County Commissioners (Resolution #578A) and the City of Kalispell on April 7, 1986 (Resolution #3641).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed ‘I-1 Light Industrial’ zoning classification would appear to contrast with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ❖ *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.5 – Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.*
 - The applicant is proposing an industrial zone on Cemetery Road just outside of the City of Kalispell, adjacent to existing industrial zoning.

- **P.5.1** – Match requirements of industrial land uses (such as human resources, adequate water supply, suitable road networks) and areas of Flathead County where those requirements can best be met.
- **P.5.2** – Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent land uses.
 - The applicant is proposing an industrial zone adjacent to an existing industrial area and just outside the city limits of Kalispell. The property is located on Cemetery Road between Highway 93 and the Highway 93 Bypass.
- **P.5.5** – Restrict industrial uses that cannot be mitigated near incompatible uses such as residential, schools, environmentally sensitive areas such as wetlands, floodplains, riparian areas, areas of shallow groundwater, etc.
 - The applicant is proposing an industrial zone adjacent to industrial uses and agricultural. The property is not located within in an environmentally sensitive area and not located next to a school.
- ❖ **G.21** – A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector investment.
 - **P.21.1** – Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.
 - The proposed industrial zoning has the potential to allow for the expansion of an existing locally owned industrial use which has the potential to create living-wage jobs.
 - **P.22.2** – Promote business centers and industrial parks in areas served by sufficient infrastructure with consideration to proximity to population densities.
 - The proposed industrial zoning is located outside of the city limits of Kalispell and is adjacent to existing Industrial zoning.
- ❖ **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 discussion on the adequacy of emergency service 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.
 - This report contains discussion on the Kalispell City-County Master Plan.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text

appear to generally support the request, the Designated Land Use Map is not a future land use map and the ‘Suburban Agricultural’ designations identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.

2. Kalispell City-County Master Plan

The Kalispell City-County Master Plan Map (Master Plan) serves as a localized planning tool for the area surrounding the City of Kalispell. The Master 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 Master Plan is composed of three major components, the text, the map and the goals and objectives. According to the Master Plan, *“Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan.”* This report contains discussion on compliance with all three components of the Master Plan.

The Kalispell City-County Master Plan Year 2010 currently designates the land use of the subject property as ‘*Light Industrial*’ and ‘*Park/Open Space*,’ with the majority designated as ‘*Light Industrial*.’ Chapter 5 Land Uses of the Master Plan defines ‘*Light Industrial*’ as, *“A district which includes manufacturing, fabricating, processing, storage, and transportation uses that do not create nuisances such as noise, dust, heat, odor, smoke, vibrations, etc. Districts should have immediate access to air, rail, and arterial or collector streets. Community water and sewer accessibility is important. Districts should not be located adjacent to residential or light intensity commercial districts. If so located, adequate buffering and setbacks must be incorporated. Direct ingress-egress into residential neighborhoods must be avoided.”*

‘*Park/Open Space*’ is defined as *“Areas devoted principally to public recreation and leisure activities. This district may also include environmentally sensitive or critical areas such as floodways, floodplains or steep, erosion-prone hillsides otherwise unsuitable for development which are better left undistributed in their natural state.”*

The following goals and objectives of the Master Plan appear applicable to the proposed Master Plan map amendment, and generally indicate consistency with the proposal:

- 3. Environment** – *Air, water, open space and scenic vistas unhindered by pollution, blight or other factors.*
 - a.** *Establish strict standards for all development which occurs in environmentally sensitive or critical areas such as floodplains, lakeshores, drainage ways or excessive slope areas.*
 - b.** *Where appropriate, preserve areas within the 100 year floodplain in a natural state as parkland, wildlife habitat, open space or agriculture.*
 - The subject property is located within the 100-year floodplain, and a portion of the property is located within the ‘*Park/Open Space*’ designation.

5. Economy

- g. *Promote the location of business and clean light industrial so as to provide job opportunities and maintain Kalispell’s position as a retail shopping center for northwest Montana.*
 - o The proposed amendment would promote clean light industrial because it would allow for additional acreage zoned I-1 and the definition of the I-1 zone states, “A district to provide areas of light industrial uses and services that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein” [Section 3.27 FCZR].
- 6. **Land Use** – *The orderly development of the planning jurisdiction with ample space for future growth while, at the same time, ensuring compatibility of adjacent land uses.*
 - o The subject property is located near I-1 and I-1H zoning.
- e. *Establish additional areas for light industrial expansion within or directly adjacent to the city. Target clean light industrial uses around the airport away from height restricted areas to serve as a buffer for adjacent land uses and to take advantage of airport transportation services.*
 - o The proposed map amendment would establish additional areas for light industrial near annexed areas of the city.
- 8. **Public Facilities** – *An economical, balanced distribution of public facilities and services throughout the planning jurisdiction for present and anticipated future residents.*
 - a. *Designate areas of future development which are already serviced or area in areas which can be economically serviced by water and sewer, police and fire protection, etc.*
 - o This report contains discussion on the adequacy of emergency service and public facilities below.

Finding #2: The proposed zoning map amendment appears to comply with the text and map of the Kalispell City-County Master Plan because the majority of the property is designated as ‘*Light Industrial.*’

Finding #3: The proposed zoning map amendment appears to comply with the goals and objectives of the Kalispell City-County Master Plan because the property is located near other industrial zoning and it would establish additional areas for light industrial near annexed areas of the city.

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

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

The subject property is located within the South Kalispell Fire District and the nearest fire and emergency response center is located approximately 0.9 road miles northeast of the property on Willow Glen Drive. The South Kalispell Fire Department would respond in the event of a fire or medical emergency. The subject property is not located within the Wildland Urban Interface WUI

or within a fire district priority area and the South Kalispell Fire Department did not provide comments on this proposal.

The application states, “Development plans provide for sufficient access for emergency vehicles and would be required to comply with any requirements of the South Kalispell Fire District at the time of development.”

The subject property is located on Ashley Creek and according to FEMA FIRM Panel 30029C 1820J, a portion of the property is located within a Zone AE, a Special Flood Hazard Area with a base flood elevation and regulatory floodway. The majority of the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard. Future subdivision of the property would likely require no build zones in the portion of the property designated as floodplain and floodway, additionally any development within the floodplain and floodway would likely require a floodplain development permit.

The subject property is located on Cemetery Road a two lane county collector within a 60 foot easement. The road appears adequate to provide ingress and egress for emergency services.

Finding #4: The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI, is located less than one road mile from the nearest fire station, is located on a county collector and future development in the floodplain would require a floodplain development permit, or a no build zone could be required during subdivision review.

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

As previously stated, the subject property is located within the South Kalispell Fire District and the nearest fire and emergency response center is located approximately 0.9 road miles to the northeast. The South Kalispell Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Department provides police services to the subject property. Cemetery Road appears adequate to provide ingress and egress for emergency services which would help to ensure adequate public health and safety.

I-1 is defined as a district to provide areas for light industrial uses and service uses the typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors some etc.), as such the proposal is not anticipated to adversely impact public health, safety or general welfare.

The subject property was historically used as an open cut gravel pit, and is currently being reclaimed through DEQ. This process will allow for the future use of the land as industrial once the land is reclaimed, which would reduce concerns with public health, public safety, and general welfare.

Finding #5: The proposed zoning map amendment would likely not have a negative impact on public health, safety and general welfare because the property is served by the South Kalispell Fire Department, Flathead County

Sheriff, future development would comply with the allowed uses in an I-1 zone which do not produce objectionable by-products per the definition and the property is a gravel pit currently being reclaimed through DEQ.

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

Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential. The property is approximately 21.02 acres in size and the minimum lot size for the current SAG-10 zone is 10 acres. Therefore, approximately 2 single family homes could be constructed on the subject, which would generate 20 average daily trips.

According to the ITE Trip Generation Manual 5th Edition “General Light Industrial” generates approximately 51.80 average daily trips per acre for a weekday. The subject property is approximately 21.02 acres therefore the property has the potential to generate 1,089 average daily trips. The average daily trips for light industrial would be much greater than if the property was developed with residential under the current zoning. If the applicant develops a subdivision on the property that would increase traffic by more than 400 average daily trips and a traffic impact analysis would be required.

Primary access to the property is currently off Cemetery Road. Cemetery Road is a two-lane paved county collector road within 60 foot easement. Cemetery Road connects Highway 93 with the Highway 93 Bypass. Traffic counts for Cemetery Road indicate 1,746 average daily trips east of Airport Road and 1,931 daily trips west of Highway 93. The proposed zoning has the potential to increase traffic by 62.4%. The Flathead County Road Department comment indicates no concerns regarding this proposal.

Comments from Environmental Health states, “Further division of the property requires review under the Sanitation in Subdivisions Act (Title 76, Chapter 4, Part 1). This review includes potable water, wastewater, storm water drainage, and solid waste disposal. This parcel is located within the Kalispell Control District. Development must be in accordance with the Flathead County Air Pollution Control Regulations.” Further division of land will require review under the Sanitation and Subdivision Act through the Flathead City-County Health Department and the Montana Department of Environmental Quality.

The application states, “Well logs in the vicinity of the subject property indicate that adequate water supply is available for individual wells, multi-user wells, or public wells to serve the future subdivision lots, whichever is determined to be needed.”

While the subject property is located within the Flathead High School District and Elrod Elementary School District, it is noted the proposed industrial use would not generate any school children. The zoning map amendment would not impact the existing park system because minimal demand on existing parks would be created.

Finding #6: The proposed amendment would facilitate the adequate provision of transportation because the County Road and Bridge Department comments indicates no concerns with this proposal and the traffic generated by the proposed zoning would likely require a traffic impact analysis during subdivision review.

Finding #7: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality and there would be minimal impact on schools and parks as a result of this proposal as residential would likely not be generated.

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

1. The reasonable provision of adequate light and air;

The application states, “The I-1 zone has building height restrictions, minimum building setbacks and maximum fence height requirements that will provide for adequate light and air.”

The minimum lot area for the proposed I-1 zone is 7,500 square feet and the minimum lot area for the existing SAG-10 zone is 10 acres. The density allowed within the I-1 zone is greater than the density allowed within the current SAG-10 zone. The maximum building height within the proposed I-1 zone is 40 feet and the maximum height for the existing SAG-10 zone is 35 feet. The permitted lot coverage is 20% for the SAG-10 zone and permitted lot coverage is not applicable in the I-1 zone. More of the acreage could be covered by structure under the proposed I-1 zone because there is no applicable lot coverage in the I-1 zone.

The SAG-10 zone requires a setback from the boundary line of 20 feet for the front, rear, side-corner and side for the principal structure. A separate minimum setback is required for accessory structures of 20 feet from the front and side corner and 5 feet from the rear and side property line. 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 bulk and dimensional requirements in the I-1 zone require a setback from the boundary line of 20 feet for the front, rear and side-corner and 10 feet from the side for the structure. There is not a separate setback requirement for accessory structures as is the case in the existing zone. 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 bulk and dimensional requirements for the I-1 designation have been established to provide for a reasonable provision of light and air.

Finding #8: The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development

would be required to meet the bulk and dimensional requirements within the proposed I-1 designation.

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

Using standard trip generation, residential uses typically generate t 10 vehicle trips per dwelling for single family. The property is approximately 21.02 acres in size and the minimum lot size for the current SAG-10 zone is 10 acres. Therefore, approximately 2 single family homes could be constructed on the subject, which would generate 20 average daily trips. According to the ITE Trip Generation Manual 5th Edition “General Light Industrial” generates approximately 51.80 average daily trips per acre for a weekday. The subject property is approximately 21.02 acres therefore the property has the potential to generate 1,089 average daily trips. The average daily trips for light industrial would be greater than if the property was developed with residential under the Suburban Agricultural zone. If the applicant develops a subdivision on the property that would increase traffic by more than 400 average daily trips, a traffic impact analysis would be required.

Primary access to the property is currently off Cemetery Road. Cemetery Road is a two-lane paved county collector road within 60 foot easement. Cemetery Road connects Highway 93 with the Highway 93 Bypass. Traffic counts for Cemetery Road indicate 1,746 average daily trips east of Airport Road and 1,931 daily trips west of Highway 93. The proposed zoning has the potential to increase traffic 62.4%. The Flathead County Road Department comments indicate no concerns regarding this proposal.

Additional comment from the applicant states, “There is a bike path that begins at the west end of Cemetery Road which follows the Highway 93 Bypass route north and south.”

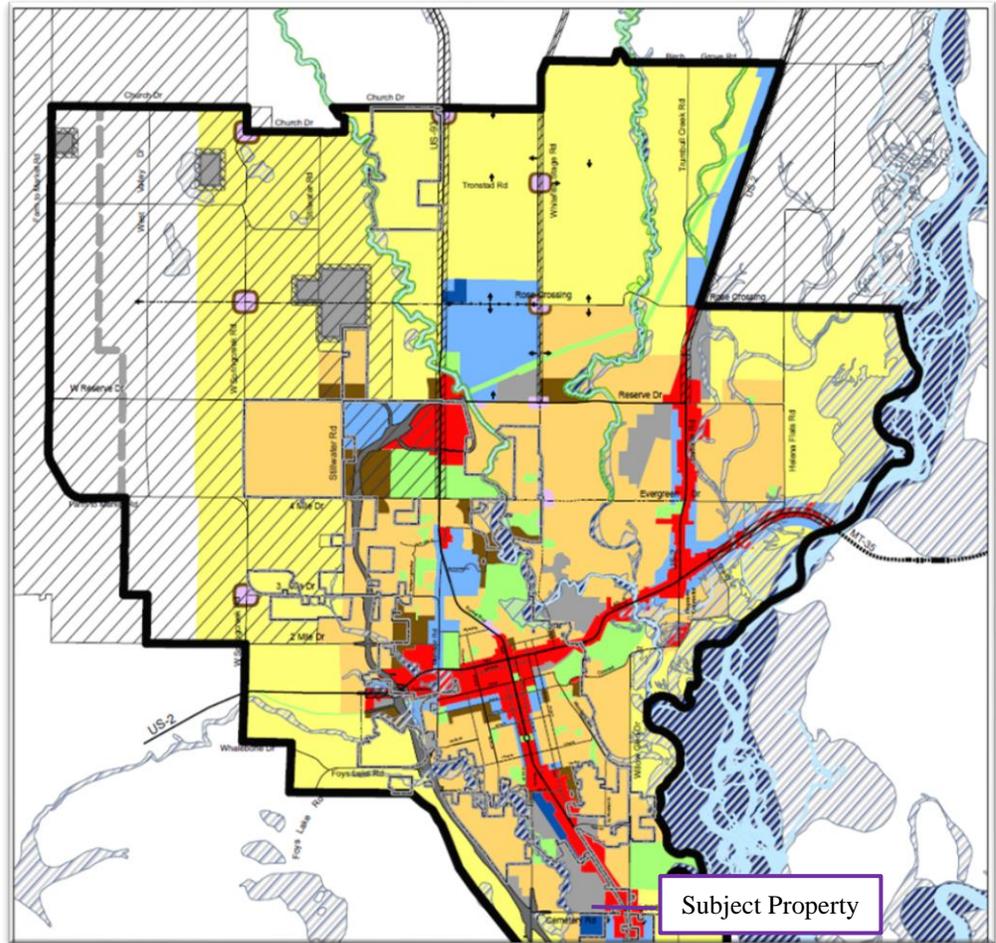
The Flathead County Trails Plan identifies Cemetery Road as a proposed connector bike/pedestrian trail. If the applicant develops the property through subdivision a pedestrian easement would be required to accommodate a future bike/pedestrian trail.

Finding #9: Effects on motorized and non-motorized transportation systems will be minimal because the County Road and Bridge Department had no concerns with this proposal, the traffic generated by the proposed zoning would likely require a traffic impact analysis during subdivision review and there appears to be adequate space for a future bike/pedestrian easement along Cemetery Road.

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

Kalispell is the nearest municipality to the subject property and is located approximately a quarter of a mile east of the property. The property is located within the boundary of the Kalispell Growth Policy. An agency referral was sent to the Kalispell planning department on May 10, 2016 but staff has not received any comments from the City at the date of this report.

Figure 6: City of Kalispell Growth Policy Future Land Use Map



The subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated the property as *'Industrial.'* The proposed *'I-1 light Industrial'* zoning would generally comply with the designation of *'Industrial.'*

The application states, “The proposal is compatible with the urban growth in the area. The south Kalispell corridor along Highway 93 is developed with well established businesses which include light industrial.”

Finding #10: The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and appears compatible with urban growth in the vicinity of Kalispell because the Kalispell Growth Policy designates the land as *'Industrial.'*

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

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy,

Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. The zoning allows a use that differs significantly from the prevailing use in the area.

The intent of the currently existing ‘SAG-10 Suburban Agricultural’ zone is to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses. The proposed ‘I-1 Light Industrial’ zone is intended for light industrial uses and services that typically do not create objectionable by-products which extend beyond the lot lines. In the vicinity of the subject property is County I-1H, I-1, B-2 and R-5 zoning and Kalispell RA-1/PUD, B-2/PUD and I-1 zoning.

The application states, “The surrounding uses are agricultural and residential to the north, agricultural and residential to the south, industrial to the east, and agricultural to the west. With existing industrial uses to the east and the past use of the property being industrial, the proposed use would be suitable.”

The existing SAG-10 to the north, south and west could continue to provide a buffer from urban and unlimited agricultural uses and the proposal has the potential to expand an existing industrial area. Allowing the zoning of the subject property to change to I-1 would allow uses on the property that do not differ significantly from the mix of prevailing uses in the area.

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 owned by one landowner. Using standard ArcGIS software the subject property is located within an approximately 1,043 acre SAG-10 district of which approximately 21.02 acres (2.0%) of the SAG-10 district is being proposed for a zoning map amendment.

Southeast of the property is an I-1H district of approximately 39.7 acres, and to the northeast an I-1 district of approximately 40.8 acres. The zoning map amendment would benefit one land owner; however the new I-1 zoning district would be comparable in size to the existing I-1 and I-1H district that borders the subject property and add to the neighboring I-1 zone.

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 requested map amendment to I-1 would primarily alter the minimum lot size permissible and uses. In the event the subject properties were subsequently developed to the greatest build-out possible the 7,500 square

feet minimum lot size would result in a much higher density development than currently established in the area and on adjacent properties.

The property is owned by single land owner and is 21.02 acres in size. However, the Kalispell City-County Master Plan designated the subject property as *'Light Industrial'* and *'Park/Open Space.'* Properties to the northeast and to the southeast are zoned I-1 and I-1H respectively. There is also additional I-1 and I-2 zoning to the north of the subject property. The property directly to the east is a gravel pit, which the property has been historically used for.

The zoning map amendment would benefit one landowner but, not at the expense of the surrounding landowners and general public because the proposal is legislation to comply with the existing Master Plan for the area.

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 all three of the criteria.

Finding #11: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within the I-1 and I-1H zoning to the northeast and southeast, the size of the I-1 zoning district would be comparable to the size to the neighboring I-1 and I-1H districts and the proposal is compliant with the land use designation of the Kalispell City-County Master Plan map.

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

The subject property is located within the Westside Zoning District and surrounded by industrial and agricultural zones (see Figure 2). The application states, "Approval of this zoning amendment would conserve the value of buildings in the area and the proposed use would provide the best use for the land that was at one time a gravel pit. Reclaiming the gravel pit and the future development could actually improve building values."

Neighboring properties to the northeast and southeast are similarly zone I-1 and I-1H. The uses allowed within the proposed zoning would be similar to the uses allowed with the neighboring industrial areas. As the applicant stated, the property is part of a reclaimed gravel pit and the property directly to the east is still an operational gravel pit. Industrial uses would seem to be the most appropriate use of the land adjacent to a gravel pit and other industrial zoned lands.

Finding #12: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the I-1 designation allows for similar uses to the existing

uses on the I-1 and I-1H zoned properties nearby, the property is a reclaimed gravel pit and adjacent to an active gravel pit.

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 not directly adjacent to any city but is located with a quarter mile of the City of Kalispell. As previously stated, the subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated the property as *Industrial.*

The nearest City of Kalispell zoning is B-2 and B-2/PUD, and to the north is City I-1 zoning adjacent to the Kalispell Airport which is less than a half mile away from the subject property. The Kalispell *'I-1 Light Industrial'* zone is defined as, *'An industrial district intended to provide areas for light industrial, research and technology. The uses would typically not create objectionable characteristics (such as dirt, noise, glare, heat, odor, smoke, etc.), which extend beyond the lot lines. This zoning district would typically be restricted to areas designated as industrial on the Kalispell Growth Policy Future Land Use Map.'* The definition of the proposed I-1 zone is similar to the definition of the City I-1.

Finding #13: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone has a similar definition to the City's I-1 and is compatible with the City's nearby I-1 zoning.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map and the 'Suburban Agricultural' designations identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.
- 2) The proposed zoning map amendment appears to comply with the text and map of the Kalispell City-County Master Plan because the majority of the property is designated as *'Light Industrial.'*
- 3) The proposed zoning map amendment appears to comply with the goals and objectives of the Kalispell City-County Master Plan because the property is located near other industrial zoning and it would establish additional areas for light industrial near annexed areas of the city.
- 4) The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI, is located less than one road mile from the nearest fire station, is located on a county collector and future development in the floodplain would require a floodplain development permit, or a no build zone could be required during subdivision review.
- 5) The proposed zoning map amendment would likely not have a negative impact on public health, safety and general welfare because the property is served by the South

Kalispell Fire Department, Flathead County Sheriff, future development would comply with the allowed uses in an I-1 zone which do not produce objectionable by-products per the definition and the property is a gravel pit currently being reclaimed through DEQ.

- 6) The proposed amendment would facilitate the adequate provision of transportation because the County Road and Bridge Department comments indicates no concerns with this proposal and the traffic generated by the proposed zoning would likely require a traffic impact analysis during subdivision review.
- 7) The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality and there would be minimal impact on schools and parks as a result of this proposal as residential would likely not be generated.
- 8) The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements within the proposed I-1 designation.
- 9) Effects on motorized and non-motorized transportation systems will be minimal because the County Road and Bridge Department had no concerns with this proposal, the traffic generated by the proposed zoning would likely require a traffic impact analysis during subdivision review and there appears to be adequate space for a future bike/pedestrian easement along Cemetery Road.
- 10) The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and appears compatible with urban growth in the vicinity of Kalispell because the Kalispell Growth Policy designates the land as ‘*Industrial*.’
- 11) The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within the I-1 and I-1H zoning to the northeast and southeast, the size of the I-1 zoning district would be comparable to the size to the neighboring I-1 and I-1H districts and the proposal is compliant with the land use designation of the Kalispell City-County Master Plan map.
- 12) This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the I-1 designation allows for similar uses to the existing uses on the I-1 and I-1H zoned properties nearby, the property is a reclaimed gravel pit and adjacent to an active gravel pit.
- 13) The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone has a similar definition to the City’s I-1 and is compatible with the City’s nearby I-1 zoning.

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 most of 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