

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**FLATHEAD COUNTY GROWTH POLICY**  
**MASTER PLAN MAP AMENDMENT REPORT (#FPMA-15-02)**  
**JUNE 24, 2015**

A report to the Flathead County Planning Board and Board of Commissioners regarding a text and map amendment to the Flathead County Growth Policy for an area around the City of Whitefish and formerly within the Extraterritorial Area (ETA) of the Interlocal Agreement between Flathead County and the City of Whitefish.

The Flathead County Planning Board will conduct a public hearing on the proposed amendment to the Flathead County Growth Policy on July 8, 2015 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 Board of Commissioners for their consideration. A copy of the current Flathead County Growth Policy as well as the proposed amendment(s) are available for public inspection in the Flathead County Planning and Zoning Office, Earl Bennett Building, 1035 First Avenue West, in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Planning Board**

This space will contain an update regarding the July 8, 2015 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**

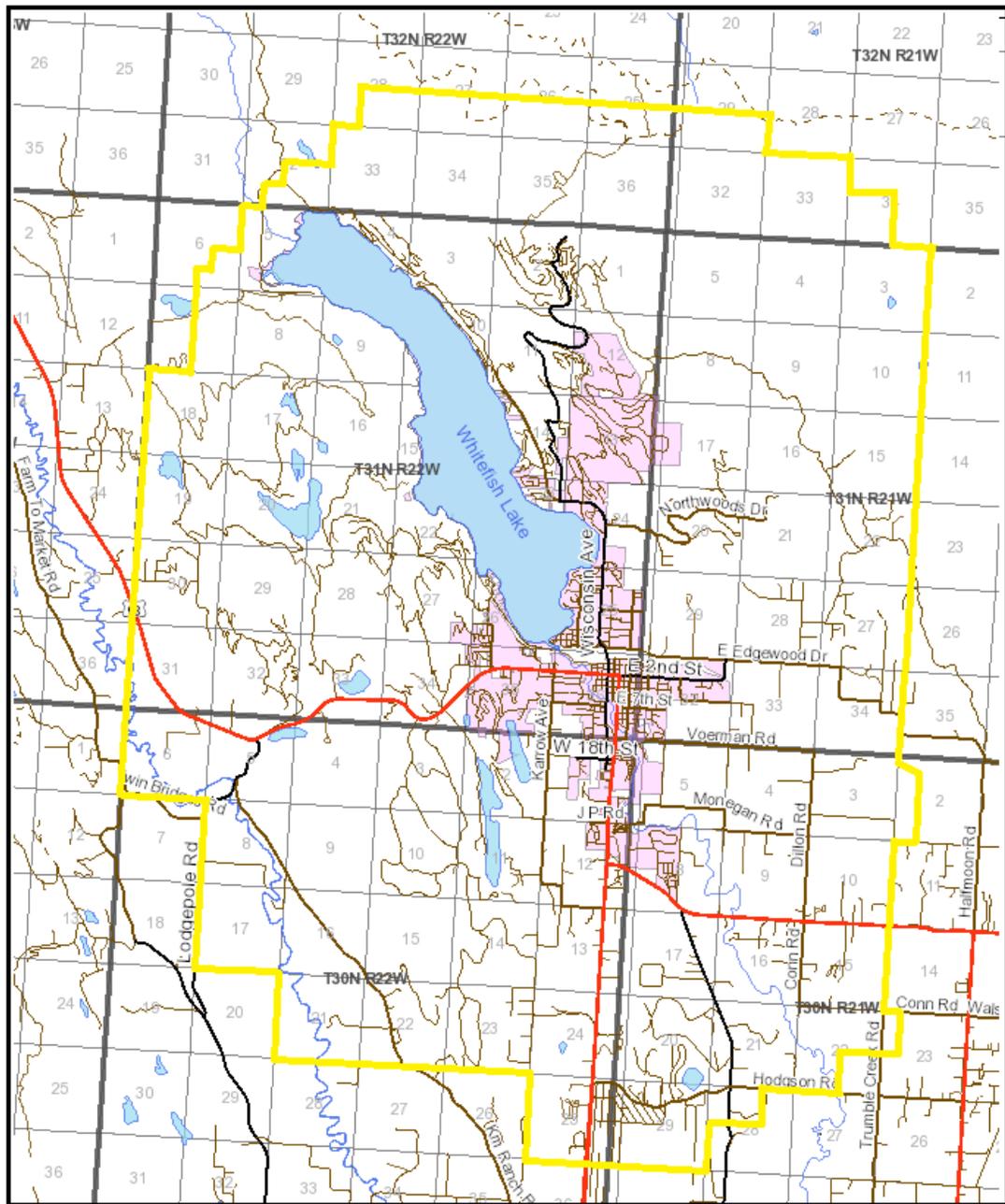
**A. Applicant/Petitioner**

Flathead County Planning Board

**B. Subject Property Location and Legal Description (if a map amendment)**

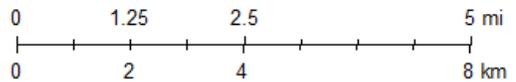
The proposed map amendment to the Growth Policy would be for properties located within Sections 33, 34, 35, 36, the South ½ of Sections 25, 26 and 27 and a portion of Sections 28 and 32 of Township 32 North, Range 22 West, P.M.M. in Flathead County, Montana, Sections 31, 32 and 33, the South ½ of Sections 29 and 30 and a portion of Section 34 of Township 32 North, Range 21 West, P.M.M. in Flathead County, Montana, Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, the East ½ of Section 7 and a portion of Section 6 of Township 31 North, Range 22 West, P.M.M. in Flathead County, Montana, Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34 of Township 31 North, Range 21 West, P.M.M. in Flathead County, Montana, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24 and 25 and the North ½ of Sections 22 and 23 of Township 30 North, Range 22 West, P.M.M. in Flathead County, Montana and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21 and 30 and a portion of Sections 2, 22, 23, 28 and 29 of Township 30 North, Range 21 West, P.M.M. in Flathead County, Montana, outside of the City of Whitefish's city limits (See Figure 1 below).

Figure 1: Area highlighted in yellow



June 9, 2015

1:104,962



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Flathead County GIS  
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Kalispell, MT 59901  
(406) 758-5540

## **C. Proposed Plan Amendment**

### **i. Proposed Map Amendment**

The reason for the proposed map and text amendment is based on the July 15, 2014 Montana Supreme Court decision on Phillips v City of Whitefish, 2014 MT 186 which affirmed the prior District Court determination that the Interlocal Agreement between Flathead County and the City of Whitefish (2010IA) has been terminated according to the express terms which provide for withdrawal by either party and that therefore there is no valid Interlocal Agreement between the parties. This Supreme Court decision returned control of the Interlocal Agreement to Flathead County. As a result the, Planning Board, after holding several public workshops has decided to rescind the Whitefish City–County Master Plan and zone the former area with the Growth Policy as the basis.

The Flathead County Planning Board has initiated a map and text amendment to the Flathead County Growth Policy for an area around the City of Whitefish and formerly within the Extraterritorial Area (ETA) of the Interlocal Agreement. The proposed map amendment would change the Designated Land Use Map from the Whitefish City-County Master Plan Map designations to ‘Scenic Corridor,’ ‘Resort Residential and Commercial Land Use,’ ‘Commercial Land Use,’ ‘Special Commercial Land Use,’ ‘Industrial Land Use,’ ‘Residential Lane Use,’ ‘Suburban Agricultural Land Use,’ and ‘Agricultural Land Use’ (see Figures 2 and 3 below).

**Figure 2: Existing Land Use Map**

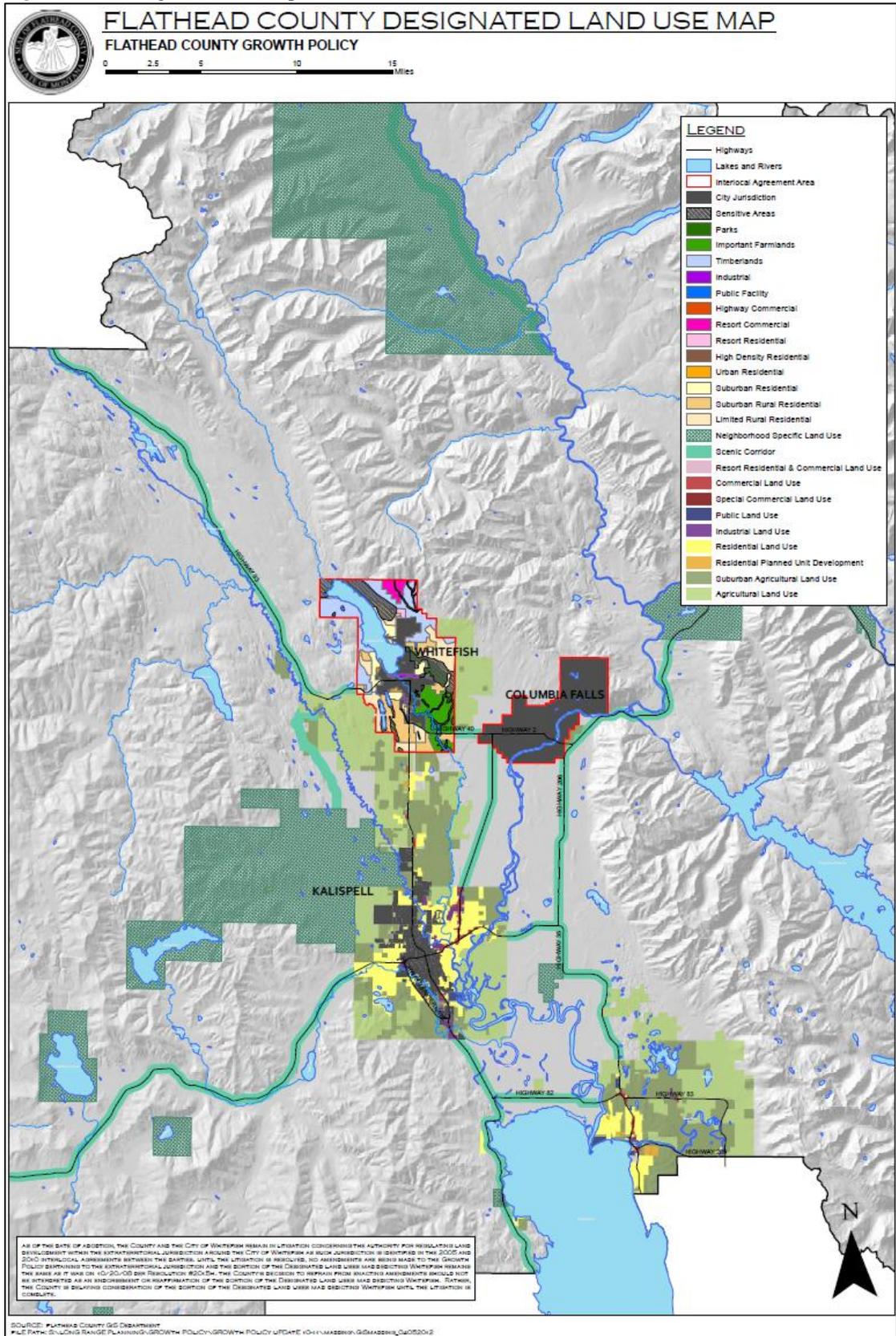
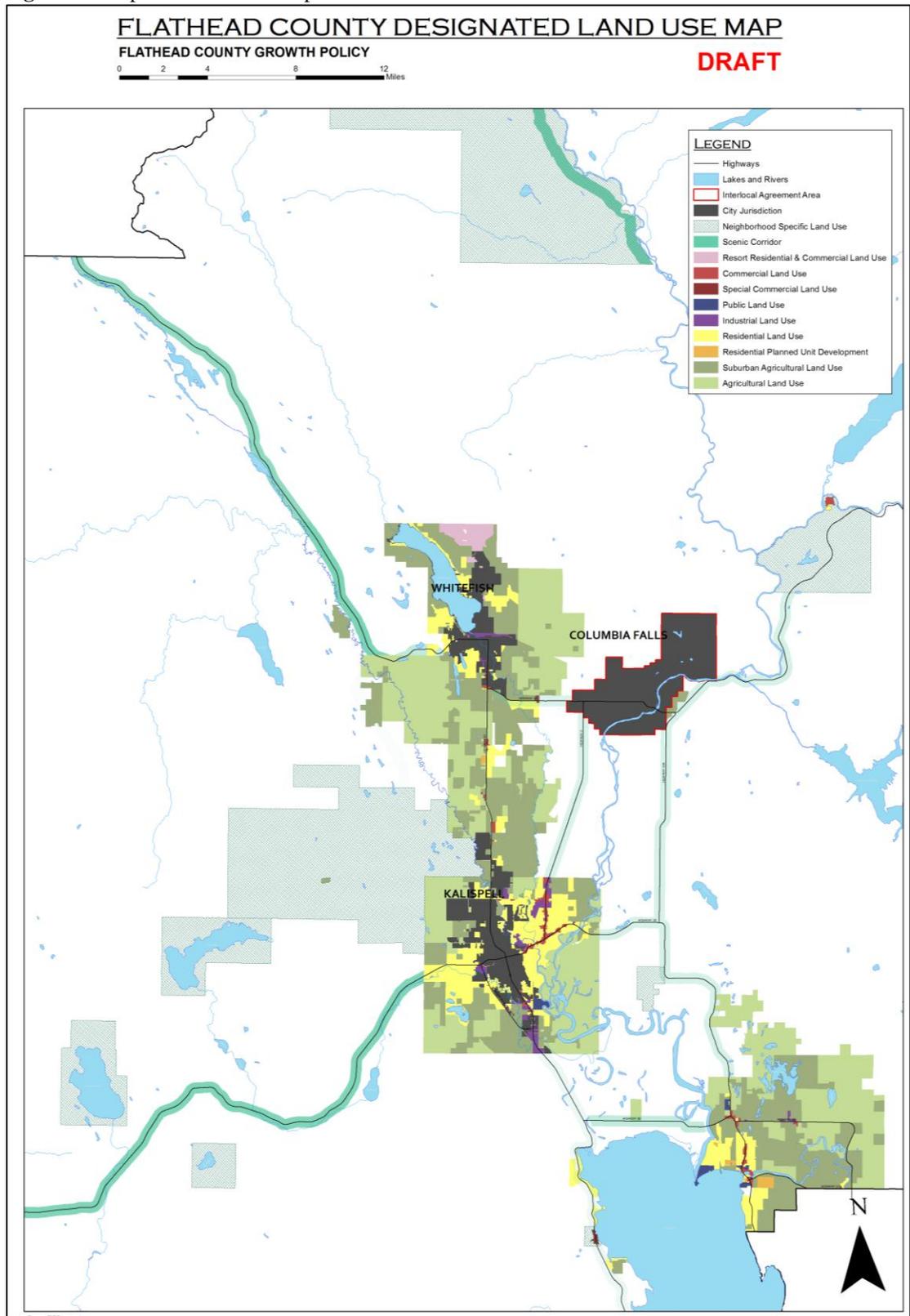


Figure 3: Proposed Land Use Map



**ii. Sections Proposed for Amendment (if text amendment)**

The amendment would also remove references in the text to the Interlocal Agreement, remove references to the Whitefish City-County Master Plan from ‘Table 11.1 Existing Plans and Dates of Most Recent Adoption’ and add the Big Mountain, Big Mountain West and South Whitefish Neighborhood Plans to ‘Table 11.1.’ Under “Proposed amendment” the language is shown as it appears in the current regulations, with proposed additions *italicized* and shaded gray and proposed deletions ~~stricken~~ and shaded gray.

**Table 11.1  
Existing Plans and Dates of Most Recent Adoption**

<b>Plan</b>	<b>Date most recently adopted/amended</b>
Ashley Lake	10/14/2011
Bigfork	06/02/2009
<i>Big Mountain</i>	<i>TBD (date of adoption of this amendment)</i>
<i>Big Mountain West</i>	<i>12/02/2003</i>
Canyon	05/17/1994
Columbia Fall City-County Master Plan	08/28/1984
Cooper Farms	07/16/2008
Helena Flats	09/13/2005
Kalispell City-County Master Plan	02/06/1986
Labrant-Lindsey Lane	04/07/1998
Lakeside	12/1/2010
Little Bitterroot Lake	01/24/1996
North Fork	06/12/2008
Quarter Circle/LA Ranch	10/26/2005
Riverdale	02/21/2008
Rogers Lake	04/16/1997
<i>South Whitefish</i>	<i>02/03/2000</i>
South Woodland/Green Acres	04/02/1997
The Amended Stillwater Neighborhood Plan	11/05/2003
Two Rivers	06/28/2005
West Valley	04/09/1997
Whitefish Area Trust Lands	06/08/2005
<del>Whitefish City-County Master Plan</del>	<del>02/06/1996</del>

The following footnotes will be removed from pages 186 and 189 of Chapter 12 and pages 37 and 43 of Appendix C:

~~† As of the date of adoption, the County and the City of Whitefish remain in litigation concerning the authority for regulating land development within the extraterritorial jurisdiction around the City of Whitefish as such jurisdiction is identified in the 2005 and 2010 Interlocal Agreements between the parties. Until the litigation is resolved, other than re-numbering what was Goal 48 to Goal 49, no~~

~~amendments are being made to the Growth Policy pertaining to the extraterritorial jurisdiction and the language of this goal (G.49) and all accompanying policies (P.49.1 through P.49.4) regarding Whitefish remains the same as it was on 10/20/08 per Resolution #2015H. The County's decision to refrain from enacting amendments should not be interpreted as an endorsement or reaffirmation of the goal and all accompanying policies. Rather, the County is delaying consideration of this goal and the accompanying policies until the litigation is complete.~~

**D. Criteria for Amendment Review**

Amendments to the Flathead County Growth Policy and/or amendments to the plans adopted as addendas of the Growth Policy are reviewed for conformance with the amendment criteria found in Part 7 of Chapter 10 of the Flathead County Growth Policy.

**E. Compliance With Public Notice Requirements**

Legal notice of the Planning Board public hearing on this application was published in the June 14, 2015 edition of the Daily Interlake.

**F. Agency Referrals**

Referrals for comment on the proposed amendment to the Flathead County Growth Policy were sent to the following agencies on May 18, 2015:

- Bonneville Power Administration
  - Reason: BPA has requested a copy of all agency referrals.
- Department of Natural Resources and Conservation
  - Reason: The property is located around the City of Whitefish and encompasses an area with many lakes, streams and rivers.
- Whitefish Rural Fire District
  - Reason: The subject property is located within the jurisdiction of the local fire district and development as a result of the amendment could impact the level of service demands.
- Flathead City-County Health Department; Environmental Health Services
  - Reason: Development as a result of the amendment may necessitate review by the Department.
- Flathead County Road and Bridge Department
  - Reason: The map amendment request has the potential to impact County infrastructure, should development occur in the future.
- Flathead County Sheriff
  - Reason: Potential development resulting from the proposed amendment could have an impact on existing public services.
- Flathead County Solid Waste
  - Reason: The type and amount of solid waste generated in the area of the amendment could have an impact on existing public services.
- Flathead County Weeds and Parks Department

- Reason: Potential development resulting from the proposed amendment could have an impact on existing public services.
- Whitefish High School District
  - Reason: Potential development resulting from the proposed amendment could have an impact on existing school services.
- Whitefish School District
  - Reason: Potential development resulting from the proposed amendment could have an impact on existing school services.
- City of Whitefish Planning Department
  - Reason: The subject property is located in close proximity to the annexed jurisdiction of the proposed amendment may impact city infrastructure.
- Montana Fish Wildlife and Parks
  - Reason: Potential development resulting from the proposed amendment could have an impact on wildlife, additionally the proposed amendment area contains land maintained by Montana Fish Wildlife and Parks.

### **III. COMMENTS RECEIVED**

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

As of the date of the completion of this staff report, no written comments have been received regarding the requested amendment specifically. Comments previously received, prior to the creation of the FPMA-15-02 file, have been reviewed by the Planning Board. The two comments that have been received specifically address zoning which will come at a later date and will be included in those files.

It is anticipated any member of the public wishing to provide comment on the proposed Master Plan map amendment will do so at the Planning Board public hearing scheduled for July 8, 2015. 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.

#### **B. Agency Comments**

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

- Flathead County Road & Bridge Department
  - Comment: “At this point the County Road Department does not have any comments either of this request.” Letter dated May 27, 2015.

### **IV. EVALUATION OF PROPOSED NEIGHBORHOOD PLAN**

#### **A. Primary Plan Amendment Criteria**

Pursuant to Chapter 10, Part 7 of the Flathead County Growth Policy, the following criteria shall be used when amending the Growth Policy. Therefore, the same criteria are used to review an amendment to a plan which has been adopted as an addenda of the Growth Policy per Chapter 11, Part 4 of the Flathead County Growth Policy.

**i. Does the amendment affect overall compliance of the growth policy with 76-1-601, M.C.A.?**

The Montana Code Annotated (M.C.A) 76-1-601 states in subsections “(2), *the extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.*” Staff evaluated the affect the proposed map amendment had on overall compliance of the Growth Policy with M.C.A. 76-1-601. Upon review of 76-1-601 M.C.A. staff determined which sections the proposed map amendment would impact. The following subsections of 76-1-601 M.C.A. appear applicable to the requested Growth Policy map amendment:

*(3) A growth policy must include*

*(b) Maps and text describing an inventory of existing characteristics and features of the jurisdictional area, including;*

*(i) Land uses;*

*(v) Local services*

*(vi) Public facilities*

*(vii) Natural resources*

*(c) Projected trends for the life of the growth policy for each of the following elements:*

*(i) Land uses;*

*(v) Local services*

*(d) A description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsections (3)(a)*

*(g) A statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:*

*(ii) If a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county’s boundaries on matters related to the growth policy;*

*(4)A growth policy may:*

*(iii)For a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county’s jurisdictional area over the next 20 years.*

It appears the proposed amendments would not affect the overall compliance of the Flathead County Growth Policy with 76-1-601, M.C.A. which states that the growth policy must include these topics, and the extent to which a growth policy addresses the elements listed in subsection (3) is at the discretion of the governing body. Therefore the proposed changes to the Designated Land Use Map would

likely not affect the overall compliance of the Growth Policy with Section 76-1-301 M.C.A.

The proposed text amendment to remove references to litigation between Flathead County and the City of Whitefish would not affect overall compliance of the Growth Policy with Section 76-1-601 M.C.A. because it is not a required element of a Growth Policy.

Section (4) of 76-1-601 M.C.A. states that a growth policy may include one or more neighborhood plans. The Flathead County Growth Policy contains a list of existing neighborhood, local and regional land use plans including the Whitefish City-County Master Plan, which was incorporated into the Growth Policy upon adoption of the Growth Policy. The proposal to remove the Whitefish City-County Master Plan from Table 11.1 will remove the plan as an addendum to the Growth Policy. The amendment will also add three neighborhood plans (Big Mountain, Big Mountain West and South Whitefish) to Table 11.1 which result in the plans becoming an addendum to the Growth Policy. The overall compliance with 76-1-601(4) M.C.A. will not be impacted by the proposal to add and remove plans from Table 11.1 because the Growth Policy would still contain one or more neighborhood plans and it is not a requirement to include neighborhood plans.

**Finding #1:** The proposed Master Plan amendment appears to not affect the overall compliance of the Growth Policy with 76-1-601 M.C.A. because the scope to which a growth policy addresses the elements listed in subsection (3) of 76-1-601 M.C.A. is at the discretion of the governing body and it is not a requirement to include neighborhood plans.

**ii. Is the amendment based on existing characteristics and/or projected trends that are substantially different from those presented in the most recent update?**

As of October 12, 2012, the date of adoption of the latest Growth Policy update, Flathead County and the City of Whitefish were in litigation regarding the authority for regulating land development within the extraterritorial area (ETA) around the City of Whitefish as identified in the 2005 and 2010 Interlocal Agreements between the City and the County.

On July 15, 2014 the Montana Supreme Court affirmed the prior District Court determination that the Interlocal Agreement between Flathead County and the City of Whitefish (2010IA) has been terminated according to the express terms which provide for withdrawal by either party and that therefore there is no valid Interlocal Agreement between the parties, giving governance to Flathead County.

As a result the, Planning Board, after holding several public workshops has decided to rescind the Whitefish City-County Master Plan and amend the Growth Policy to remove references to the Interlocal Agreement which necessitated this amendment to the growth policy.

**Finding #2:** It appears the amendment is based on existing characteristics and that are substantially different from the most recent update of the Growth Policy because as of the date of adoption of the latest Growth Policy update Flathead

County and the City of Whitefish were in litigation regarding the authority for regulating land development within the extraterritorial area (ETA) around the City of Whitefish, on July 15, 2014 the Montana Supreme Court affirmed the prior District Court determination that the Interlocal Agreement between Flathead County and the City of Whitefish (2010IA) has been terminated according to the express terms which provide for withdrawal by either party and that therefore there is no valid Interlocal Agreement between the parties, giving governance to Flathead County.

**iii. Does the amendment create inconsistencies within the document?**

Staff evaluated the Growth Policy to determine if the proposed map amendment would create inconsistencies within the document. Staff searched the Growth Policy to ensure all references to the litigation were removed so no inconsistencies were created as a result. Upon review of the Growth Policy staff determined which text, goals and objectives the proposed map amendment and addition of the neighborhood plans may impact.

Chapter 10 Part 7 of the Growth Policy under the section Amendments Initiated by Governing Bodies states, *“To continually protect and serve the public health, safety, morals, convenience, order, or general welfare of all residents of Flathead County, planning staff may, at the request of the County Commissioners or majority vote of the Planning Board, initiate an amendment to the Flathead County Growth Policy. Amendments shall be subject to standard public review procedures including public notice of hearing in a newspaper of record, preparation of findings of fact, planning board hearing and recommendation and decision by the governing body. Findings of fact shall be based on criteria for growth policy amendments found later in this chapter.”* Legal notice of the Planning Board public hearing on this application was published in the June 14, 2015 edition of the Daily Interlake. This report contains findings of fact based on criteria for a growth policy amendment and the Planning Board will forward a recommendation to the County Commissioners.

Chapter 10 Part 3 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.”*

The proposed change to the Designated Land Use Map would be more consistent with this section of the Growth Policy as the proposed designations would be a reflection of existing conditions and not a future land use map as it is currently.

**Finding #3:** The proposed amendment does not appear to create any inconsistencies within the document because legal notice of the Planning Board public hearing on this application was published in the June 14, 2015 edition of the Daily Interlake, this report contains findings of fact, the Planning Board will forward a recommendation to the County Commissioners and the proposed designations on the designated land use map would be a reflection of existing conditions and not a future land use map as is currently.

The following goals and objectives of the Growth Policy appear applicable to the proposed amendment, and generally indicate consistency with the proposal:

- ❖ **G.2** – *Adequate commercial land that is safely accessible and efficiently serviceable.*
  - The South Whitefish plan discusses developing a comprehensive circulation system providing safe and efficient access to all land uses and avoiding undue congestion on Highway 93.
  - **P.6.1** – *Encourage internal, interconnected roads for commercial development and frontage roads where appropriate.*
    - A South Whitefish Neighborhood Plan policy states, “*Site design of future development should reduce dependence on Highway 93 for circulation within the business district. [...]. Interconnection of parking lots between commercial properties is encouraged.*” The policy from the neighborhood plan would generally be compatible with the Growth Policy as it calls for frontage roads to reduce traffic on the Highway.
  - **P.6.3** – *Provide ample commercial land designation to promote affordability.*
    - The South Whitefish Neighborhood Plan states as a goal, “*Encourage commercial growth on Highway 93 South which complements downtown and the community as a whole.*” which would generally be compatible with this policy.
- ❖ **G.7** – *Consider existing community character in commercial land development.*
  - **P.7.5** – *Encourage commercial development that is visually and functionally desirable.*
    - The South Whitefish plan policy 7 states, “*Site and building design should serve to minimize visual impacts, while accommodating the automobile oriented aspect of future commercial development.*”
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
  - The South Whitefish Neighborhood Plan contemplates connecting existing buildings to sewer that are currently on septic which would promote health, safety and welfare of neighbors.
- ❖ **G.9** – *Define, identify and list desirable characteristics of open space preservation.*

- **P.9.1** – *Identify open spaces that serve a critical role in public and environmental health, safety and general welfare.*
  - The Big Mountain West plan states, “B. Promotes community growth while preserving open spaces; F. Utilizes conservation easements and/or dedications to permanently designate lands as open space.”
- ❖ **G.11** – *Protection of scenic resources available to both residents and visitors.*
  - The Big Mountain West plan states, “B. Promotes community growth while preserving open spaces; F. Utilizes conservation easements and/or dedications to permanently designate lands as open space.” Permanent open space would serve to protect scenic resources.
- ❖ **G.35** – *Protect and preserve water resources within the Flathead watershed for the benefit of current residents and future generations.*
  - The Big Mountain West plan states, “No obvious drainage courses appear in the Neighborhood, with the exception of Hell Roaring Creek at the very extreme northwest corner. The majority of the site utilizes sheet or overland drainage that appears to be absorbed onsite.”
  - The Big Mountain plan states, “Develop a master stormwater plan for the build out of the entire Big Mountain holdings with specifics on the various development pods.”
- ❖ **G.39** – *Preserve and protect wetlands and riparian areas to prevent degradation of natural resources, including but not limited to water quality and critical wildlife habitat.*
  - The Big Mountain West plan states there are no identified wetlands in the neighborhood.
  - The Big Mountain Plan lists as a goal, “Maintain and improve water quality as it comes off Big Mountain and its ski slope.” The Big Mountain Plan has a policy that states, “Establish a setback from streams and wetlands to maintain water quality within the Village and 100-foot undisturbed buffer from Second Creek.”
- ❖ **G.45** – *A clear majority of landowners and residents desiring a neighborhood plan in areas of the County presently without a neighborhood plan have the ability to develop a neighborhood plan.*
  - **P.45.5** – *Establish a Commission-approved advisory committee for each approved neighborhood plan, comprised of landowners and residents representing diverse elements of the plan area.*
  - The addition of three neighborhood plans to the Growth Policy does not include the creation of an advisory committee; it appears that at the time the plans were created no advisory committees were created.
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.*
  - **P.46.1** – *Ensure previously existing neighborhood plans remain in effect until revised by the Flathead County Board of Commissioners by*

*incorporating those existing plans into the Growth Policy as addenda deemed consistent with the existing Growth Policy.*

- This amendment would add three neighborhood plans to the Table 11.1 and make them addendums to the Flathead County Growth Policy. The Whitefish City-County Master Plan is not considered a neighborhood plan as the document was prepared as a Master Plan and adopted as such by the Flathead County as an addendum to the Growth Policy as such.

**Finding #4:** The proposed amendment appears to generally comply with the goals and objectives of the Growth Policy because the South Whitefish plan calls for a comprehensive circulation system providing safe and efficient access to all land uses and avoiding undue congestion on Highway 93 and site design to reduce visual impacts, the Big Mountain plan creates access to public lands, Permanent open space would serve to protect scenic resources, no advisory committees were created with the adoption of the three plans to be added to the Growth Policy and the Whitefish City-County Master Plan was adopted as a master plan.

**iv. Does the amendment further protect and comply with the seven elements of the public’s vision for the future of Flathead County?**

**1. Protect the Views**

According to the Flathead County Growth Policy a characteristic that residents cherish is views of open space. The proposed amendment would change the designations for the area outside the city limits of Whitefish, would remove references to the litigation, remove the Whitefish City-County Master Plan and add Big Mountain, Big Mountain West and South Whitefish plans to the list of existing plans in the county. This amendment does not appear to impact the goals and policies set forth to protect the views of Flathead County.

The text amendment to remove references to litigation and the map amendment would likely not impact the public’s vision to protect the views. The Big Mountain Plan land use map identifies a large portion of the plan area as Haskill Creek Preserve which is designated as open space.

The Big Mountain West Neighborhood Plan states, *“i. Lands adjoining The Big Mountain are no longer viable as timberlands, and both the USFS and corporate owners have realized that managing these lands for timber production is neither economically viable nor aesthetically acceptable. The goal of the Neighborhood Plan is to ensure the transition and development of such lands is undertaken with the least impact to the public resources and in keeping with values set forth in the Master Plan 2020. Crucial to this is the retention of sensitive lands as open space.”* The Plan goes on to say, *“l. Parks and open space are important to the Neighborhood, and will be provided by through: A. Permanent dedication of a Conservation Easement as open space to protect important aesthetic and natural amenities.”* The plan also states, *“b. C. Provides for development with minimal impacts on aesthetics;”* Both the Big Mountain and Big Mountain West neighborhood plans discuss setting aside open space and list protect the view as one of the reasons.

The South Whitefish plan lists as a policy, “*V. 7. Site design should serve to minimize visual impacts, while accommodating the automobile oriented aspect of future commercial development.*” The plan goes on to list examples of how this could be achieved such as, placing parking in the rear of buildings or screening with walls, berms or hedges. It is likely that this amendment could further protect and comply with this element of the Growth Policy.

**Finding #5:** The proposed amendment appears to predominantly protect and comply with the public’s vision to protect the views because it does not appear to impact the existing goals and policies set forth to protect the views, the amendment to remove references to litigation and the map amendment would likely not impact the public’s vision to protect the views, both the Big Mountain and Big Mountain West plans call for open space and preservation which would serve to protect views and the South Whitefish plan talks about parking in the rear and construction of walls, berms or hedges to minimize visual impacts.

## **2. Promote a Diverse Economy**

The Growth Policy states that residents desire a diverse economy that respects the heritage as a primary producer of the county and promotes development of other sectors of the economy not traditionally found in rural Montana.

The plans proposed to be added to Table 11.1 of the Growth Policy would serve to promote a diverse economy because both the Big Mountain and Big Mountain West neighborhood plans would serve to promote year round tourism.

The South Whitefish plan states as a goal, “*Development and growth of viable commercial, industrial, and residential districts to enhance the entire community.*” This goal would seem to serve to promote a diverse economy.

The other text amendment to remove wording about litigation would not impact the Growth Policy’s ability to promote a diverse economy. The map amendment would allow for additional land designated as business, specifically the Big Mountain area and Highway 40 east of Whitefish.

**Finding #6:** The amendment appears to predominantly protect and comply with the public’s vision to promote a diverse economy because the Big Mountain and Big Mountain West plans would serve to promote year round tourism, the South Whitefish plan has a goal to develop and grow commercial, industrial and residential districts and the proposed map amendment would add areas designated as business to the designated land use map.

## **3. Manage Transportation**

According to the Growth Policy, residents documented how increasing traffic reminded them of a growing suburban community and how a Growth Policy should address traffic volume, flow and safety. The text amendment to remove references to litigation and the map amendment would likely not impact the transportation.

One of the primary focuses of the South Whitefish plan is transportation. The plan calls for avoiding undue congestion on Highway 93, and improving and managing circulation in the South Whitefish Neighborhood. The Big Mountain West plan discusses mountainous terrain and designing roadways that will minimize impact on existing roads and thoroughfares. The Big Mountain plan discusses Big Mountain Road, emergency ingress and egress and mass transit. The Big Mountain plan goes into detail about how to manage mass transit and develop roads served by mass transit. It appears all three of the plans to be added to Table 11.1 of the Growth Policy would serve to manage transportation.

**Finding #7:** The amendment appears to predominantly protect and comply with the public's vision to manage transportation because the text amendment to remove references to litigation and the map amendment would likely not impact transportation, the primary focuses of the South Whitefish plan is transportation, the Big Mountain West plan discusses mountainous terrain and designing roadways that will minimize impact on existing roads and thoroughfares and the Big Mountain plan goes into detail about how to manage mass transit and develop roads served by mass transit.

#### **4. Maintain the Identity of Rural Communities**

The vision to maintain the identity of the rural communities set forth in the Growth Policy is defined as the ability to live “the simple life” and own land in a safe, quiet, environmentally pristine neighborhood away from cities by residents of the county. Many of the proposed amendments to the Flathead County Growth Policy would appear to neither help nor hinder the ability of rural communities to maintain their identity as they would not impact development in an area near other communities.

The South Whitefish Neighborhood Plan located near the intersection of Highway 93 and Highway 40 appears to help maintain the identity of Whitefish by many of the goals and policies set forth in the plan. The South Whitefish plan calls for site and building designs and landscaping to enhance the aesthetic appeal of the business district, the entrance to Whitefish and the Visual connection with surrounding lands.

The Big Mountain plan states, *“As part of the text of the Neighborhood Plan, this document will explain the unique challenges of developing a recreational resort that provides a desirable environment for the visitor and builds on the established vitality of Whitefish, Big Mountain and northwest Montana.”* The plan wants to build on the existing vitality of Whitefish and Big Mountain which would likely serve to help maintain the identity of Whitefish and Big Mountain.

**Finding #8:** The amendment appears to protect and comply with the public's vision to maintain the identity of rural communities because the South Whitefish Neighborhood Plan discusses enhancing aesthetic appeal of the business district and the Big Mountain Neighborhood Plan would build on the existing vitality of Whitefish and Big Mountain.

## 5. Protect Access to and Interaction with Parks and Recreation

The Growth Policy states a concern raised by residents was continued access to public lands and water bodies. The text amendment to remove references to litigation and the map amendment would likely not impact access to and interaction with parks and recreation. The South Whitefish Neighborhood Plan does not discuss in great detail parks and recreation but adding it to the list of plans in Table 11.1 would likely not impact access to and interaction with parks and recreation.

The Big Mountain and Big Mountain West plans are located in an area that has historically used public lands for recreation (skiing, hiking, etc.). Chapter 9 of the Big Mountain Neighborhood Plan is dedicated to recreation. The plan discusses winter and summer activities and providing access to the area for those activities which would likely serve to add access to and interaction with parks and recreation.

The Big Mountain West plan states, “*l. Parks and open space are important to the Neighborhood, and will be provided by through: A. Permanent dedication of a Conservation Easement as open space to protect important aesthetic and natural amenities.*” One of the objectives in the Big Mountain West Neighborhood Plan states, “*Access to the entire Big Mountain Ski and Summer Resort recreational opportunities.*” Adding both the Big Mountain and Big Mountain West plans to the list of plans in Table 11.1 would likely help serve to protect access to and interaction with parks and recreation.

**Finding #9:** The amendment appears to predominantly protect and comply with the public’s vision to protect access to and interaction with parks and recreation because the Big Mountain and Big Mountain West plans would likely serve to add access and interaction with parks and recreation.

## 6. Properly Manage and Protect the Natural and Human Environment

According to the Growth Policy a theme commonly expressed by residents was responsible management of the natural and human environment. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air quality. The text amendment to remove references to litigation would likely not impact proper management and protection of the natural and human environment.

Some of the goals in policies within the Big Mountain West plan specifically discuss protecting the natural environment. As previously discussed the Big Mountain West Neighborhood Plan states, “*i. Lands adjoining The Big Mountain are no longer viable as timberlands, and both the USFS and corporate owners have realized that managing these lands for timber production is neither economically viable nor aesthetically acceptable. The goal of the Neighborhood Plan is to ensure the transition and development of such lands is undertaken with the least impact to the public resources and in keeping with values set forth in the Master Plan 2020. Crucial to this is the retention of sensitive lands as open space.*”

The Big Mountain Plan land use map identifies a large portion of the plan area as Haskill Creek Preserve which is designated as open space which would serve to protect the natural environment. The South Whitefish plan discusses environmental limitations for development in the neighborhood including the Whitefish River and adjacent riparian areas, a pond, bluffs and wetlands. The South Whitefish Plan also discusses providing landscaping to enhance the built environment.

**Finding #10:** The proposed text amendment appears to predominantly protect and comply with the public’s vision to properly manage and protect the natural and human environment because the South Whitefish plan discusses environmental limitations for development in the neighborhood including along the Whitefish River, adjacent riparian areas, ponds, bluffs and wetlands, the Big Mountain West plan specifically discuss protecting the natural environment and the text amendment to remove references to litigation would likely not impact proper management and protection of the natural and human environment.

The Designated Land Use Map amendment would remove designations such as ‘*Important Farmland*’ and ‘*Sensitive Areas*.’ 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.

**Goal G.9** of the Growth Policy states, “*Define, identify and list desirable characteristics of open space preservation.*” Policies **P.9.1**, **P.9.2** and **P.9.3** discuss how open space plays a role in public and environmental health, safety and general welfare, creating buffers and incentives for preserving and protecting open space. Chapter 8 of the Growth Policy sets out goals and policies to properly manage and protect the natural and human environment.

**Goal G.10** of the Growth Policy states, “*Restrict development on lands that pose an unreasonable risk to the public health, safety and general welfare of all Flathead County residents.*” The policies that follow **Goal G.10** discuss discouraging development in environmentally sensitive areas such as; the 100 year floodplain, steep slopes, wetlands, riparian areas, etc. The goals and

policies of the Growth Policy which comply with the public's vision would continue to manage and protect the natural and human environment and the amendment to the designated land use map would likely have minimal impact on protection of the natural and human environment.

**Finding #11:** The removal of *Important Farmland* and *Sensitive Areas* designations would have minimal impact on properly managing and protecting the natural and human environment because goals and policies of the Growth Policy would continue to manage and protect the natural and human environment.

#### **7. Preserve the Rights of Private Property Owners**

The Growth Policy seeks to achieve balance by respecting the cultural heritage of private property ownership in Montana and protecting the same rights of all residents. Removing the reference to litigation between the City of Whitefish and Flathead County will likely not impact the rights of private property owners.

The Big Mountain West, Big Mountain and South Whitefish plans do not specifically discuss rights of private property owners. However all three of the plans, to be added, were created through a public process and during the process the public was given a chance to discuss likes and dislikes. It appears that adding the three plans to the Table 11.1 as an addendums to the Growth Policy would neither help nor hurt the rights of private property owners.

**Finding #12:** The proposed amendment appears to predominantly protect and comply with the public's vision to preserve the rights of private property owners because the Big Mountain West, Big Mountain and South Whitefish plans do not specifically discuss rights of private property owners and all three of the plans, to be added, were created through a public process and during the process the public was given a chance to discuss likes and dislikes.

#### **v. Has the proposed amendment undergone a sufficient process of county-wide, public participation and review?**

After Flathead County regained control of the extraterritorial area (ETA) from the City of Whitefish the Planning Board, at the direction of the County Commissioners, held a series of workshops to discuss planning and zoning options for the former ETA. On October 1, 2014 the Planning Board had a workshop regarding the planning and zoning in the former Interlocal Agreement area around the City of Whitefish and how to proceed during the interim zoning. After the workshop staff prepared a 'Rural Whitefish Planning and Zoning Options Analysis' for planning and zoning around Whitefish which was distributed to the Planning Board and members of the public in attendance at the next regularly scheduled Planning Board meeting and posted to the Flathead County Planning and Zoning website the following day.

On October 15, 2014 the Planning Board had a workshop to discuss the 'Rural Whitefish Planning and Zoning Options Analysis,' At the workshop the Planning Board decided to hold future workshops at the County Fairgrounds and send out post cards to residents with in the Whitefish City-County Master Plan Area with

dates for workshops. On October 21, 2014 staff sent approximately 4,450 postcards to property owners located within the Whitefish City-County Master Plan area and outside city limits informing them of the time, location and purpose of the workshops.

The Planning Board held workshops on October 29th and 30th, 2014 to provide information on the process and to discuss options as identified by the 'Rural Whitefish Planning and Zoning Options Analysis' and provide additional options for the process. On November 12, 2014 the Planning Board closed the public comment period regarding the options analysis and on December 11, 2014 staff distributed the written public comments received regarding the proposed options.

Rural Whitefish Planning and Zoning Transition Issue Report (identifying and analyzing issues brought up during the previous workshop) and list of concerns from citizens were posted to the website on February 6, 2015 and was distributed to the Planning Board at the February 11, 2015 workshop. The Planning Board held a workshop on April 8, 2015 to discuss the Growth Policy amendments and decided to move forward with an amendment to the Growth Policy at the July Planning Board meeting. The public will have another opportunity to participate in the amendment process at the July 8, 2015 Planning Board meeting.

**Finding #13:** The amendment has gone and will continue to undergo a sufficient process of county-wide public participation and review because everyone in the district was notified of workshops being held, several workshops were held to discuss options for rural Whitefish, legal notice of the Planning Board Public hearing was posted in the Daily Interlake and the public will be given a chance to comment during the public hearing and a public hearing will be held on July 8, 2015.

#### **B. Secondary Plan Amendment Criteria**

A secondary plan is not being amended as part of the Growth Policy amendment.

### **V. SUMMARY OF FINDINGS**

1. The proposed Master Plan amendment appears to not affect the overall compliance of the Growth Policy with 76-1-601 M.C.A. because the scope to which a growth policy addresses the elements listed in subsection (3) of 76-1-601 M.C.A. is at the discretion of the governing body and it is not a requirement to include neighborhood plans.
2. It appears the amendment is based on existing characteristics and that are substantially different from the most recent update of the Growth Policy because as of the date of adoption of the latest Growth Policy update Flathead County and the City of Whitefish were in litigation regarding the authority for regulating land development within the extraterritorial area (ETA) around the City of Whitefish, on July 15, 2014 the Montana Supreme Court affirmed the prior District Court determination that the Interlocal Agreement between Flathead County and the City of Whitefish (2010IA) has been terminated according to the express terms which provide for withdrawal by either party and that therefore there is no valid Interlocal Agreement between the parties, giving governance to Flathead County.

3. The proposed amendment does not appear to create any inconsistencies within the document because legal notice of the Planning Board public hearing on this application was published in the June 14, 2015 edition of the Daily Interlake, this report contains findings of fact, the Planning Board will forward a recommendation to the County Commissioners and the proposed designations on the designated land use map would be a reflection of existing conditions and not a future land use map as is currently.
4. The proposed amendment appears to generally comply with the goals and objectives of the Growth Policy because the South Whitefish plan calls for a comprehensive circulation system providing safe and efficient access to all land uses and avoiding undue congestion on Highway 93 and site design to reduce visual impacts, the Big Mountain plan creates access to public lands, Permanent open space would serve to protect scenic resources, no advisory committees were created with the adoption of the three plans to be added to the Growth Policy and the Whitefish City-County Master Plan was adopted as a master plan.
5. The proposed amendment appears to predominantly protect and comply with the public's vision to protect the views because it does not appear to impact the existing goals and policies set forth to protect the views, the amendment to remove references to litigation and the map amendment would likely not impact the public's vision to protect the views, both the Big Mountain and Big Mountain West plans call for open space and preservation which would serve to protect views and the South Whitefish plan talks about parking in the rear and construction of walls, berms or hedges to minimize visual impacts.
6. The amendment appears to predominantly protect and comply with the public's vision to promote a diverse economy because the Big Mountain and Big Mountain West plans would serve to promote year round tourism, the South Whitefish plan has a goal to develop and grow commercial, industrial and residential districts and the proposed map amendment would add areas designated as business to the designated land use map.
7. The amendment appears to predominantly protect and comply with the public's vision to manage transportation because the text amendment to remove references to litigation and the map amendment would likely not impact transportation, the primary focuses of the South Whitefish plan is transportation, the Big Mountain West plan discusses mountainous terrain and designing roadways that will minimize impact on existing roads and thoroughfares and the Big Mountain plan goes into detail about how to manage mass transit and develop roads served by mass transit.
8. The amendment appears to protect and comply with the public's vision to maintain the identity of rural communities because the South Whitefish Neighborhood Plan discusses enhancing aesthetic appeal of the business district and the Big Mountain Neighborhood Plan would build on the existing vitality of Whitefish and Big Mountain.
9. The amendment appears to predominantly protect and comply with the public's vision to protect access to and interaction with parks and recreation because the Big

Mountain and Big Mountain West plans would likely serve to add access and interaction with parks and recreation.

10. The proposed text amendment appears to predominantly protect and comply with the public's vision to properly manage and protect the natural and human environment because the South Whitefish plan discusses environmental limitations for development in the neighborhood including along the Whitefish River, adjacent riparian areas, ponds, bluffs and wetlands, the Big Mountain West plan specifically discuss protecting the natural environment and the text amendment to remove references to litigation would likely not impact proper management and protection of the natural and human environment.
11. The removal of 'Important Farmland' and 'Sensitive Areas' designations would have minimal impact on properly managing and protecting the natural and human environment because goals and policies of the Growth Policy would continue to manage and protect the natural and human environment.
12. The proposed amendment appears to predominantly protect and comply with the public's vision to preserve the rights of private property owners because the Big Mountain West, Big Mountain and South Whitefish plans do not specifically discuss rights of private property owners and all three of the plans, to be added, were created through a public process and during the process the public was given a chance to discuss likes and dislikes.
13. The amendment has gone and will continue to undergo a sufficient process of county-wide public participation and review because everyone in the district was notified of workshops being held, several workshops were held to discuss options for rural Whitefish, legal notice of the Planning Board Public hearing was posted in the Daily Interlake and the public will be given a chance to comment during the public hearing and a public hearing will be held on July 8, 2015.

## **VI. SUMMARY**

Per Chapter 10, Part 7 of the Flathead County Growth Policy to continually protect and serve the public health, safety, morals, convenience, order, or general welfare of all residents of Flathead County, planning staff may, at the request of the County Commissioners or majority vote of the Planning Board, initiate an amendment to the Flathead County Growth Policy. As such the review and evaluation by the staff of the Planning Board comparing the proposed amendment to the criteria for evaluation of amendment requests found in Chapter 10, Part 7 of the Flathead County Growth Policy has found the proposal to generally comply with the review criteria, based upon the Findings of Fact cited above.

Planner: EKM