

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
WHITEFISH CITY-COUNTY MASTER PLAN
MASTER PLAN MAP AMENDMENT REPORT (#FPMA-15-03)
JUNE 24 2015**

A report to the Flathead County Planning Board and Board of Commissioners regarding an amendment to rescind the Whitefish City-County Master Plan (WCCMP) which is currently an addendum of the Flathead County Growth Policy.

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 2nd Floor Conference Room, 1035 1st 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

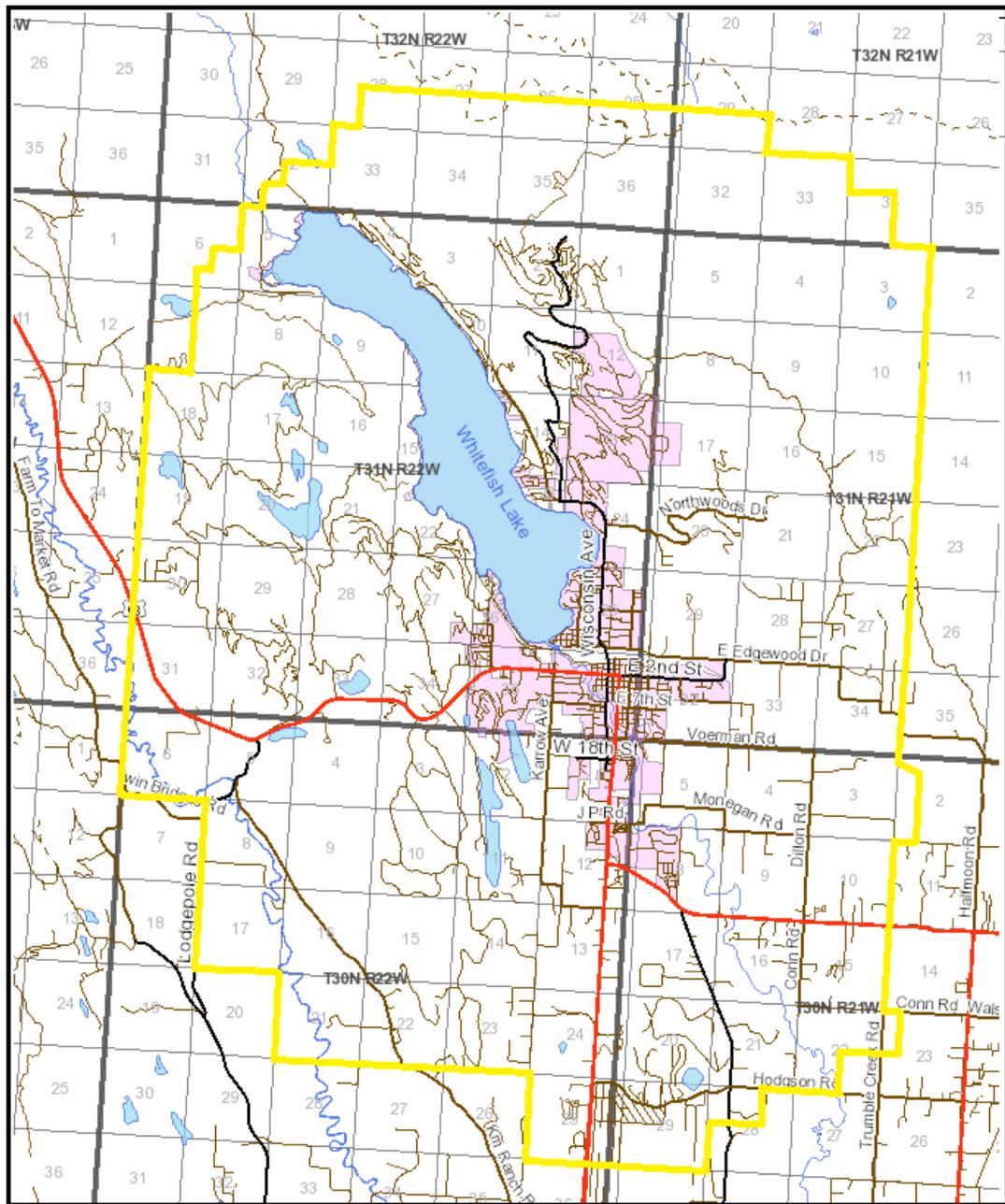
A. Applicant/Petitioner

Flathead County Planning Board

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

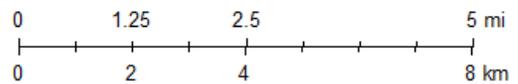
The proposed amendment would be for properties located within Sections 33, 34, 35, 36, the South ½ of Sections 25, 26 and 27 and a portion of Sections 28 and 32 of Township 32 North, Range 22 West, P.M.M. in Flathead County, Montana, Sections 31, 32 and 33, the South ½ of Sections 29 and 30 and a portion 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



No warranty is made by Flathead County for the use of GIS data for purposes not intended by Flathead County.

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800 South Main Street
Kalispell, MT 59901
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C. Proposed Plan Amendment

The reason for the proposed amendment to rescind the Whitefish City-County Master Plan 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.

D. Criteria for Amendment Review

Amendments to the Flathead County Growth Policy and/or amendments to the plans adopted as addendums 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.
- 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 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 as a result 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.
- 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.
- 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.
- 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.

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-15-03 file, have been reviewed by the Planning Board. The two comments that have been received and not distributed to the Planning Board address the zoning amendments which will come at a later date and will be included as part of 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 26, 2015.
- Montana Fish, Wildlife and Parks

- Comment: “Montana Fish, Wildlife and Parks has no comment regarding the Flathead County Growth Policy amendments to rescind the Whitefish City-County Master Plan.” Letter received June 4, 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 addendum 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 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 amendment would impact. The following subsections of 76-1-601 M.C.A. appear applicable to the requested amendment:

(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 change to rescind the WCCMP would likely not affect the overall compliance of the Growth Policy with Section 76-1-301 M.C.A.

The Flathead County Growth Policy contains a list of existing neighborhood, local and regional land use plans including the WCCMP. The WCCMP was incorporated into the Growth Policy upon adoption of the Growth Policy as an addendum. The proposal to remove the WCCMP from Table 11.1 will remove the plan as 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 is not required to include plans.

Finding #1: The proposed Master Plan map 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 plan for the area outside of Whitefish with the Growth Policy as a basis. The WCCMP land use map would not allow for much of the existing zoning that was zoned while under the jurisdiction of Whitefish. The Planning board determined that the WCCMP was outdated and instead of relying on it for planning and zoning around Whitefish rescind it and use the Growth Policy.

Finding #2: The proposed amendment to rescind the Whitefish City-County Master Plan is based on existing characteristics that are substantially different from the October 2012 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. Upon review of the Growth Policy, staff determined which text, goals and objectives the proposed amendment may impact.

The amendment to rescind the WCCMP would also eliminate the WCCMP Map Year 2020. Currently the Growth Policy Designated Land Use map depicts the WCCMP Map Year 2020 future land use designations and Interlocal Agreement Area. Part of FPMA-15-02 is a map amendment to remove the future land use designations and boundary of the Interlocal Agreement Area. If approved it

would eliminate any inconsistencies created within the Growth Policy by this amendment.

Chapter 11 of the Growth Policy outlines a process for reviewing existing plans it states, *“In order to provide for adequate public participation, review of the existing plans listed above should follow the process outlined below.”*

1. *Guidance from Planning Board and Commissioners: The Flathead County Planning Board and Flathead County Board of Commissioners will prioritize and guide the review of existing plans in Flathead County and offer guidance to planning staff accordingly.*
 - The Planning Board and County Commissioners have prioritized the planning and zoning efforts for rural Whitefish and have provided direction to staff. Section V of this report contains a discussion of the public process for this amendment.
2. *Public Workshops: As the revised draft is being created, interactive workshops will be conducted covering concepts and solutions being considered for incorporation into the plan. Workshops may allow staff, landowners and residents living within the neighborhood plan’s boundaries to discuss and refine ideas before they are presented in the revised draft.*
 - Section V of this report contains a discussion of the public process for this amendment.
3. *Comment on Draft: After the document is created, a draft version will be released for review and comment. Electronic versions shall be available online and paper versions available at the Flathead County Planning and Zoning Office. The public will have an adequate amount of time (no less than 30 days) to read and comment on the plan, prior to formal consideration by the Planning Board.*
 - No new document was created for the rescinding of the WCCMP so there can be no draft review period. The Planning Board held a workshop on April 8, 2015 to discuss this amendment and decided to move forward with an amendment to the WCCMP at the July Planning Board meeting. The public has had from April 8, 2015 to comment on the proposed amendment more than the 30 days required.
4. *Planning Board Review and Revision: The Flathead County Planning Board shall hold a public workshop(s) as well as a public hearing on the plan and review and revise the draft plan as the Board deems appropriate.*
 - Section V of this report contains a discussion of the public process for this amendment.
5. *Final Public Review and Comment: A final, revised version of the plan will be forwarded to the Flathead County Commissioners for their consideration. After the commissioners pass a resolution of intent to adopt the plan, the public will have an opportunity to read and comment on the final, revised plan, the timeline for which shall be established by the Commissioners.*

- The Planning Board recommendation will be forwarded to the Flathead County Commissioners for their consideration and a comment period shall follow, before a final decision is made.

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

- ❖ **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.*
 - The WCCMP states, “*Neighborhood Plans may be prepared as tools to coordinate and clarify the development of specific neighborhoods, including large development projects. [...]. A Neighborhood Plan is developed within the overall framework of the Whitefish City-County Master Plan. A Neighborhood Plan is adopted as a sub-element of the Master Plan. [...].*” Because the WCCMP is a master plan, neighborhood plans were able to be adopted as elements of it. The WCCMP is listed under Part 4: Existing Plans in Table 11.1 Existing Plan and Dates of Most Recent Adoption. The WCCMP 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.
- ❖ **G.49** – *Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and services that protect and preserve the health, safety, and welfare of the natural and human environment.*
 - **P.49.1** – *Promote representation by county officials of those residents outside the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.*
 - **P.49.2** – *Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.*
 - An agency referral was sent to the City of Whitefish requesting comments for this proposal.

Finding #3: The proposed amendment appears to generally comply with the map, text, goals and objectives of the Flathead County Growth Policy because if FPMA-15-02 is approved the Growth Policy Designated Land Use Map will not contain the WCCMP Land Use Map, the amendment will follow the review process within the Growth Policy, comments have been sought from the City of Whitefish and the WCCMP is not a neighborhood plan but rather a localized master plan that has become outdated due to litigation.

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 remove the WCCMP policies that support this vision in the Whitefish area.

The WCCMP policies that address protecting the views are:

- **2.11** – *Development proposals shall avoid negative visual impacts from public roadways. [...].*
- **2.12** – *Development proposals shall avoid negative visual impacts in the rural areas. [...].*

Text of the Growth policy states, “*Visual impacts can easily be softened by simply building a few feet further back from the road and planting a few trees.*” **Policy 7.5** of the Growth Policy states, “*Encourage commercial development that is visually and functionally desirable.*” The text and policies within the Growth Policy are similar to the policies within the WCCMP and would continue to protect the views if the WCCMP is rescinded.

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 WCCMP goals that address promoting a diverse economy are:

- ❖ **6A** – *A broad-based economy to provide stable jobs.*
- ❖ **7A** – *A solid economic base providing stable employment and an influx of outside dollars into the local economy.*
- ❖ **8A** – *A viable, productive, sustainable agricultural industry.*

The WCCMP policies that address promoting a diverse economy are:

- **6.3** – *Avoid the spread of strip commercial activity south of the Highways 93 and 40 intersection.*
- **6.4** – *Avoid commercial development on Montana Highway 40.*
- **6.10** – *Commercial franchise architecture is discouraged*
- **7.1** – *Industrial areas should provide for manufacturing, fabricating, processing, storage, and transportation services.*

The Flathead County Growth Policy has goals and policies in place that would continue to promote a diverse economy in rural Whitefish even if the WCCMP is rescinded. **Policy 21.1** of the Growth Policy states, “*Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*” **Policy 6.3** of the Growth Policy states, “*Provide ample commercial land designation to promote affordability.*” Both the Growth

Policy and the WCCMP have goals and policies to promote a diverse economy and it is likely that the rescinding of the WCCMP would not impact protection and compliance with the public's view.

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 WCCMP goals that address managing transportation are:

- ❖ **9A** – *A comprehensive circulation system serving the combined needs of the community and region while providing safe, convenient, and economical access to all facilities, retail areas and neighborhoods.*
- ❖ **9B** – *A pedestrian/non-motorized transportation system connecting retail areas, recreational areas, neighborhoods with a minimum of pedestrian-bicycle-auto-truck-rail conflict.*
- ❖ **9E** – *Coordinate land use and transportation policies to discourage sprawl development, locate housing near jobs, encourage alternative modes of transportation, and protect neighborhoods from traffic and road impacts.*

The WCCMP policies that address managing transportation are:

- **9.1** – *Utilize the Transportation Plan Map as a primary guide in planning, designing and extending arterial and collector streets. [...].*
- **9.2** – *As U.S. Highway 93 south continues to develop, limit individual access and establish frontage roads, turn bays, cross streets, and parallel roads to reduce traffic congestion.*
- **9.5** – *Arterial and collector streets shall have sidewalks on both sides of the street to encourage and provide for pedestrian traffic. [...].*
- **9.12** – *Establish a ring arterial/collector street system to improve traffic flow within, through and around the community connecting the major employment areas, the Central Business District, public and recreational facilities, and residential neighborhoods.*

Policy 7.6 of the Growth Policy states, “Encourage mixed use developments that share infrastructure requirements such as parking, pedestrian facilities, etc. and reduce traffic by promoting live/work situations where appropriate in Flathead County.”

Goals G.23 of the Growth policy addresses maintaining safe and efficient traffic flow and mobility. Policy **P.23.1** states, “Manage land use and the transportation system as a unified and coordinated system to ensure that one does not outpace the other.” Policy **P.23.2** states, “Limit private driveways from directly accessing arterials and collector roads to safe separation distances.” And policy **P.23.3** states, “Encourage local (neighborhood) roads

that access directly onto collector roads.” **Goal G.25** states, “Identify and support alternative modes of transportation.” The policies listed under **G.25** discuss alternative modes of transportation.

The goals and policies of the Growth Policy are similar to the goals and policies of the WCCMP regarding management of transportation. 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.

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.

The WCCMP goals that address maintaining the identity of rural communities with parks and recreation are:

- ❖ **15B** – *Conserve rural open space and natural scenic values as essential aspects of the character or rural areas, local quality of life, and the tourist orientation of the local economy.*

The WCCMP policies that address maintaining the identity of rural communities are:

- **8.12** – *Development of rural lands shall be in keeping with the following designations of land use or land limitations, as shown on the Plan Map.*

The Growth Policy has several goals and policies that address maintaining the identity of rural communities. Policy **P.4.3** states, “Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)” Goal **G.7** states, “Consider existing community character in commercial land development.” Both the Growth Policy and the WCCMP have goals and policies to maintain the identity of rural communities and it is likely that the rescinding of the WCCMP would not impact protection and compliance with the public’s view.

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 WCCMP goals that address protecting access to and interaction with parks and recreation are:

- ❖ **15A** – *A park system providing convenient access to a hierarchy of recreational opportunities addressing the needs of each neighborhood, the community and the entire planning jurisdiction. [...].*
- ❖ **15B** – *Conserve rural open space and natural scenic values as essential aspects of the character or rural areas, local quality of life, and the tourist orientation of the local economy.*

The WCCMP policies that address protecting access to and interaction with parks and recreation are:

- *4.2 – Lakes and streams should be accessible for recreational use to all residents and visitors.*
- *5.9 – Conserve open spaces within the City, as well as in rural areas.*
- *15.2 – Provide an integrated system of non-motorized trails and greenways connecting neighborhoods, commercial areas, schools, water bodies, recreational amenities, and rural trails.*
- *15.3 – Provide public access to lakes, rivers, and streams as a priority. [...].*
- *15.4 – Provide a rural public trail system accessing natural and scenic open space throughout the Planning Jurisdiction. [...].*
- *15.18 – Provide access to all dedicated public parks.*

Goal G.18 of the Growth Policy states, “*To accelerate the development process for park, trail, and open space infrastructure to meet the challenges of community growth and development.*” Policies **P.18.1** through **P.18.7** list acquiring park and leisure facility sites now to serve the future needs, ensuring existing parks and recreational facilities are operated and maintained in a quality condition and preserving and increase recreational access to public lands and waterways.

Goal G.20 of the Growth Policy states, “*Maintain and/or increase the current level of service for park facilities and recreation services in Flathead County relative to population growth and public demands and expectations.*” The policies that follow **Goal G.20** discuss providing for and acquiring new lands and indoor/outdoor recreation and park facilities and maintaining the current level of service. The goals and policies of the Growth Policy are similar to the goals and policies of the WCCMP regarding protecting access to and interaction with parks and recreation. The goals and policies of the Growth Policy which comply with the public’s vision would continue to protect access to and interaction with parks and recreation.

On December 17, 2015 the Flathead County Board of Commissioners adopted the Parks and Recreation Master Plan as an addendum to the Flathead County Growth Policy (Resolution #2015L).

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 WCCMP goals that address managing and protecting the natural and human environment are:

- ❖ *2A – Maintaining and improving air and water quality, open space and aesthetic values.*
- ❖ *2C – A development process identifying, conserving, and mitigating impacts on wildlife habitat, fisheries, surface waters and adjacent riparian area, erosive slopes, aquifer recharge areas, and other environmentally sensitive areas.*
- ❖ *3B – A development process identifying, avoiding, and mitigating natural hazards from wildfire, floodplain, steep slopes, groundwater, and soil limitations.*
- ❖ *4A – Maximum protection, preservation, and restoration of lakes, rivers and streams.*

The WCCMP policies that address managing and protecting the natural and human environment are:

- *2.1 – Minimize development density on environmentally sensitive lands and critical wildlife habitat.*
- *2.3 – Identify, protect and preserve wetlands from being filled, altered, or subject to development.*
- *2.3 – No development shall cause soil erosion or stormwater runoff adversely affecting other properties, roads, or any water course. As part of the subdivision review and building review process, require mitigation of erosion and drainage problems both on-site and off-site as a result of on-site activities.*
- *3.5 – Conserve the one hundred year floodplain in its natural state as open space, recreational area, or agriculture, and work to eliminate existing non-conforming uses.*
- *3.9 – Locate, design and manage development to prevent conflicts between humans and bears or mountain lions.*
- *4.1 – To the greatest extent possible, lakes, rivers, and streams and their banks shall be preserved in their natural condition.*
- *15.6 – Protect and utilize natural resources through the conservation of sensitive or scenic areas.*

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 are similar to the goals and policies of the WCCMP regarding management and protection of the natural and human environment. 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.

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. The WCCMP does not appear to have any goals or policies in place that specifically address preserving the rights of private property owners. Therefore rescinding the WCCMP would likely not impact the rights of private property owners.

Finding #4: The map amendment appears to predominantly protect and comply with the public's vision for the future of Flathead County because upon review by both the planning staff and the planning board many of the goals and policies of the Growth Policy that address the public's vision appear to be similar to goals and policies of the WCCMP, the rescinding of the WCCMP would likely not impact the rights of private property owners and rescinding the WCCMP would not impact with the public's vision for the future of Flathead County.

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 WCCMP Area with dates for workshops. On October 21, 2014 staff sent approximately 4,450 postcards to property owners located within the WCCMP 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 this amendment and decided to move forward with an amendment to the WCCMP at the July Planning Board meeting.

Legal notice of the Planning Board public hearing on this application was published in the June 14, 2015 edition of the Daily Interlake. The public will have another opportunity to participate in the amendment process at the July 8, 2015 Planning Board meeting.

Finding #5: The amendment has undergone and will continue to undergo a sufficient process of county-wide public participation and review because postcards were sent to property owners in the plan area notifying them 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 that will be held on July 8, 2015 and the public will be given a chance to comment during the public hearing.

B. Secondary Plan Amendment Criteria

The Master Plan does anticipate that the plan would require periodic review and revision, because the various recommendations delineated in this study are based upon prevailing needs or deficiencies and past trends, as social and economic conditions vary, the needs and desires as well as the deficiencies of the Whitefish area will vary. However the WCCMP Year 2020 does not establish unique amendment criteria within the document.

V. SUMMARY OF FINDINGS

1. The proposed Master Plan map 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. The proposed amendment to rescind the Whitefish City-County Master Plan is based on existing characteristics that are substantially different from the October 2012 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 appears to generally comply with the map, text, goals and objectives of the Flathead County Growth Policy because if FPMA-15-02 is approved the Growth Policy Designated Land Use Map will not contain the WCCMP Land Use Map, the amendment will follow the review process within the Growth Policy, comments have been sought from the City of Whitefish and the WCCMP is not a neighborhood plan but rather a localized master plan that has become outdated due to litigation.
4. The map amendment appears to predominantly protect and comply with the public's vision for the future of Flathead County because upon review by both the planning staff and the planning board many of the goals and policies of the Growth Policy that address the public's vision appear to be similar to goals and policies of the WCCMP, the rescinding of the WCCMP would likely not impact the rights of private property owners and rescinding the WCCMP would not impact with the public's vision for the future of Flathead County.
5. The amendment has undergone and will continue to undergo a sufficient process of county-wide public participation and review because postcards were sent to property owners in the plan area notifying them 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 that will be held on July 8, 2015 and the public will be given a chance to comment during the public hearing.

VI. SUMMARY

Per Chapter 11 Part 4 of the Flathead County Growth Policy existing plans previously adopted by Flathead County were incorporated into the Growth Policy as addenda upon adoption of the Flathead County Growth Policy. As such the review and evaluation by the staff of the Planning Board comparing the proposed Whitefish City-County Master Plan Map Year 2020 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