

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**SOLOMON PEYTON LLC c/o LOVEJOY**  
**REQUEST FOR ZONE CHANGE FROM AG-80 to R-2, B-2 AND I-1**  
**STAFF REPORT #FZC-09-04**  
**SEPTEMBER 30, 2009**

A report to the Flathead County Planning Board and the Board of County Commissioners regarding a zoning map amendment for Solomon Peyton LLC proposing to change the zoning on 20.02 acres from AG-80 to B-2, on 20 acres from AG-80 to I-1 on 20 acres, and from AG-80 to R-2 on 77 acres in the Evergreen Zoning District.

A public hearing has been scheduled before the Flathead County Planning Board for October 14, 2009 beginning at 6:00 PM on the 2<sup>nd</sup> floor conference room, of the Earl Bennett Building, 1035 1<sup>st</sup> Ave West, Kalispell. The Planning Board will forward a recommendation to the Board of County Commissioners for final action. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, Earl Bennett Building, 1035 First Avenue West, in Kalispell.

**LUAC UPDATE:**

The Two Rivers Plan did not recommend or create a Land Use Advisory Committee.

**PLANNING BOARD UPDATE:**

A summary of the Planning Board's recommendation will be written in this space following the Planning Board's decision.

**COMMISSION UPDATE:**

A summary of the Commissioner's decision will be written in this space following the Board's decision.

**BACKGROUND INFORMATION**

**A. Applicant:**

Solomon/Peyton LLC (c/o Bob Lovejoy)  
3800 Whitefish Stage  
Kalispell, MT 59901

**Technical Assistance:**

Sands Surveying  
2 Village Loop  
Kalispell, MT 59901

**B. Location of Property**

The property is located on the southwest corner of the intersection of Trumble Creek Road and Rose Crossing northeast of Kalispell, Montana.

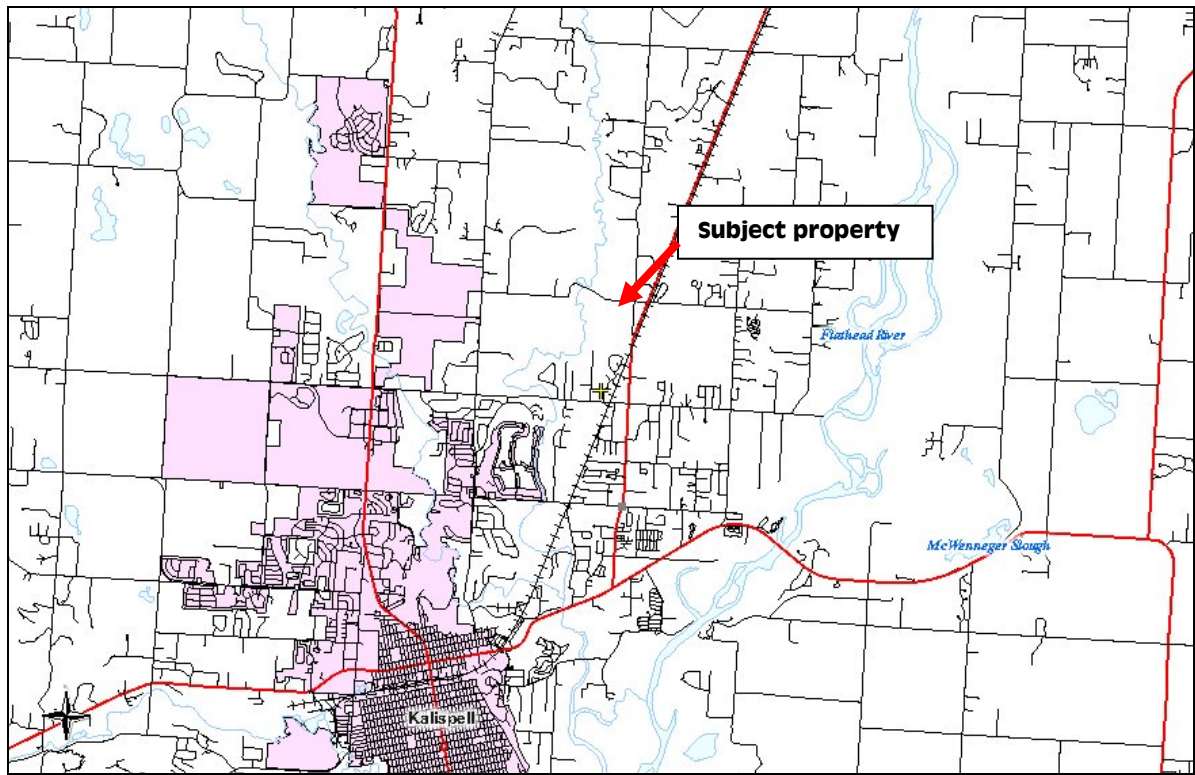


Figure 1: Location of the subject property

### C. Legal Description

The subject property can be legally described as Tract 5 of Section 28, Township 29 North, Range 21 West, P.P.M., Flathead County Montana or more particularly as follows:

A tract of land in the Northwest Quarter (NW1/4) of Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County Montana (Shown as Tract 1 of Certificate of Survey No. 16455).

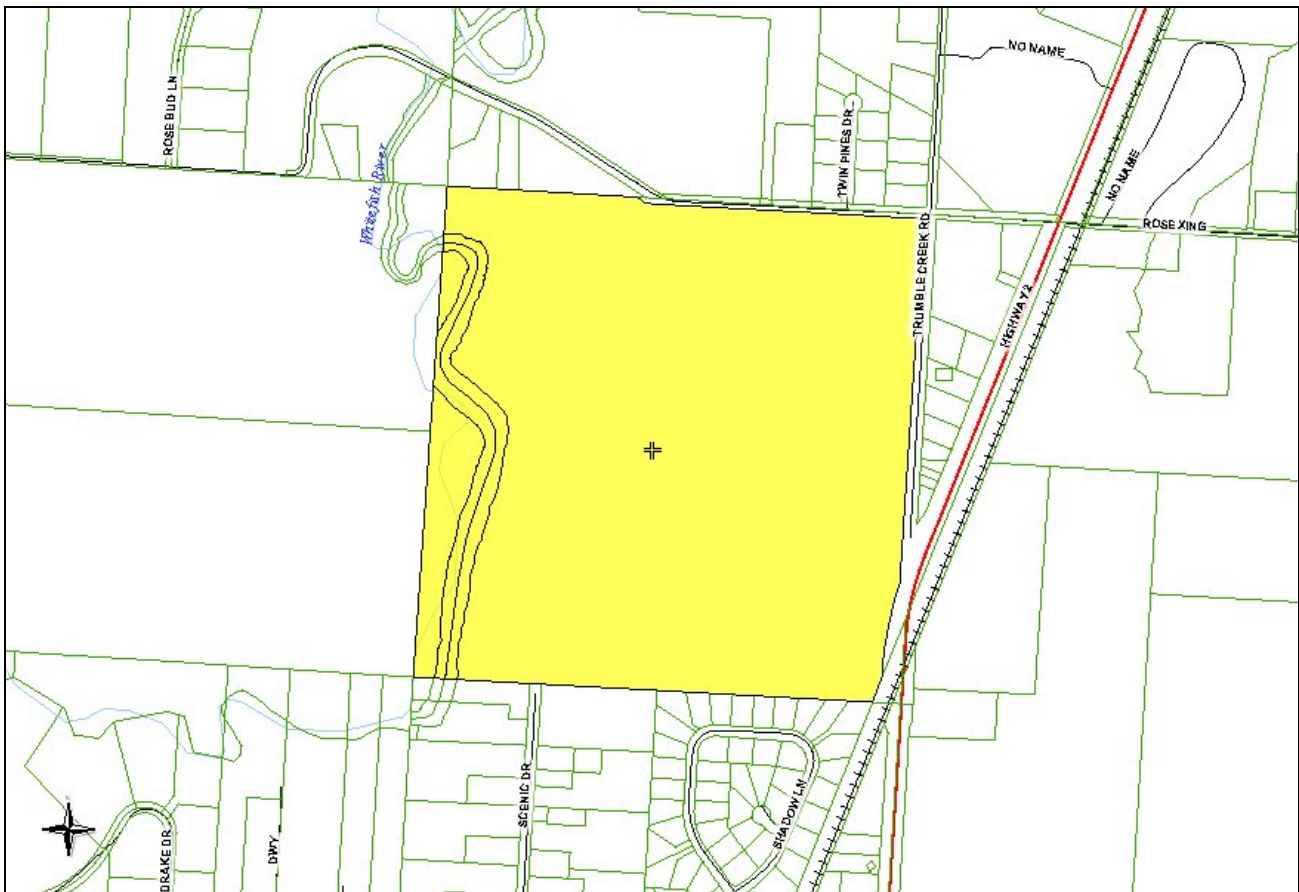


Figure 1: Location of the subject property. The subject properties are highlighted in yellow.

**D. Existing zoning:**

The subject property is located in the jurisdiction of the Two Rivers Neighborhood Plan and is currently zoned AG-80 Agricultural, a district to protect and preserve agricultural land for the performance of a wide range of agricultural functions.

**Use: Permitted Uses (AG-80)**

1. Agricultural/horticultural/silvicultural uses.
2. Cellular towers.
3. Class A and Class B manufactured homes.
4. Cluster housing.
5. Dairy products processing, bottling, and distribution.
6. Day care homes.
7. Dwellings, single-family.
8. Feed and seed processing and cleaning.
9. Feed lots: cattle, swine, poultry.
10. Fish hatcheries.
11. Guest houses.
12. Home occupations.
13. Homeowners parks and beaches.
14. Kennels.
15. Nurseries, landscaping materials.
16. Parks.
17. Produce stands.

18. Public transportation shelter stations.
19. Public utility service installations.
20. Ranch employee housing.
21. Stables, riding academies, rodeo arenas.

Conditional uses in an AG-80 zone are:

1. Airports.
2. Animal farms.
3. Animal hospitals, veterinary clinics.
4. Bed and breakfast establishments.
5. Camps and retreat centers.
6. Caretaker's facility.
7. Cemeteries, mausoleums, columbariums, crematoriums.
8. Churches and other places of worship.
9. Communication towers/masts.
10. Community center buildings operated by a non-profit agency.
11. Contractor's storage yards.
12. Dwellings, family hardship.\*
13. Electrical distribution stations.
14. Extractive industries.
15. Landfills, sanitary for disposal of garbage and trash.
16. Radio and television broadcast studios.
17. Recreational facilities, low-impact.
18. Rifle ranges.
19. Schools, primary and secondary.
20. Temporary buildings or structures.\*
21. Water and sewage treatment plants.
22. Water storage facilities.

**Intensity:** The intensity of the proposed zoning relates to the amount of a particular use that can take place. Minimum lot sizes are 80 acres. The zoning does permit clustering of lots as permitted in Section 5.09 FCZR.

**Bulk:** The bulk of the zoning relates to dimensional requirements such as lot coverage, building setbacks and height restrictions. Within AG-80 zoning setbacks are 20 feet from each property line for principal structures. For accessory structures, setbacks are 20 feet from the front and side corner, and 5 feet from the rear and the side's lot lines. Twenty foot setbacks are required from streams, and from county roads classified as collector or major/minor arterials. Maximum building height is 35 feet (agricultural buildings exempt). Permitted lot coverage is 20%.

**E. Nature of Request and Proposed Zoning:**

The applicant is proposing to change the zoning to R-2 One Family Limited Residential, B-2 General Business, and I-1 Light Industrial (see figure 3).

# Approximate Location of Proposed Zoning Changes

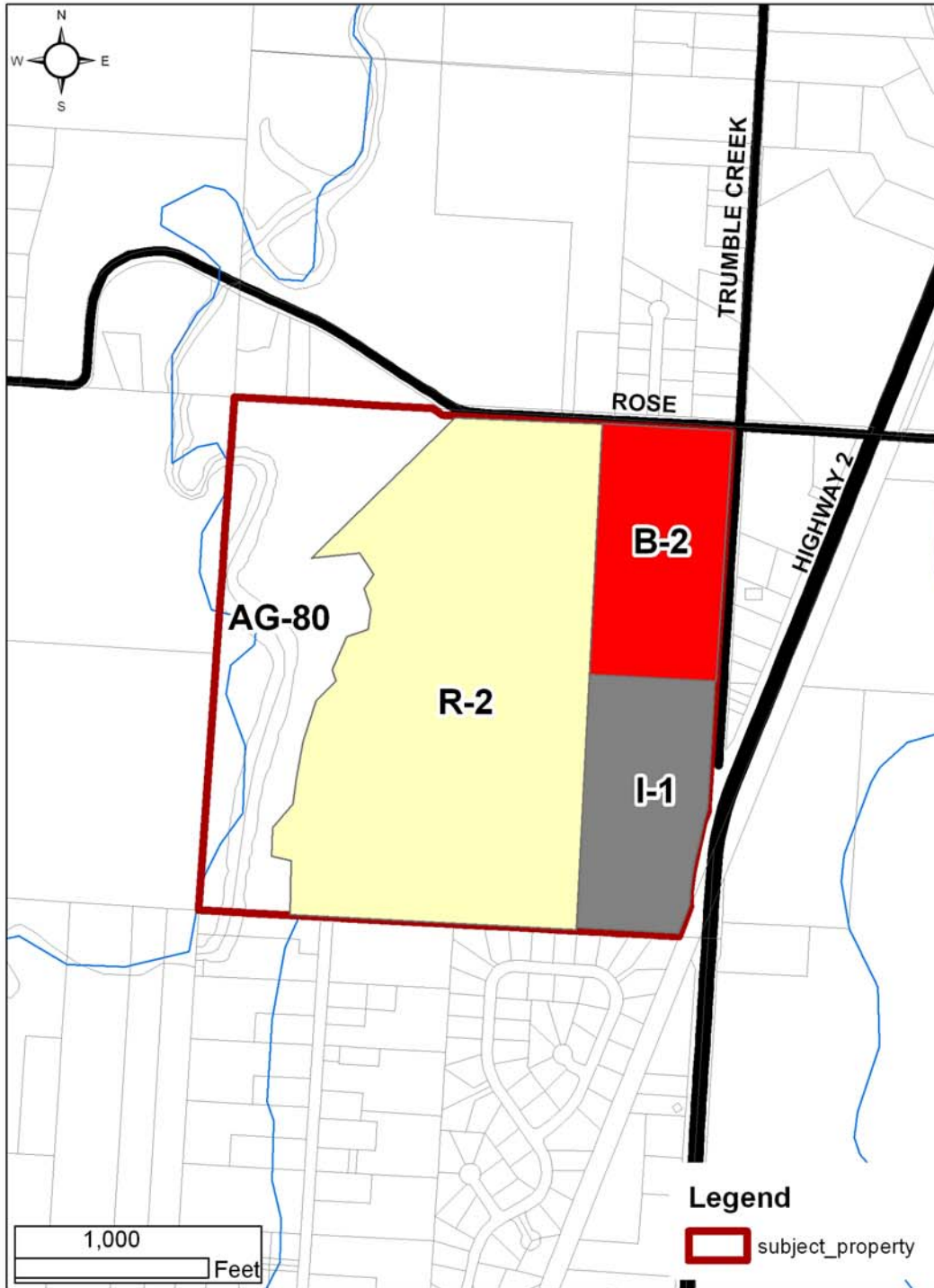


Figure 3: Location of the proposed zoning designations on the subject property.

R-2 One Family Limited Residential is a district to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines.

**Use:** Permitted uses in R-2 zoning are:

1. Class A manufactured homes.
2. Day care homes.
3. Dwellings, single-family.
4. Guest houses.
5. Home occupations.
6. Homeowners parks and beaches.
7. Parks and publicly owned recreational facilities.
8. Public transportation shelter stations.
9. Public utility service installations.

Conditional uses that require a permit are:

1. Bed and breakfast establishments.
2. Cellular antennas & monopoles.
3. Cemeteries, mausoleums, columbariums, crematoriums.
4. Churches and other places of worship.
5. Community center buildings operated by a non-profit agency.
6. Community residential facilities.
7. Dwellings, cluster development
8. Dwellings, family hardship.
9. Electrical distribution stations.
10. Golf courses.
11. Golf driving ranges.
12. Manufactured home parks.
13. Schools, primary and secondary.
14. Temporary buildings or structures.
15. Water and sewage treatment plants.
16. Water storage facilities.

**Intensity:** The intensity of the zoning relates to the amount a particular use can take place. R-2 zoning requires a minimum lot size of 20,000 square feet (about 0.46 acres). The zoning does permit clustering of lots as permitted in Section 5.09 FCZR.

**Bulk:** The bulk of the zoning relates to dimensional requirements such as lot coverage, building setbacks and height restrictions. Setbacks for primary structures are 20 feet from the front, side corner and rear property line and 10 feet from the side property line. For accessory structures setbacks are 20 feet from the front property line and the side corner, and 5 feet from the side and rear property lines. Twenty foot setbacks are required from streams, and from county roads classified as collector or major/minor arterials. Maximum building height is 35 feet. Permitted lot coverage is 30%.

B-2 General Business is a district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.

**Use:** Permitted uses in a B-2 designation are:

1. Accessory apartments.
2. Art foundries.
3. Automobile (new and used) and accessory sales.
4. Automobile service stations.
5. Boat sales, new and used.
6. Bus stations.
7. Car washes.
8. Cellular towers.
9. Churches and other places of worship.
10. Day care centers.
11. Farm equipment sales.
12. Financial institutions.
13. Food stores, supermarkets, and delicatessens.
14. Health clubs.
15. Hotels, motels.
16. Lodges and fraternal and social organizations, provided that any such establishment shall not be conducted primarily for gain.
17. Lumber yards, building materials; storage and sales.
18. Manufactured home sales and storage.
19. Nurseries, landscaping materials.
20. Offices.
21. Parks and publicly owned recreational facilities.
22. Public transportation shelter stations.
23. Public utility service installations.
24. Quasi-public buildings. (fire stations, government offices, etc.)
25. Radio and television broadcast stations.
26. Recreational facilities, high-impact.
27. Recreational facilities, low-impact.
28. Recreational vehicle parks.
29. Recycling drop-off stations.
30. Rental yards.
31. Retail sales and services.
32. Restaurants.
33. Theaters, housed in permanent indoor structures.
34. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture in an enclosed facility.

Conditional uses that require a permit in a B-2 designation are:

1. Animal hospitals, veterinary clinics.
2. Automobile repair shops.
3. Colleges, business schools, trade schools, music conservatories, dance schools.
4. Commercial caretaker's facility in a detached accessory building in conjunction with a business.
5. Commercial recreation areas.
6. Convention hall facilities.
7. Electrical distribution stations.
8. Golf driving ranges and putting courses.

9. Mini-storage, RV storage.
10. Mortuaries.
11. Taverns.
12. Temporary buildings or structures.\*
13. Water storage facilities.

**Intensity:** The intensity of the proposed zoning relates to the amount of a particular use that can take place. Minimum lot sizes are 7,500 square feet.

**Bulk:** The bulk of the zoning relates to dimensional requirements such as lot coverage, building setbacks and height restrictions. Within B-2 zoning setbacks are 20 feet from the front and side corner, 5 feet from the side, and 15 feet from the rear for all structures. An additional 10 foot setback is required from county roads classified as collector or major/minor arterials. Maximum building height is 35 feet. There is no permitted lot coverage.

I-1 Light Industrial is a district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended the encroachment of non-industrial uses within the district be prevented other than those listed herein.

**Use:** Permitted uses in I-1 are:

1. Accessory apartments.
2. Animal related services such as pet grooming and training, veterinary clinics and animal hospitals, taxidermy, aviaries and farrier services.
3. Art foundries.
4. Auction yard, without livestock.
5. Automobile, RV, watercraft (new and used) and accessory sales.
6. Automobile service stations.
7. Boat sales, new and used.
8. Bus stations.
9. Car washes.
10. Cellular towers.
11. Churches and other places of worship.
12. Contractors' storage yards and building supply outlets.
13. Day care centers.
14. Direct mailing and telemarketing.
15. Farm equipment sales.
16. Feed, seed and farm supply, including grain elevators.
17. Financial institutions.
18. Food stores, supermarkets, and delicatessens.
19. Health clubs.
20. Heating, ventilation, air conditioning and plumbing sales, service and repair.
21. Heavy equipment sales, rental and service.
22. High tech industrial business.
23. Hotels, motels.
24. Janitorial service.
25. Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive,

hazardous or toxic. Examples of such uses would include but are not limited to the following:

- A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.
  - B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment and boat building.
  - C. Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.
  - D. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.
  - E. Storage and warehousing such as mini-storage, boat and vehicle storage.
26. Lodges and fraternal and social organizations, provided that any such establishment shall not be conducted primarily for gain.
  27. Lumber yards, building materials; storage and sales.
  28. Manufactured home sales and storage.
  29. Nurseries and landscape materials, wholesale and retail.
  30. Offices.
  31. Parcel delivery services.
  32. Parks and publicly owned recreational facilities.
  33. Public transportation shelter stations.
  34. Public utility service installations.
  35. Quasi-public buildings
  36. Radio and television broadcast stations.
  37. Recreational facilities, high-impact.
  38. Recreational facilities, low-impact.
  39. Recreational vehicle parks.
  40. Recycling drop-off stations.
  41. Rental stores and yards.
  42. Research laboratories and institutions.
  43. Retail sales and services.
  44. Restaurants.
  45. Security guard services.
  46. Theaters, housed in permanent indoor structures.
  47. Tire recapping and retreading.
  48. Truck terminals.
  49. Wholesale trade and warehousing.

Conditional Uses that require a permit are:

1. Auction yards, livestock.
2. Automobile wrecking yards, junkyards, salvage yards.
3. Colleges, business schools, trade schools, music conservatories, dance schools.
4. Commercial caretaker's facility in a detached accessory building in conjunction with a business.

5. Commercial recreation areas.
6. Communication towers/masts.
7. Convention hall facilities.
8. Electrical distribution systems.
9. Golf driving ranges and putting courses.
10. Landfills, sanitary for disposal of garbage and trash.
11. Mini-storage, RV storage.
12. Mortuaries.
13. Radio and television broadcast stations.
14. Recycling processing plants.
15. Small wood product processing with five (5) or less employees.
16. Taverns.
17. Temporary buildings or structures.
18. Water storage facilities.

**Intensity:** The intensity of the proposed zoning relates to the amount of a particular use that can take place. Minimum lot sizes are 7,500 square feet.

**Bulk:** The bulk of the zoning relates to dimensional requirements such as lot coverage, building setbacks and height restrictions. Within I-1 zoning setbacks are 20 feet from the front, side corner and rear, and 10 feet from the side property line. An additional 20 foot setback is required from county roads classified as collector or major/minor arterials. Maximum building height is 40 feet. There is no permitted lot coverage.

**F. Size:**

The subject property is 158 acres. The proposed changes to the zoning map will affect approximately 117 acres.

**G. Adjacent Land Uses and Zoning:**

**North:** Unzoned, residential.

**South:** R-1 and R-2, residential

**East:** B-2, I-1, and SAG-10. Commercial and industrial uses adjacent to the property.  
Agricultural uses across the highway.

**West:** AG-80, agricultural

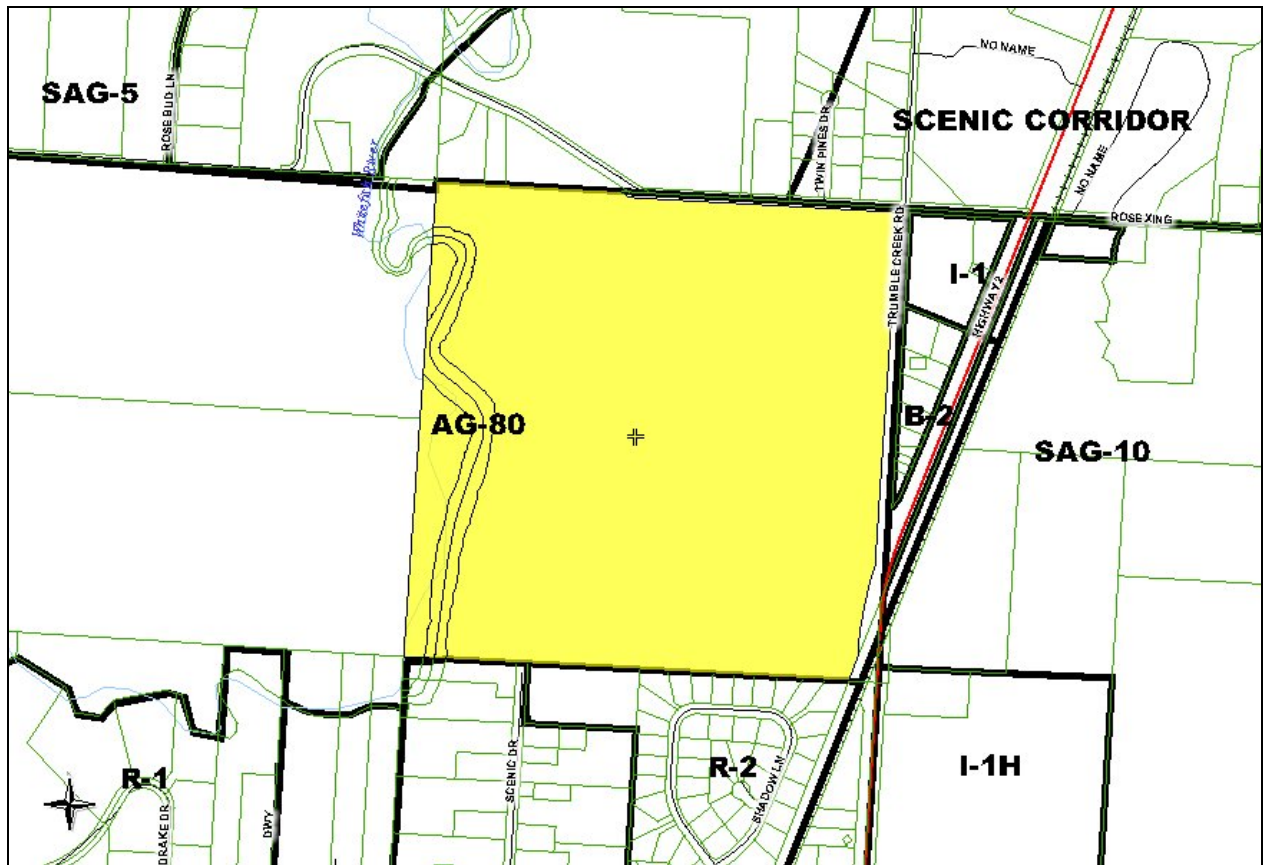


Figure 4: The surrounding zoning.

**H. General Land Use Character:**

The subject property is located at the southwest corner of the intersection of Rose Crossing and Trumble Creek Road. The area is transitioning from rural characteristics to more suburban and urban characteristics. To the north and west, the adjacent properties have a rural character. Properties have generally residential or agricultural uses. Properties do not have urban facilities like sewer and water. To the east and the south, the properties have industrial, commercial, and residential uses that are more typically found closer to an urban center. The residential area to the south is as dense as 2 units per acre. These properties are served by public sewer and water. To the east of the subject property is US Highway 2, a four lane highway with a middle turn lane, and a rail line.

**I. Utilities and Public Services:**

- Sewer: The property is adjacent to but outside of the Evergreen Water and Sewer District
- Water: The property is adjacent to but outside of the Evergreen Water and Sewer District.
- Electricity: Flathead Electric Cooperative
- Natural Gas: Northwestern Energy
- Telephone: CenturyTel
- Schools: Helena Flats
- Fire: Evergreen
- Police: Flathead County Sheriff's Office

## **J. Relation to Zoning Requirements**

### Spot Zoning:

Spot zoning may generally be described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Legal precedent has validated a “three-part test” that may indicate spot zoning, as described in *Little v. Board of County Comm’rs*. Below is a brief review of the three-part test in relation to this application.

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

While the property itself is zoned AG-80, properties adjacent to or within the vicinity of the subject property are zoned R-2, B-2, I-1H, SAG-10, and I-1. The proposed uses are not significantly different than uses on the adjacent properties.

2. *The zoning applies to a small area or benefits a small number of separate landowners.*

The proposed changes only apply to one tract, and will benefit only one owner.

3. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

The proposed changes only apply to one owner, but the proposed zoning designations are similar to adjacent zoning designations and are unlikely to be at the expense of surrounding landowners or the general public.

In summary, the proposed zoning designation does not appear to be spot zoning because it may only meet one criterion. To potentially be illegal spot zoning, the action has to meet all three of the criteria.

## **K. Comments Received:**

Legal notice of the proposed zoning map amendment application and the public hearing of the Flathead County Planning Board were published in the September 27, 2009 edition of the Daily Interlake. Adjoining property owners were notified by mail on September 18, 2009. Request for agency comment were sent on September 2, 2009. The following comments have been received:

- Flathead County Water and Sewer District #1 – Evergreen
  - The area is outside of RSID #132, the service area for this district
  - In order to get sewer service, the developer would have to receive permission from the City of Kalispell through an inter-local agreement between the City and the District for wastewater.
  - In the event the City agreed the District could transport wastewater from this property to the City Treatment Plant and if the District agreed to do it, significant upgrades to the Districts existing collection system would be required. Upgrades can’t be determined until the District can anticipate the flows.
  - The district could provide water service to the property and the improvements will be done to District standards and at the developer’s expense.
- Flathead County Road and Bridge Department
  - The requested zoning map amendment is acceptable. Specific requests will be made at time of subdivision.

- City of Kalispell Planning Department
  - The County I-1 zoning designation does permit uses such as light assembly and lumber yards that may create adverse conditions to an adjoining residential development.
  - Because there are 3 designations being proposed on one piece of property it seems appropriate to consider a development plan like a PUD that could utilize landscaping and lighting requirements to mitigate impacts.
  - The developer should be aware the property is outside the Evergreen Water and Sewer District. If the developer intends to request sewer service the Kalispell City Council passed Resolution 5301 which approved 100,000 gallons of sewage per day for lands outside of the Evergreen district to be conveyed through Evergreen sewer lines and treated at the Kalispell City Wastewater Treatment Plant. The developer must agree to the following:
    - Construct the sewer infrastructure in compliance with city and Evergreen standards and with necessary stub-out facilities to meet future Connection requirements.
    - Execute waivers of right to protest annexation for all parcels.
    - Enter into a developer's agreement with the City of Kalispell in which the parties agree that the subdivision shall be developed to City of Kalispell Urban Construction and Design Standards.
- Flathead County Solid Waste District
  - The district would request that contract haul be used if the proposal is approved. The district does not see any issues with solid waste at this time.
- Montana Fish Wildlife and Parks
  - No Comment
- Flathead City County Environmental Health Services
  - Public water and sewer is available immediately south of the subject property
  - DEQ regulations require any subdivision less than 20 acres in size connect to a sewer if it is within 500 feet of service.
  - Flathead County Sewage Treatment System Regulations require a property to connect if it is subdivided less than 20 acres and is within 200 feet.
  - It should not be assumed that on-site systems would be permitted.
- Department of Energy, Bonneville Power Administration
  - The proposal will not impact the transmission line corridor at this time.
  - BPA would like to review the preliminary plat when it is submitted.
- Flathead County Weed/Parks/Recreation & Building Maintenance.
  - It is the landowners responsibility to control weeds
  - It is recommended the owner complete a Soil Disturbance and Weed Management form.

### **EVALUATION BASED ON STATUTORY CRITERIA**

The statutory basis for reviewing a change in zoning is set forth by 76-2-205, M.C.A. Findings of fact for the zone change request are discussed relative to the itemized criteria described by 76-2-203, M.C.A. and Section 2.08.040 of the Flathead County Zoning Regulations. When writing findings of fact based upon the statutory criteria, staff must consider how all of the permitted and conditional uses allowed within the proposed zoning district may potentially impact the criteria. Unless a specific

development plan is submitted as part of a Planned Unit Development, staff does not consider any specific plans for development the applicant may be proposing unless it is specifically stated within the report.

1. Does the requested zone comply with the master plan?

According to 76-2-203 (1) and 76-2-203(a), M.C.A. zoning regulations must be made in accordance with the growth policy. The proposed zone change is within the jurisdiction of Two Rivers Master Plan Amendment which has been incorporated in the Flathead County Growth Policy.

The Two Rivers Master Plan Amendment was approved by the Flathead County Commissioners by Resolution 1822A and consists of a master plan map, and 12 policy statements/guidelines. The proposal is not consistent with the master plan map; however, the applicant has submitted a Growth Policy Amendment to the master plan map (FPMA-09-03 Solomon Peyton LLC available for public inspection at the Flathead County Planning and Zoning Office). If the Growth Policy Amendment is approved, the proposed zone change will be in compliance with the Master Plan Map.

The plan did not establish a Vision, Goals, or polices. Discussion to how the proposed zoning map amendment relates to the 12 policy statements/guidelines is provided below:

1. *The Two Rivers Master Plan Amendment area is an area appropriate for urban expansion and development. Urban services and utilities will be identified by the County and be required to be available at the time of the first phase for development. No urban services will be required for rural area designations.*

Directly to the south of the subject property is the Evergreen Sewer and Water District. Given the right conditions service could potentially be extended to the subject property. The City of Kalispell, by Resolution 5103, has approved 100,000 gallons of sewage per day for lands outside of Evergreen's jurisdiction within the county. For the subject property to access public sewer, the developer would need to acquire capacity from the City of Kalispell and comply with conditions of the City of Kalispell per the resolution. The conditions are: extend the system to Evergreen's standards, execute waivers of right to protest annexation for all parcels and, enter into an agreement with the City of Kalispell to design the development to City of Kalispell Urban Construction and Design Standards. According to Evergreen, improvements to the system may be "substantial" depending upon the intensity of the development.

2. *It is encouraged that a specific development plan be proposed at the time any part of the area is rezoned. The proposal plan would include urban scale development and improvements and would identify the service providers. If the area is to be annexed, a development plan and petition to annex would have been filed.*

The applicant has submitted a development plan in the form of a 5 lot minor (FSR-09-08 Tract 1 of COS 16455 available for public inspection at the Flathead County Planning and Zoning Office). Four lots will be ten acres each, and one lot will be 118 acres. The proposed lot sizes are not urban in scale. At this time there is no plan to annex the property into any service provider's district, or the City of Kalispell. To develop the property to the minimum lot sizes, it is possible urban infrastructure such as curb and guttering, and sewer service would be required. The plan encourages specific development plans to be submitted at the time of a zone change, which the applicant has done.

3. *The residential areas within the Two River Master Plan Amendment should be designated to provide a residential density of up to four dwelling units per acre with a higher density being allowed with a provision for the open space and/or park areas as part of an integrated development plan.*

The proposed zoning map amendment would designate 77 acres as R-2 (about 2 units per acre). The density is not what was suggested in the plan. However, the density in the land use designation is not a requirement. A landowner can choose to develop to a lesser density than what is proposed in the plan.

The applicant is proposing to leave the AG-80 zoning in the area designated in the plan as open space along the Whitefish River to preserve open space.

4. *Special consideration and opportunities should be provided to allow the creation of a variety of housing options that include single family, two family, Multi-family and mobile home parks as part of an overall development plan.*

The proposed zoning map amendment will designate 77 acres as R-2, which is a single family residential zone. An R-2 designation does allow for single family housing and manufactured home parks (with a conditional use permit). The applicant could pursue an R-2 PUD in the future that may permit two family and multi-family housing types.

5. *Urban standard be developed within the County that are consistent with the development standards used by the city of Kalispell that includes adequate right-of-way, paved roads, pedestrian access and storm water management plans.*

The minimum lot sizes in the proposed zoning designations would likely require some urban infrastructure. To achieve the minimum lot sizes, the DEQ may require sewer services. Extending sewer to the property may require the developer to enter into an agreement with the City of Kalispell that would require any development be made to City of Kalispell standards.

6. *As development in this area occurs an adequate provision be made for parks, recreation and open space areas that can be used on a regional, community, or neighborhood level.*

The proposed zoning map amendment will not affect any open space designation on the master plan map. The amendment will not impact the use of open space on a regional, community, or neighborhood level.

7. *The area at the southeast corner of Whitefish Stage Road and Rose Crossing be designated as Neighborhood Commercial and it would be anticipated that the uses and services offered in this area would be within the scale and character of the neighborhood in which it is located.*

The intersection mentioned in this policy statement/guideline is not a part of the proposed zoning map amendment.

8. *During the review of specific development proposals, an adequate provision be made for the future expansion and connection of roadways in the areas to insure that a grid street system can be established and that adequate upgrades to existing roads such as Rose Crossing and Whitefish Stage Road are made or can be made in the future, including provisions for a 120' right of way on Whitefish Stage Road, a 120' right of way on Rose Crossing and an 80' right of way on all other roads in the plan area.*

The proposed zoning map amendment will not have an impact on the ability of a

governing body such as Flathead County from requiring appropriate easements or rights of way at the time of development.

9. *It is recognized that as this area grows there will be additional impacts on fire and police services and those impacts must be mitigated by the users. The need for future fire station and police substation in the area will be addressed through the use of waivers to the creation of a special improvements district, special improvement district, impact fees or other mutually agreeable measures.*

The proposed zoning map amendment will have no impact on the ability of a governing body such as Flathead County from requiring waivers or reaching an agreement with future developers.

10. *Some of the properties within the Two River Plan amendment area are environmentally sensitive and will require special consideration in order to mitigate potential impacts to groundwater, surface water and the scenic environment. Those mitigation measures shall be identified and made part of the project review process and specific development proposals are considered either by the City of the County.*

The proposed zoning map amendment will not have an impact on the ability of a governing body such as Flathead County from requiring waivers or reaching an agreement with future developers.

11. *A grid system and road designation shown on the attached map, shall be established across the plan by recommendation of the County Road Supervisor, Flathead County Planning Board and Staff, and the Long Range Planning Task Force.*

The proposed zoning map amendment will not have an impact on providing for a grid system on the subject property.

12. *A 50 foot minimum setback shall be required from the High Water Mark of waterways for any structure.*

The proposed zoning map amendment does not impact the green space designation on the Master Plan Map and will have no impact on the ability of a governing body such as Flathead County from requiring a 50 foot buffer from the high water mark of any waterway.

**Finding 1. The compliance of the proposed zoning map amendment with the Two Rivers Master Plan Amendment Master Plan Map is dependent upon the adoption of FPMA-09-03 Solomon Peyton LLC, a proposed growth policy amendment that would amend the Master Plan Map in the Two Rivers Master Plan Amendment on 20 acres from a Commercial designation to an Industrial designation, and on 20 acres from a High Density 8+ designation to a Commercial designation.**

**Finding 2. The proposed zoning map amendment is consistent with the 12 policy statements/guidelines in the Two Rivers Plan because the subject property is adjacent to sewer and water services and those services may be expanded to serve the subject property, the subject property has access to a transportation system that includes a major and minor arterial and a rail line, and the proposal maintains a portion of the AG-80 designation which is in place to mitigate impacts to floodplain and wetlands, and to maintain open space.**

The Implementation Plan found in the Flathead County Growth Policy Appendix C identifies how policies are to be implemented. The Implementation Plan separates the policies into separate categories by how they are to be implemented. The categories are:

**Policy:** A specific but non-regulatory statement that directly guides a community towards meeting an established goal regarding the promotion of public health, safety, welfare and efficiency in the process of community development. Growth-related policies are frequently directly implemented with regulatory mechanisms.

**Action Item:** A statement providing guidance for future planning efforts and requiring a follow-up action such as creation of a subsequent, more detailed plan or educational outreach effort. Implementation of an action item (i.e. creation of an additional plan) can result in detailed policies regarding a specific issue.

**Neither:** The “policy” as stated in the Flathead County Growth Policy provides no specific growth guidance or direction for future planning efforts.

A number of the policies in the Implementation Plan can be implemented through the use of zoning. Any policy listed as a “policy” can be implemented through zoning, a policy listed as an “Action Item” may require an additional planning effort. Below is a list of policies relevant to this proposal that may be implemented through the use zoning that are listed as “Policy” in the implementation plan. The list is broken down into four categories, policies that apply to the proposal in general, policies that apply to the residential portion of the proposal, policies that apply to the commercial portion of the proposal, and policies that apply to the industrial portion of the proposal.

## **General**

### *P.10.1 Discourage high density development within the 500-year floodplain.*

According to FEMA Firm Panel # 1420G the location of the proposed zoning map amendment on the subject property appears to be in Zone X, areas determined to be outside the 0.2% annual chance floodplain.

### *P.10.5 Protect wetlands and riparian areas. See Goal 38 and Policies 38.1 through 38.4.*

The proposal does not change the AG-80 designation in the areas designated as open space in the Two Rivers Plan. These areas have been identified to have floodplain, and wetland and riparian habitat. Retaining the AG-80 designation attempts to mitigate potential impacts to the wetland and riparian habitats.

### *P.10.7 On lands that contain areas both suitable and unsuitable for development, encourage open space development design techniques to cluster dwellings away from hazardous and/or unsafe areas.*

The proposal does not change the AG-80 designation in the areas designated as open space in the Two Rivers Plan. These areas have been identified to have floodplain, and wetland and riparian habitat. Retaining the AG-80 designation attempts to mitigate potential impacts to the wetland and riparian habitats and concentrate development away from the floodplain.

### *P.21.1 Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*

The proposed zoning map amendment will designate approximately 20 acres as B-2 and approximately 20 acres as I-1. The subject property is currently undeveloped, therefore

the proposal increase the opportunity on the subject property for business and industry. The property is adjacent to a major arterial providing a high profile location, and bordering a rail line.

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

The proposed commercial and industrial zoning designations are located along the eastern portion of the subject property and will have direct access onto Trumble Creek Road. Trumble Creek Road intersects Rose Crossing, a minor arterial as defined by Flathead County Road and Bridge Department. This intersection is a few hundred yards from the intersection of Rose Crossing and US Highway 2. Furthermore, the subject property is adjacent to a railway. The existing transportation system may need to have upgrades depending upon the type and intensity of use to occur on this portion of the subject property. The area is transitioning from a rural area to a suburban and urban area. The properties adjacent to the east are zoned commercial and industrial, and have commercial and industrial uses. The properties to the south are zoned residential at 1 dwelling unit per acre and 2 dwelling units per acre.

*P.28.8 Implement scientifically defensible protection zones for aquifers susceptible to potential contamination and limit land uses to low intensity development in these zones.*

Portions of the subject property have been identified as floodplain, and riparian and wetland habitat. The applicant proposes to retain the AG-80 designation on these portions of the subject property to protect these sensitive areas.

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

Some portions of the subject property have high groundwater less than 8 feet to the surface. To achieve densities greater than one dwelling unit per 5 acres, sewer may have to service the property. Sewer and water services are available at the subdivision adjacent to the subject property to the south. There is the potential sewer services may be extended to the property.

*P.40.4 Encourage rural low-intensity land uses in areas where the groundwater is less than eight feet unless scientific evidence shows that a higher or lower intensity of land use is appropriate.*

Discussion for this policy is identical to discussion in Policy 40.2

*P.47.6 Discourage urban-density development that lacks urban services and facilities.*

Because of environment constraints, it is likely sewer systems would have to be extended to the subject property. This would potentially require the developer to enter into an agreement with the City of Kalispell that would require urban facilities.

## **Residential**

*P.17.3 Encourage mobile home parks as a form of affordable homeownership in areas with access to public sewer and water.*

An R-2 designation allows manufactured home parks as a conditional use.

*P.40.3 Encourage rural residential densities at an average of one dwelling unit per five acres and/or community wastewater treatment systems on sites where the groundwater is less than eight feet unless scientific evidence shows that a greater or lesser density is*

*appropriate.*

Some portions of the subject property have high groundwater less than 8 feet to the surface. To achieve densities greater than one dwelling unit per 5 acres, sewer may have to service the property. Sewer and water services are available at the subdivision adjacent to the subject property to the south. Sewer services may be extended to the property.

## **Commercial**

*P.6.1 Require internal, interconnected roads for commercial developments and frontage roads where appropriate.*

The portion of the subject property the proposed commercial designation is on will have direct access onto a local road, not a minor or major arterial. The amount of land available does facilitate the interconnectedness of roads if appropriate.

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

This area is transitioning from a rural to a suburban and urban area. The properties adjacent to the east are zoned commercial and industrial, and have commercial and industrial uses. The properties to the south are zoned residential at 1 dwelling unit per acre and 2 dwelling units per acre. The subject property has access to major and minor arterial roadways.

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

To the north of the subject property, the area has rural characteristics; to the south the area has characteristics of a suburban or urban area. While the proposed designations would not be considered infill, they are not in far flung locations within the county that will require abnormal demands on the transportation system.

*P.7.6 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.*

The proposed zoning map amendment will combine commercial, industrial, and residential zoning designations on one property. The configuration could allow shared infrastructure components and other facilities.

## **Industrial**

*P.5.1 Match requirements of industrial land uses (such as human resources, adequate water supply, suitable road network) and areas of Flathead County where those requirements can best be met.*

The proposed industrial designation is located along the eastern portion of the subject property and will have direct access onto Trumble Creek Road. Trumble Creek Road intersects Rose Crossing, a minor arterial as defined by Flathead County Road and Bridge Department. This intersection is a few hundred yards from the intersection of Rose Crossing and US Highway 2. Furthermore, the subject property is adjacent to a railway. The existing transportation system may need to have upgrades depending upon the type and intensity of use to occur on this portion of the subject property.

*P.5.2 Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent land uses.*

The type of roads available to the subject property may be suitable, but the roadways themselves may need upgrades depending upon the type and intensity of use. The industrial designation is adjacent to a residential zoning designation which creates the potential for incompatible uses being adjacent to each other. Therefore, the zoning regulations require buffers when re-zoning property to an industrial designation that is adjacent to residential zones. Potential impacts to adjacent uses could be minimized if the protections in the zoning regulations are required during development.

*P.5.5 Restrict industrial uses that cannot be mitigated near incompatible uses such as residential, schools, environmentally sensitive areas such as wetlands, floodplains, riparian areas, areas of shallow groundwater, etc.*

Residential uses are on the subject property and shallow groundwater may be present. Impacts to residential areas could be mitigated through use of a green space buffer, and impacts to groundwater could be mitigated by the expansion of sewer adjacent to the property.

**Finding 3. The proposed zoning map amendment is consistent with the applicable policies in the Flathead County Growth Policy because the subject property is adjacent to sewer and water services and those services may be expanded to serve the subject property, the subject property has access to a transportation system that includes a major and minor arterial and a rail line, the proposal potentially increases opportunities for economic development, the proposal potentially mitigates impacts to adjacent non-compatible residential uses through use of buffers, and the proposal maintains a portion of the AG-80 designation which is in place to mitigate impacts to floodplain and wetlands, and to maintain open space.**

2. Is the requested zone designed to lessen congestion in the streets and provide safe access?

The property is adjacent to Rose Crossing, a collector road, and Trumble Creek Road, a local road (at this particular point in the road). The property is a few hundred yards from a major arterial road, US Highway 2. Rose Crossing provides a connection between US Highway 2 and Whitefish Stage, an arterial road to the west of the subject property. The subject property also is adjacent to a rail line.

The proposed zoning designations will increase the intensity of uses and permit a wider variety of uses on the property than what is currently available with the AG-80 designation. This will have an impact on the types and volumes of traffic on Rose Crossing, Trumble Creek Road, the intersection of Rose Crossing and Trumble Creek, the intersection of Rose Crossing and US Highway 2, and the intersection of Rose Crossing and Whitefish Stage.

Rose Crossing is a paved county road with a traveling surface of about 24 feet. The most recent traffic count taken by Flathead County Road and Bridge Department on Rose Crossing was from 10/05/07 to 10/09/07 east of Whitefish Stage. At this location during this time period, Rose Crossing average 1,224 trips per day.

Trumble Creek Road is a paved county road with a 22 foot travel surface, the road dead ends south of the intersection with Rose Crossing before it reaches US Highway 2. Because the roadway dead ends and has a travel surface typical of a local road, the portion of the roadway adjacent to the subject parcel is being considered a local road for purposes of this report. The most recent traffic count for the portion of Trumble Creek road south of the intersection of Rose Crossing was taken in June of 2004 and averaged 38 trips per day.

A traffic study by WGM group that was completed in May of 2008 has been submitted to Flathead County Planning and Zoning as part of packet of information for a minor subdivision on this subject property. It was not submitted as a part of this zone change proposal. The traffic study was completed for a development that is no longer being proposed, but has some similarities to this zone change. The recommendations of the study cannot be translated verbatim to the potential impacts of this zone change, but they do provide some insight to the level of impacts to the transportation system with densities similar to this proposal. The traffic study does recommend upgrades to Rose Crossing, the intersection of Rose Crossing and US Highway 2, and Trumble Creek Road. The intensity of the improvements will not be identical for this proposal, but it can be assumed some improvements to the transportation system may be necessary given the potential densities of the proposed zone change.

There is one existing condition that presents a safety hazard and may impact adjacent properties if the proposed zoning designation is approved. A cut-off across private property, that does not appear to have public access easements, facilitates connectivity between Trumble Creek Road and US Highway 2. The commercial and industrial designations of this proposal will be located on Trumble Creek Road directly across the roadway from the cut-off. There is the potential traffic generated from uses at the commercial and industrial sites would use this cut-off rather than traveling to Rose Crossing to access the highway because it is a shorter distance and there is no traffic signal. This cut-off is unmarked, lacks traffic signs, is unpaved, is likely not maintained and is not defined through the property (see figure 5). If the subject property is designated commercial and industrial, there is potential some traffic generated by uses allowed by the proposed zoning designation will utilize this undeveloped cut off. The traffic will be trespassing, will not have a defined roadway, and will not have traffic signs installed. Furthermore, if there in an approved approach onto US Highway 2, it is likely not approved for this type of use.



Figure 5: The portion of the cut off where it intersects US Highway 2.

**Finding 4. Some improvements to the immediate transportation system may be necessary at the time of development because of the potential intensity and type of uses allowable in an R-2, B-2, and I-1 designation.**

**Finding 5. A cut-off between US Highway 2 and Trumble Creek Road may result in a safety and welfare concern because it is located directly across Trumble Creek Road from the proposed Industrial and Commercial designations providing a direct route from Trumble Creek Road to US Highway 2, the cut-off is on private property, the cut-off does not have a defined travel surface and the cut-off does not have traffic safety signs.**

3. Does the new zoning give reasonable consideration to the character of the district?

The subject property is within the Evergreen Zoning District. The Evergreen Zoning District was established in 1990 by Resolution 797A. The zoning designations were based upon the Master Plan Map in the Flathead City-County Master Plan 2010. When the Evergreen Zoning District was adopted, it included a wide variety of zoning designations including residential, commercial, agricultural, and industrial uses. Today the variety of zoning designations still exists. The three designations proposed in this application are present within the Evergreen Zoning District and all three were contemplated when the district was originally created in 1990 as evident in the Master Plan Map in the City-County Master Plan 2010..

The originally zoning district was based upon the Master Plan Map City-County Master Plan 2010, but the proposed zoning will be based upon the more recent Two Rivers Master Plan Amendment. Despite the difference in the basis, the proposed zoning designations will not be out of character with the existing designations in the Evergreen Zoning District.

**Finding 6. The proposed zoning map amendment does give reasonable consideration to the character of the district because the proposed zoning designations are all represented in the vicinity of the subject property.**

4. Will the requested zone promote safety from fire, panic, and other dangers?

Emergency services are located in Evergreen and on the north end of Kalispell. The subject property is about 1.8 miles from the Evergreen fire station, and about 5.5 miles from Kalispell Regional Medical Center and can be accessed from these locations by major and minor arterial roadways. Given the relative close proximity to emergency services and the condition and type of access, it appears the proposed designations are acceptable.

**Finding 7. The proposed zoning map amendment promotes safety from fire, panic and other dangers because the subject property has access to a minor and major arterial roadway, and is relatively close to emergency services.**

5. Will the requested change promote health and general welfare?

The configuration of the proposed zone change will result in commercial and industrial designations abutting a residential designation. The uses in commercial and industrial designations may be injurious to the health and welfare of uses in the residential designation. Section 5.05 FCZR requires a greenbelt between the residential designations, and the commercial and industrial designations. Given the fact the parcel is one tract, to allow different uses on one piece of land would require the tract to be subdivided. Addressing the greenbelt can be done during subdivision. With the use of a greenbelt, the requested change can promote the health and general welfare.

**Finding 8. The proposed industrial and commercial designations would abut areas zoned as residential creating the potential for incompatible uses to be adjacent to one another potentially resulting in negative impacts to the residential uses, the potential for impacts may be mitigated when incompatible uses located adjacent to each other through use of greenbelts as required in Section 5.05 FCZR.**

6. Will the requested zone prevent the overcrowding of land?

The overcrowding of land results when the intensity of uses strains local services or the natural environment resulting in declining or unreasonable conditions of public health and safety. If the proposal has the potential to result in declining or unreasonable conditions of public health or safety, the proposal is resulting in an overcrowding of the land.

The applicant is proposing an R-2 designation on about 77 acres of the property. An R-2 designation allows minimum lot sizes of 20,000 square feet (about 2 dwelling units per acre). This property does have areas of shallow groundwater. Groundwater monitoring for a proposed minor subdivision submitted to this offices reveals groundwater depths vary from greater than 8 feet from the surface, to as shallow as 2.1 feet. Densities of 2 units per acre in areas of shallow groundwater are required to be on a sewer system. To achieve the proposed densities without overcrowding the land, the developer may need to have sewer as well as water systems which are available adjacent to the subject property.

The Whitefish River flows through the western portion of the subject property. The applicant is proposing to leave an AG-80 designation near the river to prevent development in the floodplain and protect the riparian and wetland habitats. Oasis Environmental has completed an Ecological Inventory of the property where they identified the locations of the wetlands and

riparian habitat along the Whitefish River. The applicant has performed a LOMA on the property to determine the location of the floodplain for the Whitefish River. The floodplain and wetland and riparian habitat will remain in the AG-80 designation.

**Finding 9. Achieving the maximum densities allowed in an R-2 designation may require sewer because groundwater depths on portions of the subject property are less than 4 feet to the surface.**

**Finding 10. The applicant is attempting to protect the Whitefish River from potential impacts because the AG-80 zoning designation will not be changed in the mapped floodplain or in wetland and riparian habitats along the river.**

7. Will the zone change avoid undue concentration of people?

The undue concentration of people results when the intensity of uses strains local services or the natural environment resulting in declining or unreasonable conditions of public health and safety. If the proposal has the potential to result in any declining or unreasonable conditions to public health or safety, the proposal is resulting in an undue concentration of people.

The subject property is 158 acres. The current zoning (AG-80) would prevent the property from being divided resulting in one dwelling unit on 158 acres. If 77 acres of the subject property is zoned R-2 as proposed, the number of dwelling units allowed may potentially be 167 units, or about 2 dwelling units per acre. To achieve densities close to 2 dwelling units per acre the site would have to have a transportation system adequate to distribute the increased traffic volume, possibly sewer and water systems, relative close proximity to emergency services, and lack of environmental constraints.

Densities of the Commercial and Industrial designations have the potential to be 1 unit per 7,500 square feet, or about 6 units per acre. Densities of 6 units per acre would require sewer and water, an adequate transportation system, relative close proximity to emergency services, and lack of environmental constraints. It is possible, for the commercial and industrial portions of the subject property to be able to achieve the maximum potential densities; improvements to the transportation system would have to be made to both on and off site. Sewer and water systems would have to be extended, and a green space buffer between the industrial and commercial uses would have to be put in place. All of these improvements would have to be borne by the cost of the developer at the time of subdivision.

Given the property's proximity to sewer and water, the access to a local minor arterial road, proximity to a major arterial road, the size of the property and the potential destiny, it seems reasonable improvements could be made at the time of development

**Finding 11. The proposed zoning map amendment will avoid the undue concentration of people because the subject property is near a major transportation corridor, sewer and water systems are adjacent to the subject property and could potentially be extended, emergency services are relatively close, and the proposal will not change the zoning designation of AG-80 along the riparian areas of the Whitefish River to protect that resource.**

8. Will the new zoning provide adequate light and air?

The configuration of the proposed zone change will result in commercial and industrial designations abutting a residential designation. The uses in commercial and industrial designations may be injurious to the health and welfare of uses in the residential designation. Section 5.05 FCZR requires a greenbelt between the residential designations, and the

commercial and industrial designations. Given the fact the parcel is one tract, to allow different uses on one piece of land would require the tract to be subdivided. Addressing the greenbelt can be done during subdivision. With the use of a greenbelt, the requested change can promote the adequate provision of light and air by providing buffers between the conflicting uses.

9. Will the requested zone facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements?

The property is adjacent to Rose Crossing, a minor arterial, and Trumble Creek Road, a local road (at this particular point in the road). The property is a few hundred yards from a major arterial road, US Highway 2. The existing transportation system can distribute traffic in a number of different directions rather than funneling it in one direction. As discussed in item (2) of this report there is the potential some upgrades to the transportation system may be necessary depending upon the intensity and type of use.

Directly to the south of the subject property is the Evergreen Sewer and Water District. Given the right conditions service could potentially be extended to the subject property. If sewer and water systems are deemed necessary, the developer would likely have to acquire sewage capacity through the City of Kalispell. The City of Kalispell, by Resolution 5103 has approved 100,000 gallons of sewage per day for lands outside of Evergreen's jurisdiction that are within the county. For the subject property to access the adjacent sewer lines, the developer would need to acquire capacity from the 100,000 gallons per day offered by the City of Kalispell and comply to conditions with the City of Kalispell per the resolution, which include; extending the system to Evergreens standards, executing waivers of right to protest annexation for all parcels, entering into an agreement with the City of Kalispell to design the development to City of Kalispell Urban Construction and Design Standards. According to Evergreen, improvements to the system may potentially be "substantial" depending upon the intensity of the development.

According to comments from Evergreen Water and Sewer District, water could be provided to the subject property. Improvements may include extension of mains, instillation of hydrants, and other items. This would require the property to be annexed into the district. All improvements would be paid at the expense of the developer.

The subject property is within the Helena Flats School District, and Flathead High School District. If 77 acres of the subject property is zoned R-2 as proposed, the number of dwelling units allowed may potentially be 167 units, or about 2 dwelling units per acre. The number of school aged children per household is typically assumed in Flathead County to be 0.5 school aged children per household. Given this assumption, 167 units could add an additional 84 school aged children. As of October 6, 2008 Helena Flats School had 224 students enrolled, and the two Flathead High Schools had 2608 students enrolled.

A development of the magnitude of 167 units on 77 acres would be required to either create a park or pay cash in lieu to mitigate the impacts to parks. Impacts to parks as a result of this proposal could be mitigated through subdivision review. Furthermore, the proposal maintains the AG-80 designation on a portion of the property with the attention of providing open space.

**Finding 12. The proposed zoning map amendment will facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements because the subject property is near a major transportation corridor, sewer and water systems are adjacent to the subject property and could potentially be extended, and part of the property will maintain the AG-80 designation providing for open space.**

10. Does the requested zone give consideration to the particular suitability of the property for particular uses?

The subject property has access to a major and minor arterial roadways and a railway. The commercial designation will have direct access to a local road rather than an arterial. Public sewer and water services are adjacent to the subject property and may potentially be extended. Part of the property will maintain the AG-80 designation which is intended to preserve open space and protect the natural environment.

**Finding 13. The proposed zoning map amendment will avoid the undue concentration of people because the subject property is near a major transportation corridor, sewer and water systems are adjacent to the subject property and could potentially be extended, emergency services are relatively close, and the proposal will not change the zoning designation of AG-80 along the riparian areas of the Whitefish River to protect that resource.**

11. Will the proposed zone conserve the value of buildings?

The property is now vacant. The proposed designations will not affect the value of buildings.

12. Will the requested zone encourage the most appropriate use of the land throughout the jurisdiction?

This criterion is intended to evaluate how the proposed zoning map amendment functions in relation to the rest of the jurisdiction. The jurisdiction is referring to the unincorporated lands within the planning jurisdiction of Flathead County. The proposal is not complaint with the Master Plan Map in the Two Rivers Master Plan Amendment however; the applicant has submitted a Growth Policy Amendment to the master plan map. The proposal does comply with the policy statements/guidelines in the Two Rivers Master Plan Amendment and with relevant policies in the Flathead County Growth Policy. The subject property has access to a major and minor arterial roadway and a railway. The commercial designation will have direct access to a local road rather than an arterial. Public sewer and water series are adjacent to the subject property and may be extended. Part of the property will maintain the AG-80 designation which is intended to preserve open space and protect the natural environment.

**Finding 14. The proposed zoning map amendment encourages the most appropriate use of the land throughout the jurisdiction because it is consistent with the applicable policy statements/guidelines and policies in the applicable land use plans.**

## FINDINGS OF FACT

Finding 1. The compliance of the proposed zoning map amendment with the Two Rivers Master Plan Amendment Master Plan Map is dependent upon the adoption of FPMA-09-03 Solomon Peyton LLC, a proposed growth policy amendment that would amend the Master Plan Map in the Two Rivers Master Plan Amendment on 20 acres from a Commercial designation to an Industrial designation, and on 20 acres from a High Density 8+ designation to a Commercial designation.

Finding 2. The proposed zoning map amendment is consistent with the 12 policy statements/guidelines in the Two Rivers Plan because the subject property is adjacent to sewer and water services and those services may be expanded to serve the subject property, the subject property has access to a transportation system that includes a major and minor arterial and a rail line, and the proposal

maintains a portion of the AG-80 designation which is in place to mitigate impacts to floodplain and wetlands, and to maintain open space.

- Finding 3. The proposed zoning map amendment is consistent with the applicable policies in the Flathead County Growth Policy because the subject property is adjacent to sewer and water services and those services may be expanded to serve the subject property, the subject property has access to a transportation system that includes a major and minor arterial and a rail line, the proposal potentially increases opportunities for economic development, the proposal potentially mitigates impacts to adjacent non-compatible residential uses through use of buffers, and the proposal maintains a portion of the AG-80 designation which is in place to mitigate impacts to floodplain and wetlands, and to maintain open space.
- Finding 4. Some improvements to the immediate transportation system may be necessary at the time of development because of the potential intensity and type of uses allowable in an R-2, B-2, and I-1 designation.
- Finding 5. A cut-off between US Highway 2 and Trumble Creek Road may result in a safety and welfare concern because it is located directly across Trumble Creek Road from the proposed Industrial and Commercial designations providing a direct route from Trumble Creek Road to US Highway 2, the cut-off is on private property, the cut-off does not have a defined travel surface and the cut-off does not have traffic safety signs.
- Finding 6. The proposed zoning map amendment does give reasonable consideration to the character of the district because the proposed zoning designations are all represented in the vicinity of the subject property.
- Finding 7. The proposed zoning map amendment promotes safety from fire, panic and other dangers because the subject property has access to a minor and major arterial roadway, and is relatively close to emergency services.
- Finding 8. The proposed industrial and commercial designations would abut areas zoned as residential creating the potential for incompatible uses to be adjacent to one another potentially resulting in negative impacts to the residential uses, the potential for impacts may be mitigated when incompatible uses located adjacent to each other through use of greenbelts as required in Section 5.05 FCZR
- Finding 9. Achieving the maximum densities allowed in an R-2 designation may require sewer because groundwater depths on portions of the subject property are less than 4 feet to the surface.
- Finding 10. The applicant is attempting to protect the Whitefish River from potential impacts because the AG-80 zoning designation will not be changed in the mapped floodplain or in wetland and riparian habitats along the river.
- Finding 11. The proposed zoning map amendment will avoid the undue concentration of people because the subject property is near a major transportation corridor, sewer and water systems are adjacent to the subject property and could potentially be extended, emergency services are relatively close, and the proposal will not change the zoning designation of AG-80 along the riparian areas of the Whitefish River to protect that resource.

- Finding 12. The proposed zoning map amendment will facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements because the subject property is near a major transportation corridor, sewer and water systems are adjacent to the subject property and could potentially be extended, and part of the property will maintain the AG-80 designation providing for open space.
- Finding 13. The proposed zoning map amendment will avoid the undue concentration of people because the subject property is near a major transportation corridor, sewer and water systems are adjacent to the subject property and could potentially be extended, emergency services are relatively close, and the proposal will not change the zoning designation of AG-80 along the riparian areas of the Whitefish River to protect that resource.
- Finding 14. The proposed zoning map amendment encourages the most appropriate use of the land throughout the jurisdiction because it is consistent with the applicable policy statements/guidelines and policies in the applicable land use plans.

### **RECOMMENDATION**

Staff recommends the Flathead County Planning Board and Flathead County Commission adopts staff report FZC-09-04 as findings of fact and recommends approval to the County Commissioners.

Planner: DH