



**To:** Flathead County Planning Board

**Re:** FZC-16-15 and a publicly initiated request for a **zoning map amendment** in the Blanchard Lake and rural Whitefish Zoning Districts. The proposed amendment would rezone approximately 0.2 acres from R-2.5 (Rural Residential) to B-2A (Secondary Business), approximately 36.2 acres from SAG-5 (Suburban Agricultural) to B-2A (Secondary Business), approximately 79.2 acres from SAG-5 (Suburban Agricultural) to BSD (Business Service District), and approximately 145.2 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural). In addition, this request proposes to place approximately 490 acres in the SWO (Highway 93 South Whitefish Overlay), extending approximately 1.5 miles south of the southern boundary of the City of Whitefish and approximately ¼ mile east and ¼ mile west of the Highway 93 right-of-way in Sections 12 and 13, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

**Date:** May 8, 2017

Citizens for a Better Flathead appreciates this opportunity to comment on the proposed Highway 93 South Whitefish Corridor Plan and Zoning proposal before you tonight. Our organization was founded in 1992 and we represent some 1500+ supporters throughout the county. Our mission is to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead *Special Forever*. **We believe that thoughtfully planned growth can and should occur without diminishing the very special characteristics of the Flathead Valley, and in this case specifically Whitefish, that play such an important role in attracting and retaining investments that grow the Flathead's economy.**

We are providing additional comments tonight to the comments we made to the Whitefish City Council on December 5<sup>th</sup> that are already part of your packet, and comments we made at the 1/11/17 public hearing and the 3/8/17 public workshop. We ask that our comments for this hearing and for the related text amendment hearing be jointly considered for each of these hearing records, as we believe these applications should not be considered in isolation of each other.

**In regards to this proposed map amendment we would ask that you consider the following issues**

1. **We object to the inherent conflict of interest that is created by having the Flathead County Planning Board as the applicant for this map amendment change** (rather than the property owners advocating for this change). We do not find that your taking on the role of the applicant for this map amendment is supported by your own regulations. Additionally we object to the planning board relying on the consultant, Land Solutions LLC, as the planning board's technical assistant for this proposal and affording this consultant, who continues to represent the property owners, additional time to comment and after the comment opportunities have been closed to the public.

Land Solutions, LLC, remains under contract by property owners who will benefit directly from this proposed map amendment. As an advocate for its clients---individual property owners seeking this map amendment---Land Solutions, LLC, cannot be an unbiased Technical Assistant for the Planning Board.

“Flathead County Zoning Regulation 2.02.040 It shall be the **duty of the Planning Board to hold public hearings and to make recommendations to the Board of County Commissioners** on all matters relating to the creation and amendment of the Growth Policy; the creation of zoning districts and the regulations to be enforced therein; **amendments to the zoning districts** of Flathead County; and future amendments to these regulations; (**Section 76-1-106, M.C.A.**) The Planning Board is also authorized to confer with and advise other City, County, Regional, or State planning and/or zoning commissions.”

76-1-106 provides as I read it no authority for the planning board to propose this map amendment.

76-1-106. Role of planning board. (1) **To ensure the promotion of public health, safety, morals, convenience, or order or the general welfare and for the sake of efficiency and economy in the process of community development**, if requested by the governing body, the planning board shall prepare a growth policy and shall serve in an advisory capacity to the local governing bodies establishing the planning board.

(2) The planning board may propose policies for:

(a) subdivision plats;

(b) the development of public ways, public places, public structures, and public and private utilities;

(c) the issuance of improvement location permits on platted and unplatted lands; or

(d) the laying out and development of public ways and services to platted and unplatted lands.

History: En. Sec. 28, Ch. 246, L. 1957; amd. Sec. 10, Ch. 247, L. 1963; R.C.M. 1947, 11-3828(1),

(2); amd. Sec. 5, Ch. 582, L. 1999; amd. Sec. 2, Ch. 599, L. 2003.

**2-2-121. Rules of conduct for public officers and public employees.** (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

2. **The proposed map amendment for approximately 79 acres of land from SAG-5 to the proposed Flathead County Business Service District is not in compliance with the review procedures and standards set forth in the Flathead County Zoning Regulations for the Business Service District (BSD) and as such cannot be accepted or approved. Additionally all of the proposed zone map amendments fail to meet portions of the FCZR requirements for map amendments.**

►No individual site plans, vicinity maps and building concepts for the 79 acres being requested for this map amendment to BSD have been provided in compliance with Flathead County Zoning Regulations (FCZR) 3.49.015 and 3.49.017 (See below). This zoning map amendment if approved as proposed changes the zoning on these 79 acres and each of the individual 37 parcels most under separate ownership that comprise these 79 acres without compliance with these

regulations. As proposed this zoning map amendment is in violation of the Flathead County Zoning Regulations without these individual site plans, vicinity maps and building concepts required to evaluate the proposed map amendment, and establish site plans prior to final approval. The proposed zoning map amendment should not be approved without this site-by-site specific review.

**3.49.015 Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review.** The site plan, vicinity map and building concepts will address each of the following:

1. The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.
2. The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.
3. The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.
4. Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.

**3.49.017 Implementation of Site Plan and Vicinity Map:**

**1. Once the site plan and vicinity map have been adopted, they shall be considered zoning and shall serve as the guidelines for the development.**

► According to the FZC-16-15, page 15, only four of the 37 current parcels proposed for the BSD district are five acres or more in size as required. Therefore 33 of the parcels do not meet the minimum district parcel size required for application and approval under the FCZR and as such should be denied for failure to meet the standard for this district. To approve this map amendment would create nonconforming<sup>1</sup> parcels under the proposed BSD based on the following:

3.49.040 Bulk and Dimensional Requirements (BSD):

1. Minimum District Area: 5 acre.

► FCZR 3.49.010 states, “The grouping of uses **shall be** incorporated in order to develop as an island rather than as a strip.” As proposed this zoning map amendment represents a half-mile or longer strip that covers both sides of the highway corridor and does not meet the criteria of being an island.

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<sup>1</sup> **SECTION 2.07 NON-CONFORMING USES**

2.07.010 If, at the time of adoption of these regulations or of any amendments thereto, or at the time a zoning district to which these regulations are applied is created, any lot, structure, or building being used in an otherwise lawful manner that does not conform to the use provisions of these regulations, or if any structure or building was located or erected in an otherwise lawful manner that does not conform to the yard, lot coverage, height limit, or parking and loading provisions of these regulations, such use of such location or erection shall be deemed to be a non-conforming use and may continue in the manner and to the extent that it existed or was being used at the time of adoption of these regulations. Such non-conforming status will run with the lot, building, structure, or use and shall not be affected by changes in ownership.

3.49.010 Definition:

The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature.

**The grouping of uses shall be incorporated in order to develop as an island rather than as a strip.** Landscaping will be extensive with good quality and effective screening and buffering.

► While FCZRs specifically speak to the ability of the planning board to propose text amendments to the FCZRs there is no similar authority for map amendments for individual property owners.

“2.08.020 Amendments to the Text.

Amendments to the provisions of the text of these regulations:

1. Requests **to amend the text** of these regulations may be initiated by the local governing body, the Planning Board, or any affected party or entity on a form provided by the Zoning Administrator.”

The FCZR flyer explains the difference between a text amendment and a map amendment as follows:

“What is a zoning text amendment?

Zoning text amendments vary widely and may affect many different things. They are different from map amendments in that they apply to the entire zoning regulations.”

► According to the required application for a map amendment to an existing zone and guidance provided by the Flathead County Planning Office in their flyer for zone map amendments, the entire proposed map amendment to change existing county zoning to one of the following B-2A, BSD, and SAG-5 zone for the south Whitefish corridor the zoning map amendments must be in compliance with mandatory procedures for a map amendment.

APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, **including signatures of all property owners applying for zoning map amendment.**

IF this is a MAP amendment the following are also required:

i) A map showing the location and boundaries of the property

(vicinity map).

ii) **A Title Report of the subject property**

**3. Staff report FZC-16-15 contains some flawed assumptions in its review under build out analysis provided on pages 14-16 and thus do not provide a factual basis for approval.**

The staff report assumes that to locate septic and water on each potential lot that two acres will be needed to accommodate this. Having taken this application and its map into the Flathead County Health Department they have advised me that typically these facilities, septic and well, can be cited on one acre and that they didn't see any known conditions in this area that would limit this

scale of development to requiring a minimum of two acres for each parcel. Additionally the staff report generally assumes single businesses per parcel, yet as the City of Whitefish letter of April 28, points out that it should be assumed that some parcels will develop multiple businesses with a multi-tenant commercial building on a single lot creating over time significant future impacts on transportation systems.

**4. The limited build out analysis in Staff report FZC-16-15 contains inadequate data and is too narrow in scope to provide the information needed to evaluate this map amendment.**

The following quote provides insight into the potential scope of information needed for a proposed zoning map amendment that will add 115 acres of new commercial development, easily more than double the commercial development within the City of Whitefish, and prime an additional 145 acres of AG-20 (Agricultural Land) for more intensive non agricultural development by down-zoning it to SAG-5 (Suburban Agricultural) ---all of which will likely have significant impacts on the City of Whitefish's as well as the County's economy, quality of life, and ability to grow in a cost effective manner.

“Why do a Build Out Analysis? People often assume that their community's zoning regulations will protect them from inappropriate development, but conventional zoning and subdivision regulations typically allow development on all buildable land. A build-out analysis allows a community to see, under its existing regulations, what their community will look like when all land is developed to the extent allowed under current law. The analysis can also include the impacts from permissible development on the tax base, traffic, school enrollment, park needs, sewage and water facilities, natural and historic resources, farmland and rural landscapes, and overall quality of life. The results of the analysis typically are conveyed through maps and charts. The analysis enables officials to make more informed decisions in their development regulations and planning for the future.”

<https://appsrv.pace.edu/GainingGround/?do=viewFullResource&resID=NC3KJ120215035733>

The City of Whitefish has already documented significant capacity for infill development within the city limits.<sup>2</sup> This was not considered in the build out analysis done by county planning staff and should have been.

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<sup>2</sup> **The entire Whitefish Downtown Master Plan area is only about 38 acres.** Under the new Whitefish Downtown Master Plan, within this 38 acres there is the capacity to add 200,000 sq. ft. of new retail and commercial, and 90,000 sq. ft. of lodging, or at least a decade of growth. Add to this the commercial, office, light industrial, and lodging capacity recently added under the Hwy. 93 Whitefish West Side Corridor Plan, the existing capacity along Hwy 93 South within the city limits, and the potential additional capacity within the Whitefish Wisconsin Ave Corridor Plan, which is just now being developed, and Whitefish has the capacity within its city limits for well over a decade and probably two decades of retail, commercial, office, and lodging growth within the city limits. There is no need for Highway SPRAWL! Infrastructure is for the most part in place or planned for to support this infill growth and use taxpayer money wisely. We agree with and support the concerns and issues raised by the City of Whitefish in their letter dated Dec. 21, 2016, which states that, “Whitefish has many acres of undeveloped and underdeveloped WB-2 zoning (similar to B-2A) which can be further developed as infill. Adding additional B-2A where there is little established need would be contrary to that policy. A commercial land capacity study should be done before changing large swaths of land to commercial zoning.”

The costs or ability of the City of Whitefish to grow in a cost effective manner when hemmed in by a pattern of development on septic tanks and individual wells, makes the future extension of city sewer and water service extremely costly to both the taxpayer and property owner. A pattern of development that would be fostered by this zoning map amendment surrounding the city without storm water systems, curb and gutter, side walks, street standards, emergency services, or lighting also prevents future cost effective growth of the City of Whitefish in the future and was not reviewed under the build out analysis provided and this should have been done. **Finally, the legislative history of 76-2-203<sup>3</sup> demonstrates that the intent of this legislation was not to simply ask counties to adopt similar types of zoning districts with similar zoning uses next to city limits, but the intent is to encourage patterns of growth that allow future cost effective grow of urban centers and cities from their center out and to avoid an oversupply of areas zoned for uses -in this case commercial uses—that are likely to undermine the economic vitality and planning efforts of the near by municipality.** <sup>4</sup>

The Whitefish growth policy has only ever identified one location within the entire Whitefish Planning jurisdiction as appropriate for the BSD zoning and it was crafted primarily to address an existing island of development on Highway 40. Had any other location been proposed over time it would have first required a Whitefish Growth Policy amendment based on the fact-based documented need criteria set forth in the Whitefish Growth Policy before the city could allow this type of development anywhere else in its planning jurisdiction. The city in crafting this zone and in

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76-2-203. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with the growth policy; and
- (b) designed to:
  - (i) secure safety from fire and other dangers;
  - (ii) promote public health, public safety, and general welfare; and
  - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- (2) In the adoption of zoning regulations, the board of county commissioners shall consider:
  - (a) reasonable provision of adequate light and air;
  - (b) the effect on motorized and nonmotorized transportation systems;
  - (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
  - (d) the character of the district and its peculiar suitability for particular uses; and
  - (e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.
- (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.

<sup>4</sup> 76-1-102. Purpose. (1) It is the object of this chapter to encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that **highway systems be carefully planned; that new community centers grow only with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry, and business be recognized in future growth;** that residential areas provide healthy surroundings for family life; **and that the growth of the community be commensurate with and promotive of the efficient and economical use of public funds.**

(2) In accomplishing this objective, it is the intent of this chapter that the planning board shall serve in an advisory capacity to presently established boards and officials.

clearly and limiting its application through its Growth Policy criteria and adopted future land use map never intended or supported its use as a massive strip of development outside its City limits.

It should be noted here for the record that the county in its last growth policy update removed its future land use map as a guiding document and thus has no basis for supporting the pattern of growth this zoning map amendment represents. A requirement of Growth Policies under MCA 76-1-601, which provides the legal basis for zoning, is to have a future land use map.

Economic impacts, to existing business centers in Whitefish and elsewhere in the county from this significant expansion of commercially developable lands, was not considered. An important function of zoning is to ensure that an over supply of land in one type of zone, in this case commercial and light industrial land, does not harm the “the public health, safety, morals, and general welfare” of the public. No amendment to the Flathead County Growth Policy has been suggested to document the need for this significant land use change outside the City of Whitefish or elsewhere in the county. **In fact no studies or verified economic or other data have been cited as the basis for the need for the scope of land use change proposed in this zoning map amendment. Of additional concern is that with little to no established need for this scale of change to existing zoning, what is to stop this type of proposal being made by property owners anywhere else in the county along other sections of highway?**

- 5. A review of the history of fifteen properties in the Blanchard Zoning District, which is the current zoning district for much of the area included in this map amendment and the uses that were established on these properties by CUPs tells a very different story about the development pattern in this area and the type of uses appropriate for this area than the following statement from the staff report and reasons given for the need for this map amendment.**

“It appears the primary reason for these map amendments is to amend the zoning in the area to better reflect the existing uses. **As mentioned above, the area does not appear particularly suited for the kinds of rural residential and agricultural uses contemplated when the area was initially zoned.** The multitude of non-residential uses, the improvements to Highway 93 and the high magnitude of daily traffic does not appear conducive to residential uses. **The parts of this request that propose to change the SAG-5 zoning to either B-2A or BSD would provide property owners with more development options and would better reflect the existing land uses in the area.**”

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When the Blanchard Lake Zoning District was created in 1993 covering 11,771 acres there were a number of mostly small businesses that became non-conforming uses in this area<sup>5</sup>. In looking at

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<sup>5</sup> SECTION 2.07 NON-CONFORMING USES

2.07.010 If, at the time of adoption of these regulations or of any amendments thereto, or at the time a zoning district to which these regulations are applied is created, any lot, structure, or building being used in an otherwise lawful manner that does not conform to the use provisions of these regulations, or if any structure or building was located or erected in an otherwise lawful manner that does not conform to the yard, lot coverage, height limit, or parking and loading provisions of these regulations, such use of such location or erection shall be deemed to be a non-conforming use and may continue in the manner and to the extent that it existed or was being used at the time of adoption of these

15 such properties, that either have frontage on US Hwy 93 or are near the intersection of Blanchard Lake Road and US Hwy 93, that applied for Conditional Use Permits (CUP) in this area between 1996 and 2005 (Note that 2005 was the most recent CUP that I found.) the following was found:

- 4 of the requests for CUPs were for uses that were already permitted with a CUP under the existing zone so they were consistent with the existing zoning;
- Other businesses like the Native Plant Center and the Potting Shed, and two churches were existing permitted or permitted with a CUP under the current zoning;
- Of the 15 properties that had applied for and received a CUP one property during this time frame was granted 3 CUPs representing changes in use or expansions allowed under the CUP process, 2 properties each had two-CUP changes again representing either an expanded use or a change of use.
- Out of the eleven properties that had become non conforming uses/properties when the Blanchard Lake District was created, within this area 6 were able to obtain a CUP to change their use from one similar non conforming use to another, 7 were able to expand there existing use, one became a compliant non conforming use after issues were found with an apartment on the property, and one was able to obtain a hardship resident for a family member.
- In 2003 Flathead County zoning regulations were revised to remove the 50% cap on the expansion of non-conforming uses allowing 100% expansion or more in some cases.

What emerges from this view is not existing zoning that is preventing changes to other similar uses or permitted uses or the expansion of existing uses, but one that is functioning and allowing for changes. What emerges is a pattern of development that is **“suited for the kinds of rural residential and agricultural uses contemplated when the area was initially zoned.” Most of the businesses in the area of this proposed map amendment have been present since the current Blanchard Lake zoning district was created in 1993 and have expanded or changed as permitted under the conditional use process in place.**

**To assert that this area is not well suited to residential uses is to ignore other successful residential developments along the Highway 93 corridor.** Sliverbrook the residential development just north of Kalispell is but one example. It was first annexed into the city and extended sewer and water to allow the density for cost effective, quality residential development that is buffered from the highway and its noise with a broad and elevated landscaped buffer that integrates a bike and pedestrian facility. To assert that this area is not well suited to residential uses is to not look just north to within the city limits of Whitefish to see the significant residential development that has occurred within this corridor area. In time the city of Whitefish will need space to grow not to meet commercial needs so much as its residential needs. The proposed zoning map amendment before you is premature and should be delayed until sewer and water and all of the facilities needed to support cost effective additional development built to city standards is ready to be put in place with a street network system, pre-planned to reduce and diffuse

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regulations. Such non-conforming status will run with the lot, building, structure, or use and shall not be affected by changes in ownership.

2.07.020 Any non-conforming use may be continued except if any such non- conforming use is abandoned or deserted, or voluntarily or by legal action caused to be discontinued for a period of 180 days, then any subsequent use of the lot, building, structure, or use of the land shall be required to be in conformity with the provisions of these regulations.

increase traffic impacts, stormwater facilities, sidewalks, bike paths, parks, lighting, and fire and police services, and other urban scale development needs.

Recommending approval of this zoning map amendment to **“provide property owners with more development options”** is also without merit and certainly does not meet the criteria for a zone change or map amendment set forth in state statute MCA 76-2-203.

6. **The proposed additional text amendment before you to add a South Whitefish Overlay (SWO) zone does not justify this proposed pattern of development.** While we address this in more detail in our comments on this text amendment we agree with concerns raised in the comments by the Montana Department of Transportation and the City of Whitefish that conclude that this SWO should include more intensive requirements to address traffic safety issues including mandatory approach consolidation and required development of frontage and backage roads. We would further argue that wider landscaped buffers from the highway are needed, that the bike path provisions are inadequate, and that corridor standards for the entire length of major road corridors are what is needed, as have been called for by the three cities, the public, and the Flathead County Growth Policy for years.
7. The proposed addition of approximately 37 acres of new B-2A zoning is also not justified at this time and should be removed as called for in the comments before you in the City of Whitefish’s letter.

The City of Whitefish is already on record with Flathead County in their letter dated Dec. 10, 2015 to the Flathead County Commissioners as opposing the County’s B-2A zoning for a number of reasons including:

***“In the permitted uses of the proposed B-2A zone, the Whitefish WB-2 lists ‘antique stores and auction barns’ but the B-2A lists ‘antique, gift, and card retail sales’. We ask that you make the language in the B-2A the same as the WB-2 for that use. Whitefish has unique zoning in that the code calls for the majority of small retail uses to remain downtown, while in the secondary business district (the Highway 93 South strip) the primary retail is for larger items or businesses that need large amounts of parking. Gift and card sales is fairly open ended (what is a gift, exactly? it could be anything), and goes contrary to Whitefish’s zoning that prohibits sale of small retail items outside of the downtown. “***

***“On the list of permitted uses in the B-2A is ‘convenience stores’, which the draft shows as a stand-alone use. In the WB-2, ‘convenience stores’ are only allowed as an accessory use to ‘automotive service stations’. The city feels it is important that the B-2A be consistent with the WB-2 on that item.”***

Another important difference in the proposed application of the County BSD Secondary Business Zone to the Highway 93 South Corridor is that this overlay zone **as proposed is being applied as a mile long “strip,” rather than as an “island” as called for in the city definition of this zone. This strip type of development was never the intent of the Whitefish BSD zone.** Additionally, application of this city zone, if this area was still within the city planning authority or was being considered for annexation, would require an amendment to the Whitefish growth policy and identification of significant changes to the pattern of growth in the city and significant benefits to the public and city that would result from such a change. No such changes or benefits are clear to

justify this change in zoning in this corridor and thus it is not consistent with the future growth plans of the City of Whitefish.

The City's definition of its Business Service District is:

*The WBSD is intended to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses. **This district is restricted to those areas identified as business service center in the growth policy.** Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to **develop as an island rather than as a strip.** Structures would be of moderate to high architectural quality and clearly not "industrial" in appearance. Landscaping will be extensive with good quality and effective screening and buffering. (City of Whitefish Ord. 08-08, 5-19-2008)*

As the December 21<sup>st</sup> letter from the City of Whitefish establishes the city has **already put in place land use, infrastructure, and transportation plans to handle the future growth needs for this type of proposed development within the city and that this proposed new zoning is not consistent with the City of Whitefish's planning documents and will likely harm the robust economic development the city has achieved with these plans as well as the investments of many within the city.**

**Owning property along Highway Corridors in the Flathead is not justification for property owners outside of the city limits to band together and demand non-agricultural zoning for their property so they can turn their property into what they see as a more lucrative personal benefit for themselves. Planning is and should be about benefiting the whole community not small groups of individuals seeking personal benefit.** That is what the District Court said to a group of property owners outside of Kalispell in 2013 who asked for similar Highway zoning – the court found in ruling against that county zone change that County, "Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities." [MCA 76-2-203](#). As you are aware, this District Court ruling was recently upheld by the Montana Supreme Court.

It should be noted that the county receives tax revenue from commercial or residential development whether or not it is located in the city or county. Numerous professional planning studies document the more cost effective strategy of supporting infill development within city centers given the associated infrastructure costs and service cost for commercial development. This should be a factor considered under the state criteria that asks for findings that demonstrate **whether the proposed map amendment is designed to promote public health, public safety, and general welfare.**

8. In conclusion we support the county staff report conclusions summarized in the April 28<sup>th</sup> letter of the City of Whitefish city letter that "...recommend more discussion regarding strip development issues, traffic safety issues, compatibility with the City of Whitefish Future Land Use Map, and the lack of water and sewer services."
9. The City of Whitefish has recently committed to and is budgeting to conduct both a corridor study the of Hwy 93 southern corridor looking in much great depth at transportation issues and

solutions, infrastructure needs and potential, and compatible land use that is cost effective and supportive of the strong economic base the city has built through careful planning. The City of Whitefish has formerly invited the County to join them in conducting a joint study of this corridor and future development along it, but the County has rejected this opportunity to work collaboratively with both city and county residents both of whom they are elected to serve. We urge the county to reconsider this position and for this board to encourage them to do so as well.