



To: Flathead County Planning Board

Re: FZC-16-15 SWO Highway 93 South Whitefish Overlay: A publicly initiated zone change request by the Flathead County Planning Board in the Rural Whitefish and Blanchard Lake zoning districts. The proposal would change approximately 51.8 acres from SAG-5 (Suburban Agricultural) to B-2A (Secondary Business), approximately 4.4 acres from R-2.5 (Rural Residential) to B-2A (Secondary Business), approximately 218.5 acres from SAG-5 (Suburban Agricultural) to BSD (Business Service District), and approximately 148 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural). In addition, this entire rezoned area would also be placed in the SWO (Highway 93 South Whitefish Overlay) district.

Date: January 11, 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 5th that are already part of your packet. We ask that our comments for this hearing and for the previous 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 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."
2. We agree with the staff report for this map amendment when it states that, "Once a zone is applied in a certain area, landowners have certain land uses and densities that are allowed "by-right" or subject to some additional review. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses and densities. Build-out analyses are

objective and are not “best-case” or “worst case” scenarios. **Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, future demands for public services and facilities, the environment and any of the evaluation criteria, such as impact to transportation systems.** (Emphasis added) Build-out analyses are simply establishing the meaning of the zone change to the future of the community to allow for the best possible review today.”

3. We do not support nor do we believe that the record before you supports the staff report conclusion that states, **“A build out analysis for the proposed amendments to B-2A and BSD appear to be problematic for several reasons. One reason is the extent of the request. It would appear to be wild speculation as to what kinds of uses and how many additional lots could be created in this area at full build-out.** Considering that at this time, the area is not served by any kind of water or waste water system, the amount of new, non-residential uses would appear to be quite limited. On the other hand, if these map amendments were approved, it would be reasonable to assume new commercial development would occur in the area. **However, because the additional design requirements of the proposed overlay zone and the traffic improvements required, the potential impacts in the area would be mitigated.”** Instead, a commercial land capacity study should be done before considering changing large swaths of land to commercial zoning in the gateway entrance corridor to the City of Whitefish.

4. This proposed Corridor Plan and revised zoning overlay includes approximately 490 acres south of Whitefish along both sides of Hwy 93, for a total width of about half a mile wide, and south of Hwy 40 for approximately 1.5 miles.

490 acres is HUGE!

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.

This zoning map amendment which is being brought forward by the county planning board for South Hwy 93 South seeks to change the zoning on the majority of this 490 acres of land, which is currently zoned agricultural, either SAG-5, or AG-20, to more intensive county commercial or [B-2A zoning](#) or the BSD [business service district zoning](#), which also allows for a multitude of commercial and business uses that would be more appropriate as infill within the city limits at this time.

The City of Whitefish is already on record with Flathead County in your 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 21st 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.

5. 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.**

6. In addition to the need for a commercial land capacity study in the area of the proposed map amendment before considering changing large swaths of land to commercial zoning in the gateway entrance corridor to the City of Whitefish, additional analysis is needed of zone and subdivision changes that have already been approved by the county along highway corridors in the Flathead to provide a basis for further consideration of this proposed map amendment. This proposed map amendment should not be considered absent a thorough review of the overall capacity the county has already approved for development, as well as capacity of the three cities and towns governed by neighborhood plans for future growth.

7. Conclusions in the staff report that this area covered by the map amendment is no longer suitable for residential or agricultural uses is contradicted by residential developments such as Silverbrook Estates north of Kalispell which used landscaped berms to effectively buffer highway noise, or by recent residential developments approved within the City of Whitefish along its south Highway 93 corridor within the city limits. This assertion and its validity deserve additional consideration.

8. Again, we object to the repeated assertion in both the staff report for this map amendment and in the staff report for text amendment, which holds as cited for example on page 29 of that staff report, that the proposed design standards would "mitigate development impacts" and thus provide justification for what is stated as the primary reason for these map amendments, "to provide for more development options for property owners in this area" (page 6 of the map amendment staff report). See our additional comments for the hearing on the text amendment.

9. We support the staff report recommendation that states, "Staff would recommend more discussion regarding strip development issues, traffic safety issues, compatibility with the City of Whitefish Future Land Use Map, the lack of water and sewer services, and the limited public input."

10. Finally, we would like to know what is meant by the statement repeated numerous times in these staff reports that "In **many cases**, new non-residential development in this area will be required to increase building setbacks in order to comply with the standards of the SWO." See page 14 for one such reference. When would the overlay development standards not apply? We also assume that the references to B-2A zoning on pages 15 and 17 are cut and paste typos and that the reference to a 2017 version of the Flathead Growth policy on page 18 is also a typo.

In conclusion we want state that we:

- **Oppose zoning changes for additional commercial, office, light industrial, and lodging along Hwy 93 South** as unneeded and detrimental to the demonstrated economic vitality and capacity of the current city plans and policies that call for infill and strongly discourage additional patterns of commercial, office, light industrial, and lodging **sprawl** along the Highway 93 southern entrance to Whitefish.
- **Encourage the County to work with the City of Whitefish for a joint corridor plan, in support of state laws that require the county to work with the city to adopt zoning regulations that are compatible** with the planning and zoning regulations that the city has adopted, and not the desires of individual property owners who chose to buy property that was not zoned and is not suitable for commercial uses until such time as the city completes its infill goals.
- **Find that the added traffic and infrastructure impacts and costs for new development outside the city limits at this time and in this area are not supported by city facility plans and are not a cost effective** use of city, county, or state tax dollars when the city has much more cost effective options for infill development.
- **Reserve the opportunity to provide the county more detailed comments** once the county planning office staff complete any additional review of this application, proposed findings of facts, or provide any additional facts to justify their recommendation as a result of possible future workshops on this application. We ask that this hearing record remain open for this purpose and in fairness to the public at large given the fact as we stated earlier in complaints to the county planning office that links to staff reports and developer applications for this and other decisions have not be available to the public due to acknowledged computer issues the county has encountered until late yesterday.