



**To:** Whitefish City Council

**Re:** Land Solutions LLC proposed, Highway 93 South Whitefish Corridor Plan and Zoning

**Date:** Dec. 5, 2016

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 email you should have received earlier today which I will again summarize for the hearing record tonight.

**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 for the most part is in place, or planned for, to support this infill growth and use taxpayer money wisely.

This private landowner plan 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 of 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 the 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 over lay zone **as proposed it is being applied as a "strip" rather than as an "island" as called for in both the city and county definition of this zone---a mile long plus strip, when combined with the proposed B-2A zoning, and this proposed strip is half a mile wide for the entire strip. This was never the intent of this 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 your 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.

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)***

Within the Nov. 17<sup>th</sup> 2016 Staff Report prepared by your planning office for the planning board meeting and your council work session and discussion of this proposal are attempts to try to find some areas of " potential compromise" by suggesting on page 4 of this report that perhaps the size and scale of the district could be reduced and then be acceptable with the same proposed zoning. This staff report, however, significantly fails to provide a comprehensive look at the capacity for existing commercial, office, light industrial, and lodging within the city limits currently. **We urge you to provide the county the documentation to show that you have 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 even a**

**“compromise” on this proposed new zoning is not consistent with your planning documents and will likely harm the robust economic development you have 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](#). Note that while this district court ruling of the case Citizens for a Better Flathead brought against the County was appealed to the Montana Supreme Court, the court has not made any ruling yet on this case. We expect a ruling to be forth coming in the near future. Should this ruling be up held, as we think it will, this would further support the argument that the County should deny this zoning request by a small group of individual property owners.

**In conclusion we ask you to:**

- **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.
- **Stand firm 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.
- **Make the case 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 their review of this application and propose findings of facts to justify their recommendation. Prior findings adopted by the county in adopting new zoning around the city incorrectly stated that the City did not object to the proposed zoning as they only considered the first general letter you submitted.