

**PLANNING & BUILDING DEPARTMENT**  
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December 21, 2016

Flathead County Planning Board  
40 11th Street West, Suite 220  
Kalispell, MT 59901

**RE: Highway 93 South Corridor Plan and Rezone Request Whitefish Comments**

Dear Planning Board members,

Property owners on Highway 93 South of Whitefish have submitted a Corridor Plan and Rezone Request to Flathead County for review and approval. We appreciate the opportunity to weigh in on this very important planning effort that encompasses the primary gateway to our community, and we thank you for taking the comments, suggestions, and concerns contained in this letter into consideration. In addition to these comments, the City has received many written comments on the proposed plan, which are attached. Additionally, minutes from the public hearings on this proposed plan are included, including comments from the City Council, Planning Board, City residents, and corridor property owners.

Whitefish has long prioritized a corridor plan for the 93 South area from E 6<sup>th</sup> Street to beyond the Blanchard Lake Road intersection. However, a City-sponsored corridor plan has been delayed over the years due to several factors, including the lengthy extra-territorial planning jurisdiction dispute and the desire for cooperation with the county to undertake such a plan. On December 5, the City Council made a Highway 93 South Corridor Plan a priority for 2017, and the City is highly interested in partnering with Flathead County for portions of the plan that lie outside City limits. If the County can agree to work with us on this in early 2017, then a delay on this citizen initiated plan would be appropriate so we can make sure we get the planning for the future of this critical corridor right. Whitefish will be proceeding on a corridor plan either way.

Land Solutions LLC has developed a plan that intends on changing the zoning on 490 acres of land stretching one and a half miles south of Highway 40 currently zoned agricultural, either SAG-5, or AG-20, the majority of which is proposed for more intensive commercial or business service zoning (330 acres). This proposed plan has far-reaching impacts to the City of Whitefish. We have some specific concerns which we will address in more detail.

**Public Input**

The plan was developed on the behalf of private individuals who own property on Highway 93 South. While the City of Whitefish was aware of the plan under development, we were not asked to be involved in its development and had no input other than suggesting that the plan be consistent with the Whitefish Growth Policy tenets on corridor planning. Unfortunately, the City of Whitefish, its residents, the County, and adjacent neighbors to the corridor in the county did not have a seat at the table to help steer the development of this plan earlier in the process.

Ideally, the proponents of this plan should have worked with us in the early stages, and invited greater public engagement prior to submitting a final draft to the County for approval. Community buy-in is a critical element for any long range plan to be successful. As it stands, the proposed product was developed with very little public or City input. After we received a copy of the plan, the City initiated some public engagement to solicit input. The Planning Board held a work session for input on November 17, and the City Council held a public hearing on December 5. We included all comments received in this submittal.

We appreciate that the developers of the plan have asked for City input now, and they did present us with a copy of the plan in time to review it prior to the upcoming County Planning Board meeting January 11. However, because the outreach has been minimal and last minute, we would like to see the formal review delayed by the County until a discussion is had between the City and the County about a joint plan, and more public outreach has been done. Since the area is the primary gateway into our community and immediately adjacent to City limits, Whitefish needs to be considered a major stakeholder and our concerns and adopted growth plans should be weighed accordingly.

### **Impact of Additional Commercial Zones**

The community has always been extremely concerned that the Highway 93 corridor be developed tastefully and in keeping with City aesthetics and values. While the overall proposed plan affects 490 acres of rural zoning, the project proposes changing 330 acres of what is currently SAG-5 rural zoning into some form of commercial zoning. In comparison, the Hutton Plaza commercial area on the edge of Kalispell from Reserve to FVCC is approximately 200 acres. 330 acres of additional commercial development along Highway 93 will have a significant impact to Whitefish's existing vacant commercial properties within the City as well as creating traffic safety concerns due to the lack of frontage roads and issues with turn lane access in a 65 mph highway corridor. Building that area out with 330 acres of additional commercial zoning will have a huge impact on Whitefish businesses and real estate. We all witnessed downtown Kalispell's economic struggles with the Hutton Plaza expansion. The sheer amount of proposed commercial zoning is very concerning. A much more thorough plan with a detailed capacity analysis should be completed prior to adding additional commercially zoned property.

Our Downtown Master Plan calls for 200,000 square feet of new commercial/retail development and millions have been spent by the City on creating the necessary infrastructure and parking. Whitefish currently has significant amounts of existing Secondary Business District (WB-2) zoned land that is undeveloped or underdeveloped. Some of that land is currently being developed into high density residential developments because there has been little market demand for additional commercial development.

Increased development also has the potential to create a major disincentive for commuters. Whitefish currently has a major shortage of service workers due to high housing costs, and this proposal would impact existing businesses. Whitefish recently completed a Housing Needs Assessment that showed that 56% of Whitefish workers live outside of Whitefish and must commute into town through this corridor every day. That's 3,230 vehicle trips per day (including the morning and evening commutes) for county or Kalispell residents impacted. That number does not include the vehicle trips for residents of Whitefish that commute to Kalispell every day. More commercial zoning means increased traffic, potentially more stoplights, slower speeds, and increased safety concerns for everyone in the area.

The existing SAG-5 zoning in the corridor was established by the citizen-initiated 1993 Blanchard Lake Area Zoning District to control commercial strip development. That plan is currently adopted by the County and should be addressed in more detail. One of the reasons the plan called for the SAG-5 zoning currently in place was additional commercial development was not supported by the relevant City-County Master Plan in effect at that time.

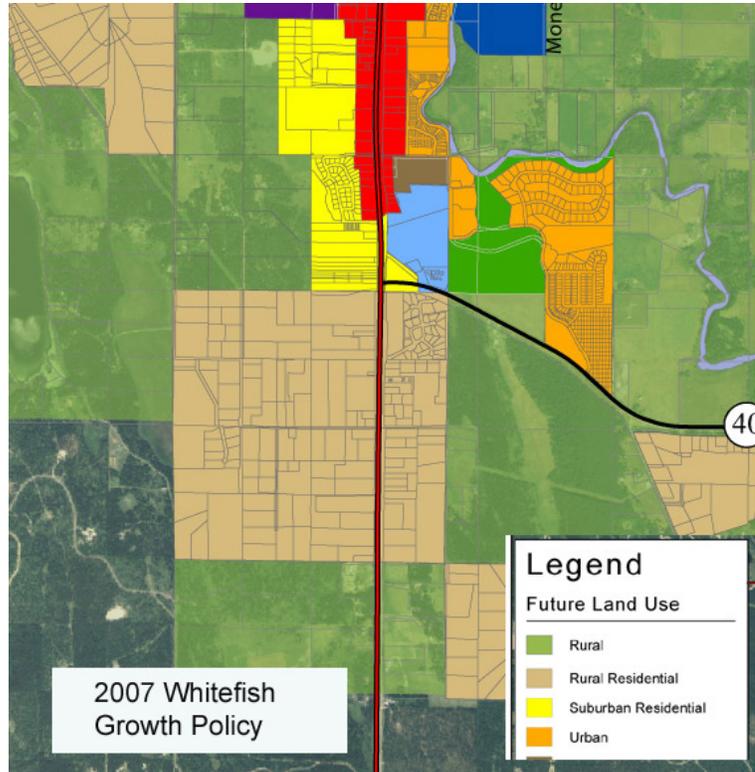
Whitefish's 2009 Extension of Services Plan currently calls for municipal water and sewer services to stop at Highway 40 and that area is outside of our current Urban Growth Boundary. While that boundary is currently under review by the City, right now the current policy holds. Commercial creep south on 93 was also not supported by other plans adopted by the City and the County. The 1996 Whitefish 2020 City-County Master Plan, the 1998/2000 South Whitefish Neighborhood Plan, and the 2007 Growth Policy all call for limiting Whitefish commercial growth to no further south than Highway 40. See Future Land Use maps from the 1996 City County Master Plan to the right and the 2007 Growth Policy included below. The City's Growth Policy preaches infill development over sprawl or City limit expansion.



The City is concerned with the plan's intent to spread B-2A zoning south contrary to our adopted plans and Growth Policy and without the necessary provision of water and sewer. Going from SAG-5 to Secondary Business is a major change of land use not supported by any adopted plans. The proposed plan shows the extension of B-2A from Highway 40 the length of Tee Bauer's vacant property on the southeast corner (about 1500 feet long) on both sides of the highway. The proposed width of the commercial corridor is as wide on the west side as any of the commercial WB-2 zoning along the strip in Whitefish proper. Some of those lots on the west side proposed to be changed to B-2A are in a wetland and there is a major storm water conveyance in the area. The City is aware of septic permits denied in the past on the west side of Highway 93 within this area and other challenges due to high groundwater. Any additional land zoned B-2A would be difficult to develop without municipal water and sewer services. Also,

the property owners in the adjacent Emerald Heights subdivision on the east side of 93 near Highway 40 are extremely concerned about full commercial development next door to their residential properties and said as much at our public hearings. We ask that the county not add any additional B-2A zoning to the corridor.

While the proposed Business Service District (BSD) zoning is less impactful than B-2A and that zoning can better accommodate uses consistent with the existing non-conforming uses that exist, it is still commercial zoning that is contrary to the Rural Residential Future Land Use shown in our Growth Policy Future Land Use Map (shown on the right). We acknowledge that the types of uses allowed (offices, light manufacturing, etc.) are less intensive and easier to develop with on-site septic systems, and generate far less vehicle trips than B-2A uses. However, there are serious concerns with changing the zoning from SAG-5 to BSD, including the vast width of the new business service corridor, more than half a mile wide, as well as the one and a half mile length. The intent of the County BSD zoning states the following:



“The grouping of uses shall be incorporated in order to develop as an island rather than as a strip.” Having the BSD zoning extend one and a half miles up the highway is definitely a strip and not an island and thus is inconsistent with the intent of that county zoning district. What is proposed goes far beyond addressing the existing non-conforming businesses (see map that shows their location on page 7 below). If the full 330 acres within the proposed commercial boundary develop as businesses, it will have severe impacts to Highway 93 and sorely impact adjacent agricultural or residential properties along the boundary.

While we sympathize with property owners with existing non-conforming commercial uses in the corridor, our Growth Policy does not currently support adding BSD zoning. Our Growth Policy Future Land Use Map would need to be amended, and that would likely take a fully vetted joint city-county corridor plan.

### **State Law and County Growth Policy Considerations**

With the recent Montana Supreme Court ruling on the Greenbelt Zoning in the Citizens For a Better Flathead/DeMeester vs. Board of Flathead County Commissioners, et al case, it is imperative that the County give deference to Whitefish’s adopted long range plans, Growth Policy, and existing zoning. Since this is inherently a rezone request the tenets of MCA 76-2-203 must be followed. Those include the following:

- Zoning must be in accordance with the County Growth Policy (see notes below where it appears to be in conflict)

- It must facilitate the adequate provision of transportation, water, and sewerage (there are some questions as to the adequacies of that noted throughout this document)
- The board needs to strongly consider its effect on transportation systems (increasing commercial zoning will greatly impact transportation in the corridor, and there has been no coordination with MDT and the City)
- It must be compatible with urban growth in the vicinity of cities (proposed increase in commercial zoning is in conflict with Whitefish's urban growth plans and policies)
- Zoning regulations must be made, as nearly as possible, compatible with the zoning ordinances of nearby municipalities (the proposed zoning is currently incompatible)

As reinforced by the Montana Supreme Court ruling, any plan or zone change should be consistent with the Goals and Policies of Flathead County's own Growth Policy, of which we outline several pertinent goals and policies below.

Flathead County Growth Policy Chapter 2 Land Uses Policy 3.5:

*Identify reasonable densities for remote, rural development that do not strain the provision of services or create public health or safety hazard.*

Expanding Secondary Business District zoning into rural areas forcing Whitefish to extend services to accommodate such uses strains the provision of services. If such services aren't extended, septic systems for intense commercial uses could create public health hazards. Additionally, increasing commercial development on a major highway adjacent to a major intersection without frontage roads would create safety hazards.

Flathead County Growth Policy, Goal 6:

*Adequate commercial land that is safely accessible and efficiently serviceable.*

While the plan outlines the need for frontage and backage roads to accommodate development, excessive expansion of commercial zoning into what is now rural residential/agricultural zoning creates issues with safe access and efficient provision of services. Instead of addressing the transportation issues up front, the plan seems to kick the can of down the road.

Flathead County Growth Policy, Policy 6.5:

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

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.

Flathead County Growth Policy, Policy 11.1:

*Identify critical gateway areas that provide lasting impressions of Flathead County to both residents and visitors*

Flathead County Growth Policy, Policy 11.2:

*Identify development impacts that threaten gateway areas and develop land use guidelines that mitigate these impacts without prohibiting development*

There is no question that the Highway 40/Highway 93 intersection outside of Whitefish is a primary gateway, as vistas of Big Mountain beckon to the north and vistas of Glacier Park

beckon to the east. It is a critical gateway area, and should be designated as such. Land use guidelines and zoning for that gateway should protect it and mitigate impacts. The proposed B-2A zoning offers little mitigation of impacts, and while the BSD zoning offers more protections, the proposed commercial strip development is a major change from the existing zoning and definitely creates a threat to the gateway.

Finally, the County Growth Policy states the following in Chapter 2:

*“Combining the need for commercial land uses with the vision of residents is both a function of where they are located, and the impact on the local community. All but one of the seven elements of the public’s vision for the future of the county outlined in Chapter 1 are directly impacted by the manner in which commercial land is developed. County residents regularly comment on the need to prevent “strip development” from dominating the rural landscape between business centers. Strip development is a pattern of commercial development located along one or both sides of a street which is generally one lot in depth and is characterized by multiple and relatively closely spaced driveways, visually dominant parking schemes, low landscaping ratios and high floor area ratios within the development. It is not a common remark that no development should take place, just that a certain type of development should be avoided. Again, the impact of the development is just as important as the location of the development.”*

Any proposed application of Business Service District needs to be as an island rather than a strip development to be consistent with the County Growth Policy as well as the stated intent of the BSD zoning district. This plan does not show that, and it is therefore inconsistent with both the County Growth Policy and the intent of the BSD zone.

Also, County adopted Blanchard Lake Zoning District Plan currently controls this area, and that needs to be taken into consideration as this proposed plan would amend that.

### **Whitefish City-County Growth Policy Considerations**

Whitefish’s Growth Policy supports the development of a corridor plan for the area and it recognizes such a plan could be put together by private citizens.

Under the Land Use Element, Future Land Use Polices, the Whitefish City-County Growth Policy states:

*“The City of Whitefish shall facilitate the formulation of corridor plans for all major transportation corridors in the community. When corridor plans are prepared by property owners, residents and business persons in the area, the planning process, study area boundary, and involvement program are subject to review and approval by the City.”*

The planning process, study area boundary, and involvement program for this proposed plan were neither reviewed nor approved by the City prior to the developers submitting the plan to Flathead County, which is why the City is interested in a more thorough, publically vetted plan.

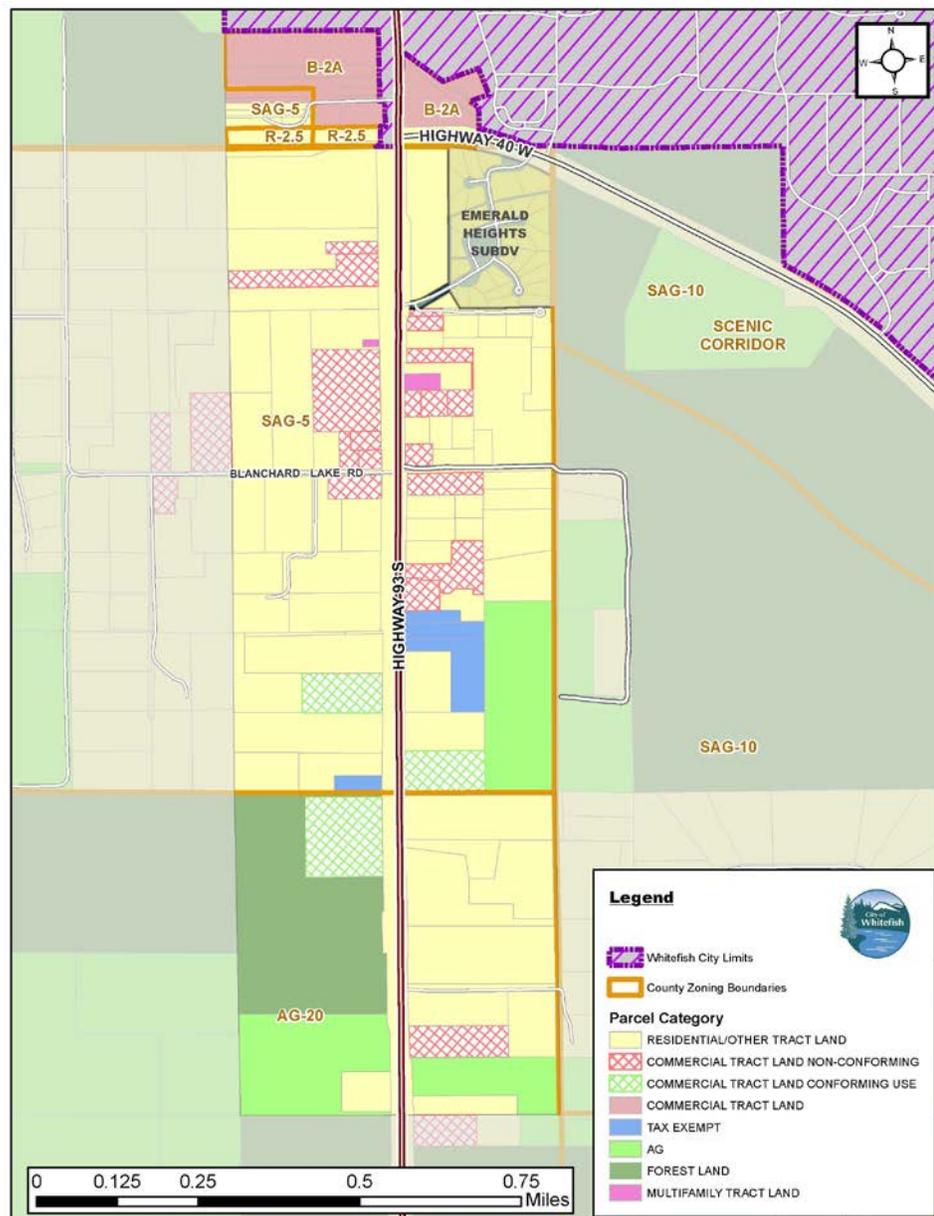
Under the Whitefish City-County Growth Policy, Land Use Element, it states a plan for Highway 93 South should continue to discourage commercial creep south of Highway 40, address the scale of buildings, include architectural standards, landscaping standards, and should only support development that can be served by well and septic systems without adversely affecting water quality or wells on neighboring properties. This proposed plan addresses some of those things with the exception of the commercial creep of the B-2A zoning and the sheer size and

width of the proposed BSD zone. The plan infers that the proposed commercial expansion can all be served by wells and septic, which is dubious at best.

Below is a map our GIS specialist prepared at the request of Dean Sirucek using GIS tax data and field analysis that shows properties in the corridor with existing non-conforming commercial type uses compared to existing allowed commercial or conditional SAG-5 uses as well as residential uses so you can better identify existing legal and non-conforming uses. The majority of non-conforming commercial uses occur in a relative pod starting at the Bridge Medical Clinic (first red hatched property south of Highway 40) and are concentrated at and to the area north of the Blanchard Lake Road intersection. There is also a small area of non-conforming commercial uses on the east side a bit south of there where the propeller shop and adjacent office building reside. The mini storage is a conditionally allowed use in the SAG-5. Further south there are legal commercial agricultural uses such as a lumber mill and two nurseries (green hatch), as well as two churches shown in blue. The map clearly shows that the corridor is primarily residential and agricultural with only a small amount of non-conforming commercial uses. With a joint corridor plan, those non-conforming uses could possibly be addressed as a small island rather than the massive 330 acre strip of commercial development as proposed.

**Overlay Zone and Transportation Requirements**

The City of Whitefish Growth Policy Land Use Element supports the included development standards proposed in the suggested overlay



zone (see Whitefish City-County Growth Policy excerpts in attachment A below). Proposed landscaping standards, signage standards, architectural design, lighting, and parking standards all are consistent with similar standards found in Whitefish's zoning standards, and would help keep the gateway entrance into Whitefish functional and attractive. The proposed landscaping and screening standards don't quite match our standards, as a required 8% landscaping requirement for parking lots of five or more parking spaces should be included.

The recommended transportation improvements the plan proposes are critical if more intensive development is to occur in that corridor. Requiring backage and frontage roads, connected development with planned road networks, and limiting highway accesses and approaches are the only way the area can develop successfully and safely due to the high speed highway traffic congestion. Requiring development to set aside easements for bike and pedestrian facilities is very important and certainly a welcome component of the plan.

### **Conclusion**

Whitefish does not support the current plan as proposed. We do support the development of a publically vetted and city and county supported corridor plan. Such a plan might include some elements of the proposed plan such as the development standards of the proposed overlay zone. We oppose adding additional Secondary Business District (B-2A) zoning as that cannot be adequately developed without municipal services and is contrary to our Growth Policy which calls for a restriction on commercial sprawl south of Highway 40. We also oppose the Business Service District (BSD) zoning as proposed, as commercial strip development is not supported by either the County Growth Policy or Whitefish's. Because of the vast impact that this zoning change would have, we ask that more time be given for public vetting and stakeholder participation. We also welcome discussion on the initiation of a possible joint corridor plan by the City and County.

Thank you for the opportunity to comment.

A handwritten signature in blue ink, appearing to read "Dave Taylor".

Dave Taylor, AICP

- Enc. A. Whitefish Growth Policy Excerpts Relating to Highway 93 S Corridor Planning
- B. Whitefish Planning Board Minutes 11-17-16
- C. City Council Minutes 12-5-16
- D. Written Public Comments

A.

Excerpts from the 2007 Whitefish City-County Growth Policy

Page 8 of Land Use Element

**ISSUE: Whitefish has several highway corridors that are characterized by a variety of land uses, transportation functions, and design and development issues.**

Land use planning along major transportation corridors is always a complex matter, with many varied and often conflicting issues to resolve. As pointed out at the beginning of the Transportation Element, there exists a reciprocal relationship between transportation and land use. Vehicle trips attract commercial land uses, which generate more vehicle trips, which attract more commercial development. Besides that, planning in transportation corridors usually involves multiple agencies and jurisdictions. A City may be in control of zoning and site plan reviews, but the county or state may have responsibility for maintenance and access permitting. Also, highways and arterial streets tend to be major routes for large water mains, sewer interceptors, and other utilities, and well as pedestrian and bike routes.

The two major community gateways are Montana Hwy 40 (from the east) and US Hwy 93 (from the south), and they are both very different in terms of appearance, character, and land use. Hwy 40 has a collection of business service type uses near the intersection of Dillon Road/Conn Road, but then is mostly agricultural land and large-lot residential to the intersection with Hwy 93. Average daily traffic (ADT) for the year 2005 was around 8,700, and the speed limit was recently lowered to 60 mph. Corridor planning emphasis here should be on keeping a rural character, while controlling screening, signage, and access standards for those few businesses that exist.

By contrast, Hwy 93 South is characterized by a number of commercial establishments of various kinds. Many are legal non-conforming uses, but most are legal permitted and conditional uses under the SAG-5 Flathead County zoning district (administered by the City of Whitefish within the jurisdictional area). Most of this corridor is heavily timbered, and many of the commercial buildings are of high quality. These two factors make the corridor far less visually distracting than many commercial strips in unincorporated Flathead County. Still, the corridor suffers from a lack of screening and landscaping, and from multiple uncontrolled highway approaches. Widening of the highway and growth in traffic have made the residential environment increasingly hostile. Because of this factor, there has been disinvestment in residential property resulting in some of those properties taking on a rundown appearance. ADT is approximately 15,000.

While the issues facing the Hwy 93 South corridor are complex and will be difficult to solve, the Whitefish community has long history of discouraging this area from becoming a “commercial strip”. Policy 6.3 of the 1996 Master Plan states, *Avoid the spread of strip commercial activity south of the Highways 93 and 40 intersection.* In 2004 when the North Valley Hospital Neighborhood Plan was adopted, it included the following goal: [The North Valley Hospital Neighborhood Plan] *In no way promotes or encourages commercial development south of the Highway 40 intersection.* As concluded earlier in this element of the Growth Policy, visioning

session participants expressed very little support for extending additional commercial development in either the Hwy 93 South or Hwy 40 corridors. Finally, it is important to remember that the existing zoning in the corridor was put in place in 1993 by the Blanchard Lake Area Zoning District, and one of the reasons for the SAG-5 zoning along the highway itself was that additional commercial development was not supported by the master plan in effect at that time. Therefore, any corridor plan for Hwy 93 South **must successfully address** at least the following issues:

- Commercial growth- Commercial growth will continue to be discouraged by the City of Whitefish.
- Scale- The existing modest scale of commercial and residential structures should be maintained. No “big box” retail or office buildings should be proposed.
- Architectural standards- Any successful plan must include high standards of architectural design that is compatible with the wooded environs of the corridor.
- Landscaping/screening- The corridor plan must include standards for replacement of existing forest stands, on-site landscaping, and screening of parking and service areas.
- Utilities- Water and sewer service must be provided, or, the corridor plan should support no more development than can be served by well and septic systems **without** adversely affecting water quality or wells on neighboring properties.
- Trip generation- With growing traffic volumes on Hwy 93 already, additional non-residential uses should not be of a nature that attracts large numbers of additional vehicle trips. The corridor plan must include a traffic impact and access analysis.
- Traffic safety, circulation, and access- Traffic safety will be a major concern with any new growth in this corridor. The proliferation of access points can cause both safety and traffic access problems. An access and circulation component must be a product of the over-all corridor plan.
- Bike/pedestrian facilities- Bicycle and pedestrian ways must be provided within the corridor itself, and should link to the existing commercial areas north of Hwy 40.

Whitefish has never undertaken a “corridor plan”; a plan that takes into account the different transportation modes, land uses, and community functions. Corridor plans can be developed as neighborhood plans, which are provided for under Montana law. While corridor plans can be initiated by the City, they can also be conducted by the property owners, residents, and business persons in the corridor. Regardless of who conducts the corridor plans, they should have an extensive stakeholder involvement program, and should take a comprehensive approach to the critical issues such as transportation modes, land use, screening, noise, access, and aesthetics.