



**12/14/2015**

**To: Flathead County Planning Office**

**Re: Proposed Final Zoning for the area surrounding the City of Whitefish**

Citizens for a Better Flathead (CBF) in keeping with state statutes governing public participation MCA 2-3-111 and MCA 76-2-205 submits these additional written comments for your review and consideration prior to your final decision on replacement of the interim zoning around the City of Whitefish with a new zoning district to be known as the Rural Whitefish Zoning District. Please make our comments part of the public hearing record for (1) the zoning text amendment hearing to create five new county zoning districts, and for the second public hearing record to (2) establish the Rural Whitefish Zoning District.

**In review of the proposed ten Findings of Fact for FZTA-15-01 we offer the following comments:**

**Finding of Facts adopted by the County Planning Board and proposed for adoption by the Flathead County Commissioners as stated in the Addendum to FZTA-15-01 9-24-2015**

**Flathead County Finding #1.** The proposed amendment appears to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposal would add new commercial and residential use districts, other County regulations would serve to protect lakes, streams, wildlife habitat and riparian boundaries, the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.

**Citizens for a Better Flathead’s response to proposed finding of fact #1.**

The proposed amendments do not appear to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposed amendments are in conflict with policies of the Flathead County Growth Policy. The amendments do not give reasonable consideration to the City of Whitefish comments and letters, which in general request that the existing (pre-interim zoning) zoning standards and districts remain in place to provide for consistency with zoning that residents and businesses currently rely on and to secure zoning that will best allow for cost effective future growth of the city. The City of Whitefish Comments also provide many specific suggestion to make the proposed county zoning compatible with the City of Whitefish zoning as required by MCA 76-2-203.<sup>1</sup>

<sup>1</sup> **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. *(continued on bottom of next page)*

On page 189 the Flathead County Growth Policy states: “The City of Whitefish has a unique character and economy based on a history of railroading and tourism. Real estate and construction have emerged as additional drivers of the Whitefish economy. Whitefish is a rapidly expanding municipality with an economy that depends in part on maintaining the unique “mountain ski resort” character. However, some drivers of the Whitefish economy that are closely linked to the character of the town are located just outside city limits (such as Whitefish Mountain Resort, Lost Coon Lake, Blanchard Lake and many of the lakefront properties on Whitefish Lake). **When economic success is inextricably linked to preserving and maintaining the unique character of a municipality and adjacent areas, it is important for county planning and implementation efforts to give consideration to both the municipality’s growth planning as well as the desires of residents within those areas. [Emphasis added]** During the process of planning for lands adjacent to the City of Whitefish, Flathead County representatives should work with local residents as well as representatives of the City of Whitefish to protect the quality of life of current residents anticipate future growth of the city and accommodate the needs of County government to provide services and facilities.”

Additionally the Flathead County Growth Policy contains the following goals and policies that state:

**“Goal**

G.49 Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and services that protect and preserve the health, safety, and welfare of the natural and human environment.

**Policies**

P.49.1 Promote representation by county officials of those residents outside the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.

P.49.2 Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.

P.49.3 Protect and preserve the many unique opportunities present in the natural and human environment.

P.49.4 Encourage a statement of coordination on planning issues between the County and Whitefish.”

Flathead County Finding #1 also states that the proposed zone changes are supported by “other County regulations [that] would serve to protect lakes, streams, wildlife habitat and riparian boundaries” yet the hearing record does not demonstrate what “other ” regulations would provide this protection. Reference to subdivision regulations offering some protection would only apply if a land owner/developer chose to subdivide. As noted in the letters from the City of Whitefish for this record of decision, the city has serious concerns about the protection of the city and area residents’ water quality under the proposed zoning and they ask that more protection be added

(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.**

under the final zoning adopted. CBF shares the concerns expressed by the city and others that the zoning does not provide adequate protection for water quality and other natural resources. The Flathead Conservation District representative on the Flathead County Planning Board also stated for the record that he did not believe the proposed zoning provided adequate water quality protection in riparian areas given soils and other factors for large portions of these lands being rezoned. Montana Fish Wildlife and Parks also provided comments that the setbacks were not sufficient to protect water quality and aquatic resources. Research also shows that inadequate riparian setbacks are detrimental to wildlife.

Finally, Finding #1 also states that “the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.” Comments from the city, CBF, and residents strongly oppose the addition of commercial or industrial uses not included in the zoning that was in place prior to the interim zoning. Again the Flathead County Growth Policy calls for the county to recognize, “When economic success is inextricably linked to preserving and maintaining the unique character of a municipality and adjacent areas, it is important for county planning and implementation efforts to give consideration to both the municipality’s growth planning as well as the desires of residents within those areas.” Again the City of Whitefish comments provided many specific suggestions to make the proposed county zoning compatible with the City of Whitefish zoning as required by MCA 76-2-203.

**Flathead County Finding #2.** The proposed text amendment appears to not have a negative impact on safety from fire and other dangers because the use districts are intended for areas adjacent to Whitefish, in areas which are located within the Whitefish and Big Mountain Fire Districts, the fire districts would provide services in the event of a fire, not allowing a caretaker’s facility on smaller lots than double the minimum lot size within RR-1 zone would eliminate the potential for doubling the density of the RR-1 zone and prohibited gravel pits would likely help secure future RR-1 zones from other dangers.

**Citizens for a Better Flathead’s response to proposed finding of fact #2.**

The following Flathead County Growth Policy policies call for careful research and a well-founded basis for increasing density in rural areas and within the Wildland Urban Interface (WUI). As the City of Whitefish has requested in its comments, CBF also encourages you to leave in place the zoning density of 15 acres per unit on the 7683 acres being included in the Rural Whitefish Zoning District.

“P.3.2 Evaluate land uses and trends in agricultural and timber lands, and present ideas through research and discuss tools that could be used to encourage suitable development.

P.3.4 Develop equitable and predictable impact-mitigation for converting rural timber and agriculture lands to residential real estate.

P.3.5 Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.

P.3.6 Identify and maintain benefits of private forest lands, including harvesting natural resources, water quality protection, wildlife habitat and traditional recreational values and ensure that conversion of private forest lands preserves as many of these benefits as is possible.

P.3.7 Adopt techniques that mitigate the threat to public health and safety created by various developments near the Wildland Urban Interface (WUI)

P.4.2 Identify lands most suited to agriculture (appropriate soils, access to water, shape and size of parcels, etc.).

P.4.3 Identify a desirable gross density for rural residential development that retains land values,

preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)

P.4.4 Identify and encourage subdivision layouts that retain the value of land without negatively impacting the rural character and agricultural activities.

P.4.5 Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.”

Page 23 of the Flathead County Growth Policy provides the following guidance that further supports leaving the existing zoning density of 15 acres per unit Agricultural Zoning in place for the 7683 acres that these proposed zoning text amendment would down-zone to a zoning density of 10 acres per unit Agricultural Zoning. Page 23 states, “Inappropriate residential density causes a variety of challenges. Road capacity determines efficiency of traffic movement. Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads are a match, but medium or high density land uses on low capacity roads create problems. Emergency services such as fire, ambulance and law enforcement have a level of service that is dictated by response times. The further a development is located from services being provided, the longer the response times and likelihood of tragedy. High density development with delayed response times for emergency services is not a match. Low density land uses in areas with delayed response times are more appropriate for the welfare of the landowner and the public as a whole.”

Flathead County does not have a fire department and does not have a building permit program to ensure that buildings in rural areas around Whitefish meet fire codes. This is yet another reason the county should not be adopting zoning that increase density in rural areas around Whitefish placing increased and undue strain on city fire departments and other infrastructure resources. Page 48 of the Flathead County Growth Policy points to the high cost of services for increased rural density; “Costs associated with the housing location can be significant. The cost of transportation to and from destinations such as home, work, and school increases as the distance increases. The same is true for the cost of serving homes located away from public services such as police and fire protection, solid waste collection, and public sewer and water services. The average travel time to work for Flathead County commuters in 2010 was 15-19 minutes, which coincides with the fact that many residents in the County live outside of cities in rural areas.”

**Flathead County Finding #3.** The proposed amendment to the Flathead County Zoning Regulations was found to have minimal impact on public health, public safety and general welfare because the zoning use districts are intended to be located near the City of Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, many of the zoning use districts would require greater setbacks from county collectors and MDT maintained roads, a greater setback would be required from residential uses and a CUP would be required for uses that could be deleterious to the public health or safety.

**Citizens for a Better Flathead’s response to proposed finding of fact #3.**

(Our comments under Finding #2 above apply here as well.)

Finding #3 concludes that simply because the proposed zone amendments are to zoning districts that are intended to be located near the City of Whitefish that there will be minimal impact on public health, public safety and general welfare. The comments provided by the City of Whitefish identify numerous issues with the proposed new zoning, which they argue will have unacceptable impacts on public health, public safety and general welfare, which have been largely ignored by the

county planning board. CBF's comments to the planning board, which we asked be made part of this hearing record, also identify unacceptable impacts these zones changes will have.

The City of Whitefish has in place policies that call for infill development before conversion of lands outside of the city limits to higher density uses and it has policies in place to ensure that infrastructure for all services are in place concurrent with development. The City of Whitefish has invested in and adopted plans including transportation plans, facility plans, water quality protection plans and other policies to ensure that the city can grow in a cost-effective manner that enhances the character and quality of the city. Additionally, the City of Whitefish letter of Sept. 9, 2015 concludes that, "The City strongly objects to any changes in zoning inconsistent with our Growth Policy." Keeping the pre-interim zoning in place until such time as the City is prepared to annex and/or extend city services is the best alternative for protecting and having minimal impacts on public health, public safety, and general welfare. It is also the best way to allow for future growth of the city that is not impeded by development that relies on septic systems, sub-standard roads, and other inadequate facilities.

**Flathead County Finding #4.** The proposed amendment was found to have minimal impact on transportation, water, sewerage, schools, parks and other public requirements because the Flathead County Road and Bridge Department had no concerns with the proposal, no comment was received from MDT, similar uses and densities to what was previously allowed under Whitefish zoning would be allowed and there has been a decrease in school enrollment for Whitefish schools.

**Citizens for a Better Flathead's response to proposed finding of fact #4.**

As stated in the City of Whitefish's letter of 9-9-15 to the planning board the City of Whitefish does not support the increased density the county is proposing in the Karrow Ave. area and for the 7683 acres of agriculturally zoned lands around the City. "The main concern we have is the application of 2.5 acre and 5 acre zoning to some 350 acres around Lost Coon Lake and Karrow Avenue that previously had 10 and 15 acre zoning. Density smaller than 10 acres/dwelling unit on the east side of Karrow from just south of Lund Lane to where Karrow would intersect with Highway 40 if Highway 40 were extended due west from its intersection with Highway 93 is contrary to Whitefish's 2007 City County Growth Policy Future Land Use Map, which calls for a Rural Future Land Use with a 10 acre minimum. The City strongly objects to any changes in zoning inconsistent with our Growth Policy. That is a significant density change, and we hope that the county reconsiders that." "We also question why the proposed new zones don't include a 15-acre rural agricultural zone that mirrors the Whitefish WA (15 acre) zone that you are replacing with SAG-10. That change adds significant density to rural agricultural areas."

The Flathead County Growth Policy recognizes the costs of unsupported increases in density on page 48, "Costs associated with the housing location can be significant. The cost of transportation to and from destinations such as home, work, and school increases as the distance increases. The same is true for the cost of serving homes located away from public services such as police and fire protection, solid waste collection, and public sewer and water services. The average travel time to work for Flathead County commuters in 2010 was 15-19 minutes, which coincides with the fact that many residents in the County live outside of cities in rural areas."

The 2009 Whitefish Transportation Study identifies Karrow Avenue, both city and county portions as second priority projects that "...should be considered as needed as future funds become available. The projects are generally needed due to anticipated future growth and are likely the

result of current conditions being unable to handle future growth.” The 2009 costs for Karrow improvements were pegged at 4.2 Million. According to the 2009 Traffic Study traffic counts done in 2007 found that Karrow Ave. and US Hwy 93 were one of the unsignalized intersections, which are currently functioning at LOS D or lower during the PM peak hour. The plan calls for Karrow to be a three-lane minor arterial roadway section with pedestrian and bicyclist facilities between 7th Street and US Highway 93 (Project MSN-3A) and a two-lane rural section with a separated pedestrian and bicycle path south of 7th Street (Project MSN-3B). This is but one example of transportation impacts that have not been adequately considered by the county in the proposed re-zoning of lands in the proposed Whitefish Rural Zoning District to higher densities.

The City of Whitefish’s letter of 9-19-15 outlines significant concerns the City has with lack of adequate stream setbacks and the impacts this will have to their drinking water supply. Again, allowing premature increased density around the city allows for increased development around the city on septic systems, which again create costly barriers to future city growth as retrofitting these areas for the infrastructure needed to allow for orderly growth becomes too costly, and as noted in the City’s letter can lead to lost or contamination of City drinking water. The long-range infrastructure plans of cities are investments made to help cities grow in a cost effective manner and a basis for MCA 76-2-203 which requires of counties that “Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.” The county has not given adequate consideration to the infrastructure plans or comments the City has made and this finding of “minimal impact on transportation, water, sewerage, schools, parks and other public requirements” is without merit.

**Flathead County Finding #5.** The proposed amendment was found to have minimal impact on the provision of light and air because bulk and dimensional requirements for the proposed zoning use districts would be applicable, additional setbacks are required for business zones adjacent to residential and sometimes agricultural zones and cross referencing will not impact the adequate provision of light and air.

**Citizens for a Better Flathead’s response to proposed finding of fact #5.**

No comment.

**Flathead County Finding # 6.** The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

**Citizens for a Better Flathead’s response to proposed finding of fact #6.**

See CBF comments on the similar proposed finding for # 4 above.

**Flathead County Finding #7.** This proposed text amendment would be compatible with the urban growth in the vicinity of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

**Citizens for a Better Flathead’s response to proposed finding of fact #7.**

This finding is not supported by the City of Whitefish letters of 9-9-2015 and 9-19-2015.

**Flathead County Finding #8.** The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

**Citizens for a Better Flathead's response to proposed finding of fact #8.**

While gravel extraction should not be allowed in RR-1 zones and greenbelt setbacks from commercial or industrial uses are important, the finding #8 statement that, "The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning", is not supported by the City of Whitefish letters of 9-9-2015 and 9-19-2015. The best way for the county to "replicate, as nearly as possible previous Whitefish zoning" would be to leave in place the pre-interim zoning that has for the most part been in place in this area for some 30 to 40 years and to address specific future zone changes on a case by case basis.

**Flathead County Finding #9.** The proposed amendment to add new use districts and cross referencing to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

**Citizens for a Better Flathead's response to proposed finding of fact #9.**

See CBF's prior comments for findings #1-#8.

**Flathead County Finding #10.** This proposed text amendment would be, as nearly as possible, compatible with the zoning ordinances of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

**Citizens for a Better Flathead's response to proposed finding of fact #10.**

See CBF's prior comments for findings #1-#8.

In review of the proposed ten findings of fact for FZD-15-01 we offer the following comments:

**Finding of Facts adopted by the County Planning Board and proposed for adoption by the Flathead County Commissioners as stated in the Addendum to FZD-15-01 9-25-2015**

**Flathead County Finding #1.** The proposed zoning district generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map and zoning would generally match the Designated Land Use Map.

**Citizens for a Better Flathead's response to proposed finding of fact #1.**

The proposed amendments do not appear to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposed amendments are in conflict with policies of the Flathead County Growth Policy and do not give reasonable consideration to the City of Whitefish comments and letters, which request in general that the existing (pre-interim zoning) zoning standards and districts remain in place to provide for consistency with zoning that residents and businesses currently rely on and to secure zoning that will best allow for cost effective future growth of the city. The City of Whitefish Comments also provide many specific suggestion to make the proposed county zoning compatible with the City of Whitefish zoning as required by MCA 76-2-203.

On page 189 of the Flathead County Growth Policy states: "The City of Whitefish has a unique character and economy based on a history of railroading and tourism. Real estate and construction have emerged as additional drivers of the Whitefish economy. Whitefish is a rapidly expanding municipality with an economy that depends in part on maintaining the unique "mountain ski resort" character. However, some drivers of the Whitefish economy that are closely linked to the character of the town are located just outside city limits (such as Whitefish Mountain Resort, Lost Coon Lake, Blanchard Lake and many of the lakefront properties on Whitefish Lake). **When economic success is inextricably linked to preserving and maintaining the unique character of a municipality and adjacent areas, it is important for county planning and implementation efforts to give consideration to both the municipality's growth planning as well as the desires of residents within those areas. [Emphasis added]** During the process of planning for lands adjacent to the City of Whitefish, Flathead County representatives should work with local residents as well as representatives of the City of Whitefish to protect the quality of life of current residents anticipate future growth of the city and accommodate the needs of County government to provide services and facilities."

Additionally the Flathead County Growth Policy contains the following goals and policies that state:

**Goal**

G.49 Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and services that protect and preserve the health, safety, and welfare of the natural and human environment.

**Policies**

P.49.1 Promote representation by county officials of those residents outside the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.

P.49.2 Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the



county review process.

P.49.3 Protect and preserve the many unique opportunities present in the natural and human environment.

P.49.4 Encourage a statement of coordination on planning issues between the County and Whitefish.”

Montana statutes require that “the governing body must give consideration to the “pattern of development set out in the growth policy.”

**76-1-605. Use of adopted growth policy.** (1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to [76-1-601](#) must be guided by and give consideration to the general policy **and pattern of development** set out in the growth policy in the:

- (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;
- (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and
- (c) adoption of zoning ordinances or resolutions. ”

Up until the update of the 2012 Flathead County Growth Policy (FCGP) the FCGP contained a future land use map that provided important guidance to establish consistency with “general policy **and pattern of development** set out in the growth policy.” The 2012 update to the FCGP removed the official map<sup>2</sup> and thus, unlike the Whitefish Growth Policy that includes a future land use map, the FCGP fails to provide the necessary guidance to support these proposed zone changes.

Additionally, Flathead County has not invested in the infrastructure plans covering future transportation needs, as well as water, sewer, fire and police needs and projected patterns of growth for the proposed Whitefish Rural Zoning District where Whitefish has and such plans must be considered to ensure that growth occurs in an orderly and cost-effective manner. Thus primary reliance on the Flathead County Growth Policy for the basis for these proposed zones changes is without merit.

**Flathead County Finding #2.** The proposed zoning district is designed to secure safety because most of the proposed zoning district is located within a fire district, the majority of the densities will not change from previous zoning in the area and areas where the density has the potential to change are located within the Rural Whitefish Fire District.

**Citizens for a Better Flathead’s response to proposed finding of fact #2.**

Page 23 of the Flathead County Growth Policy provides the following guidance that addresses

<sup>2</sup> **PART 3: Land Use Maps**

Land use maps are traditionally used to illustrate locations in a given area that have identified characteristics. They graphically present valued information such as boundaries, spatial relationships and various geographical characteristics. The Growth Policy utilizes land use maps in several ways. There are Officially Adopted Maps that become extensions of the Growth Policy. There are Illustrative Maps that indicate relatively specific areas where certain conditions exist. There are maps which simply reflect existing conditions as of the date of the map. There are also Proposed Maps that are not yet in existence, but are suggested as a means to accomplish certain objectives.

**Officially Adopted Maps**

The following Officially Adopted Maps have been adopted as part of the Flathead County Growth Policy. They serve as visual representations of select parts of this document and are thus considered visual policy statements. They should be implemented and regarded the same as the written portions. Additional maps may be officially adopted as part of the Growth Policy in the future. **No maps are as yet listed in this section.** [Emphasis Added]

issues of zoning and planning for fire safety and further supports leaving the existing zoning density of 15 acres per unit Agricultural Zoning in place for the 7683 acres that these proposed zoning text amendment would down-zone to a zoning density of 10 acres per unit Agricultural Zoning. Page 23 states, "Inappropriate residential density causes a variety of challenges. Road capacity determines efficiency of traffic movement. Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads are a match, but medium or high density land uses on low capacity roads create problems. Emergency services such as fire, ambulance and law enforcement have a level of service that is dictated by response times. The further a development is located from services being provided, the longer the response times and likelihood of tragedy. High density development with delayed response times for emergency services is not a match. Low density land uses in areas with delayed response times are more appropriate for the welfare of the landowner and the public as a whole."

Flathead County does not have a fire department and does not have a building permit program to ensure that buildings in rural areas around Whitefish meet fire codes. This is yet another reason the county should not be adopting zoning that increase density in rural areas around Whitefish placing increased and undue strain on city firefighting and other infrastructure resources. And page 48 of the Flathead County Growth Policy points to the high cost of services for increased rural density; "Costs associated with the housing location can be significant. The cost of transportation to and from destinations such as home, work, and school increases as the distance increases. The same is true for the cost of serving homes located away from public services such as police and fire protection, solid waste collection, and public sewer and water services. The average travel time to work for Flathead County commuters in 2010 was 15-19 minutes, which coincides with the fact that many residents in the County live outside of cities in rural areas"

**Flathead County Finding #3.** The proposed zoning district is designed to promote public health, public safety, and general welfare because future development could require subdivision review or a CUP which could mitigate any potential impacts to public health, safety or general welfare, the majority of the district is located within a fire district and the uses allowed within the proposed zones are similar to what currently exists.

**Citizens for a Better Flathead's response to proposed finding of fact #3.**

This finding fails to acknowledge that significant development under these proposed zone changes could take place and never require subdivision review or a CUP. Also see CBF comments to findings #1 and #2 above.

**Flathead County Finding #4.** The proposed zoning district is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because no comment was received from MDT, comments from the Flathead County Road and Bridge Department indicate no concern with the proposal, the school districts have seen a decrease in enrollment over the last ten years, there are many parks located within the area of the proposed district and similar uses and densities that were previously allowed will be allowed within the new zoning district.

**Citizens for a Better Flathead's response to proposed finding of fact #4.**

As stated in the City of Whitefish's letter of 9-9-15 to the planning board the City of Whitefish does

not support the increased density the county is proposing in the Karrow Ave. area and for the 7683 acres of agriculturally zoned lands around the City. "The main concern we have is the application of 2.5 acre and 5 acre zoning to some 350 acres around Lost Coon Lake and Karrow Avenue that previously had 10 and 15 acre zoning. Density smaller than 10 acres/dwelling unit on the east side of Karrow from just south of Lund Lane to where Karrow would intersect with Highway 40 if Highway 40 were extended due west from its intersection with Highway 93 is contrary to Whitefish's 2007 City County Growth Policy Future Land Use Map, which calls for a Rural Future Land Use with a 10 acre minimum. The City strongly objects to any changes in zoning inconsistent with our Growth Policy. That is a significant density change, and we hope that the county reconsiders that." "We also question why the proposed new zones don't include a 15-acre rural agricultural zone that mirrors the Whitefish WA (15 acre) zone that you are replacing with SAG-10. That change adds significant density to rural agricultural areas."

The Flathead County Growth Policy recognizes the costs of unsupported increases in density on page 48, "Costs associated with the housing location can be significant. The cost of transportation to and from destinations such as home, work, and school increases as the distance increases. The same is true for the cost of serving homes located away from public services such as police and fire protection, solid waste collection, and public sewer and water services. The average travel time to work for Flathead County commuters in 2010 was 15-19 minutes, which coincides with the fact that many residents in the County live outside of cities in rural areas."

The 2009 Whitefish Transportation Study identifies Karrow Avenue, both city and county portions as second priority projects that "...should be considered as needed as future funds become available. The projects are generally needed due to anticipated future growth and are likely the result of current conditions being unable to handle future growth." The 2009 costs for Karrow improvements were pegged at 4.2 Million. According to the 2009 Traffic Study traffic counts done in 2007 found that Karrow Ave. and US Hwy 93 were one of the unsignalized intersections, which are currently functioning at LOS D or lower during the PM peak hour. The plan calls for Karrow to be to a three-lane minor arterial roadway section with pedestrian and bicyclist facilities between 7th Street and US Highway 93 (Project MSN-3A) and a two-lane rural section with a separated pedestrian and bicycle path south of 7th Street (Project MSN-3B). This is but one example of transportation impacts that have not been adequately considered by the county in the proposed re-zoning of lands in the proposed Whitefish Rural Zoning District to higher densities.

The City of Whitefish's letter of 9-19-15 outlines significant concerns the City has with lack of adequate stream setbacks and the impacts this will have to their drinking water supply. Again by allowing premature increased density around the city allows for increased development around the city on septic systems which again create costly barriers to future city growth as retrofitting these areas for the infrastructure needed to allow for orderly growth becomes too costly, and as noted in the City's letter can lead to lost or contamination of City drinking water. The long-range infrastructure plans of cities are investments made to help cities grow in cost effective manner and a basis for MCA 76-2-203 which requires of counties that "Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities" The county has not given adequate consideration to the infrastructure plans or comments the City has made and this finding that "The proposed zoning district is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements..." is without merit.

**Flathead County Finding #5.** The proposed zoning district has given consideration to the reasonable provision of adequate light and air because requirements of minimum lot area, minimum yard setbacks, maximum heights and maximum lot coverage contained in the proposed zoning are all designed to allow the flow of air and light.

**Citizens for a Better Flathead's response to proposed finding of fact #5.**

No Comment.

**Flathead County Finding # 6.** The proposed zoning district is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

**Citizens for a Better Flathead's response to proposed finding of fact #6.**

See CBF comments on the similar proposed finding for # 4 above.

**Flathead County Finding #7.** The proposed zoning district has given consideration to compatible urban growth in the vicinity of cities and towns because many of the proposed zoning use districts are similar in density and allowed uses to the previous Whitefish zoning, the County went through the Whitefish zoning ordinance and the Flathead County Zoning Regulations to determine the most compatible zones and created five new use districts to mirror previous Whitefish zoning.

**Citizens for a Better Flathead's response to proposed finding of fact #7.**

Finding #7 is not supported by the City of Whitefish letters of 9-9-2015 and 9-19-2015. The best way for the county to "replicate, as nearly as possible previous Whitefish zoning" would be to leave in place the pre-interim zoning that has for the most part been in place in this area for some 30 to 40 years and to address specific future zone changes on a case by case basis. Additionally, inserting within the description of each of the five new zones that "the district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish" is contradicted by the city's and by other comments of record including ours. The proposed findings for both zone changes proposed for the Rural Whitefish Zoning district fail to demonstrate compliance required with MCA 76-2-203. Wording added to the five new county zones stating that "the district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish" should be removed as without merit as they do not demonstrate compliance with MCA 76-2-203.

**Flathead County Finding #8.** The proposed zoning district has given consideration to the character of the district and its suitability of particular uses because the district would allow for uses that currently exist in and around Whitefish and a CUP could mitigate any potential uses that would not serve to protect the character of the district.

**Citizens for a Better Flathead's response to proposed finding of fact #8.**

This finding is without merit. See CBF's prior comments for findings #1-#7.

**Flathead County Finding #9.** The proposed zoning district would conserve the value of buildings

and encourage the most appropriate use of land because the zoning use districts are proposed to mimic the previous City of Whitefish, the zoning district will replace previous Whitefish zoning with similar County zoning the uses permitted will remain similar and density will be similar to that which currently exist.

**Citizens for a Better Flathead's response to proposed finding of fact #9.**

This finding is without merit. See CBF's prior comments for findings #1-#7 as well as our comments to finding proposed for FZTA-15-01.

**Flathead County Finding #10.** The proposed district has given consideration to the zoning ordinances of nearby municipalities because many of the proposed zoning use districts are similar in density and allowed uses to the previous Whitefish zoning, the County went through the Whitefish zoning ordinance and the Flathead County Zoning Regulations to determine the most compatible zones and created five new use district to mirror previous Whitefish zoning.

**Citizens for a Better Flathead's response to proposed finding of fact #10.**

This finding is without merit. See CBF's prior comments for findings #1-#9 as well as our comments to finding proposed for FZTA-15-01.

In conclusion we further ask that:

- 1. Replacement of Interim Zoning with Final Zoning for the Rural Whitefish Zoning District be made more closely in compliance with MCA 76-2-203.** We ask that you demonstrate in your final decision and findings of facts that the creation of the Whitefish Rural zoning district is in clear compliance with 76-2-203 MCA, which requires that permanent zoning, *"...must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities."*
- 2. Please remove proposed wording in the new B-2A zoning allowing as a permitted use "antique, gift and card retail sales" and stand alone "convenience stores."** To be consistent with existing Whitefish Zoning for this highway corridor area, please replace this wording so that the new B-2A proposed zone contains this wording: **"Antique stores and auction barns" and "automotive service stations and convenience stores within"** as this matches the existing Whitefish zoning. The proposed B-2A zoning otherwise has been made consistent with the current zoning in place and these changes would make it more so.
- 3. Do not allow for additional commercial development to be permitted through the creation of this new Rural Whitefish Zoning District along Highway 93 and Highway 40 as some members of the public are requesting.** The Whitefish Growth Policy discourages such commercial sprawl. We do not support allowing strip commercial development to line highway corridors around Whitefish or elsewhere in the county.
- 4. Keep the pre-interim zoning along Karrow Avenue and near Lost Coon Lake.** The existing agricultural zoning should be retained. The Whitefish Growth Policy calls for zoning that retains these agricultural lands and encourages infill development that makes use of existing city services until the city has the need and resources to grow in this area, and we support this policy.

Neither city nor county infrastructure is currently available for increased density in this area. Allowing development on 2.5 acres per home on septic and without adequate facilities for sewer, storm water, road improvements, and sidewalks blocks the city from cost effective growth in the future. The Whitefish Growth Policy calls for zoning that retains these agricultural lands, encourages infill development that makes use of existing city services, and prevents commercial sprawl along highway corridors.

5. **Please adopt a county zoning district that matches the current 15-acre agricultural zoning on 7,683 (!) acres of agricultural and timberlands surrounding Whitefish.** Do not allow for more lots by changing this zoning to 10-acre lots.
6. **Standards for protecting water quality and riparian areas should be amended for this proposed Rural Whitefish Zoning District to include larger setbacks/buffers consistent with those currently in place in Whitefish zoning.** Research shows larger setbacks/buffers are necessary to protect water quality, riparian areas and wildlife. The Montana Department of Fish, Wildlife, and Parks has submitted comments saying that the proposed county setbacks from streams, rivers, and other bodies of water are inadequate to protect wildlife and riparian areas.

The majority of Whitefish's city water supply is from surface water. The clean headwaters of Haskill Creek accounts for about 75 percent of Whitefish's water supply. Increased development in these headwaters, which cover approximately 3000 acres, has the potential for increased sedimentation and septic leachate, which results in higher water treatment costs. Currently there are very minimal treatment costs because the water from Haskill is clean and cold.

Of the three intakes in Haskill Basin, only Second and Third creeks are actively supplying the city with water. The intake at First Creek, which drains Big Mountain, was essentially abandoned in the 1980s due to the presence of fecal coliform as a result of septic leachate from development, which was serviced by two sewage lagoons. The intake was taken off-line, reclaimed, and is now on the Whitefish sewer system. This serves as a specter of what might happen if Haskill Basin (or other similar agricultural/timber lands surrounding Whitefish) were similarly developed.

7. **Please adopt for the proposed Rural Whitefish Zoning District compatible sign standards.** The proposed county zoning allows for types of signage that the City of Whitefish zoning code does not allow. Please remove from the proposed Rural Whitefish Zoning District the following uses including: internally lighted signs; neon and/or other lighting arranged around a building, sign, or other structure for the purpose of attracting attention; and electronically automated changeable copy signs, (except such signs displaying the time and temperature). This could be accomplished by including clarifying language in the description of this district.
8. **Retention of Plan Unit Developments:** In looking for additional information on the existing PUD agreements that might be impacted by the proposed County Interim Zoning it appears that one of the PUD areas identified on the chart prepared by the county planning staff is part of a larger PUD for the Iron Horse Development, which is within the City of Whitefish. It appears that this portion of the PUD or development that was never annexed

into the City of Whitefish and is under a conservation easement held by the Flathead Land Trust and the Iron Horse Home Owners association. The final zoning should reflect this.

9. **Big Mountain Sewer Agreement and wavers of annexation:** It should be noted that the Big Mountain County Sewer Agreement between landowners including Big Mountain and Stoltze Land and Lumber and the City of Whitefish covers the Big Mountain neighborhood plan area and the Big Mountain West Neighborhood Plan. It was adopted in 2002 and the agreement establishes after twenty years the ability of the city to annex this area without protest. This agreement includes additional requirements like drainage plans for development so that water supplies will not be impacted. This agreement and the standards it sets forth should be reviewed and be supported and enforced by future permanent zoning for this area. Other areas within the ETA with wavers of annexation should be identified as zoning for these areas clearly need to comply with 76-2-203 MCA.
10. **Proposed County Interim Zoning, I-2 Heavy Industrial,** includes an important section of land in the central part of the City surrounded by largely residential property. The City of Whitefish has invested significant city funding in this area and is currently in the process of developing a neighborhood plan for this area known as the West Side Corridor Plan. A copy of this plan can be found on the City of Whitefish website. The final zoning the county adopts should reflect and support planning efforts like this for county lands that are almost wholly surrounded by lands within the City of Whitefish and must be consistent with city zoning.

The County proposed final zoning of I-2 Heavy Industrial includes not only the I-2 Heavy Industrial permitted and conditional uses, but also all of the permitted and conditional uses of the I-1 county zone. As a result, the number of uses under the proposed County final Zoning of I-2 Heavy Industrial far exceeds the number and type of uses allowed in the existing more limited WI zone and as such is not consistent with the existing City of Whitefish zoning or planning documents as called for in 76-2-203 MCA. Again we urge you to not adopt the County I-2 Heavy Industrial Zoning, and to instead to adopt a final zone that matches the WI Industrial and Warehousing District currently in place in Whitefish.

Finally, we encourage the Flathead County Commissioners to adopt zoning which is consistent with the pre-interim zoning in the two-mile area around Whitefish that has served the area well for 30-40+ years and to then work closely with the City of Whitefish to plan for future growth and any warranted future zone changes within this area around the City. Adopting essentially the existing pre-interim zoning will make the Rural Whitefish Zoning District compatible with nearby city zoning and help to keep this area a great place to live and invest.

Sincerely,

Mayre Flowers, Executive Director, Citizens for a Better Flathead