



9/8/2015

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 MCA 2-3-111¹ submits these additional comments for your review and consideration prior to your final decision on proposed Interim/final Zoning for the area surrounding the City of Whitefish. 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.

1. Replacement of Interim Zoning with Final Zoning for the Rural Whitefish Zoning District per 76-2-206 and Compliance with 76-2-203 MCA.

We ask that you thoughtfully consider the relationship between 76-2-203 MCA, which establishes the criteria for zoning, and 76-2-206 MCA, the interim zoning statute and demonstrate in your final decision on zoning this area be in compliance with 76-2-203 MCA 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 so 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

¹ **2-3-111. Opportunity to submit views – public hearings.** (1) Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, **prior to making a final decision** that is of significant interest to the public.

(2) When a state agency other than the board of regents proposes to take an action that directly impacts a specific community or area and a public hearing is held, the hearing must be held in an accessible facility in the impacted community or area or in the nearest community or area with an accessible facility. [Emphasis added]

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. We do not support the proposed zoning to create more lots for a small group of property owners along Karrow Avenue and near Lost Coon Lake. (and the down zoning of areas in the Houston Drive area.** 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.

Some Karrow Ave. residents have requested this change for their property, but allowing individual zone changes is not appropriate as part of this emergency zoning process. These requested changes do not constitute an emergency and likely would not be legal under this emergency zoning process. Other property owners all around Whitefish could request the ability to rezone agriculturally zoned lands to residential or commercial zoning and there are other zoning change procedures in place to handle such requests.

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 call 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 some 7,683 (!) acres of agricultural and timberlands surrounding Whitefish.** Do not allow for more lots by changing this zoning to 10-acre lots.

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.

The Trust for Public Land has purchased the development rights from Stoltze recently thus guaranteeing that some of the land would be protected for water, wildlife and recreation, while still allowing sustainable forest management activities on the property. (These comments were in part excerpted from an article in the Flathead Beacon 6/26/2013) Again, this information provides additional rationale to adopt County Interim Zoning for

agricultural/timber lands in the ETA at 15 acres as in the current WA zone as opposed to the proposed SAG-10.

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 Depart 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.
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 interim and 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 Web site. Here again 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 Interim 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.

We appreciate the Flathead County Planning Board's consideration and proposal of zoning that is largely compatible with the current zoning in the two-mile area around Whitefish. Making these additional changes will help to further refine and make this new zoning 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