

ORDINANCE NO. 10-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ADOPTING A ZONING TEXT AMENDMENT TO ALLOW ADDITIONAL PERMITTED USES IN THE WHITEFISH SECONDARY BUSINESS DISTRICT (WB-2) FOR PROPERTIES ALONG SPOKANE AVENUE/HIGHWAY 93 SOUTH FROM SIXTH STREET TO THE HIGHWAY 40 INTERSECTION.

WHEREAS, the City of Whitefish has investigated broadening the allowed uses within the Whitefish Secondary Business District (WB-2) in a way consistent with the Zone's intent for over two years; and

WHEREAS, in 2008 the City brought to the Whitefish City-Country Planning Board issues associated with broadening allowed uses and anticipated future uses in the WB-2 Zone. City staff recommended zoning text amendments to address these issues and broaden the allowed uses without compromising the written intent of both the WB-2 Zone and WB-3 Zone, and goals of the Growth Policy and Downtown Master Plans; and

WHEREAS, as a result, at lawfully noticed public meetings, the Whitefish City-Country Planning Board reviewed the issues, and proposed changes to the allowed uses in the WB-2 Zone to the City Council with its recommendation for adding several new permitted and conditional uses to the WB-2 Zone, as well as additional future uses that fit the Zone's intent; and

WHEREAS, at lawfully noticed public meetings, the City Council deliberated the issues at two Council meetings and a work session and on December 7, 2009, by Resolution No. 09-45, created a seven member Ad Hoc Committee to research the issue further. The Ad Hoc Committee was comprised of two Councilors, Council appointed members from business and property owners in the WB-2 and WB-3 Zoning Districts and Whitefish Zoning Jurisdiction, and the Heart of Whitefish nonprofit corporation appointed one of its members; and

-29-

WHEREAS, the City Council charged the Ad Hoc Committee with the following direction:

The general purpose of the WB-2 Committee shall be to evaluate the existing WB-2 Zoning District and to recommend improvements in the form of specific text amendments that balance the intent of the WB-2 and WB-3 Zoning Districts in Title 11 and the Downtown Master Plan with the existing and anticipated future uses to the WB-2 Zone.

and;

WHEREAS, at lawfully noticed public meetings, the Ad Hoc Committee met on multiple occasions from February through April 2010. On April 29, 2010, the Ad Hoc Committee made its findings and recommendations to the Whitefish City-Country Planning Board and Council for zoning text amendments to add new permitted and conditional uses to the WB-2 Zone, new definitions, and a new section; and

WHEREAS, at lawfully noticed public meetings, the Whitefish City-County Planning Board met on June 17, and July 15, 2010, on the request by the City of Whitefish regarding text amendments to allow additional permitted and conditional uses in the WB-2 Zone, and on July 15, 2010, voted to approve the proposed text amendments, forwarding the amendments to the City Council for approval; and

WHEREAS, the Whitefish Planning Department prepared WB-2 Zone Text Amendments Report WZTA-08-69-B analyzing the proposed amendments and forwarding the Zoning Text Amendments to amend Sections 11-2K, 11-9-2, and 11-3, the WB-2, Secondary Business District, to increase the number of permitted and conditional uses, to include new definitions and add a new section, "Shopping Centers and Shopping Malls" to the City Council; and

WHEREAS, at lawfully noticed public meetings on June 17, 2010, and July 15, 2010, the Whitefish City-County Planning Board received from the Ad Hoc Committee and Planning staff, proposed amendments to the permitted and conditional uses to the WB-2 Zone, reviewed staff report WZTA-08-69-B, invited public comment, and thereafter voted to recommend approval of the proposed zoning text amendments to the Whitefish City Council; and

WHEREAS, at lawfully noticed public meetings on August 2, 2010, and August 16, 2010, the Whitefish City Council received oral reports with the August 2, 2010 and August 16, 2010 transmittal letters from the City Planning Department, reviewed revised Staff Report WZTA-08-60-B, invited public input, and following Council discussion voted to amend the proposed zoning text amendments having determined it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed zoning text amendments;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: Staff Report WZTA-08-69-B, together with the August 2, 2010 and August 16, 2010 transmittal letters from the City Planning Department to the Whitefish City Council, are hereby adopted as Findings of Fact.

Section 3: The zoning text amendments to amend Sections 11-2K and 11-9-2, the WB-2, Secondary Business District, are hereby adopted. The Zoning Administrator is hereby directed and authorized to amend the Zoning Regulations of the City of Whitefish to conform to the terms of this Ordinance.

Section 4: The zoning text amendments to Whitefish City Code Sections 11-2K and 11-9-2, as set forth on Exhibit "A," attached hereto and incorporated herein by reference, are hereby adopted as amendments to the Whitefish Zoning Jurisdiction Regulations.

Section 5: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS _____ DAY OF _____, 2010.

MICHAEL JENSON, MAYOR

ATTEST:

Necile Lorang, City Clerk

Exhibit "A"

Title 11, Chapter 2, Article K ZONING REGULATIONS - ZONING DISTRICTS WB-2 Secondary Business District

(Insertions shown underlined in bold and deletions shown with strikethrough)

11-2K-1 INTENT AND PURPOSE:

The WB-2 district is intended to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to highways or arterial streets and may be located in business corridors or islands.

11-2K-2 PERMITTED USES:

- **Agricultural supplies and sales.**
- Antique stores and auction barns.
- Automobile, boat, ~~manufactured home~~, and recreational vehicle sales, **rentals, parts,** and service.
- Automotive service stations.
- Bed and breakfast establishments (see Special Provisions in Section 11-3-4 of this title).
- Bowling establishments.
- Building supplies outlets.
- Bus depot.
- Churches or similar places of worship.
- Daycare centers (13 or more individuals).
- Electric, **electronic,** and household appliance stores.
- Financial institutions and professional services.
- Frozen food lockers, not including slaughtering.
- Furniture **and home furnishing** stores.
- Grocery and **convenience** stores.
- Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.
- Hotels, motels, and other hospitality and entertainment uses.
- Laundry and dry cleaning.
- Machinery and equipment sales, rental and repair.
- Mortuaries and crematories.
- **Movie and video game rentals.**
- **Personal services.**
- Professional offices.
- Public buildings.

- Recreational facilities, private and commercial.
- Residential:
 - a. Caretaker's units (see Special Provisions Section).
 - b. Single family, duplex, tri-plex, fourplex and larger and multifamily dwelling units, on levels other than the ground floor.
- Restaurants.
- ~~Seed, and grain sales.~~
- ~~Shopping malls.~~
- Sporting goods.
- Theaters.
- Vendors (see Special Provisions Section).
- Veterinary office - small animal.
- Wholesale and warehousing.

11-2K-3 **CONDITIONAL USES:**

- ~~Accessory Apartments.~~
- Bars / lounges.
- Casinos within a Casino Overlay Zone.
- Colleges, business and trade schools.
- Department and discount retail stores.
- Light assembly and light manufacturing.
- Manufactured home subdivisions:
- Manufactured home sales.
- Mini-storage.
- Personal care facilities when not in association with a hospital in a campus setting.
- Recreational vehicle parks, campgrounds and amusement parks (2 acres minimum size).
- Residential:
 - a. Multi-family dwellings.
- ~~Shopping malls and shopping centers, including additional commercial retail uses not listed under permitted or conditional uses above, subject to the development requirements listed under Section 11-3-31.~~
- Truck stops.
- Veterinary Hospital.

-33-

11-2K-4 **PROPERTY DEVELOPMENT STANDARDS:**

The following property development standards shall apply to land and buildings within this district:

Bulk and Scale All new structures with a building footprint of 15,000 square feet or greater, existing structures where an addition causes the total footprint to be 15,000 square feet or greater, and additions to structures where the footprint already is 15,000 square feet or greater, are subject to a conditional use permit pursuant to section 11-7-8 of this title

Minimum lot area n/a

Minimum lot width n/a

Minimum yard spaces:

Front 20 feet

Side 20 foot greenbelt when abutting a residential district or public right of way, otherwise, none

Rear 20 foot greenbelt when abutting a residential district, otherwise, none

Maximum height 35 feet

Permitted lot coverage n/a

Off street parking See chapter 6 of this title

Accessory uses Accessory uses shall maintain the same yard requirements as the primary use

Landscaping See chapter 4 of this title (single-family uses exempted)

-34-

Title 11, Chapter 9
ZONING REGULATIONS - DEFINITIONS

(Insertions shown underlined in bold)

11-9-2 **DEFINITIONS:**

CONVENIENCE STORE: A retail establishment of up to 5,000 sq. ft. selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption.

DEPARTMENT STORE: A retail establishment of over 20,000 square feet divided into separate departments carrying a great variety of unrelated merchandise and services.

DISCOUNT RETAIL STORE: An establishment or store, offering merchandise for retail sales at less-than-usual retail prices, and characterized by large structures or warehouse style facilities of over 20,000 square feet gross floor area.

SHOPPING CENTER: A group of architecturally unified commercial establishments containing over twelve thousand (12,000) square feet of gross floor area built on a site which is planned, developed, owned, and managed as an operating unit related in its location, size and type of shops to the trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and floor area of the stores.

-35-

Additionally, the Planning Board is recommending the following additional new section in Section 11-3, Special Provisions:

Title 11, Chapter 3
ZONING REGULATIONS - SPECIAL PROVISIONS

(Insertions shown underlined in bold)

~~11-3-33~~ **SHOPPING CENTERS AND SHOPPING MALLS:**

In all zones where shopping centers and shopping malls are conditionally permitted, they may apply under the procedure specified in this section and section 11-7-8 subject to the following additional requirements:

(A) In addition to the standard required submittals, the applicant must submit a report that contains the following:

(1) A description of the goods and services which the development would offer for sale, including a specific list of any proposed

commercial uses not currently listed in the permitted or conditional uses of the WB-2, and a description of how these uses are consistent with the intent of that zone

(2) A description of any additional developments which the applicant intends to or reasonably anticipates in conjunction with or subsequent to the proposed development on the same or adjoining parcels, with the inclusion of a parking/access/utility sharing plan;

(3) A traffic impact study per the City of Whitefish Engineering Standards

(4) A fiscal impact analysis that would, at a minimum, include the following:

a. The cost and burden upon government for services for the business and for the employees.

b. The impact on jobs — number and type of jobs, wages paid, benefits paid and changes in the number of union jobs, company's history of labor/employment practices.

c. The physical impact on City infrastructure compared to impact fees collected.

d. The economic impact on businesses in the downtown WB-3 zone.

The results of the fiscal impact study may be used to require the applicants to address and/or offset negative economic impacts, if any, as a part of the approval process.

(B) The proposed development must also satisfy the following development requirements:

(1) The commercial shopping center or shopping mall must be planned and developed as a unit. This requirement is not intended to preclude separate ownership of stores, but rather to achieve efficiencies of a compact development and joint use of parking, exits and entrances, and landscaped areas.

(2) The off-street parking and landscaping requirements of this chapter must be met.

- ~~(3) Architectural Review Committee approval, including adherence to the Commercial Design Standards for Buildings 15,000 square feet or greater found in that Ordinance.~~
- ~~(D) For malls and shopping centers approved under these standards, no more than 50% of the total floor area of the development can provide retail sales and service uses above and beyond what is normally permitted within the WB-2 zone.~~
- ~~(E) An approved CUP allowing general retail sales and services in accordance with these standards shall run with the buildings in perpetuity provided the CUP is implemented within 24 months. The Mountain Mall, which was a previously permitted use, shall be considered to have all the benefits of an existing CUP approved under this and other above requirements.~~