

FLATHEAD COUNTY PLANNING BOARD
COMMITTEE B
MEETING MINUTES
September 5, 2008

The meeting was called to order at 9:06 AM by Chairman Cross. Members in attendance were Gordon Cross, Rita Hall, Marc Pittman and Mike Mower. BJ Grieve of FCPZ was also present. Jeff Harris of FCZP participated in parts of the meeting. No members of the public were present and, accordingly, there were no comments during the Public Comment Period.

Mike Mower and BJ Grieve gave an update on the deliberations of the County Transition Team that is studying the Doughnut Area. The team met the previous day. Gary Hall and Mike Jenson were not at the meeting. The team reviewed the preliminary map presented by FCZP. They also discussed the possibility of a Land Use Advisory Committee. They were presented with a timeline for transition by FCPZ (See below). It was explained that the Whitefish City County Planning Board would continue to function until the county had completed the transition. The Whitefish members then questioned the need for their further participation. The team then developed a list of items that presented possibilities for coordination between the two entities. The list is comprised of:

1. Highway corridors
2. Dark sky provisions
3. Sign regulations
4. Architectural review
5. Box Store Standards
6. Areas of the county currently served by Whitefish utilities
7. Enforcement issues
8. Landscaping requirements

BJ Grieve then handed out the tentative transition schedule. He prefaced by saying his instructions were to compile a schedule that completed the process in December. There were some timing hurdles involving the Commissioners' schedules and allowing time for Legal Notices to be advertised. The schedule is:

**Flathead County Planning and Zoning Office
DRAFT Whitefish Interlocal Agreement Area Transition
Schedule**

Monday, September 15, 2008.

- Commissioner's Public Hearing on Growth Policy amendments.

Wednesday, October 8, 2008.

- Planning Board public hearing and consideration of creation of SR 2.5 zoning text (FZTA-08-03).

Wednesday, October 15, 2008.

- *Approximate** date of final resolution for Growth Policy amendments (30-days after public hearing). County assumes administrative responsibilities for all existing county zoning within former interlocal agreement area on date final resolution is approved.
- Planning Board public hearing and consideration of Whitefish Area Zoning District map (FZD-08-02). Whitefish Area Zoning District map will include proposed county zoning of all lands within the former interlocal agreement area currently zoned with Whitefish zoning (zones beginning with a “W”).

Wednesday, October 29, 2008.

- *Approximate** date of Commissioner’s public hearing and passage of resolution of intent to adopt SR 2.5 zoning text (FZTA-08-03). This estimated date is approximately 15 working days after Planning Board hearing, assuming ~2 working days for FCPZ to transmit updated file and meeting minutes to Commissioner’s Office, ~2 working days for Commissioner’s Office to schedule “authorization to publish notice of public hearing” on Commissioner’s agenda, 2 weeks for notice of public hearing to appear in newspaper (per 76-2-205(1) M.C.A.) and ~3 working days after notices appear to schedule Commissioner’s public hearing.

Thursday, November 6, 2008.

- *Approximate** date of Commissioner’s public hearing and passage of resolution of intent to adopt Whitefish Area Zoning District map (FZD-08-02). This estimated date is 15 working days after Planning Board hearing, assuming ~2 working days for FCPZ to transmit updated file and meeting minutes to Commissioner’s Office, ~2 working days for Commissioner’s Office to schedule authorization to publish notice of public hearing on Commissioner’s agenda, 2 weeks for notice of public hearing to appear in newspaper (per 76-2-205(1) M.C.A.) and ~3 working days after notices appear to schedule

Commissioner's public hearing.

Monday, December 8, 2008.

- *Approximate** date of final resolution creating SR 2.5 zoning text, approximately 30 days after first publication of intent to adopt (per 76-2-205(5)(d) M.C.A.).

Monday, December 15, 2008.

- *Approximate** date of final resolution adopting Whitefish Area Zoning District map, approximately 30 days after first publication of intent to adopt. (per 76-2-205(5)(d) M.C.A.). County assumes administrative responsibility for all lands formerly zoned with Whitefish zoning (zones beginning with a "W") on this day.

*Dates provided are approximations assuming absolute minimum administrative timeline requirements. All approximate dates given are based on assumption that listed item is approved and passed without delay. Denials and/or delays of listed item on approximate date will change all approximate dates subsequently listed. Dates have been cross-checked for excluding county holidays, Commissioner availability and public hearing time requirements and tentatively scheduled with the Commissioner's Office.

The committee next discussed the differences in permitted and conditional uses in the various city and county zoning designations. BJ Grieve pointed out the Accessory Uses section under the Performance Standards section of the county's regulations. This section provides lists of permitted accessory uses for every county zoning designation and it is often overlooked. Cross then reviewed a list of use differences between the two sets of regulations. It was agreed that they were all minor in nature, except for two. The WI city zone permits railroad yards and the county's I-1 does not. That zone will have to become I-2 because it is a railroad yard. The second problem related to the county's BR-4 Resort Business zone. That zone requires that an overall development plan be submitted for review. The issues raised by that requirement were discussed at length later in the meeting.

The next item discussed was the appropriate county zoning designation for the higher density areas of the doughnut. The doughnut has several areas that are now zoned WLR, WR-1 or WR-2. Those designations are very similar to the county's R-3 and R-4. The problem is that R-3 and R-4 both require public utilities. The county has no public facilities as far as water and sewer are concerned. There was a discussion concerning the advisability of the county zoning land with a designation that requires something the county cannot provide. Concerns were expressed that property owners

would be unhappy if they could not develop their property to the same level of intensity after the transition. Two options were presented and explored.

OPTION ONE is to zone all the property in question R-2. That would allow single family homes on ½ acre lots. Under this plan any owner that has already developed to a greater intensity would be considered a non-conforming use. However, it is assumed that the city would have required a hookup to services (and possibly a waiver of protest to annexation) prior to approving the development. That property owner could apply for a rezoning to the appropriate designation. The county would approve it because it would meet the public services requirement. If the property was undeveloped and the owner wanted to develop to a higher intensity than R-2, then they would have to make arrangements for public services to gain approval for a zone change. If those arrangements involved annexation to the city, then county zoning issues would be moot. If not, then the county could grant approval knowing that the public services would be provided.

OPTION TWO is to zone the property to the county designation closest to its present city designation. The assumption is that the city made the appropriate decisions when they zoned it high density and services are readily available. Under this plan there would be no problem with non-conforming uses since the designation would be essentially the same. Any owner wanting to develop property would have to apply for subdivision approval. That approval would be conditioned on the receipt of a “will serve” letter from the city. That could create problems if the city required annexation. Annexation might require considerably more expenses due to meeting other city standards. The property owner could chastise the county for applying a zoning designation that could not be fulfilled without leaving the county for the city and all the extra taxes that would entail.

These options were discussed at length. Mr. Harris was asked to explain the position of FCPZ. He said governmental bodies should only promise what they can deliver. The county cannot deliver public water and sewer in the doughnut area. The county never zoned those areas to a high density. The city did that because they can deliver the services. If the county is taking it back over, then the zoning must be changed to what the county can deliver. The most the county can deliver on is R-2. He said property owners are entitled to a reasonable expectation that they will be allowed to develop their property to the level allowed under its zoning designation. The county cannot meet that expectation in this area if it zones to a higher intensity than R-2.

It was decided to follow Mr. Harris’ advice and leave the preliminary map as it is, which depicts Option 1. However, the staff was asked to bring this question to the attention of the Commissioners and the County Attorney’s office so that they could give input ahead of a final decision. Mr. Mower was also going to ask the Transition Team if Whitefish had any appetite for agreeing to allow those properties to hook to city services without requiring annexation (signing protest waivers would be acceptable). If so, then the committee would take another look at Option 2.

The next item for discussion was the problem of PUDs and neighborhood plans. Both of these entities will require county approval of specific plans that have already gained approval from Whitefish. That will require additional steps by the owners, but it appears to be unavoidable. Those plans cannot be approved unless they have been through the proscribed process. The discussion then centered on Big Mountain. It had been previously assumed that this was a neighborhood plan. It now appears to be a PUD or ODP. The closest zoning designation is BR-4. As stated above, that

designation requires the applicant to submit an overall development plan. It is unclear whether the county should zone an area BR-4 without approving such a plan. It was decided to have the staff research this issue with the County Attorneys so it could be resolved at the next meeting.

The next issue involved unzoned areas in the doughnut area. There are two small areas surrounded by Big Mountain. There appear to be some other larger areas, as well. A quick investigation revealed that the only other unzoned land in the doughnut was state land. However, Rita Hall was asked to research this issue and report back to the committee. She was also going to investigate which areas of the doughnut were served by water and sewer.

The Land Use Advisory Board was discussed next. It was decided that a majority of its members should reside in the doughnut area and be appointed by the Commissioners. However, the newly approved language in the Growth Policy stressed the importance of Whitefish having a voice in planning decisions in the areas surrounding the city. It was felt that the City should be able to appoint two nonvoting members of the advisory committee. Mr. Mower was going to explore the matter further with the Transition Team.

The next meeting was scheduled for Friday, September 12th at 8:00 AM in the county planning office.

The meeting was adjourned at 11:45 AM.