

Flathead County Planning & Zoning

1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 1400.00

APPLICANT/OWNER:

1. Name: North Forty Resort Corp Phone: (406) 250-9245 Erik Retz
2. Mail Address: P.O. Box 4449
3. City/State/Zip: Whitefish, MT 59937
- 4 Interest in property (if map amendment): Owners

Check which applies: Map Amendment Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

A. What is the proposed zoning text/map amendment? N/A

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: 3765 Highway 40 West, Columbia Falls, MT 59912
- B. Legal Description: Tract 7A (See Attached Metes and Bounds)
(Lot/Block of Subdivision or Tract #)
Sec 10 - T30N - R21W
Section Township Range
(Attach sheet for metes and bounds)
- C. Total acreage: 20 acres of the 39.8 acres
- D. Zoning District: Southeast Rural Whitefish Zoning District
- E. The present zoning of the above property is: SAG-10 (Suburban Agricultural)
on North half of the tract and Unzoned on the southern half.
- F. The proposed zoning of the above property is: BR-2 (Business Resort) only on
the northern half of the tract leaving the Unzoned portion alone.

G. State the changed or changing conditions that make the proposed amendment necessary: The Retz Family purchased the subject property in 1992 under the North Forty Resort Corporation name. In the summer of 1993, they opened the Resort and have been operating it continuously for the last 20 years. The North Forty Resort property is unique in that it is split by the SE Rural Whitefish Zoning District with the north 20 acres zoned SAG-10 and the southern 19+ acres Unzoned. The SE Rural Whitefish Zoning District was adopted by the Flathead County Commissioners in 1996 approximately three years after the North Forty Resort was established. Generally speaking properties are not supposed to be split by zoning districts as it causes problems such as those facing the applicants. They have an existing and legal use that sits in the Unzoned portion of their property, which is all one tract, however they cannot expand to the north half of the property because the zoning established after the resort was opened will not allow this resort use.

THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. The proposed amendment is in accordance with the growth policy/Neighborhood plan.

The current zoning splits the tract roughly in-half. The north is zoned SAG-10 and undeveloped. The south is un-zoned and fully developed as the North Forty Resort. The proposed amendment will zone the north half of the tract BR-2, consistent with the existing Resort.

The Flathead County Growth Policy supports the following Statements:

The proposed amendment fosters additional development opportunities and protects the owner's right to develop the remainder of the tract (Goal 7) by infilling the undeveloped half with the same high-quality, log-cabin, overnight rental accommodations and other permitted facilities that exist at the Resort (Policy 6.5).

The proposed amendment fosters and supports continuation of the existing small business (Policies 21.3 and 21.6) by providing additional land area to finish the Resort (Policy 21.1). Finishing the Resort promotes affordability and entrepreneurialism (Policy 21.1) and encourages small-scale, impact-mitigated and compatible commercial developments in an accessible, developing rural area with good access away from urban areas (Policy 7.3). The finished Resort will provide a business center in an area served by existing infrastructure with consideration to the proximity of population densities (Policy 22.2).

The proposed amendment allows construction of additional low-density, quality, overnight rentals and other permitted facilities to attract visitors and sustain the

increasingly important tourism sector of the Flathead County economy (Policy 21.5) without straining local services or creating a public health or safety hazard (Goal 8 and Policy 3.5).

The Overall Development Plan (“ODP”) submitted with this Petition requires the visually and functionally desirable, high-quality, low-density, log cabin design as the existing Resort (Policies 3.5 and 7.5). This requirement of high-quality construction preserves the natural amenities that characterize Flathead County and maintains a high-quality of life attracting visitors and new residents while sustaining the tourism sector of the economy (Policy 21.5). The Montana architectural theme, low-density design, and the preservation of existing vegetation protects our scenic resources (Goal 11) by preserving the views of mountains and forests and protecting the “wide open spaces” feel of rural Flathead County (Element 1 of the Public Vision and Goal 8).

The excellent architectural design required by the ODP considers the scenic setting; incorporates design and construction standards; and harmonizes and complements the local views (Policy 11.4). Log cabins preserve the rural lifestyle and overall rural character of Flathead County while protecting the identity of the close-by Whitefish and Columbia Falls (Element 4 of the Public Vision and Goal 8).

The log cabin design and extensive perimeter buffers with native vegetation protect the value of the land while preserving the rural character of the community and adjoining agricultural activities (Goal 8 and Policies 4.3 and 4.4).

The ODP requires clustering to preserve open space and existing vegetation within the tract and buffers to protect adjoining properties (Goal 9 and Policies 9.2, 9.3 and 10.7). It includes an internal trail system providing outdoor recreation for Resort guests (Policy 20.1). The internal trail system provides for cross-country skiing, hiking, walking, biking and nature trails for guests (Goals 18 and 19 and Policy 19.2).

The ODP requires an internal, interconnected road system complementing the planned land use and collecting and guiding traffic onto a single, safe, existing, private driveway to the adjacent highway (Element 3 of the Public Vision and Policies 6.1, 23.3, 23.10 and 24.3). This maintains a safe and efficient traffic flow and mobility of the adjoining roadway (Goal 23).

The ODP requires all exterior lighting to minimize light pollution and insure the reasonable enjoyment of the night skies by residents and visitors (Policy 11.5).

The ODP calls for a safe, efficient, cost effective, environmentally sound and centralized solid waste system using a private carrier to minimize taxpayer expense (Goals 26 and 27 and Policies 26.1, 26.2, 26.3 and 27.1). Containers will be animal-proof and guests will be educated to discourage the attraction of wildlife (Policy 26.4). The Resort will continue its recycling program (Policies 26.5 and 27.3). Household hazardous waste will be disposed of responsibly by the Resort (Policy 26.6).

The proposed amendment protects and maintains water quality and supply by enabling development in an area with appropriate groundwater depth (Policies 10.3 and 40.2). The ODP requires on-site waste water treatment and drinking water delivery systems to be owned and operated by the Resort at no taxpayer expense (Goals 28, 29 and 30, Policies 29.1, 29.4). Both systems will be technologically advanced and meet MDEQ standards (Policies 28.6 and 28.7).

The proposed amendment allows the property to generate additional tax revenue without any burden on schools (Goal 31). The ODP also requires an emergency accessibility plan approved by emergency responders to insure that all areas will be

accessible by the largest emergency vehicles (Policy 32.4). The Resort is near the North Valley Hospital and the new First Care Center in Columbia Falls and is equidistant from the Columbia Falls, Whitefish and Happy Valley fire/ambulance stations (Policy 32.6). All storm water will be retained on-site (Goal 37, Policies 37.1 and 37.4).

The Whitefish City-County Master Plan 2020 supports the following Statements:

Develop the Whitefish area as a year-round convention center and destination resort community providing amenities for the visitor and employment for the areas (Goal 6C and Policy 6.8). The high quality of the North Forty Resort manages tourism to protect the quality of life, existing industries, and the environment (Goal 6D).

The Whitefish City County Master Plan defines Resort Commercial as:

- A commercial district intended for resort development;
- Catering to the tourist, traveler or convention goers;
- Land uses including hotels, motels, accessory or incidental commercial uses
- Buffering of adjacent residential areas
- Screening by sight-obscuring vegetation
- Parking prohibited in the side yard
- Concentrated in areas that have both recreational potential and convenient access to collector/arterial street
- Not be located indiscriminately located in residential and rural areas
- Located in recreational areas
- Protect environmentally sensitive areas.

The North Forty Resort clearly is a successful operation as witnessed by its longevity and its central location between Whitefish, Kalispell, and Columbia Falls provides convenient access to the amenities in these Cities but also convenient access to Glacier National Park, Glacier International Airport, Forest Service Lands, Whitefish Mountain Resort to name a few. The North Fort Resort which predates the Whitefish Master Plan 2020 seems to have been constructed to meet the criteria provided for in the Plan.

The Whitefish Master Plan 2020 Map Designation indicates a “Suburban Rural Residential Designation” for the subject North 40 Resort property. This map along with the text of the plan were adopted in 1996 three years after the North Forty Resort was established. This seventeen year old map did not recognize the resort use at the time and the map certainly does not acknowledge the land use pattern that has developed along the highway since.

The Introduction Chapter of the Whitefish Master Plan explains that the Plan consists of two components: the text and the map. Each should be looked at equally giving due weight to each. As indicated above, there are elements of the text that support this resort commercial use, the map clearly does not. To resolve the opposing elements, we should look at the specific zoning and use as it requires and Overall Development Plan to implement. In this case, the low density resort development, preservation of open space and native vegetation, high quality of construction, and low impact land use does complement the “Suburban Rural Residential Designation”

- 2. The proposed amendment is designed to:**
 - a. Secure safety from fire and other dangers.**

The ODP requires perimeter buffers and defensible space for all buildings. All roads within the existing and proposed portions of the resort are paved to a 20-foot width providing safe ingress and egress for emergency service providers and guests of the

resort. The Resort is near the North Valley Hospital and the new First Care Center in Columbia Falls and is equidistant from the Columbia Falls, Whitefish and Happy Valley fire/ambulance stations.

b. Promote public health and safety and the general welfare.

The proposed amendment promotes the public health, safety, and general welfare by:

- Protecting and maintaining water quality and supply by enabling development in an area with appropriate groundwater depth;
- Providing on-site waste water treatment and drinking water delivery systems that meet or exceed quality standards;
- Retaining all storm water on-site and in detention areas.
- Providing a safe, efficient, cost effective, environmentally sound and centralized solid waste system using a private carrier;
- Continuing recycling and responsible disposal of household hazardous waste;

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

The ODP shows a continuation internal road system which collects and guides traffic onto a single, safe, existing, approach to Highway 40. This maintains a safe and efficient traffic flow and mobility of the adjoining roadway.

The ODP protects and maintains water quality and supply by requiring on-site, public waste water treatment and drinking water delivery systems that is owned and operated by the Resort. The second phase of the resort will develop a second wastewater treatment facility reviewed and approved by the Flathead City-County Health Department same as the system in Phase 1.

The resort accommodation business does not generate school aged children and therefore does not negatively impact the school district. The resort however, does pay a significant amount in property taxes 65% of which goes to the public school system for a positive impact.

The Resort uses and will continue to use a contract hauler for solid waste collection. Containers will be animal-proof and guests will be educated to discourage the attraction of wildlife.

The ODP incorporates an internal trail system providing outdoor recreation for Resort guests. The internal trail system provides for cross-country skiing, hiking, walking, and biking

3. The proposed amendment considers:

a. The reasonable provision of light and air.

The ODP shows a continuation of the clustered cabin design that works so well in the existing phase. The overall development of the North Forty Resort, Phases 1 and 2, consist of approximately 10.9 acres developed in building yards, roads, convention Center and office/manager residence which totals about 28% of the 39.7 acres. The remaining 28.7 acres (72%) is left in open space and native vegetation. The development creates a minimum 30-foot buffer around the parameter of the property which is greater than the 20-foot required by the SAG-10 or the BR-2 zoning designations.

b. The effect on motorized and non-motorized transportation systems.

To address traffic, the ITE Trip Generation Manual was consulted. The ITE Manual, however, did not have a category for rental cabin and the category for resort hotel does not provide Average Daily Trips (ADT) per unit only peak AM and PM hours trips which were 0.47 AM trips per occupied units and 0.59 PM trips per occupied unit which gives a maximum of 16 vehicles in the peak morning hour and 20 vehicles in the peak afternoon hour. The closest use that gave an ADT was motel (320) which gives a weekday ADT of 9.11 trips/day/occupied unit or a maximum of 273 trips over the course of a day for the 30 cabin expansion on the zoned portion of the property.

Highway 40 is a Montana State Highway owned and maintained by the MDOT and is a designated arterial. The MDOT website – Traffic Data Collection and Analysis provides traffic count at specific locations for most of Montana’s highways. Counts were recorded on Highway 40 ½ mile east of the Highway 93 intersection for the years 2009 through 2011. The traffic count in 2009 was 11,320 annual average daily trips (AADT). The trips dropped to 9,480 AADT in 2011. In either case, the 273 estimated vehicle trips generated as full capacity of the 30 unit expansion (zoned area) is 3 percent or less of the traffic on this highway.

Currently, there are no pedestrian paths along Highway 40. However Highway 40 does have wide shoulders conducive to bike travels and Highway 40 between Whitefish and Columbia Falls is on the trans-continental bike route between Seattle and the East Coast.

The proposed expansion of the North 40 Resort should have minimal impact on motorized and non-motorized traffic.

c. Compatible urban growth in the vicinity of cities and towns and the areas around municipalities.

The closest city is Whitefish although Columbia Falls is almost as close to the east. The proposed change is consistent with the Business Service District adopted by Whitefish specifically for the area approximately 400 yards west of the Resort on Highway 40. In addition most of the Highway 40 corridor is not zoned and has slowly been developed with commercial uses over the past 20 years. The proposed resort expansion has a low visual impact compared to nearby uses along the Highway and the trip generation is less as the Resort has season fluctuations.

The Definition of the BR-2 Zoning (Section 3.19.010) is very consistent with the existing Resort. “...provides for a diversity of low density resort facilities where ownership of land and facilities are vested in a single entity... Lodging whether in detached units or in cluster units, and facilities shall be appropriate to the rural surroundings in which the resort is situated. All facilities shall be served by a central water system. Septic systems shall conform to County and State regulations. All structures and facilities shall be so situated as to conserve the natural landscape and wildlife habitat...”

d. The character of the district and its peculiar suitability for particular uses.

The proposed change is also consistent with the Business Service District recently adopted by Whitefish (see 3(c) above). The express intent of that zone is business service centers such as convention facilities like those contemplated to finish the Resort (see §11-2V-1 and §11-2V-3, WF Zoning Regulations). The Resort’s low-density, log cabin design with low-profiles and natural landscape buffers is consistent

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with the character of the district and the remainder of the tract is particularly suited to finishing the Resort.

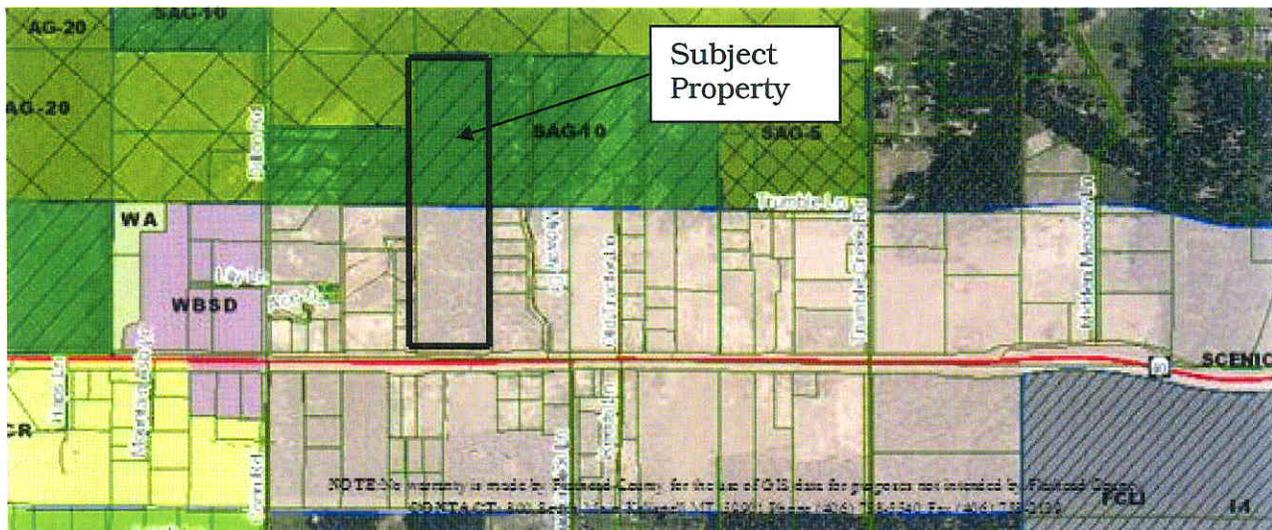
e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The nearest buildings are the existing Resort. To the north are low density agricultural and suburban agricultural uses. To the east are suburban density residential uses on one acre lots. Also less than a ¼ mile to the east is an RV Park that received approval within the last five years. To the west is a mix of commercial use along the highway and suburban residential off the highway with lots ranging between one and five acres in size. On the south side of the Highway is a mix of residential and commercial use.

Given the broad mix of uses along the Highway 40 corridor and the varied densities, allowing the expansion of a successful resort facility developed at an appropriate scale, preserving native vegetation will not only preserve the value of neighboring building but most likely increase the value of neighboring buildings.

4. The proposed amendment is, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

Given that this is a Highway Front property along a stretch of Highway 40 that is Unzoned on either side of the Highway but has a Whitefish Business District Designation a ¼ mile to the west and less than a mile to the east is a large industrial zoning district. When the SE Rural Whitefish Zoning District was created, the petitioners should have given a little more thought into these properties that were split by the Zoning District.



That said, the proposed BR-2 with a specific ODP for a low density resort development is consistent, in this case with the SAG-10 designation which covers the north half of this property.

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The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Jo Ellen Retz
Owner/Applicant Signature(s)

4/29/13
Date

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