

RESOLUTION NO. 2394

WHEREAS, on January 24, 2005 the Flathead County Board of Commissioners entered into an agreement with the City of Whitefish to establish an extraterritorial area (ETA) around the City's annexed areas and assign planning jurisdiction to the Whitefish City-County Planning Board (Resolution No. 1783 A); and

WHEREAS, after adoption of the Interlocal Agreement the City of Whitefish designated some county zones with Whitefish zoning designations and adopted Whitefish zoning designations within some areas previously unzoned within the ETA of the Interlocal Agreement; and

WHEREAS, on July 15, 2014 the Montana Supreme Court issued a decision on Phillips v City of Whitefish, 2014 MT 186 which affirmed the prior District Court determination that the Interlocal Agreement between Flathead County and the City of Whitefish (2010IA) has been terminated according to the express terms which provide for withdrawal by either party and that therefore there is no valid Interlocal Agreement between the parties; and

WHEREAS, on July 28, 2014 the mayor of the City of Whitefish issued a letter to the Flathead County Board of Commissioners regarding transitioning of jurisdiction of the ETA to Flathead County; and

WHEREAS, on August 6, 2014 the Flathead County Board of Commissioners issued a letter of response to the mayor of the City of Whitefish clarifying its current position regarding transitioning of jurisdiction of the ETA formerly encompassed by the 2005 and 2010 Interlocal Agreements between Flathead County and the City of Whitefish back to Flathead County; and

WHEREAS, recognizing a vacuum of governance and the prompt need to serve the citizenry within the ETA, the Commissioners indicated in their August 6, 2014 letter the County would begin administering immediate control over the ETA; and

WHEREAS, after considering multiple potential scenarios for administering the re-acquired ETA jurisdiction Flathead County decided to adopt an interim zoning district; and

WHEREAS, in conformance with 7-1-2121 M.C.A. and 76-2-206(3)(a) M.C.A., the Flathead County Planning and Zoning Office did prepare a Notice of Public Hearing stating the boundaries and zoning designations of the proposed interim zoning district, the specific emergency compelling the establishment of the proposed interim zoning district and regulations, the general character of the proposed interim zoning district and regulations, and stating that the proposed interim zoning district and regulations are on file for public inspection at the office of the Flathead County Clerk and Recorder and for review on the Flathead County Planning and Zoning Office website; and

WHEREAS, on August 21, 2014 the Board of Commissioners of Flathead County, Montana did authorize the publication of the Notice of Public Hearing, and, in conformance with 7-1-2121 M.C.A., the notice did appear in the August 24, 2014 and August 31, 2014 editions of the Daily Interlake; and

WHEREAS, the Board of Commissioners of Flathead County, Montana did hold the legally noticed public hearing on September 2, 2014 at which the Commission gave the public an opportunity to be heard regarding the proposed establishment of the interim zoning district and

regulations and closed the public hearing after which the Commission continued board discussion to September 9, 2014 to allow time for consideration of all comment received; and

WHEREAS, on September 9, 2014 the Commission did discuss the public's comments and whether to adopt interim zoning in light of the comments; and

WHEREAS, the interim zoning district shall replace the City of Whitefish zoning designations within the ETA with similar designations that are found in the Flathead County Zoning Regulations and as shown in Exhibit A; and

WHEREAS, the BR-4 (Resort Business) classification requires approval of an overall development plan and the overall development plan for the BR-4 zoning classifications to be used include the Big Mountain Whitefish, Montana Neighborhood Plan/Overall Development Plan adopted on July 17, 2006 by the Whitefish City Council and the Big Mountain West Neighborhood Plan/Overall Development Plan adopted on December 2, 2003 by the Flathead County Commissioners; and

WHEREAS, Flathead County additionally creates two new zoning designations (RR-1 and BSD), as set forth in Exhibits B and C, to replace current City of Whitefish zoning designation that have no similar designation in the Flathead County Zoning Regulations; and

NOW THEREFORE, BE IT RESOLVED, that to address the emergency that exists to the general welfare of the citizenry within the ETA, the Flathead County Commissioners do hereby adopt the interim zoning district and regulations as set forth herein and in Exhibits A, B and C attached hereto for a period of one year effective immediately.

Dated this 9th day of September, 2014.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana



By *Pamela J. Holmquist*
Pamela J. Holmquist, Chairman

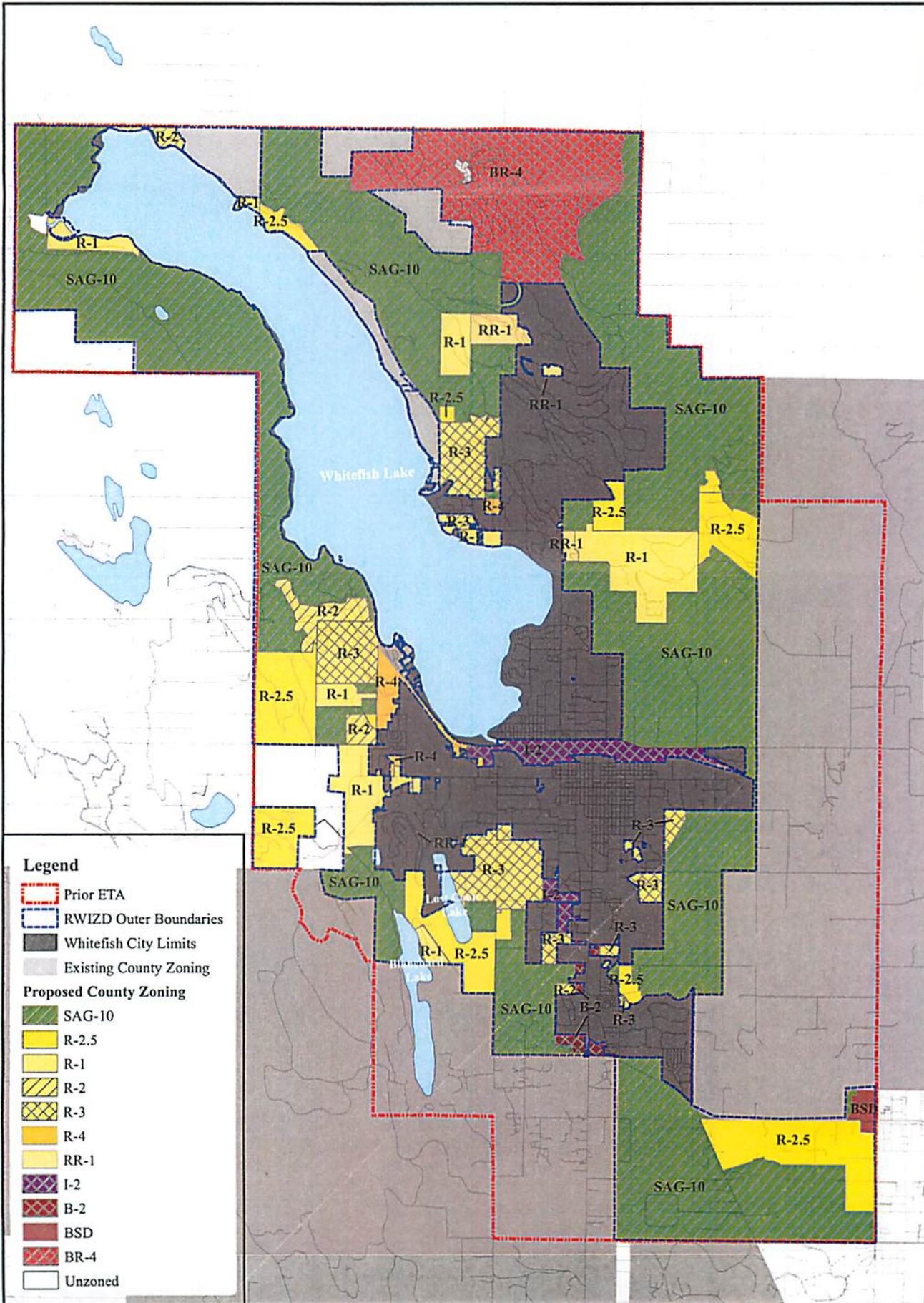
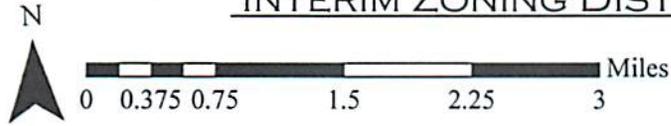
By *Gary D. Krueger*
Gary D. Krueger, Member

By *Calvin L. Scott*
Calvin L. Scott, Member

ATTEST:
Paula Robinson, Clerk

By *Diana Kille*
Deputy

EXHIBIT A: PROPOSED RURAL WHITEFISH INTERIM ZONING DISTRICT (RWIZD)



**EXHIBIT B:
RR-1 LOW DENSITY RESORT RESIDENTIAL****

Definition:

A district to provide a low density setting for secondary residential resorts.

Permitted Uses (RR-1):

1. Bed and breakfast establishment.
2. Class A manufactured home.
3. Day care home.
4. Duplex.
5. Dwelling, multi-family (4 or fewer units).
6. Dwelling, single family.
7. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).
8. Park and publicly owned recreational facility.
9. Public utility service installation (a minimum of five feet of landscaped area shall surround each building or structure).
10. Tourist accommodation units (4 or fewer units).

Conditional Uses (RR-1):

1. Accessory apartments.
2. Boarding house.
3. Boat launching ramp and dock (commercial).
4. Caretaker's facility.*
5. Churches and other place of worship.
6. Community residential facilities, Class I.
7. Convention hall facility.
8. Day care center.
9. Dwellings, cluster development (See Chapter IV – Conditional Use Standards).
10. Dwelling, multi-family (5 or more units).
11. Golf course.
12. Guest house.
13. Health club.
14. Manufactured home park (5 acre minimum size).
15. Marina (commercial).
16. Professional offices.
17. School, primary and secondary.
18. Tourist accommodation units (5 or more units).

*Administrative Conditional Use Permit (See Section 2.06.045)

Bulk and Dimensional Requirements (RR-1):

- | | |
|---------------------------|-----------------|
| 1. Minimum District Area: | 1 acre. |
| 2. Minimum Lot Area: | Not Applicable. |

3. Minimum Lot Width: Not Applicable.
4. Maximum Density: 10 dwelling units per acre.
5. Setbacks:
 - A. Minimum Yard Requirements for Principle Structures:

Front:	15 feet.
Side:	10 feet each.
Side Corner:	15 feet.
Rear:	20 feet.
 - B. Detached Accessory Structures:

Front:	15 feet.
Side:	6 feet.
Side Corner:	6 feet each.
Rear:	6 feet.
 - C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.
 - D. Increase yard requirements as follows when property fronts:

County Road:*	25 feet.
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* Classified as a collector or major/minor arterial as defined in the County Master Plan or City-County Master Plan.
6. Maximum Height:

Principle Structures:	35 feet.
Accessory Structures:	24 feet.
7. Permitted Lot Coverage: 35%.
8. Maximum Fence Height:

Front:	4 feet.
Side:	6 feet.
Rear:	6 feet.
9. Off-Street Parking: See Chapter VI – Parking and Loading.

** Land uses permitted by the RR-1 zoning classification will be subject to the Flathead County Zoning Regulations for purposes including, but not limited to, administration, interpretation, enforcement and placement. For purposes of interpreting requirements of the Flathead County Zoning Regulations that reference specific land uses, (such as parking and loading requirements, definitions of land uses, etc.) the individual land uses that are proposed on the subject property shall be used.

**EXHIBIT C:
BSD BUSINESS SERVICE DISTRICT****

Definition:

The business service district is intended to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.

Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review. The site plan, vicinity map and building concepts will address each of the following:

1. The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.
2. The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.
3. The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.
4. Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.

Implementation of Site Plan and Vicinity Map:

1. Once the site plan and vicinity map have been adopted, they shall be considered zoning and shall serve as the guidelines for the development.
2. Prior to any site development, a detailed site plan shall be submitted to the zoning administrator to demonstrate compliance with the approved site plan and vicinity map. Any desired subsequent changes shall be submitted for approval as an amendment to the site plan.
3. Minor deviations to the site plan shall be allowed which do not involve more than ten percent (10%) of the building site for a single building. This would include, but is not limited to, the location and/or expansion of the building, parking lot location, signage, number of parking spaces and landscaping. Minor deviations to the site plan shall be reviewed and approved by the zoning administrator.
4. Substantial modifications to the site plan will be required to be reviewed and approved by the County Commissioners. Substantial changes would include, but not be limited to, an increase in the number of buildings, major changes in access

or circulation, an increase in building size by more than ten percent (10%), major changes to signage and major changes to landscaping design and location.

Permitted Uses (BSD):

1. Agricultural/horticultural/silvicultural use.
2. Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant
3. Animal hospital, veterinary clinic.
4. Contractors' storage yard and building supply outlet.
5. Dance, drama, and music school.
6. Dwelling, single family.
7. Farm equipment sales.
8. Feed, seed and farm supply, including grain elevators.
9. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).
10. Homeowners park.
11. Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.
12. Livestock.
13. Nursery, landscaping materials.
14. Parcel delivery service.
15. Park and publicly owned recreational facility.
16. Personal services with incidental retail sales.
17. Print and copy shop.
18. Produce stand.
19. Professional offices.
20. Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).
21. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines, (no outdoor storage permitted).
22. Riding academy, rodeo arena.
23. Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).
24. Stable, public and private.
25. Wholesale trade and warehousing, including offices and showrooms.

Conditional Uses (BSD):

1. Accessory apartments.
2. Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.
3. Churches and other place of worship.
4. College, business school, trade school.
5. Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
6. Convention hall facility.
7. Day care center.

8. Kennel.
9. Mini-storage.
10. Research laboratory and institution.
11. When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.

*Administrative Conditional Use Permit (See Section 2.06.045)

Bulk and Dimensional Requirements (BSD):

1. Minimum District Area: 5 acre.
2. Minimum Lot Area: 1 acre.
3. Minimum Lot Width: 125 feet.
4. Setbacks:
 - A. Minimum Yard Requirements for Principle Structures:

Front:	30 feet.
Side:	10 feet each.
Side Corner:	30 feet.
Rear:	15 feet.
 - B. When a property abuts the following features, the abutting setback shall be increased to the following:

Agricultural – use or zone:	30 feet.
Residential – use or zone:	30 feet.
Stream – high water mark:	20 feet.
5. Maximum Height:

Principle Structures:	35 feet.
Accessory Structures:	24 feet.
6. Permitted Lot Coverage: 40%.
7. Maximum Fence Height:

Front:	4 feet.
Side:	6 feet.
Rear:	6 feet.
8. Off-Street Parking: See Chapter VI – Parking and Loading.

Additional Design Standards (BSD):

1. One commercial use permitted per gross acre. Multiple commercial uses should cluster development to include both shared parking areas and internal road

access. Buildings shall be grouped into localized areas and shall not be developed in a linear fashion.

2. Clustering:

- A. Clustering of uses includes incorporation of common shared areas such as courtyards to create central nodes of business/development as opposed to linear development.
- B. Clustering should include shared access, parking, landscaping, with the overall development designed to protect surrounding properties from adverse impacts.
- C. For the purpose of clustering, the site will be developed as one lot. Property setbacks for commercial uses shall not apply except for separation from residential uses. This allows for cohesive development on multiple properties developed in conjunction with an overall development theme or business park plan.

3. Landscaping:

- A. Landscape design shall be in accordance with the concept of a business park. A combination of landscape materials should be arranged in a harmonious manner as an integral part of the project design to enhance building design, public view and interior spaces and provide buffers and transitions, as appropriate.
- B. Landscaping shall comply with Section 5.05 and parking lot landscaping shall comply with Section 6.13.010(2).
- C. Exposed utilities, storage areas, machinery, installations, service and loading areas and similar accessory areas and structures shall be set back to the primary structure requirements or screened to minimize the loss of views, privacy and the general aesthetic value of surroundings.

4. Signage:

A combination of natural materials and colors should be arranged in a harmonious manner that complements the overall design of the site and does not create visual clutter, distractions for passing motorists or the obstruction of important architectural or landscaping features.

** Land uses permitted by the BSD zoning classification will be subject to the Flathead County Zoning Regulations for purposes including, but not limited to, administration, interpretation, enforcement and placement. For purposes of interpreting requirements of the Flathead County Zoning Regulations that reference specific land uses, (such as parking and loading requirements, definitions of land uses, etc.) the individual land uses that are proposed on the subject property shall be used.