



**AGENDA
HIGHWAY 93 SOUTH CORRIDOR PLAN
STEERING COMMITTEE
June 7, 2021**

The regular meeting of the Highway 93 South Corridor Plan Steering Committee will be held in person on Monday, June 7, 2021 at 2:00 p.m. in the City Council Chambers at City Hall, 415 E. 2nd Street.

The agenda for the meeting will be:

- A.** Call to Order
- B.** Approval of Minutes from May 2021 Meeting
- C.** Review Responses to May Comments and Revisions to [Draft Plan](#)
- D.** Public Comment
- E.** Next Steps
- F.** Public Comment
- G.** Adjournment



Highway 93S Corridor Steering Committee

DRAFT Meeting #26 Minutes

May 3, 2021

2:00 pm, Council Chambers Conference Room and via WebEx

In Attendance:

Committee Members: June Hanson and Marilyn Nelson in person, Mark Pascoli, John Muhlfeld, and Steve Kane remotely via WebEx (Ryan Hennen, Roger Sherman, Justin Lawrence, Scott Freudenberger absent)

Staff: Dave Taylor, Hilary Lindh

Public: Rhonda Fitzgerald

A. Meeting called to order at 2:03 pm

B. Approved April 12, 2021 meeting minutes

C. Review of Revisions to Draft Plan

Hilary went through revisions to the draft plan responding to committee and public comments made at the April steering committee meeting and sent via e-mail after that meeting. The following topics were discussed:

Front setbacks for Segment B. The draft plan recommends increasing the current setback of 20-feet to 25-feet. At the April meeting there was discussion around whether deeper lots should have larger minimum setbacks than shallower lots. Staff initially responded that the standards should apply equally to all properties within a zoning district and the quality of landscaping may be more important visually. After further committee discussion, John asked staff to vet the idea of a sliding scale for required setbacks based on lot depth with City Attorney Jacobs. The committee also asked staff to provide examples of commercial setback sizes used in other western mountain communities.

2030 traffic projections adjusted. The draft plan cited traffic projections made in the 2009 Transportation Plan; public comment at the April meeting pointed out they were inconsistent with the actual growth trends experienced 2003-2018. Staff revised the projections using 2019 AADT numbers and an annual growth rate of 1-1.4%. The committee was satisfied with this change.

Segment B vision statement. The draft statement in April contained remnants of language used when the committee was considering methods of restructuring the corridor. The statement was modified to be more consistent with the current vision and recommendations in the plan and the committee was satisfied with the change.

Potential future transitional zoning district for Segment C. The draft included a recommendation that commercial buildings 10,000 square feet (sf) or larger trigger the need for a conditional use permit (CUP). April comments included a suggestion to reduce that threshold further. Staff response described current County threshold in Segment C of 15,000 sf and City threshold in Segment B of 10,000 sf and expressed concern that an even smaller building footprint could discourage potential annexation requests. Staff also explained that the standards proposed in this plan for a future transitional zone are a placeholder; any new zoning district the city considers would have its own public process when details such as actual building size triggering need for a CUP would be determined. The committee was okay

with leaving the building threshold size as a placeholder with the knowledge the actual trigger size may change in the future.

Goal B.1 revisions. The content largely stayed the same as the April draft, but the goals and objectives were rearranged to make more sense. The committee was satisfied with the changes.

Request for outside review of the draft plan. In April Marilyn submitted comments to the committee requesting outside review of the draft plan. She asked Rhonda to share information about a potential consultant who could conduct a technical review, as she does not think the committee has enough information needed to make a recommendation about adopting the plan. She is frustrated there are not more tools at the City's disposal to ensure a future the community wants. Steve said the committee has momentum and he is not enthused about handing the plan off to someone new and the time involved. The plan is a visionary document, and the committee needs to seize the opportunity to move forward. John said he supported Steve's comments. He asked why this corridor plan was different than any of the other corridor plans the City recently adopted. Marilyn said this corridor is more important and has higher potential for negative impacts to the City. Rhonda also noted the other plans were completed with outside consultants in addition to staff, committees, and public. Mark noted if a review could be completed at the same time as other agency and public review it might be okay, but if it were to take longer, he would not be in favor. John said he wanted to support staff and asked for their thoughts. Dave was willing to hear from outside sources but noted the time and effort staff has put into this plan. Hilary summarized the research she had done talking with planners from other mountain resort towns regarding the issue of planning outside City limits. She acknowledged there may be additional tools other planners have experience with, but also noted staff had proposed some options earlier which the committee did not want to consider further. Steve moved to consider Marilyn's proposal for third-party review of the plan. There was no second, and the motion died.

Hand sketches on page 74. Steve had suggested replacing the sketches with professional renderings. The committee agreed the sketches could be replaced with photos.

D. Public Comments

Rhonda reiterated her earlier comments about the need for a larger setback in the WB-2; she suggested looking to Park City and Ketchum for examples. She was satisfied with the revisions to the traffic projections and the Segment B vision statement. Regarding the building size threshold for a CUP in Segment C, Rhonda said we want to encourage infill in the City limits, not encourage leapfrog development south of the City. The development standards should not encourage developers to choose a site further from the City. She is also in favor of having an outside consultant do a technical review of the plan. Rhonda suggested via email comments the plan be restructured such that a reader could follow the issues, objectives, vision, goals, and objectives of each segment independently of the other segments. The committee will consider this alternative format and provide feedback next meeting. She then spoke again about the effect of Mountain Mall on the downtown when it first opened. The current language on page 13 should be much stronger than "the downtown suffered". The committee agreed.

Mayre Flowers emailed comments to the committee just before the meeting was held (attached).



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E. Next Meeting

The next meeting is scheduled for Monday, June 7 at 2pm. It will be held in person in the Council Chambers. A link to attend via WebEx may be provided if requested.

F. Adjournment – 4:10 pm

DRAFT

June 7, 2021 Steering Committee Meeting - Comments and Responses from Previous Meeting

Date	Chapter	Comment	By Whom	Response	Page #
5/3/21	6	Vet the idea of a sliding scale for required setbacks based on lot depth with City Attorney Jacobs and provide examples of commercial setback sizes used in other western mountain communities.	J. Muhlfeld and committee, public	See attached summary and recommendation. Variable setbacks can be complicated and confusing and are not recommended. A setback of 30 feet from the Highway 93 right-of-way in the city is reasonable. South of city limits a larger setback is appropriate.	80, 86, 92
5/3/21	5	Replace sketches with professional renderings or photos	S. Kane and committee	Sketches deleted, replaced with photo of strip mall Whitefish would not want and enlarged photo of multi-tenant development on Wisconsin Ave more in line with Whitefish character.	74
5/3/21	3	Replace language describing effect of Mountain Mall on downtown with stronger statement	Public and committee	The mall itself was constructed in 1984 Following and its opening the health of the downtown retail core suffered severely <u>impacted the viability of downtown for several years when businesses vacated their spaces to relocated to the mall.</u>	13
5/3/21	all	Restructure plan so all content Seg A, then all content Seg B, then Seg C	Public		
10/19/21	4	Revise renderings to be more in line with community vision	Committee and public	One new rendering for Segment A showing bridge replacement for culverts and a revised rendering for Segment B showing more green, less dense development.	48, 54

Summary of setbacks required in some other western mountain communities

There is a marked distinction between setbacks in the city limits (urban areas) and the highway corridors approaching those cities which are zoned by the counties. Most of the highway corridor approaching Ketchum, Idaho is under the jurisdiction of Blaine County. Setbacks for most uses south of city limits including commercial, light industrial, low, and mid density residential, and residential/agricultural have a 100-foot setback from Highway 75 (and none or reduced otherwise). However, within Ketchum city limits on the south end of town, most districts have setbacks of 15-30 feet from the highway (Tourist District w/STRs, 15 feet, recreation use district 30 feet, and Ag/Forestry 25 feet). For 1-acre residential lots there is an 80-foot setback from Highway 75 (otherwise 15 feet).

In Park City, Utah most of the highway approach to town is in Summit County. When I spoke to a planner there previously, they said because the ski resort is in city limits, they were able to bond for purchase of some of those lands for conservation. Once in the city limits, the zoning along the first bit is Recreational and Open Space (ROS), which only permits conservation activity and temporary food trucks, trail and trailhead improvements, horse and livestock grazing, recreation facilities, parking areas, public institutions, etc. The setback is 25 feet but that does not matter much since the uses are so limited. There is some residential estate zoning, with a setback of 30 feet, but minimum lot size is three acres. Approaching town there is some Residential Development (RD) and Residential Development Medium Density (RDM) requiring setbacks of 20-25 feet. These districts are interspersed with the ROS districts as you continue into town.

Kalispell has supplemental standards for entrance corridors that act as an overlay. The setbacks are based on speed limits, so north of Reserve Drive where the speed limit is 65 mph, the required setback is 100 feet for all new development. That covers property that is already in city limits and any property that is annexed in the future. The setback is reduced as the speed limit decreases south of Reserve Drive. There is also a caveat that the required buffer cannot be greater than 10% of the gross area of any parcel platted at the time of the regulation adoption. This could protect properties with limited depth from the highway.

Potential for variable setback requirements within a zoning district, per City Attorney

Section 76-2-302, MCA, contains the “uniformity requirement” and states: “All regulations must be uniform for each class or kind of buildings throughout each district...” Its purpose is to ensure that similarly situated properties are subject to similar regulation. Courts have generally found regulations that single out a property or properties for discriminatory treatment violate the uniformity requirements. Examples: (1) an ordinance requiring a buffer strip for one specific property while failing to require one in all other similar incidences within the same zone; (2) ordinance imposing a setback requirement of 25 feet throughout a business district except for one block where a 67-foot setback was required; (3) ordinance permitting a use on one property that was forbidden for all other properties in the zone.

However, courts have (especially recently) tended to find the uniformity requirement is not violated when zoning regulations are equally applicable throughout the entire zone, although their application produces varying restrictions and results across properties. Examples: (1) ordinance that used mathematical formula to determine minimum lot sizes and maximum lot coverage based upon steepness of slopes; (2) ordinance requiring a buffer strip for certain properties based upon size and

location within the zone; (3) ordinance creating different minimum lot sizes depending on lot slope and how much of the lot was covered by wetlands or watercourses.

Regulations requiring different setbacks for different lot sizes could be defensible if uniformly applied within the zoning district and if we could articulate a rational, reasonable basis for them.

Recommendation:

It should be noted that variable setbacks can be complicated and confusing, which is why they are seldom used on zoning codes and staff does not recommend them for the Highway 93 Corridor. It does, however, make sense to create a larger setback along highways, 93 included. As a recommendation of the Wisconsin Avenue Corridor Plan, Whitefish added a 35' minimum setback along Wisconsin Avenue to allow for the future widening of that highway, which has limited right-of-way (60') and therefore will cost a lot of money to purchase physical encroachments. Highway 93 South already has a large right-of-way in the WB-2 (200' to 250'), so it is not constrained like Wisconsin Avenue. Most of that right-of-way is landscaped in a boulevard, which is why larger setbacks on private property are not as critical.

Currently, the setback in the WB-2 is 20' for property fronts, but there is no setback for side yards (which would be along the highway for some properties that front intersecting roads).

Additional landscaping and/or courtyards along Highway 93 would still be aesthetically pleasing, so staff is recommending the Corridor Plan have a provision to add a development standard in the WB-2 that states: Highway 93 setback: 30' from the Highway 93 right-of-way.