

# **Bond Case Briefs**

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## **ZONING & PLANNING - MONTANA**

### **Whitefish 57 Commercial, LLC v. City of Whitefish**

**Supreme Court of Montana - September 20, 2023 - P.3d - 2023 WL 6134935 - 2023 MT 176**

Landowner and developer sought review of city's denial of conditional use permit to build 85-room hotel in secondary business zone.

The District Court granted summary judgment for city. Landowner and developer appealed.

The Supreme Court held that:

- Council acted within its discretion in denying permit based on hotel's nonconformance with city's growth policy, and
- Council acted within its discretion in denying permit based on traffic concerns.

City council acted within its discretion in denying conditional use permit to build 85-room hotel in secondary business zone based, in part, on hotel's nonconformance to city's growth policy, despite argument that city's economy was largely based on tourism, where growth policy stated that citizens valued the scale, character, and small town feel of the community, and community members provided written comments expressing disappointment over addition of another hotel in city instead of something more culturally enriching, stating that the number of hotels and condos in city was "mind numbing," pleading with council to consider climate burdens of more development before approving another generic project, and questioning whether "this was the right time for a hotel."

City council acted within its discretion in denying conditional use permit to build 85-room hotel in secondary business zone based, in part, on the increased traffic expected to result from hotel, even though Montana Department of Transportation (MDT) concluded that the traffic impact of hotel would be so insignificant it did not warrant a traffic impact study; council was not bound by MDT's traffic report, and council used its own observations of intersection in issue and the average daily trips generated by an engineer's traffic report to conclude that a hotel in area could exacerbate traffic.