Proposal for Oversized Commercial, Retail and Industrial Facilities Ordinance

Or

Amendment to Building and Development Ordinance

Section 1: Purpose

This Ordinance (Building and Development Ordinance amendment) Restricting oversized facilities with a gross floor area over 50,000 square feet used for non-agricultural practices which require an disproportionate amount of municipality assets and resources used for purposes not aligned with the Comprehensive Plan of Whitefield is declared a necessary public purpose for the following reasons:

1. The preservation of the rural character of the Town of Whitefield, which includes our town's natural beauty, open spaces, agricultural environment, historical and natural aspects in compliance with the Whitefield Comprehensive Plan
2. The protection of property values and ensure a fiscal base for public services
3. The prevention and control of environmental pollution and protection of environmental and water resources.
4. The protection from potential negative impacts from activity at unreasonable hours, traffic, noise, odor, light, negative impacts to water supply and wastewater capacity and other nuisance that may disturb neighboring properties.

Section 2: Definitions

1. Oversized Commercial, Industrial Retail Development means any development, facility, building, or structure that in part or aggregate occupies or transforms more than 50,000 gross square feet, that has or will change land use classification during the development, construction or maintenance thereof.
2. Gross Floor Area (GFA) shall mean the sum of the total horizontal areas of all floors of a building, or structure, that in part or in aggregate occupies or transforms more than 50,000 gross square floor area measured from the exterior faces of exterior walls, or from the centerline of walls separating two buildings. GFA includes all stories, basements, mezzanines, and any covered partially enclosed exterior areas utilized for sales, production, commercial display, or product storage.
3. Development means an application for or issuance of a development permit, site plan approval, subdivision approval, conditional use permit, variance, or any other municipal land use approval necessary to site, construct, enlarge, or expand access or land in production for commercial, industrial, and/or retail use.

Section 3: Anti-Segregation and Combined Buildings

For the purposes of enforcing this cap, multiple buildings, structures, or individual storefronts situated on a single lot, or contiguous lots under common ownership, management or control, shall be regulated as a single structure and combined towards the 50,000 square feet of gross floor area.

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Section 4: Scale Restrictions:

Amendment to Restrict Building Size (Conditional Use Pathway)

1. **Anti-Segregation and Combined Buildings-** For the purposes of enforcing this cap, multiple buildings, structures, or individual storefronts situated on a single lot, or on contiguous lots under common ownership, management, or control, shall be regulated as a single structure and combined toward the 50,000 square foot GFA limitation if they share common parking, utility systems, internal access roads, or loading docks or function inter-connectedly as a single commercial, industrial or retail operation.

2. **Permitted Uses:** Commercial, Industrial, Retail structures up to 49,999 square feet of Gross Floor Area (GFA) are permitted, subject to standard site plan review, as required by the town's major development ordinance.

3. **Conditional Use Permit:** Any individual building or structure designated or utilized for commercial, industrial or retail purposes proposing a GFA of 50,000 square feet or greater is strictly prohibited, except where granted a Conditional Use Permit (CUP) by the Planning Board. Under no circumstances shall a CUP allow a structure to exceed (Optional: insert hard absolute ceiling, e.g., 75,000 square feet)

4**. Conditional Use Permit Criteria for structures exceeding 50,000 square feet of GFA**

In addition to the standard conditional use criteria outlined in the Building and Development Ordinance the applicant must demonstrate compliance with all of the following conditions to be considered for approval:

(a). **Economic Impact Analysis:** A municipal- funded, developer-paid independent study demonstrating that the development will not result in a net reduction of property values and/or property tax revenues within a 5 mile radius

(b). **Infrastructure Impact Fee:** The developer must fully fund all required utilities, water, sewer, and storm water drainage expansions necessitated by the structure. Additionally, the applicant shall be required to show that limited impact to the infrastructure on adjacent properties will occur.

(c). **Traffic Mitigation:** A certified traffic impact assessment proving that the development will not decrease the level of service, affect traffic flow, prove that the project will align with MDOT rules, and will minimize impact on all affected residents. A statement from the Town's Road Commissioner, Maine Department of Transportation (MDOT) or Select Board that the proposed or street construction specifications will meet town approval.

(d). **Setbacks and Screening:** A required set back of 250 feet from any public road and/or property line of abutting properties will be required with a minimum of 50 feet of a scenic natural buffer shield screening created by native trees and shrubs will be required to ensure rural view preservation.

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(e). **Environmental Design:** An Environmental Impact Assessment will be required, including Levels 1-2-3 desktop review, field delineation and data collection to address the following:

* Wetland and Natural Resources Delineation Plan must be provided by a MDEP certified environmental engineer to identify protected natural resources, wetlands, vernal pools, significant wildlife habitats under Natural Resources Protection Act (NRPA).

* Noise, odor and lighting assessment will be required by a professional consultant or civil engineer to ensure compliance with state and local boundaries for commercial noise emissions and light spillover.

* Storm water and phosphorus control plan must be provided by a certified environmental engineer to manage runoff quality and quantity, particularly near sensitive watersheds and impaired streams.

The plan will explicitly outline findings of fact connecting massive structural footprints to topsoil degradation, and/or high-velocity toxic runoff, mandating permeable paving solutions to maintain local private well and aquifer recharge dynamics.

The plan shall include a plan to address (if any) the location, storage, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous or solid materials of such nature, toxicity or temperature that may runoff, seep, percolate, or wash into surface or ground water so as to contaminate, pollute or harm such waters or cause nuisances.

* The applicant must provide a field investigation and affidavit from a licensed soil scientist that shows clear and convincing evidence that the proposed oversized development has not been sited entirely on high-value agricultural land to the maximum extent feasible. Prime Farmland and Farmland of Statewide Importance shall be avoided.

(f). **Fiscal Impact Analysis:** The applicant to provide the following measures:

* **Revenues:** direct and indirect tax contributions (income taxes, local property taxes, payroll/Social Security taxes, and sales taxes.

* **Expenditures:** Public costs for services including roads, utilities, public safety and social and health programs.

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* **Net Balance:** Whether the applicant, group or developer is a net contributor (revenues exceed costs) or a net fiscal drain/burden (costs exceed revenues) over a given time frame (e.g. annual vs. lifetime/generational accounting).

(g). **Employment Impact Statement:** The applicant shall demonstrate a plan to foster vibrant economic activity, architectural quality, and a diverse range of employment opportunities for local residents. The plan must prioritize local hiring practices or partner with regional workforce development agencies for recruitment. The applicant shall demonstrate a plan that supports a resilient and multi-faceted local work force. The applicant shall provide a projection of the number of jobs to be added (both temporary for construction and then long-term jobs post construction).

(h). **Historical Significance Location Study:** A report from the State of Maine Historic Preservation Office evaluating and showing that the proposed development site is not a significant historical site. Additionally a report from the Town of Whitefield evaluating and showing that the proposed development site is not a significant historical site.

Section 5. Exemptions

1. The gross floor area of 50,000 square feet explicitly excludes agricultural structures constructed and utilized exclusively for bona fide agricultural production, including, but not limited to barns, grain and hay storage, crop growing/processing structures and animal housing, provided such operations comply with the State Right-To-Farm Act and does not include land clearing and environmentally sustainable activities associated with agricultural and forestry best management practices.

Section 6. Severability

If any section, subsection, sentences, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance. The legislative body of the Town of Whitefield hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid or unconstitutional.

Section 7. Effective Date

This ordinance amendment shall take effect immediately upon its adoption by the legislative body of the Town of Whitefield at a Town Meeting.

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