



**CITY COUNCIL WORK SESSION
CITY COUNCIL CONFERENCE ROOM
418 EAST SECOND STREET – 2ND FLOOR
MONDAY, JULY 6, 2020
5:00 TO 7:00 PM**

1. Call to Order
2. Annual Mayor and City Council Goal setting session
3. Public Comment
4. Direction to City Manager
5. Adjourn

City of Whitefish

Mayor and Council **DRAFT** Goals for FY21

Administration

Est. date of Completion

- | | | |
|--|-------------------|------|
| 1. Create Resort Tax Education and Reallocation Plan | June | 2021 |
| 2. City Purchasing Policies and Procedures | September | 2020 |
| 3. Grants Management Policies and Procedures | September | 2020 |
| 4. Utility Billing Project for Garbage Services | December | 2020 |
| 5. Develop Personnel Liability Funding Strategies | June | 2021 |
| 6. Information Technology Improvements for Security and Effective Operations | June | 2021 |
| 7. Short-term Rental Program Enhancements | June | 2021 |
| 8. Additional Cemetery Location and Plan | Long-term/Ongoing | |
| 9. Coordinate Name Change for Lost Coon Lake and Lost Coon Trail | December | 2020 |

Fire Department

- | | | |
|--|----------|------|
| 1. Provide Council Emergency Management Training | December | 2020 |
| 2. Long-Range Master Plan for Fire Department | June | 2020 |

Parks and Recreation

- | | | |
|---|----------|------|
| 1. Armory Park | June | 2019 |
| 2. Irrigation and Landscape Master Plan | November | 2020 |
| 3. Parks Sign Master Plan | June | 2021 |

Planning Department

- | | | |
|---|-------------------|------|
| 1. Affordable Housing Implementation | Long Term/Ongoing | |
| 2. Highway 93 South Corridor Plan | September | 2020 |
| 3. Update Architectural Review Standards | October | 2020 |
| 4. Implement Parking Plan for Downtown | Long Term/Ongoing | |
| 5. Update Subdivision Standards | February | 2021 |
| 6. Update Setbacks for Non-Residential and Mixed-Use Developments in WB-2 | August | 2020 |
| 7. Update Landscaping Chapter and Tree Retention Standards | March | 2021 |
| 8. Downtown Master Plan Implementation – Update Zoning Ordinance | December | 2021 |

Police Department

- | | | |
|--|-------------------|------|
| 1. Plan for Expanded Police Service to Big Mountain if Annexed | January | 2023 |
| 2. Plan for Proactive Policing and Adequate Staffing Levels | Long Term/Ongoing | |
| 3. Explore Creation of a Deer Management Plan | June | 2021 |

Public Works

- | | | |
|---|--------------------------|-------------|
| 1. Design and Construct Wastewater Treatment Plant Upgrades | Fall | 2021 |
| 2. Increase Water Capacity | Long Term/Ongoing | |
| 3. Program to Assist Property Owners with Sidewalk Maintenance Responsibilities | Long Term/Ongoing | |
| 4. Birch Point Quiet Zone | November | 2021 |
| 5. Edgewood and Texas Resort Tax Street Reconstruction Project | November | 2021 |
| 6. Update City Transportation Plan | April | 2021 |
| 7. Improve Recycling Efforts with CAP Steering Committee | Long Term/Ongoing | |
| 8. Whitefish Lake Septic Leachate | Long Term/Ongoing | |
| 9. Reduce Illegal Sump Pump Connections | Long Term/Ongoing | |

(This page left blank intentionally to separate printed sections)



CITY COUNCIL REGULAR MEETING AGENDA

The following is a summary of the items to come before the City Council at its regular session to be held on Monday, July 6, 2020 at **7:10 p.m.** at City Hall, 418 E. 2nd Street, 2nd Floor

The health and wellbeing of our community is our top priority. The City has protocols in place to ensure physical distancing and proper sanitation to resume in-person meetings in accordance with the guidance from the State and Flathead City-County Health Department. We also encourage individuals who wish to provide public comment to submit a letter to the City Clerk, Michelle Howke at mhowke@cityofwhitefish.org or deliver a letter to City Hall before the scheduled meeting. Written comments should provide your name, address, and should be short, concise, courteous, and polite. Written comments received will be provided to the City Council and will be appended to the packet following the meeting. The Council meeting can be streamed live on the [City of Whitefish YouTube Channel](#).

Ordinance numbers start with 20-10. Resolution numbers start with 20-18.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) COMMUNICATIONS FROM THE PUBLIC — (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)
- 4) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 5) CONSENT AGENDA
 - a) [Minutes](#) from June 15, 2020 Special Session and Regular Session (p.17)
- 6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) [Consideration](#) of a request from Big Mountain River LLC for an eight lot (20 subplot) subdivision, located at 244, 314 & 322 West Second Street, zoned WR-3 (Low-Density Multi-Family Residential District) (WPP 20-01) (p.24)
 - b) [Consideration](#) of a request John Shigo and Christina Larsen for a Conditional Use Permit to construct an accessory apartment in an existing structure located at 725 Somers Avenue, zoned WR-2 (Two-Family Residential District) (WCUP 20-08) (p.184)
- 7) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR
 - a) [Consideration](#) of a Determination of Exemption Hearing Request from Kelly Laab located at 777 Dakota Avenue (WSE 20-02) **CONTINUED** from June 15, 2020 (p.212)
- 8) COMMUNICATIONS FROM POLICE CHIEF
 - a) [Ordinance No. 20-__](#): An Ordinance adding a new Chapter to Title 7 prohibiting the storage, placement, and maintenance of personal property in a manner that interferes with the use of public property (First Reading) (p.255)

- 9) COMMUNICATIONS FROM FINANCE DIRECTOR
 - a) [Resolution No. 20-](#) ; A Resolution requesting distribution of Bridge and Road Safety and Accountability Program Funds (p.261)
- 10) COMMUNICATIONS FROM CITY MANAGER
 - a) [Written report](#) enclosed with the packet. Questions from Mayor or Council? (p.266)
 - b) Other items arising between July 1st through July 6th
- 11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
 - a) [Letter](#) from residents and users of Lion Mountain Loop Road request to add 3 removable speed bumps (p.274)
 - b) [Letter](#) from Solberg Family Glenwood Trust for Safety Buoys for Whitefish Lake sandbar area (p.279)
 - c) [Consideration](#) of a letter of support for the Great American Outdoors Act (p.280)
 - d) [Resolution No. 20-](#) ; A Resolution strongly encouraging the use of masks while in public to prevent the spread of COVID-19 (p.282)
- 12) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)



The following Principles for Civil Dialogue are adopted on 2/20/2007 for use by the City Council and by all boards, committees and personnel of the City of Whitefish:

- We provide a safe environment where individual perspectives are respected, heard, and acknowledged.
- We are responsible for respectful and courteous dialogue and participation.
- We respect diverse opinions as a means to find solutions based on common ground.
- We encourage and value broad community participation.
- We encourage creative approaches to engage public participation.
- We value informed decision-making and take personal responsibility to educate and be educated.
- We believe that respectful public dialogue fosters healthy community relationships, understanding, and problem-solving.
- We acknowledge, consider and respect the natural tensions created by collaboration, change and transition.
- We follow the rules and guidelines established for each meeting.

Adopted by Resolution 07-09
February 20, 2007

(This page left blank intentionally to separate printed sections)

July 1, 2020

The Honorable Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana



Mayor Muhlfeld and City Councilors:

Monday, July 6, 2020 City Council Agenda Report

There will be a work session at 5:00 pm for the City Council goal setting. Food will be provided.

The regular Council meeting will begin at 7:10 p.m.

CONSENT AGENDA

- a) [Minutes](#) from June 15, 2020 Special Session and Regular Session (p.17)

RECOMMENDATION: Staff respectfully recommends the City Council approve the Consent Agenda.

Item “a” is an administrative matter.

PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

- a) [Consideration](#) of a request from Big Mountain River LLC for an eight lot (20 subplot) subdivision, located at 244, 314 & 322 West Second Street, zoned WR-3 (Low-Density Multi-Family Residential District) (WPP 20-01) (p.24)

From Senior Planner, Wendy Compton-Ring’s transmittal report.

Summary of Requested Action: Big Mountain River LLC is requesting a Preliminary Plat to develop an eight-lot subdivision (20 sublots) at 244, 314, 322 W 2nd Street. The site is undeveloped. The property is zoned WR-3 (Low-Density Multi-Family Residential District) and the Whitefish Growth Policy designates this property as ‘High Density Residential’.

Planning & Building Department Recommendation: Staff recommended approval of the Preliminary Plat application subject to 23 conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing on June 18, 2020. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on June 18, 2020 and considered the request. Following the hearing, the Planning Board unanimously approved the request. In making their decision, the Planning Board adopted staff report WPP 20-01 with Findings of Fact and recommended Conditions of Approval.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering testimony at the Public Hearing and the recommendations of the Planning Staff and the Planning

Board, approve WPP 20-01, the Findings of Fact in the staff report and the 23 conditions of approval, as recommended by the Whitefish Planning Board on June 18, 2020.

The item is a quasi-judicial matter.

- b) [Consideration](#) of a request John Shigo and Christina Larsen for a Conditional Use Permit to construct an accessory apartment in an existing structure located at 725 Somers Avenue, zoned WR-2 (Two-Family Residential District) (WCUP 20-08) (p.184)

From Senior Planner Wendy Compton-Ring's transmittal report.

Summary of Requested Action: John Shigo and Christina Larsen are requesting a Conditional Use Permit to construct an accessory apartment at 725 Somers Avenue. The site is developed with a single-family home and an existing garage with a 2nd floor to be used as the accessory apartment. The property is zoned WR-2 (Two-Family Residential District) and the Whitefish Growth Policy designates this property as 'Urban'.

Planning & Building Department Recommendation: Staff recommended approval of the Conditional Use Permit application subject to six conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing on June 18, 2020. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on June 18, 2020 and considered the request. Following the hearing, the Planning Board unanimously approved the request. In making their decision, the Planning Board adopted staff report WCUP 20-08 with Findings of Fact and recommended Conditions of Approval.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering testimony at the Public Hearing and the recommendations of the Planning Staff and the Planning Board, approve WCUP 20-08, the Findings of Fact in the staff report and the six conditions of approval, as recommended by the Whitefish Planning Board on June 18, 2020.

This item is a quasi-judicial matter.

COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) [Consideration](#) of a Determination of Exemption Hearing Request from Kelly Laab located at 777 Dakota Avenue (WSE 20-02) **CONTINUED** from June 15, 2020 (p.212)

Please review the enclosed Conditional Dedications by Landowner Agreement provided in the packet.

COMMUNICATIONS FROM POLICE CHIEF

- a) [Ordinance No. 20-](#) : An Ordinance adding a new Chapter to Title 7 prohibiting the storage, placement, and maintenance of personal property in a manner that interferes with the use of public property (First Reading) (p.255)

From Police Chief Dial's memorandum.

Introduction/History

Whitefish is a tourist destination and an extremely welcoming community. Our streets, sidewalks, public gathering areas and parks are to be used and enjoyed by all without interference from those who attempt to place their personal property in these areas. For years, benches along Central Avenue, City Beach, and various other areas which allow people to sit and enjoy Whitefish have been utilized by citizens and visitors. More recently the newly constructed pavilion in Depot Park has become a popular gathering area used to enjoy the park, picnic, and relax. Unfortunately, there are those individuals who do not respect the rights of others and gather in those areas and deposit duffle bags, backpacks, suitcases, garbage, and other items which clutter the area making it inaccessible to others. These types of gatherings misappropriate public areas for personal use and affect businesses and residences. With the current pandemic and the uncertainty of how the Covid-19 virus spreads, it is in the best interest of everyone to assure that public areas are kept sanitary and free of items that could further spread the disease. The City regularly receives complaints from merchants, businesses, citizens, and visitors regarding the aforementioned issue.

Current Report

Currently there are no ordinances or state statute that specifically address the unauthorized use of public venues and makes enforcement challenging. The purpose of this ordinance is to ensure no one is deprived of the use of public property, that public health concerns are addressed, that no areas are obstructed, and to ensure that no one causes a public area to be uninviting to others.

Financial Requirements

None

RECOMMENDATION: Staff respectfully recommends the City Council approve Ordinance No. 20-__ : An Ordinance adding a new Chapter to Title 7 prohibiting the storage, placement, and maintenance of personal property in a manner that interferes with the use of public property (First Reading)

This item is a legislative matter.

COMMUNICATIONS FROM FINANCE DIRECTOR

- a) [Resolution No. 20-__](#) ; A Resolution requesting distribution of Bridge and Road Safety and Accountability Program Funds (p.261)

From Finance Director Ben Dahlman's staff report.

Introduction/History

House Bill 473 was signed into law creating the Bridge and Road Safety and Accountability Act, or BaRSAA. The law provides for a graduated increase in the motor fuel tax, with a portion of collections (approximately \$21 million by FY21) allocated to local governments. Local governments must contribute to all distributions from the BaRSAA account with a minimum 5% match.

BaRSAA funds can be used to pay for the construction, reconstruction, maintenance, and repair of roads, alleys, and bridges that cities or towns are responsible for maintaining. BaRSAA funds can be used to pay project costs incurred before an allocation is made, so long as the costs were incurred during the same fiscal year in which they are distributed. BaRSAA funds cannot be used for capital equipment purchases.

Once a local government is ready to begin a BaRSAA project, they may request distribution of the funds along with any eligible reserved funds from prior years. The City may place the funds into a restricted account to be used within five years of distribution.

A request for the distribution of funds must include:

- a) the amount of funding sought (up to; but not exceeding, the amount allocated for that year and any prior years' reservations);
- b) copy of an adopted resolution to request and accept the funding by the governing body, identifying the source of the matching funds for the distribution; and,
- c) a description of the project or projects to be funded.

Current Report

The Public Works Department is using the BaRSAA funds for the reconstruction of Monegan Road. The project began in FY20, and City staff now needs to request another draw of the BaRSAA funds. Each draw requires a resolution to be approved prior to submittal. The attached resolution was created to accomplish this task. The overall project was budgeted to be funded with money from the Trailview Subdivision project, the City's Stormwater Fund, Streets Fund, Impact Fees Fund and the BaRSAA Fund.

Financial Requirement

The Monegan Road project has been completed.

For FY20, the BaRSAA gas tax allocation for the City of Whitefish is \$180,886.04. In order to achieve the 5% match this year, a transfer of \$9,044.30 will be required from the Streets Fund.

The City also contributed over \$100,000 of City funds from the Stormwater Fund and \$38,218.75 from the Impact Fees Fund for the project.

In addition; as a condition of approval for the Trailview Subdivision, the developer needs to contribute 21% or \$80,259.38 of the Monegan Road Project due to its adjacency to the subdivision. The entire amount due has collected as of the date of this narrative.

A budget amendment for FY20 will be needed to cover the final costs of the project in the BaRSAA Fund. The budget amendment will include the additional support from the Streets Fund for the 5% match since only \$7,350 was budgeted and to appropriate the higher expenditure costs of the project for the Trailview portion that was not completely budgeted.

RECOMMENDATION: Staff respectfully recommend the City Council approve Resolution No. 20-__; A Resolution requesting distribution of Bridge and Road Safety and Accountability Program Funds.

COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor or Council? (p.266)
- b) Other items arising between July 1st through July 6th

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) [Letter](#) from residents and users of Lion Mountain Loop Road request to add 3 removable speed bumps (p.274)

- b) [Letter](#) from Solberg Family Glenwood Trust for Safety Buoys for Whitefish Lake sandbar area (p.279)
- c) [Consideration](#) of a letter of support for the Great American Outdoors Act (p.280)
- d) [Resolution No. 20-](#) ; A Resolution strongly encouraging the use of masks while in public to prevent the spread of COVID-19 (p.282)

ADJOURNMENT

Sincerely,



Dana Smith
City Manager, CPA

Table 1: Common Motions Used in a Meeting.¹

	Wording	Interrupt another speaker	Requires a second	Debatable	Amendable	Vote Required	Reconsider
Privileged Motions							
Fix time for next meeting (12)	"I move that we meet next at..."	No	Yes	No	Yes	Majority	Yes
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority	No
Take a recess (12)	"I move that we recess. . ."	No	Yes	No	Yes	Majority	No
Raise a question of privilege	"I rise to a question of privilege affecting the assembly"	Yes	No	No	No	(1)	No
Call for the orders of the day	"I call for the orders of the day"	Yes	No	No	No	(1) (15)*	No
Subsidiary Motions							
Lay on the table	"I move to lay the question on the table" or "I move that the motion be laid on the table"	No	Yes	No	No	Majority	(3)*
Previous question (to close debate)	"I move the previous question" or "I move we vote immediately on the motion"	No	Yes	No	No	2/3 of assembly	Yes
Limit-extend debate (12)	"I move the debate be limited to. . ." or "I move that the speaker's time be extended by. . ."	No	Yes	No	Yes	2/3 of assembly	Yes
Postpone to a definite time (12)	"I move that the question be postponed until. . ."	No	Yes	Yes	Yes	Majority	Yes
Refer to a committee (12)	"I move to refer the matter to the . . . committee"	No	Yes	Yes	Yes	Majority	Yes
Amendment to the main motion (12)	"I move to amend by adding/striking the words. . ."	No	Yes	(5)	Yes	Majority	Yes
Postpone indefinitely (12)	"I move that the motion be postponed"	No	Yes	Yes (16)	No	Majority	(4)
Main Motions							
Main Motion	"I move that we..."	No	Yes	Yes	Yes	Majority	Yes
Incidental Motions (11)							
Suspension of rules	"I move to suspend the rules so that. . ."	No	Yes	No	No	(9)*	No
Request to withdraw a motion (13)	"I move that I be allowed to withdraw the motion"	*	*	No	No	Majority*	(3)
Objection to the consideration of a question (10)	"I object to the consideration of the question"	Yes	No	No	No	2/3 of assembly (17)	(3)
Point of order	"I rise to a point of order" or "Point of order!"	Yes	No	No	No	(1)*	No
Parliamentary inquiry	"I rise to a parliamentary inquiry" or "A parliamentary inquiry, please"	Yes	No	No	No	(1)	No
Appeal to the chairperson	"I appeal from the decision of the chair"	Yes	Yes	Yes*	No	(7)	Yes

	Wording	Interrupt another speaker	Requires a second	Debatable	Amendable	Vote Required	Reconsider
Point of information	"I rise to a point of information" or "A point of information, please"	Yes	No	No	No	(1)	No
Division of assembly	"Division!" or "I call for a division"	Yes	No	No	No	(14)	No
Division of a question	"I move to divide the motion so that the question of purchasing ... can be considered separately."	No	Yes	No	Yes	Majority	No
Renewal Motions (8)							
Reconsider* (2)	"I move to reconsider the vote on the motion relating to. . ."	No*	Yes	(5) (16)	No	Majority	No
Take from table	"I move to take from the table the motion relating to. . ."	No	Yes	No	No	Majority	No
Rescind	"I move to rescind the motion passed at the last meeting relating to. . ."	No	Yes	Yes (16)	Yes	(6)	(3)
Discharge a committee	"I move that the committee considering . . . be discharged."	No	Yes	Yes (16)*	Yes	(6)	(3)

¹ Source: Robert, H. 2000. *Robert's Rules of Order* (Newly Revised, 10th Edition) New York: Perseus Books Group; Sturgis, A. 2000. *The Standard Code of Parliamentary Procedure* (4th Edition). New York: McGraw-Hill.

*** Refer to Robert's Rules of Order Newly Revised**

- (1) The chair decides. Normally no vote is taken.
- (2) Only made by a member who voted on the prevailing side and is subject to times limits.
- (3) Only the negative vote may be reconsidered.
- (4) Only the affirmative vote may be reconsidered.
- (5) Debatable when applied to a debatable motion.
- (6) Majority with notice, or 2/3 without notice or majority of entire membership.
- (7) Majority or tie vote sustains the chair.
- (8) None of these motions (except Reconsider) are in order when business is pending.
- (9) Rules of order, 2/3 vote—Standing rules, majority vote.
- (10) Must be proposed before debate has begun or a subsidiary motion is stated by the chair (applied to original main motions).
- (11) The Incidental Motions have no precedence (rank). They are in order when the need arises.
- (12) A Main Motion if made when no business is pending.
- (13) The maker of a motion may withdraw it without permission of the assembly before the motion is stated by the chair.
- (14) The chair can complete a Division of the Assembly (standing vote) without permission of the assembly and any member can demand it.
- (15) Upon a call by a single member, the Orders of the Day must be enforced.
- (16) Has full debate. May go into the merits of the question which is the subject of the proposed action.
- (17) A 2/3 vote in negative needed to prevent consideration of main motion.

(This page left blank intentionally to separate printed sections)

WHITEFISH CITY COUNCIL
June 15, 2020
SPECIAL SESSION 5:00 TO 5:30 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Davis, Norton, and Sweeney (5:23 pm.). Staff present were City Manager Smith, City Clerk Howke, and Finance Director Dahlman.

2) INTERVIEWS

City Council interviewed Joe Courtney for the Board of Adjustments, Robert Horne Jr. for the Strategic Housing Plan Steering Committee and Katie Williams for both the Strategic Housing Plan Steering Committee and the Whitefish Housing Authority.

3) PUBLIC COMMENT

None

4) APPOINTMENTS

Due to time constraints, appointments were made during the Regular Session.

5) ADJOURN

Mayor Muhlfeld adjourned the Special Session and opened the work session at 5:30 pm.

WHITEFISH CITY COUNCIL
June 15, 2020
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Davis, Sweeney, and Norton. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts and Police Chief Dial. Approximately 40 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Sean Frampton to lead the audience in the Pledge of Allegiance.

3) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Richard Hildner, 104 5th Street, provided a letter that is appended to the June 15th Council packet on the website. He is requesting Lost Coon Lake and Lost Coon Trail to be renamed as Lodgepole Pond and Lodgepole Trail.

Dave VonKleist, Whitefish, stated there are two issues pressing this community right now; the issue with COVID-19; and the division we are beginning to see. Both of these issues have been brewing for quite some time. He asks and implores the Council to look at the other side of the information that is being provided from the DNC, GOP, and the CDC. Look at the other side because what we are seeing here is destroying our community.

Dennis Bee, Whitefish is upset because he sees this as our community and his community. How many people have been affected economically including himself in this county by decisions being made on a state level, a regional level, and a local level? His business has been affected dramatically. This is the United States of America. He believes in voting, he does not want our Police Department defunded, and he does not want masks worn throughout this city. Do not make demands on the residents of this city unless you have the science and data to back it up.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Norton reported the Tree Committee met and walked the State Park Reconstruction Project. The Public Works Department and Parks and Recreation Department are working on making a condition for the Urban Forester and Arborist to walk projects. The Urban Forester and Arborist can help you with the boulevard trees and the trees in the right of way.

5) CONSENT AGENDA

- a) **Minutes from June 1, 2020 Regular Session (p.44)**
- b) **Consideration of a request for Final Plat for Dankbaar Subdivision, 2-lot minor subdivision, located at 197 and 205 West 8th Street, zoned WR-2 (Two-family Residential) (WPP 20-02) (p.49)**
- c) **Consideration of a request for Final Plat for Colorado View Subdivision, for 12-lot subdivision located at 450 Colorado Avenue, zoned WR-3 (Low Density Multi-Family Residential District), the Whitefish growth Policy designates this property as ‘High Density Residential’ (WPP 20-) (p.70)**
- d) **FY20 Third Quarter Financial Reports (p.76)**

Councilor Sweeney made a motion, seconded by Councilor Hennen, to approve the Consent Agenda as presented (or amended). The motion passed.

- 6) **PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)**
 - a) **Consideration of approving City Manager’s proposed budget as the FY21 Preliminary Budget and setting final Public Hearing on the Capital Improvement Project and FY21 Final Budget for August 17, 2020 (p.85)**

City Manager Smith gave her staff report that is provided as the transmittal letter in the FY21 Proposed Budget on the website.

Councilor Qunell asked and Manager Smith recapped the cash reserves; the budget is going from a 15.29% (FY20) to a 17.13% (FY21). Those numbers are going to fluctuate as we adjust the budget with

year-end cash balances. We are able to grow our cash reserves right now because of Tax Increment sunsetting to cover all of the increases.

Mayor Muhlfeld applauded Manager Smith and all of the Directors and former City Manager Stearns. The cash reserves in 2008 plummeted to 1-2% of our total budget. Now 17% cash reserve is a big credit and testament to the leadership and the directors tightening their belts when they were asked to.

Mayor Muhlfeld opened the Public Hearing.

Chuck Stearns, 698 Woodside Lane, commended City Manager Smith, and the staff for presenting a very balanced and good budget in a very difficult year for the Council to review. He suggests the Council to consider reducing the mill levy. When the Tax Increment District sunsets it can provide a nice relief for both increasing government expenditures and property tax reductions. He knows it's a tough year, but he hopes council will consider it.

There being no further public comment, Mayor Muhlfeld closed the public hearing and turned the matter over to the Council for their consideration.

Councilor Norton asked and Manager Smith stated this year is a difficult budget. We don't know what the future holds. If building does halt, we will be looking at layoffs, and some significant reductions in staff. We can levy property tax collections, but it does not mean we are going to collect it. Our goal has always been to continue increasing cash reserves. She suggests to maybe consider reducing the mill levy for FY22.

Councilor Norton made a motion, seconded by Councilor Sweeney to approve the FY21 Preliminary Budget and set the final Public Hearing on the Capital Improvement Project and FY21 Final Budget for August 17, 2020. The motion passed.

- b) [Resolution No. 20-17](#); A Resolution adopting fees for temporary on-street parking permits and water main taps (p.208)**

Director Craig Workman gave his staff report that is provided in the packet on the website.

The temporary on-street parking ordinance states only three stalls are permitted, and only for construction projects or moving companies.

Mayor Muhlfeld opened the Public Hearing. There being no public comment, Mayor Muhlfeld closed the Public Hearing and turned the matter over to the Council for their consideration.

Councilor Feury made a motion, seconded by Councilor Hennen to approve [Resolution No. 20-17](#); A Resolution adopting fees for temporary on-street parking permits and water main taps. The motion passed.

7) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) [Consideration](#) of a request from Zac Weinberg for a Whitefish Lake and Lakeshore Protection Permit located at 1508 West Lakeshore to remove a stone retaining wall, patio and path and adding beach gravel (WLP 20-W10) (p.214)**

Director Dave Taylor gave his staff report that is provided in the packet on the website.

Councilor Norton made a motion, seconded by Councilor Sweeney to approve the request from Zac Weinberg for WLP 20-W10. The motion passed.

- b) **Consideration of a Determination of Exemption Hearing Request from Kelly Laab located at 777 Dakota Avenue (WSE 20-02) (p.226)**

Director Dave Taylor gave his staff report that is provided in the packet on the website. The application for a Subdivision Exemption Boundary Line Adjustment for 777 Dakota Avenue was denied by the Zoning Administrator and the County Clerk and Recorder's Office as a Subdivision Evasion. The City Code outlines the applicant can request a hearing of the City Council within 30 days of such a denial.

Discussion followed between Council, staff, the applicant and legal counsel regarding the improvements that would have been required if it were to go through as a subdivision; street and sidewalk for Marina Crest Drive would need to be improved and connected as a through street to Dakota Avenue, widen Dakota Avenue from 50 feet to 60 feet wide, sidewalks along Dakota Avenue or pay cash-in-lieu of sidewalks, parkland dedication, and the 20% requirement for the Legacy Homes Program that could be paid in cash in lieu or build one unit for affordable housing. **After some discussion Attorney Frampton and Attorney Jacobs both agreed to a 30-day extension to construct an agreement as an action item for Council.**

Mayor Muhlfeld called for a recess at 9:17 and reconvened at 9:26.

8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) **Consideration for Authorization to Contract for the Baker Avenue Underpass Project (p.265)**

Director Workman gave his staff report that is provided in the packet on the website.

Councilor Feury made a motion, seconded by Councilor Sweeney to award the Baker Avenue Underpass Project to LHC, Inc. in the amount \$1,714,213.09, including alternates 1,2,3 and 5. The motion passed.

9) COMMUNICATOINS FROM CITY ATTORNEY

- a) **Consideration of release allowing repairs to the Whitefish Community Center (p.288)**

City Attorney Jacobs gave her staff report that is provided in the packet on the website.

Councilor Hennen made a motion, seconded by Councilor Sweeney to approve the proposed settlement agreement. The motion passed.

10) COMMUNICATIONS FROM CITY MANAGER

- a) **Written report enclosed with the packet. Questions from Mayor or Council? (p.304)**

None

- b) **Other items arising between June 10th through June 15th**

Manager Smith reported the soft opening for the employee surveillance testing site for COVID-19 will open on Thursday, June 18th at the High School. She ran some quick calculation of what was commented from former City Manager Stearns. She would not recommend the full 10 mills, with budget adjustments that 17% cash reserves have gone down slightly. The \$393,000 would reduce our reserves from the prior year.

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) **Appointments of City Council Member Legacy Land Advisory Committee (LLAC) and Whitefish Trails Operations Committee to replace Councilor Hartman on both committees -Council appointment; currently Councilor Qunell is a representative of the LLAC (p.307)**

Councilor Feury confirmed he will serve on both LLAC and Whitefish Trails Operations Committee.

- b) **Consideration of appointments to volunteer boards and committees not made during the Special Session preceding tonight's meeting**

Councilor Feury made a motion, seconded by Councilor Hennen to appoint Joe Courtney to the Board of Adjustments to complete the term ending December 31, 2021. The motion passed.

Mayor Muhlfeld appointed Bob Horne to the Strategic Housing Plan Steering Committee and Katie Williams to the Whitefish Housing Authority. Council unanimously ratified his appointment.

Council Comments

Councilor Qunell will be absent for the July 6th meeting. He agrees it is time to change the name of Lost Coon Lake and Lost Coon Trail. He thanked our youth for stepping up. He would like City staff take a look at street names, place names for any overt racism, or offensive language and start the process of changing those names. He also would like City staff look at City Ordinances where we might have an opportunity to ban offensive symbols of hate and discrimination.

Councilor Sweeney stated the Lost Coon Lake name change is in process. Lost Coon Trail is more problematic because of the step in changing a name of a road. It is a county road so as a city we don't get to control whether that name gets changed.

Councilor Davis stated he is disturbed Whitefish is in the national news again, though he is encouraged by the young woman who stood up and the young folks who are advocating for change. He agrees the name of Lost Coon Lake needs to be changed. He felt the deer management presentation during the work session was interesting and he feels it might be something to look further into.

Councilor Hennen also agrees the name of Lost Coon Lake needs to change. The George Floyd incident has energized him, and he will continue to fight, and it is encouraging to see young kids stepping up and willing to stand on the front line. He also said a lot of credit should go out to Chief Dial and the Whitefish Police Department. The recent events were a powder keg.

Councilor Feury thanked Chief Dial and appreciated the memo he sent to City Council. He and Councilor Norton feel it should be shared with the public as a whole. He mentioned there are 14 bears in town and some people have mistaken bear spray for OFF and they spray it around on their decks thinking it is going to make the bears go away. Fish Parks and Wildlife will tell you bear spray is ultimately an attractant.

Councilor Norton also thanked Chief Dial for his years of service and reassuring council we are all doing the right thing in our town. It has been a very tense three weeks, and a time of reckoning. One of the best part of a small town is feeling this enormous heart for those who are suffering. If someone acts out in public, they are suffering too. Hopefully, we can hold them up to becoming their better self. Even when we are in conflict, you can choose to look at the world as being divided, or you can choose to see what commonalities you have and maintain that at all cost. She also mentioned to keep up the pandemic precautions.

City Manager Smith asked for clarification on the action items to ban any kind of display that would be offensive or racist. The Council agreed with a head nod. Council also agreed to add the deer management plan as a Council goal.

12) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)

Mayor Muhlfeld adjourned the meeting at 10:10 p.m.

Mayor Muhlfeld

Attest:

Michelle Howke, Whitefish City Clerk

(This page left blank intentionally to separate printed sections)

PLANNING & BUILDING DEPARTMENT
418 E 2nd Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



June 30, 2020

Mayor and City Council
City of Whitefish
PO Box 158
Whitefish MT 59937

RE: Big Mountain River Preliminary Plat at 244, 314, 322 W 2nd Street (WPP 20-01)

Honorable Mayor and Council:

Summary of Requested Action: Big Mountain River LLC is requesting a Preliminary Plat to develop an eight-lot subdivision (20 sublots) at 244, 314, 322 W 2nd Street. The site is undeveloped. The property is zoned WR-3 (Low-Density Multi-Family Residential District) and the Whitefish Growth Policy designates this property as 'High Density Residential'.

Planning & Building Department Recommendation: Staff recommended approval of the Preliminary Plat application subject to 23 conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing on June 18, 2020. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on June 18, 2020 and considered the request. Following the hearing, the Planning Board unanimously approved the request. In making their decision, the Planning Board adopted staff report WPP 20-01 with Findings of Fact and recommended Conditions of Approval.

Proposed Motion:

- I move to approve WPP 20-01, the Findings of Fact in the staff report and the 23 conditions of approval, as recommended by the Whitefish Planning Board on June 18, 2020.

This item has been placed on the agenda for your regularly scheduled meeting on July 6, 2020. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

/s/ Wendy Compton-Ring

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A: Planning Board Recommended Conditions of Approval
Draft Minutes, Planning Board Meeting, 6-18-20

Exhibits from 6-18-20 Staff Packet

1. Staff Report – WPP 20-01, 6-11-20
2. Element Review, 3-30-20
3. Sufficiency Review, 4-21-20
4. Adjacent Landowner Notice, 5-29-20
5. Advisory Agency Notice, 5-29-20
6. Letter, Whitefish Housing Authority, 6-10-20

The following was submitted by the applicant:

7. Application for Preliminary Plat, 3-23-20, updates 5-27-20

c: w/att Michelle Howke, City Clerk

c: w/o att Big Mountain River LLC 6479 Hwy 93 S, suite 141 Whitefish, MT 59937
Bruce Boody Landscape Architect, 301 E 2nd St Whitefish, MT 59937
Dave Radatti, Mindful Designs, Inc 118 W 2nd St Whitefish, MT 59937

Exhibit A
Big Mountain River LLC
Conditional Use Permit WPP 20-01
Whitefish Planning Board
Recommended Conditions of Approval
June 18, 2020

1. The subdivision must comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.
2. Except as amended by these conditions, the development of the subdivision must be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as “approved plans” by the City Council.
3. Approval of the preliminary plat is subject to approval of detailed design of all on- and off-site improvements, including drainage and a plan for snow removal and storage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan must include a strategy for long-term maintenance. Fill on-site must be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2019)
4. Prior to any ground disturbing activities, a plan must be submitted for review and approval by the Public Works and Planning & Building Departments. The plan must include, but may not necessarily be limited to, the following:
 - Dust abatement and control of fugitive dust.
 - Hours of construction activity.
 - Noise abatement.
 - Control of erosion and siltation.
 - Routing for heavy equipment, hauling, and employees.
 - Construction office siting, staging areas for material and vehicles, and employee parking.
 - Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
 - Detours of vehicular, pedestrian, and bicycle traffic as necessary.

- Notation of any street closures or need to work in public right-of-way. (City Engineering Standards, 2019)
5. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on- and off-site infrastructure must be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, streetlights, trails, sidewalks, driveways, etc.) within the development must be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director must approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements must be submitted as a package and reviewed concurrently. Water lines for the homes removed previously need to be abandoned at the main. No individual improvement designs will be accepted by Public Works. (City Engineering Standards, 2019)
 6. All areas disturbed because of road and utility construction must be re-seeded as soon as practicable to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, must be removed throughout the life of the development by the recorded property owner or homeowners association. (§12-4-30, WCC)
 7. An approach permit must be obtained from the Montana Department of Transportation (MDT). In addition, a permit from MDT must be obtained for any work within the right-of-way. (Finding 1)
 8. The existing driveway(s) must be removed and restored with curb, gutter and boulevard landscaping. The applicant must coordinate with the Whitefish Parks Department for any street tree installation or removal. All maintenance of sidewalk, including shoveling, and boulevard, including any irrigation system, is the responsibility of the Homeowners Association. (Finding 4)
 9. Street lighting is required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting must be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (§11-3-25, WCC; City Engineering Standards, 2019)
 10. The street must be signed for 'No Parking'. (Finding 4)
 11. The Fire Marshal must approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-18; Engineering Standards, 2019)
 12. A final plan for buffer restoration must be submitted and approved prior to the issuance of the building permit. In addition, a geotechnical letter must be submitted along with building permits for Lots 4-8. (Finding 3; §11-3-29, WCC)

13. The refuse and recycling location must be reviewed and approved by the Public Works Department and Republic Services. (§§4-2, 12-4-21, WCC)
14. A Certificate of Subdivision Approval must be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the storm drainage, water and sewage facilities for the subdivision. (Subdivision Regulations, Appendix C)
15. The public trail connector from W. 2nd Street to the north edge of the property must be installed, as depicted on the site plan. This path, built to City standards with the exception of grade standards, will be open to the public, but owned and maintained by the Homeowners Association. The final details of the trail installation must be submitted to the Parks, Public Works and Planning Departments for review and approval and be signed for steepness. An easement granting public access to the trail must be noted on the final plat. (Finding 4, City Engineering Standards, 2019)
16. The Hendrix Avenue right-of-way must be abandoned, and a 20-foot wide utility easement provided for the sewer main and two-inch waterline serving the homes on the other side of the river. This easement must be reviewed and approved by the Public Works Department and noted on the final plat. (§12-4-29, WCC; Finding 4, City Engineering Standards, 2019)
17. A Water Quality Plan must be submitted for the construction of the homeowners association private trail meeting the requirements of §11-3-29C(5), WCC. (Finding 3)
18. The following notes must be placed on the face of the plat:
 - Building numbers must be located in a clearly visible location.
 - The internal roads shown on the final plat are intended to be privately owned and maintained and open to the public. It is understood and agreed that these internal roadways do not conform to City requirements for public roadways. The owners (and successors in interest) of the lots described in this plat will provide for all-season maintenance of the private roadways by creation of a corporation or association to administer and fund the maintenance. This dedication is made with the express understanding that the private roadways will never be maintained by any government agency or public authority. It is understood and agreed that the value of each described lot in this plat is enhanced by the private nature of said roadways. Thus, the area encompassed by said private roadways will not be separately taxed or assessed by any government agency or public authority.
 - A geotechnical letter must be submitted along with the building permit for Lots 4-8.(Subdivision Regulations §§11-3-29C, 12-4-6, 12-4-20, WCC; Staff Report Findings 1, 3, 4; City Engineering Standards, 2019)

19. A common off-street mail facility must be provided by the developer and approved by the local post office. (§12-4-24, WCC)
20. Prior to approval of the final plat, the applicant must produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) Homeowners Association providing for long-term maintenance of the:
 - Open spaces;
 - Westerly trail open to the public;
 - Noxious weeds through implementation of the weed management plan. The weed management plan must be submitted to the Planning Department for review and approval prior to final plat; and
 - Drainage and storm water management facilities.(§§12-4-26, 12-4-30, WCC; Staff Report Finding 3 & 4; City Engineering Standards, 2019)
21. Compliance with the Legacy Homes Program approved housing mitigation plan will be met through the development of three (3) deed restricted townhouses and payment of \$116,930 at the time of final plat. (§§11-1A-4A, 11-1A-4D, WCC)
22. Other permits may be required by other governmental agencies and the owner is responsible for obtaining these permits which may include a floodplain permit, a permit from the conservation district and a water quality protection permit.
23. The Big Mountain River preliminary plat is approved for three years from Council action. (§12-3-8, WCC)

	<p>Chair Qunell asked and Ms. Keenan said regarding truck traffic, they will have no more trucks than other restaurants that are downtown to get in their supplies, etc.. They get milk delivered two to three times per week which are their larger trucks, and produce and other goods like chocolate. At this point, they get maybe six larger trucks per week. It is not every day nor all hours of the day. Chair Qunell asked and Ms. Keenan said all trucks should be able to stay on the property and not park in the street as has happened at Safeway.</p> <p>Eric Payne, nuWest Builders, 100 Central Avenue, said he has helped Sweet Peaks with this project from the conceptual stage of choosing this location through the entire plan as presented and helped with the application. He feels lucky to be part of a CUP that is so positive; it will be an amazing transformation of a facility that is badly in need of a transformation.</p>
PUBLIC COMMENT	<p>Chair Qunell opened the public hearing and no one wished to speak. Chair Qunell closed the public hearing and turned the matter over to the Planning Board for consideration.</p>
MOTION / BOARD DISCUSSION	<p>Scott moved and Middleton seconded to adopt the findings of fact within staff report WCUP 20-09, with the nine (9) conditions of approval, as proposed by City Staff.</p> <p>Chair Qunell thanked the applicant as it will be quite an upgrade at that corner and a great upgrade to our City entrance. He is excited about having something that is homegrown and looks good there.</p> <p>Scott asked and Ms. Keenan said the Sweet Peaks location in town on 3rd Street will be maintained.</p>
VOTE	<p>The motion passed unanimously. The matter is scheduled to go before the Council on July 20, 2020.</p>
PUBLIC HEARING 4: BIG MOUNTAIN RIVER, LLC PRELIMINARY PLAT REQUEST 6:28 pm	<p>A request by Big Mountain River, LLC, for an eight lot (20 subplot) subdivision. The property is zoned WR-3 (Low-Density Multi-Family Residential District), located at 244, 314 and 322 W. 2nd Street, and can be legally described as Lots 1 and 2 Hendrix Subdivision; Lot 12 Grandview in S36, T31N, R22W, Flathead County.</p>
STAFF REPORT WPP 20-01 (Compton-Ring)	<p>Compton-Ring said this matter was originally scheduled for the May Planning Board meeting, but the Applicant requested to postpone it until June after receiving a request from the Whitefish Housing</p>

	<p>Authority to include affordable housing in the development instead of providing a fee-in-lieu. The previous request was for a 17-unit subdivision, with a fee-in-lieu being paid for all units, but now 20 sublots, with four two-unit buildings and four three-unit buildings, are being proposed and they will incorporate three Legacy Homes and pay a fee for the fourth unit.</p> <p>Senior Planner Compton-Ring reviewed her staff report and findings. No public comments have been received regarding to this project.</p> <p>Staff recommended adoption of the findings of fact and conditions of approval within staff report WPP 20-01 and for approval of the preliminary plat for the Big Mountain River Subdivision, and the two subdivision variances requested by the Applicant, to the Whitefish City Council.</p>
<p>BOARD QUESTIONS OF STAFF</p>	<p>Scott asked and Compton-Ring said the project involves building a public trail and abandoning an unimproved right-of-way; the Whitefish River is on the edge of the easterly lot. Scott asked and Compton-Ring said the Parks & Recreation department has reviewed this project and the staff report incorporates their comments.</p> <p>Chair Qunell asked and Compton-Ring said the 95 Karrow project included a path that went down to and along the River which will hook up with this one at the junction where the dock open to the public is proposed. There is unimproved W. 1st Street to the north of this area. The trail goes along W 1st Street and wraps around the property along the river and goes underneath the train tracks connecting to Skye Park Bridge. Where the trails connect between W 1st Street and along the river, there is a hub and along with docks which is about where this trail will connect. Compton-Ring will bring a map to the Council meeting for this discussion.</p> <p>Chair Qunell said the Conditions of Approval do not mention that the three affordable units cannot be consecutive as one piece but are supposed to be spread apart. Compton-Ring said their housing mitigation plan shows two triplexes along W 2nd Street (the center units) and a three-unit on the River. Compton-Ring said we will deed restrict those particular units by agreement which will come in with the final plat and get recorded at the same time. Chair Qunell asked and Compton-Ring said these are called flag lots as they do not front on W 2nd Street, they access W 2nd Street by an easement, which is the definition. The road they are constructing is essentially an easement as the lot lines go to the middle of those roads.</p>

	<p>Beckham asked and Compton-Ring said she cannot think of anything comparable to this type of density (20 units on three lots) that fronts the Whitefish River but she could research that before this goes before Council. Compton-Ring said it meets the density requirements for WR-3 and there are quite a few triplexes to the east and a number of multi-unit buildings towards town.</p> <p>Chair Qunell said regarding the utility easement on the site map the red dotted line comes in out of a common area to the north and wraps around the building next to the building footprint of Lots 5 and 5B. He asked and Compton-Ring said you can build right up to them; however, you cannot encroach into them.</p> <p>Beckham asked and Compton-Ring said there is no condition included for bicycle racks as everyone has a garage. Bicycle racks are not a requirement as this is a single-family home development, not a multi-family development or commercial project where they would be required.</p>
<p>APPLICANT / AGENCIES</p>	<p>Sierra McCartney, 301 E. 2nd Street, with Bruce Boody Landscape Architect, introduced Mr. Boody, Dave Radatti with Mindful Designs, the owners' representative, and Wil Goodpaster with TD&H Engineering.</p> <p>Ms. McCartney said there are two updates from when the preliminary plat was submitted. They have submitted a 310 Permit application and met onsite with the Flathead Conservation District's Board and they did not have concerns while onsite so it appears they will recommend the 310 Permit approval. Their next meeting is Monday, June 22, and they will formally recommend approval. The second update is they have slightly adjusted the layout of the 2.5-foot wide access trail to the River indicated on the plan in order to avoid disturbing existing native shrubs. They have reviewed the staff report and findings of fact and are in agreement with everything in staff report.</p> <p>Scott said they have access to the River and mentioned the trail that goes down to it. He said the Parks & Recreation department of the City has to a certain degree encouraged docks and access along the River and takes care of all of them. He asked if they have talked with P&R about putting in a dock on their side of the River. Ms. McCartney said the proposed 10-foot wide bike/ped trail on the west side of site leads down and connects to the trail at Karrow and</p>

	<p>there is a public dock there. The private 2.5-foot wide trail referred to earlier will be a private trail that leads down to a dock but that is just for residents of this development and was part of the 310 Permit submittal. The two trails are separate and the public trail on the west will be signed to indicate it is public but not ADA compliant. The other (private) trail will be signed as a private use trail. Dave Radatti, Mindful Designs. said there will be a lot of topography and vegetation between the two trails which originate in different areas and do not even communicate with each other.</p>
PUBLIC COMMENT	<p>Chair Qunell opened the public hearing and no one wished to speak. Chair Qunell closed the public hearing and turned the matter over to the Planning Board for consideration.</p>
MOTION / BOARD DISCUSSION	<p>Middleton moved and Scott seconded to adopt the findings of fact within staff report WPP 20-01, with the twenty-three (23) conditions of approval, as proposed by City Staff.</p> <p>Middleton said he reviewed this project with the Whitefish Housing Authority and thanked the applicant for reconsidering their request and providing more affordable housing. He feels it will fill an important need and enthusiastically supports it.</p> <p>Scott said everything seems to be approved in the staff report. The streets look a little narrow but he presumes the Fire Marshal has approved them. It seems like a good project, and he likes that they are leaving a lot of open space and providing a trail.</p> <p>Ellis clarified the City does not have jurisdiction over docks in the Whitefish River, the Flathead Conservation District does. As Ms. McCartney stated, the Applicant applied for a permit, there was a site visit on the property. Their permit application will come up next Monday night and he anticipates it being approved.</p> <p>Chair Qunell thanked the Applicant for reconsidering and including affordable units as that is the goal of the Inclusionary Zoning Ordinance, to actually build units, not just to collect money from developers.</p>
VOTE	<p>The motion passed unanimously. The matter is scheduled to go before the Council on July 6, 2020.</p>
NEW BUSINESS <i>6:56 pm</i>	<p>None.</p>

**BIG MOUNTAIN RIVER
STAFF REPORT
PRELIMINARY PLAT
WPP 20-01
June 11, 2020**

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by Big Mountain River LLC for a Preliminary Plat to develop an eight-lot (20 sublots) residential neighborhood on W. 2nd Street. A public hearing is scheduled before the Whitefish Planning Board on June 18, 2020 and a subsequent hearing is set before the City Council on July 6, 2020.

BACKGROUND

This project, originally scheduled for the May Planning Board, proposed a 17-unit subdivision and fee in lieu of affordable housing. After receiving comments from the Whitefish Housing Authority that they would be more supportive of units developed into the project, the applicant requested postponement in order to revise their project, as described below.

I. PROJECT SCOPE

The applicant is proposing a residential townhouse subdivision with eight parent lots (20 sublots with four two-unit buildings and four three-unit buildings). A new single access to the project will be off W. 2nd Street. This private road will loop through the property providing access to all units. In addition to vehicular access, the private loop road provides an internal sidewalk system for access to all units, W. 2nd Street and a new paved trail along the western property line open to the public. Parking is provided within two-car garages and two surface parking areas distributed around the site for a total of five additional parking spaces.

The project is providing open space areas to the north, along the Whitefish River, and to the west. The open space area to the north includes the required Whitefish River buffer and will contain a private homeowner pedestrian path to the river along with a homeowners' dock. Noxious weeds within the open space along the Whitefish River will be mitigated and landscaped with native vegetation. The open space area to the west will contain a 10-foot wide paved pedestrian bicycle path within a 20-foot easement. This trail will connect W. 2nd Street to the new trail system in the 95 Karrow project to the north. This path, built to City standards with the exception of grade standards, will be open to the public, but maintained by the Homeowners Association.

This project has an existing 20-foot wide public right-of-way between the Grandview and Hendrix subdivisions called Hendrix Avenue. This is a substandard unimproved right-of-way with a very steep grade terminating in the Whitefish River. Within the southern portion of the right-of-way is a sewer main which comes from Karrow Avenue bisecting the Hendrix Tracts subdivision and connecting to W. 2nd Street. Within this right-of-way, there is also a two-inch water line from W. 2nd Street that goes north and continues under Whitefish River serving two residential lots to the north of the River.

The applicant is proposing to vacate this right-of-way, leaving the sewer main and water line within a 20-foot easement and locating the trail, described previously, within a new easement along the western property line.

As part of the application, two subdivision variances are being requested:

- §12-4-12H which limits the number of flag lots in a subdivision to less than 50% of the total and the applicant is proposing ten of the seventeen lots be flag lots.
- §§12-4-14D and 12-4-15A which requires streets to be designed in accordance with the adopted city of Whitefish engineering standards for both public and private streets.

To comply with the Legacy Homes program, the applicant is proposing to develop three deed restricted units and pay the 1.5x fee in lieu for the fourth unit. They are using reduced lot size, reduced lot width and increased lot coverage as permitted through the Legacy Homes Program.

A. Owner:

Big Mountain River LLC
6479 Hwy 93 S, Suite 141
Whitefish, MT 59937

Technical Assistance:

Bruce Boody Landscape Architect
301 E 2nd St
Whitefish, MT 59937

Applicant:

Dave Radatti
Mindful Designs, Inc
118 W. 2nd Street
Whitefish, MT 59937

B. Location:

The subject properties are located at 244, 314 and 322 W. 2nd Street and can be legally described Lots 1, 2 Hendrix and Lot 12 Grandview in Section 36, Township 31N, Range 22W, P.M.M., Flathead County.

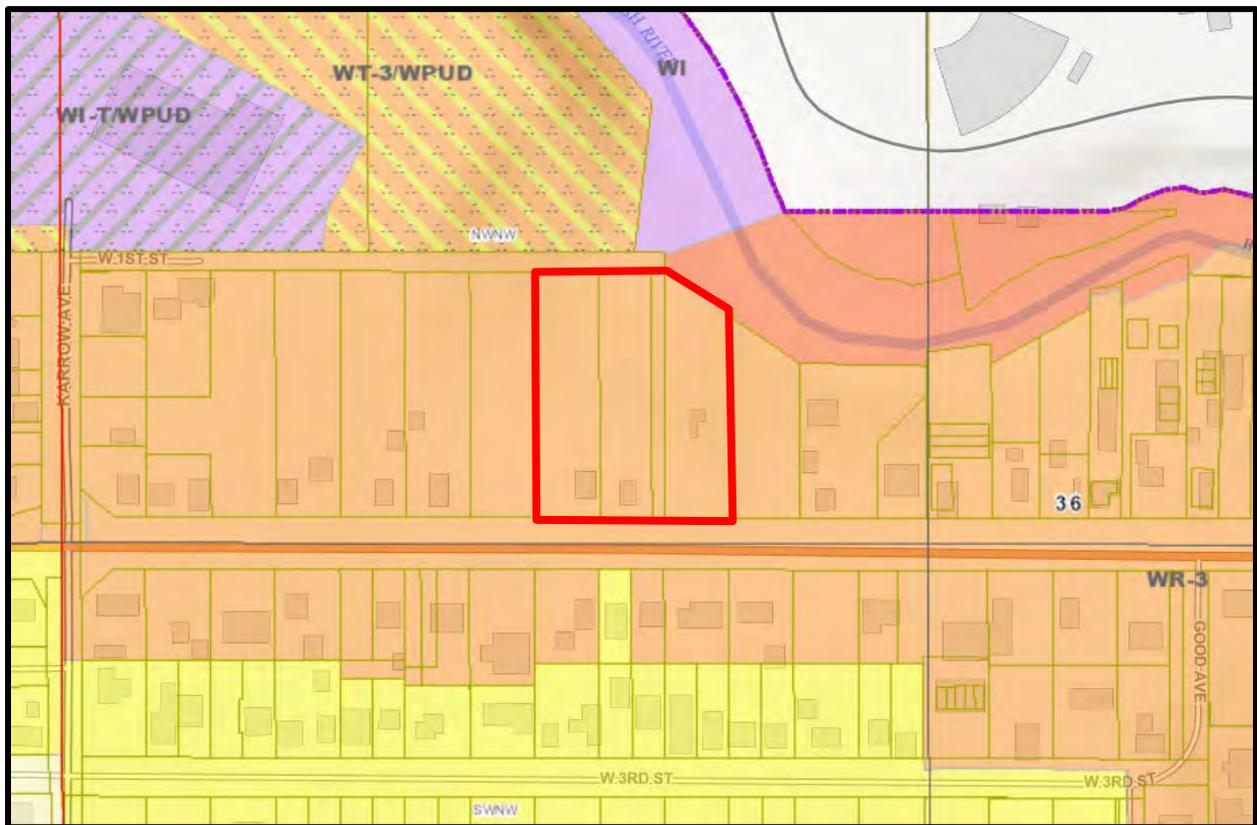


C. Existing Land Use and Zoning:

The property is currently vacant. Three older single-family houses and out-buildings were demolished several years ago. The property is zoned WR-3 (Low-Density Multi-Family Residential District).

D. Adjacent Land Uses and Zoning:

North:	Whitefish River & former Idaho Timber	WR-4 & WT-3/WPUD
South:	Residential & Professional Office	WR-3
East:	Residential	WR-3
West:	Residential	WR-3



E. Utilities:

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	Republic Services
Gas:	Northwestern Energy
Electric:	Flathead Electric Co-op
Phone:	CenturyLink
Police:	City of Whitefish

Fire: Whitefish Fire Department
Schools: Whitefish School District #44

F. Public Notice:

A notice was mailed to adjacent landowners within 300-feet of the subject parcel on May 29, 2020. A sign was posted on the property on April 29, 2020. Advisory agencies were noticed on May 29, 2020. A notice was published in the Whitefish Pilot on June 3, 2020. As of the writing of this report, no comments were received.

II. REVIEW AND FINDINGS OF FACT

This request is reviewed in accordance with statutory criteria and the Whitefish Zoning and Subdivision Regulations.

A. Effects of Health and Safety:

Fire: The Whitefish Fire Marshal reviewed the project. The Fire Marshal will approve the placement and design of all fire hydrants prior to their installation and emergency access.

Wildland Urban Interface: The property is within the city limits and within the City's Fire District. The property will be served by City water and meet all Fire Department emergency access requirements. The Fire Marshal recommends the open space areas be properly mitigated for wildland fire protection and maintained yearly.

Flooding: FEMA designated base flood elevation for this section of the Whitefish River at 3003.8-feet. The area with the mapped floodplain is within a dedicated open space area and no development is proposed except for a trail and dock for the residents. The exact alignment of the trail is yet to be finalized and the dock will require a permit from the Flathead Conservation District. Staff will recommend this as a condition of approval.

Access: The subdivision has one main vehicular access off W. 2nd Street and all access requirements are being met. Montana Department of Transportation (MDT) reviewed the application and noted the change to the approach will likely require an approach permit and any work within the right-of-way will require a permit from MDT. They requested the applicant contact the Kalispell office to determine the proper permits for review and approval. Staff will recommend this as a condition of approval. The Fire Marshal will review building and engineering plans to ensure all emergency access standards are being met.



Traffic Impacts: The application does not include a Traffic Impact Study, as the number of trips generated is less than 200 per day. Traffic will enter and exit the site from W. 2nd Street which was improved several years ago by MDT. There is an existing center-turn lane for vehicles to use to access the site when making a left-hand turn into the site from the west. The design of W. 2nd Street also included the installation of a sidewalk and boulevard.

Finding 1: The proposed subdivision will not have a negative effect on public health and safety because the Fire Department has reviewed the proposal for conformance with the fire code; a portion of the property is within a mapped floodplain, but it will be within dedicated open space; access is off an existing public road; and the amount of traffic generated can be handled by the existing road design.

B. Effects on Wildlife and Wildlife Habitat: There are no mapped crucial wildlife habitat and/or daily or seasonal migration corridors on this site. It is likely that deer and other animals travel through the property and along the Whitefish River. The preservation of buffers and other open areas help to maintain these patterns.

Finding 2: The subdivision should not have a negative effect on wildlife and wildlife habitat because there are no mapped crucial wildlife habitat nor migration corridors on

this property; the River and its buffer are being maintained and enhanced; and other open areas are located throughout the development.

C. Effects on the Natural Environment:

Surface and groundwater: The developer will extend Municipal water and sewer to the subdivision thereby minimizing any potential impacts to the groundwater. The property is not mapped as being within the high groundwater area.

Slopes: The site has been graded and filled over the years to accommodate the former residential homes and is flat to the south. There are sloped areas along the riverbank along with some minor land movement at the northeast of the property.

There are building sites within 200-feet of the Whitefish River on slopes that likely exceed 10%. According to the Water Quality Protection regulations, if a building is located within 200-feet of a water body and is constructed on a slope of 10% or more, a geotechnical letter will need to be supplied along with the building permit. Staff will recommend this as a condition of approval.



Whitefish River: The applicant is proposing to protect the Whitefish River with a buffer and setback meeting the Water Quality Protection regulations. The buffer requirement is top of bank or 75-feet, whichever is greater plus a 20-foot setback from the edge of the buffer. (§11-3-29C(1), WCC) In addition, any structure within 200-feet of the buffer on a lot that abuts the river is required to submit a geotechnical letter along with the building permit. There are three lots (seven sublots) proposed along the Whitefish River. In 2017, the City hired Randy Overton, Water Source Hydrology, to review a 'top of bank' determination for a project in this neighborhood. As part of this assessment, we also had him review a few undeveloped properties along the River we knew would be redeveloping at some point in the future. The westerly lot of this project is one of those lots reviewed. When the applicant over-laid the 2017 top of bank determination, he discovered 75-feet is a greater buffer than top of bank; therefore, that is the buffer being shown on this plan. Additionally, there is a narrow wetland along the edge of the River. According to §11-3-29C(1)(a), the buffer is measured from the edge of the wetland, making the 75-foot buffer greater than the top of bank.

Buffer Averaging – §11-3-29C(4). The applicant is proposing buffer averaging, as provided for in the Water Quality Protection regulations. Buffer averaging permits one to reduce the buffer in some areas while increasing it in other areas provided the total buffer square footage remains the same and the buffer width is no less than 50-feet along the Whitefish River. The standard also recommends the reductions generally be "located where riparian functions may be less sensitive to adjacent land uses, and increases are generally located where riparian functions may be more sensitive to adjacent land uses." Overall, as proposed, there is a net increase in buffer square footage from 1,218 square feet to 1,406 square feet.

Allowed Activities within the Buffer – §11-3-29C(5). Within the buffer they are proposing a private path and dock for the residents which is a permitted use provided impacts are mitigated. Staff proposes the details of the trail construction be a condition of approval.

Wetlands: As described previously, there is a wetland associated with the Whitefish River. The edge of the wetland has been determined by a wetland professional and is included within the River buffer, as established by the Water Quality Protection regulations.

Storm Water Conveyance: There are no mapped storm water conveyances within the project boundaries.

Drainage: Drainage is proposed to be collected within the private road, treated and directed toward the River. A standard condition of approval notes that the preliminary plat may be changed, including density, based on the City's review of the drainage plans. All drainage plans will meet the City of Whitefish Standards and be reviewed and approved by the Public Works Department.

Finding 3: The subdivision should not have a negative impact on the natural environment because the River buffer is being preserved and restored, a Geotech

review will be required with the building permits for the lots along the River and staff will review the storm water plan with the final engineering plans.

D. Effects on Local Services:

Water: The project proposes to connect to the City water system located in Highway 93 W. As described previously, there is an existing two-inch water line that serves two properties on the north side of the Whitefish River. This water line, located partially within the Hendrix Avenue right-of-way before it goes under the Whitefish River, will need to be re-routed and located within the utility easement.

The Montana Department of Environmental Quality (DEQ) has approved a deviation for the City of Whitefish to operate the Water Treatment Plant at rates exceeding the firm capacity of 3.0 MGD. This deviation is based on an analysis submitted by the City supporting the ability to add 1,500 additional equivalent residential units (ERUs). The analysis also shows 1,037 unconnected ERUs have been previously platted, which could be connected to the water system 'by right' based on current zoning. Therefore, DEQ will allow the City to create a maximum of 463 new ERUs. Both the City and DEQ will be monitoring the progress of these approvals. To date, the City has 437.5 allowable ERUs remaining in the deviation approval and this project will require 17 ERUs total (they receive a 3 ERU credit for the homes removed).

Sewer: The project proposes to utilize the City sewer system. The sewer facilities will be designed and constructed to City specifications.

Streets: The private street will be privately constructed, owned and maintained, but open to the public. See discussion above regarding traffic impacts. Due to the proposed narrowness of the new private street, on-street parking is not possible nor proposed; therefore, staff is recommending a condition of approval to sign the street with no parking signs. The one existing driveway will be eliminated, and the other driveway is generally where the new access will be located. Staff will make a condition of approval that the existing driveway(s) are removed, and the curb and boulevard be restored. Depending on spacing, the driveway removal may require the installation of street trees. Staff will recommend a condition of approval that all tree removal or installation in the boulevard be coordinated and approved by the Parks Department. As required on all public streets, the adjacent property owner is responsible for maintaining the boulevard and sidewalk along their frontage – this includes any irrigation and snow removal; in this case, W 2nd Street sidewalk and boulevard will be maintained by this development.

Schools: The site is within the Whitefish School District #44. At completion, using 2011 census information for Flathead County student generation rate of 0.31 students per single family unit, this subdivision could generate up to six school-age children.

Parks and Open Space: The applicant is proposing to set aside 0.86 acres of open space (36% of the project). These open spaces include areas along the River, within the development and along the western edge of the project where a paved trail, open to

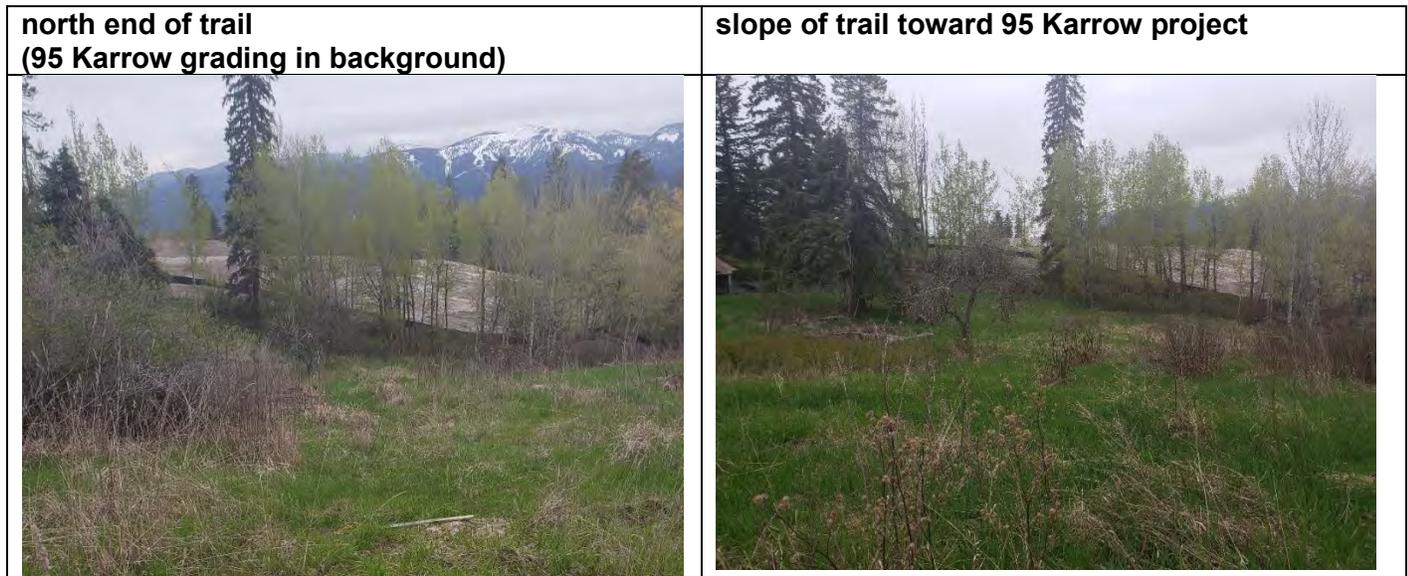
the public will be available. The area along the River will include restoration areas with native plants and construction of a private neighborhood trail. All the open space areas will be held in private ownership and will be maintained privately.

Pursuant to §12-4-11C(4) and §12-4-11C(6), this preliminary plat is exempt from Parkland dedication as required under the Subdivision Regulations because they are providing long-term protection of a water quality protection area which exceeds the requirements of the subdivision regulations. The project is providing 0.86 acres of open space, of which 0.72 acres is along the Whitefish River, where the parkland dedication requirement would be 0.16 acres.

The applicant is proposing an important connection to the Whitefish River pedestrian-bike path along the west side of their property. This path will connect W. 2nd Street to the trails within the 95 Karrow project. While not shown as part of the Whitefish Connect Plan due in part to the extreme topography of Hendrix Avenue and the 95 Karrow development not being fully contemplated during Plan development, it is an important trail connector bisecting the W. 2nd Street block between downtown and Karrow Avenue. The Connect Whitefish Plan does state the City should continue to "prioritize connections between the Whitefish River Trail and existing pedestrian and bicycle facilities that provide safe access to the downtown area, schools and parks" which this path does. As well, during public outreach for the Plan "the community overwhelmingly envisioned a future where residents and visitors can bicycle, walk or jog to downtown, schools, parks and trails outside of town without awkwardly hopping back and forth between paths and sidewalks and city streets and



highways" which this path also achieves. This trail will be 10-feet wide within a 20-foot wide easement open to the public but owned and maintained by the Homeowners Association. The trail grade will not be as severe to the west, as a trail within Hendrix Avenue would be, but it will still not meet grade standards; staff recommends installing a sign warning trail users of its steepness. Staff will recommend the completion of this trail, the easement, and the vacation of the Hendrix right-of-way as a condition of approval.



Police: The project is in the City of Whitefish and will be served by the City Police Department. The proposed development will have some impact on the Whitefish Police Department; however, this subdivision is not anticipated to impact current levels of service.

Fire Protection: The Whitefish Fire Department serves the property. The proposed development will have some impact on the Whitefish Fire Department; however, this subdivision is not anticipated to impact current levels of service. See previous discussion regarding Fire.

Solid Waste: Republic Services is under contract with the City of Whitefish to handle solid waste for the city. Solid waste is taken to the Flathead County Landfill. There is sufficient capacity within the landfill to accommodate the additional solid waste generated from this subdivision.

Medical Services: The Whitefish Fire Department provides emergency medical services to this property with North Valley Hospital within a couple of miles south of this property.

Finding 4: The proposed subdivision does not pose any negative effects on local services because City staff has preliminarily reviewed the project for water, sewer and stormwater; the Fire Department has preliminarily reviewed the proposal for

conformance with the Fire Code, including the roadway width and turning radius. Additional services, such as police and schools, are not anticipated to be affected; adequate park and open space is being set aside for the neighborhood that includes pedestrian and bicycle trails open for the public and Whitefish River buffer areas are being preserved. The Big Mountain River preliminary plat is exempt from Parkland dedication as required under the Subdivision Regulations because they are proposing to permanently set aside open spaces that exceed what is required for subdivisions and they are providing long-term protection of a water quality protection area which exceeds the requirements of the subdivision regulations.

E. Effects on Agriculture and Agricultural Water User Facilities:

This property has not been used for agricultural purposes. No property surrounding the subject project is being used for agricultural purposes.

Finding 5: The proposed subdivision does not pose any negative effects on agriculture or agricultural water users because the property is within the city limits and has direct access to public services and facilities.

F. Compliance with Growth Policy. The project complies with the following 2007 Growth Policy Goals, as applicable.

Chapter 1, Natural Resources Element:

Critical Areas, Goal 1: Preserve and protect critical areas that are environmentally significant in terms of resource value and/or defining the community image and character of Whitefish.

Staff Analysis: This project is meeting the Water Quality Protection regulations with the buffer and setback from the Whitefish River and associated wetland. The application also proposes to remove non-native, noxious weeds from the buffer and repair the land movement within the buffer.

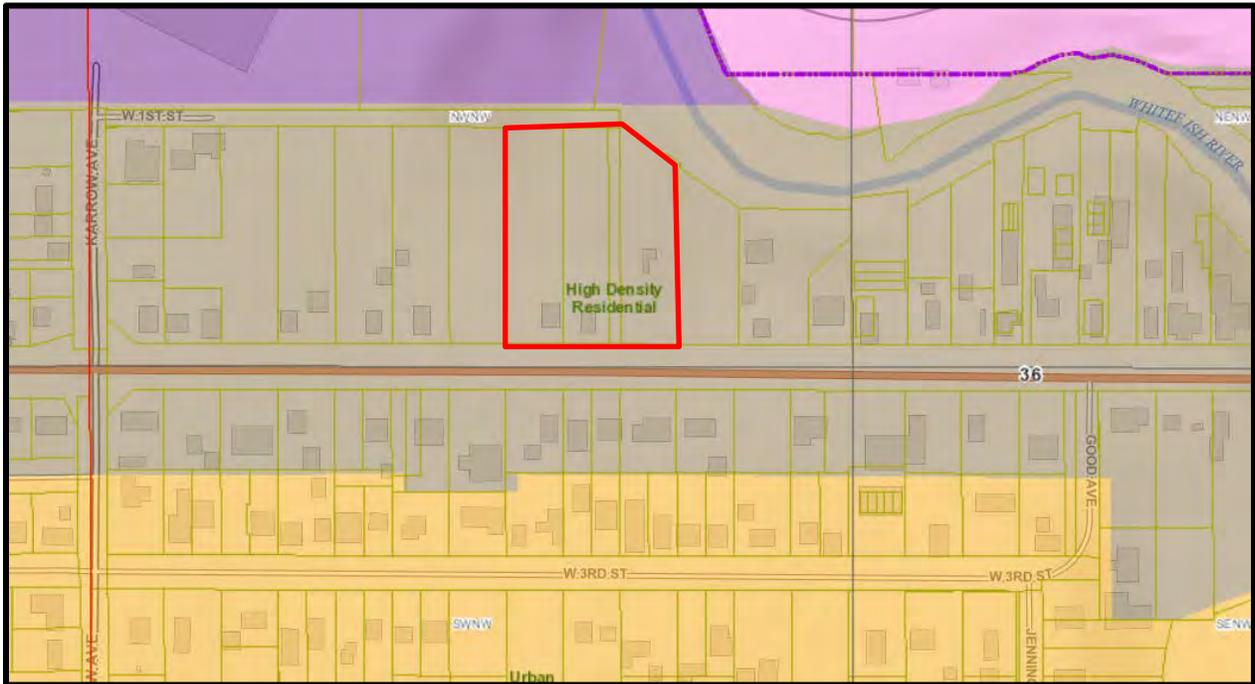
Chapter 3, Land Use Element:

The Growth Policy identifies the parcels as 'High Density Residential' in the Highway 93 W Corridor Plan and 2007 Whitefish City-County Growth Policy.

High Density Residential classification states:

Multi-family residential, mostly in the form of apartments, condominiums, and townhomes, are accounted for by this designation. Areas designated for High Density Residential development are mostly near the downtown and along major transportation routes. All multi-family structures are now subject to architectural review, and the City will be looking for a higher quality of site planning, architecture, and overall development high density projects have exhibited in the

past. The applicable zones are WR-3 and WR-4, but WR-2 with a PUD option also allows for high densities.



In addition, this is an infill project served by all public services and facilities within the city limits which is a priority and main theme in the 2007 Growth Policy versus expanding urban densities and uses into rural areas that would require the extension of public services and facilities.

Staff Analysis: The type of project is consistent with both the zoning and the Growth Policy. The project is infill, as water and sewer are available, and it is located within the city limits. The well-designed project is compatible with surrounding projects many of which are also multi-family oriented.

Chapter 5, Housing Element:

Housing Element, Goal 2: Maintain a social and economic diversity of Whitefish through affordable housing programs that keep citizens and members of the workforce from being displaced.

Staff Analysis: This project will contribute to the Legacy Homes program by providing three deed restricted townhouses and paying a fee in lieu of building the fourth townhouse. These funds will be used for future affordable housing for the local workforce.

2015 Highway 93 W Corridor Plan: These properties are located within 'Area B' of the Highway 93 W Corridor Plan. The Plan noted this area is transitioning from

predominately single-family to other uses including professional offices and personal services. While this plan did not make any recommended changes to the existing land use, it did provide an opportunity for property owners to rezone their properties to a WT-3 (Neighborhood Mixed-Use Transitional District). This applicant is not proposing to change any zoning as the current WR-3 zoning district meets the needs of the project.



Finding 6: The project complies with Growth Policy Designation of High Density Residential because it is zoned WR-3 (Low-Density Multi-Family Residential District), the proposed use is consistent with the WR-3 zone and it is implementing various aspects of the Growth Policy including protecting environmentally sensitive areas, compatible infill development, and contributing toward housing for Whitefish’s workforce.

G. Compliance with Zoning:

The property is zoned WR-3 and is compliant with the permitted uses, density and development standards.

Legacy Homes. The project is obligated to provide four units to comply with the Legacy Homes program (20 x 20%). In the Housing Mitigation Plan (HMP), the applicant is proposing to develop three (3) deed restricted units and pay a fee in lieu for one (1) of the units. The three units will be two two-bedroom units (one at 90% and one at 120%) and one one-bedroom unit (at 80%). The Legacy Homes regulations require the average of the units be at 100% and the project’s average is slightly lower at 96.67%. The applicant is also proposing to pay the 1.5x fee for the fourth unit (\$116,930.00). As the applicant explains in the HMP, the payment of the fee for the 4th unit enables the project to be feasible and for the development of the three units. They also note, it is so early in the process that, if it is determined to be financially feasible, they would like to have the flexibility to develop the fourth unit.

The Whitefish Housing Authority reviewed the proposal and is in support of the request. They are appreciative of the inclusion of three units and payment for the fourth unit. The letter is attached as an exhibit.

When the Whitefish Legacy Homes Program was developed, it was recognized there could be situations and/or locations where affordable housing might not be

suitable or affordable over the long-term. As such, the regulations provide an option to pay a fee in lieu of developing the housing on-site, at 1.5 times the fee rate. Per §11-1A-4A, WCC, circumstances include, but are not limited to:

1. High levels of property tax;
2. High homeowners' association (HOA) dues;
3. A predominance of short-term rentals;
4. Onsite development consisting of condominiums; and
5. Location far from schools, transit or shopping.

Since this is a waterfront development, taxes may be higher and there may be significant HOA dues for maintenance of open space areas. It is the role of the City Council to review and approve alternative means of compliance. (§11-1A-4B, WCC)

Finding 7: The proposed subdivision complies with the zoning because residential is a permitted use for the zoning districts, the applicant is providing three deed restricted townhouses and paying a fee lieu of an additional unit which is an option for projects with approval from Council.

H. Compliance with Whitefish Subdivision Regulations:

Finding 9: With the imposition of conditions, the subdivision complies with the Whitefish Subdivision Regulations.

Variance Request Analysis:

To construct the subdivision in its current design, the applicant has requested two variances:

- The maximum number of flag lots. "Flag lots are allowed with a creative design in either infill subdivisions or new subdivisions provided adjoining flag lots share driveways that meet fire department access standards and the lots comprise no more than fifty percent (50%) of the total lots within the subdivision." (§12-4-12H)

A flag lot is defined as: "An irregularly shaped lot typified by being almost entirely landlocked and having limited access and/or no direct frontage. Access to a public or private road is typically by an extended strip of land either deeded or by easement." Based on the lot configuration, Lots 4-8 are considered flag lots as they do not front on W. 2nd Street. This exceeds the 50% threshold, as five of the eight parent tracts (12 of the 20 sublots) are considered flag lots.

- The private road standard for width and sidewalks according to the design of the plat. The subdivision standards require streets to meet the City of Whitefish Design and Construction standards. (§§12-4-14D and 12-4-15A) The narrowest street standard is 28-feet with curb, gutter, sidewalks and street trees on both sides. The application is proposing a narrower street section of 20-feet with curb and gutter on both sides. Sidewalks are proposed to be on both sides of the north portion of the loop road, but not on the south portion. Street trees will be located in some boulevards.

The subdivision regulations require the Council to review the following criteria before any variance to the subdivision standards be granted. No variance shall be granted unless the criterion can be met or are not applicable §12-2-5C:

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

The granting of the variance will not be detrimental to the public health, safety or general welfare or injurious to adjoining properties because the project is providing adequate space for vehicle maneuvering within the property and the applicant will work with the Fire Department to assure emergency access is provided and MDT on the shared access to W. 2nd Street and all other development standards are being met. Neither the alternative street standard nor the flag lots should have any impact on adjoining properties.

2. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner.

The applicant is requesting this variance due to lot shape, configuration, and topography. This lot is located on the Whitefish River and is not a standard lot and block property where there would be an easier opportunity to develop a standard public street. Due to the limited area to develop, a private road meeting all Fire Department requirements was the solution to develop the property with a WR-3 zoning. The final product and layout with the modified grid pattern are in keeping with the character of Whitefish.

3. Undue hardship is not based exclusively on a personal or financial hardship, or any hardship that is self-imposed.

The applicant is not claiming a personal or financial hardship.

4. The variance will not cause a substantial increase in public costs.

The requested variance should not cause an increase in public costs, as all the infrastructure is privately owned and maintained.

5. The variance will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.

The variances requested will not place the subdivision in nonconformance with any other City regulations or policies.

Finding 10: The variance criteria for the requested greater than 50% flag lots and an alternative street standard are met for the Big Mountain River because it will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties; the request is due to the physical surroundings and shape of the property; the request is not based exclusively on a personal or financial hardship, or any hardship that is self-imposed; it will not cause a substantial increase in public costs; and it will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.

I. Compliance with the Montana Subdivision and Planning Act:

Staff has reviewed the proposal for compliance with the Montana Subdivision and Platting Act and found the requirements have been met.

Finding 11: The proposed subdivision complies with the Montana Subdivision and Platting Act, MCA 76-3.

RECOMMENDATION

It is recommended the Whitefish Planning Board adopt the findings of fact within staff report WPP 20-01 and recommend to the Whitefish City Council the preliminary plat for the Big Mountain River Subdivision as submitted by the applicant, subject to the following conditions and the two subdivision variances requested by the applicant, be **approved**:

1. The subdivision must comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.
2. Except as amended by these conditions, the development of the subdivision must be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as “approved plans” by the City Council.
3. Approval of the preliminary plat is subject to approval of detailed design of all on- and off-site improvements, including drainage and a plan for snow removal and storage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan must include a strategy for long-term maintenance. Fill on-site must be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2019)

4. Prior to any ground disturbing activities, a plan must be submitted for review and approval by the Public Works and Planning & Building Departments. The plan must include, but may not necessarily be limited to, the following:
 - Dust abatement and control of fugitive dust.
 - Hours of construction activity.
 - Noise abatement.
 - Control of erosion and siltation.
 - Routing for heavy equipment, hauling, and employees.
 - Construction office siting, staging areas for material and vehicles, and employee parking.
 - Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
 - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
 - Notation of any street closures or need to work in public right-of-way.(City Engineering Standards, 2019)
5. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on- and off-site infrastructure must be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, streetlights, trails, sidewalks, driveways, etc.) within the development must be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director must approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements must be submitted as a package and reviewed concurrently. Water lines for the homes removed previously need to be abandoned at the main. No individual improvement designs will be accepted by Public Works. (City Engineering Standards, 2019)
6. All areas disturbed because of road and utility construction must be re-seeded as soon as practicable to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, must be removed throughout the life of the development by the recorded property owner or homeowners association. (§12-4-30, WCC)
7. An approach permit must be obtained from the Montana Department of Transportation (MDT). In addition, a permit from MDT must be obtained for any work within the right-of-way. (Finding 1)
8. The existing driveway(s) must be removed and restored with curb, gutter and boulevard landscaping. The applicant must coordinate with the Whitefish Parks Department for any street tree installation or removal. All maintenance of sidewalk, including shoveling, and boulevard, including any irrigation system, is the responsibility of the Homeowners Association. (Finding 4)

9. Street lighting is required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting must be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (§11-3-25, WCC; City Engineering Standards, 2019)
10. The street must be signed for 'No Parking'. (Finding 4)
11. The Fire Marshal must approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-18; Engineering Standards, 2019)
12. A final plan for buffer restoration must be submitted and approved prior to the issuance of the building permit. In addition, a geotechnical letter must be submitted along with building permits for Lots 4-8. (Finding 3; §11-3-29, WCC)
13. The refuse and recycling location must be reviewed and approved by the Public Works Department and Republic Services. (§§4-2, 12-4-21, WCC)
14. A Certificate of Subdivision Approval must be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the storm drainage, water and sewage facilities for the subdivision. (Subdivision Regulations, Appendix C)
15. The public trail connector from W. 2nd Street to the north edge of the property must be installed, as depicted on the site plan. This path, built to City standards with the exception of grade standards, will be open to the public, but owned and maintained by the Homeowners Association. The final details of the trail installation must be submitted to the Parks, Public Works and Planning Departments for review and approval and be signed for steepness. An easement granting public access to the trail must be noted on the final plat. (Finding 4, City Engineering Standards, 2019)
16. The Hendrix Avenue right-of-way must be abandoned, and a 20-foot wide utility easement provided for the sewer main and two-inch waterline serving the homes on the other side of the river. This easement must be reviewed and approved by the Public Works Department and noted on the final plat. (§12-4-29, WCC; Finding 4, City Engineering Standards, 2019)
17. A Water Quality Plan must be submitted for the construction of the homeowners association private trail meeting the requirements of §11-3-29C(5), WCC. (Finding 3)
18. The following notes must be placed on the face of the plat:
 - Building numbers must be located in a clearly visible location.
 - The internal roads shown on the final plat are intended to be privately owned and maintained and open to the public. It is understood and agreed that these internal roadways do not conform to City requirements for public roadways. The owners (and successors in interest) of the lots described in this plat will provide for all-

season maintenance of the private roadways by creation of a corporation or association to administer and fund the maintenance. This dedication is made with the express understanding that the private roadways will never be maintained by any government agency or public authority. It is understood and agreed that the value of each described lot in this plat is enhanced by the private nature of said roadways. Thus, the area encompassed by said private roadways will not be separately taxed or assessed by any government agency or public authority.

- A geotechnical letter must be submitted along with the building permit for Lots 4-8.

(Subdivision Regulations §§11-3-29C, 12-4-6, 12-4-20, WCC; Staff Report Findings 1, 3, 4; City Engineering Standards, 2019)

19. A common off-street mail facility must be provided by the developer and approved by the local post office. (§12-4-24, WCC)

20. Prior to approval of the final plat, the applicant must produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) Homeowners Association providing for long-term maintenance of the:

- Open spaces;
- Westerly trail open to the public;
- Noxious weeds through implementation of the weed management plan. The weed management plan must be submitted to the Planning Department for review and approval prior to final plat; and
- Drainage and storm water management facilities.

(§§12-4-26, 12-4-30, WCC; Staff Report Finding 3 & 4; City Engineering Standards, 2019)

21. Compliance with the Legacy Homes Program approved housing mitigation plan will be met through the development of three (3) deed restricted townhouses and payment of \$116,930 at the time of final plat. (§§11-1A-4A, 11-1A-4D, WCC)

22. Other permits may be required by other governmental agencies and the owner is responsible for obtaining these permits which may include a floodplain permit, a permit from the conservation district and a water quality protection permit.

23. The Big Mountain River preliminary plat is approved for three years from Council action. (§12-3-8, WCC)



Element Review Preliminary Plat Application

RE: Element Review for: Big Mountain River Subdivision

Pursuant to MCA 76-3604(1)(a) and Whitefish Subdivision Regulations Section 12-3-4(A) we have determined your application:

- ✓ **Contains all the required Elements to begin a Sufficiency Review**

Is missing the following Elements:

Until the above-mentioned items are submitted, no further review will occur on your project.

/s/ Wendy Compton-Ring
Staff Signature

3-30-20

Date



Sufficiency Review Preliminary Plat Application

RE: Sufficiency Review for: Big Mountain River

Pursuant to MCA 76-3-604(2)(a) and Whitefish Subdivision Regulations Section 12-3-4(B) we have determined your application:

Contains sufficient detail to commence review of the application. Your application will be scheduled for Planning Board on 5/21/2020 and City Council on 6/1/2020.

Is lacking required detail in the following Elements:

Until the above-mentioned items are submitted, no further review will occur on your project.



Staff Signature

4-21-20

Date



The City of Whitefish would like to inform you that Big Mountain River LLC is requesting an eight lot (20 sublots) subdivision. The property is currently undeveloped and is zoned WR-3 (Low-Density Multi-Family Residential District). The property is located at 244, 314 & 322 W 2nd Street and can be legally described as Lots 1 & 2 Hendrix and Lot 12 Grandview subdivisions in S36, T31N, R22W, P.M.M., Flathead County.

You are welcome to provide comments on the project. Comments can be in written or email format. The Whitefish Planning Board will hold a public hearing for the proposed project request on:

Thursday, June 18, 2020
6:00 p.m.
Whitefish City Council Chambers, City Hall
418 E 2nd Street, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, July 6, 2020** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department and on the Planning Department webpage – Current Land Use Actions: www.cityofwhitefish.org. The public is encouraged to comment on the above proposal and attend the hearing. Please send comments to the Whitefish Planning Department (address below) or email at wcompton-ring@cityofwhitefish.org.

Comments received by the close of business on Monday, June 8, 2020, will be included in the packets to Board members. Comments received after the deadline will be summarized to Board members at the public hearing.



VICINITY MAP

PLANNING & BUILDING DEPARTMENT
PO Box 158
418 E Second
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



Date: May 29, 2020
To: Advisory Agencies & Interested Parties
From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, June 18, 2020 at 6:00 pm in the Whitefish City Council Chambers at **418 E Second Street**. During the meeting, the Board will hold a public hearing on the item listed below. Upon receipt of the recommendation from the Planning Board, the Whitefish City Council will hold a subsequent public hearing for the items 1 & 2 on July 6, 2020 and items 3 & 4 on July 20, 2020. City Council meetings start at 7:10 pm at **418 E Second Street** in the Whitefish City Council Chambers on the second floor.

1. A request by Big Mountain River LLC for an eight lot (20 subplot) subdivision. The property is zoned WR-3 (Low-Density Multi-Family Residential District), is located at 244, 314 & 322 W 2nd Street and can be legally described as Lots 1 & 2 Hendrix subdivision; Lot 12 Grandview in S36, T31N, R22W, Flathead County. (WPP 20-01) Compton-Ring
2. A request by John Shigo and Christina Larsen for a Conditional Use Permit to construct an accessory apartment in an existing structure at 725 Somers Avenue. The property is zoned WR-2 (Two-Family Residential District) and can be legally described as Lot 4, Block 3 McKeens Subdivision in S36, T31N, R22W, Flathead County. (WCUP 20-08) Compton-Ring
3. A request by Eric Holden on behalf of Pamela Secrease for a Conditional Use Permit to construct an accessory apartment above a new garage at 909 Kalispell Avenue. The property is zoned WR-2 (Two-Family Residential District) and can be legally described as Lots 10 and 11 S15', Block 17 Riverside ADD W in S36, T31N, R22W, P.M.M., Flathead County. (WCUP 20-10) Lindh
4. A request by Sweet Peaks Ice Cream, Inc., for a Conditional Use Permit to allow an ice cream manufacturing facility at 6588 Highway 93 South. The property is zoned WB-2 (Secondary Business District) and can legally be described as Lot A of the Best Bet Subdivision in S36, T31N, R22W, Flathead County. (WCUP 20-09) Taylor

Documents pertaining to these agenda items are available for review at the Whitefish Planning & Building Department, 418 E Second Street, during regular business hours, and the application and site plans are available [HERE](#). The full application packet along with public comments and staff report will be available on the City's webpage: www.cityofwhitefish.org under Planning Board six days prior to the Planning Board public hearing date noted above. Inquiries are welcomed.

Depending on state-wide directives, the meeting may be held remotely via WebEx and the public will have an opportunity to comment via an internet connection. Written comments are preferred due to limitations of technology. If a live meeting is held, interested parties are encouraged to send in written comments rather than attending the meeting in person due to the public health crisis. There may be restrictions in place limiting the number of people in any given room, although accommodations will be made for public comment. Comments in writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: dtaylor@cityofwhitefish.org. For questions or further information regarding these proposals, phone 406-863-2410.

June 8, 2020

City of Whitefish
Whitefish, MT 59937

To: Whom it May Concern

REF: Big Mountain River - WHA Opinion

To Whom It May Concern,

The Whitefish Housing Authority has read over the recent Housing Mitigation Plan (HMP) as submitted for the above-referenced project. After a lengthy and detailed meeting with the developer followed by a scheduled board meeting the Whitefish Housing Authority finds no significant deviations from the intended Legacy Homes Program criteria. The proposal or HMP as submitted by the developer to include three units plus a payment in lieu for the 4th unit as one option and a potential 2nd option offering four units is acceptable to the Whitefish Housing Authority and is appreciated.

The board unanimously agrees to submit our recommendation for the Big Mountain River Project Housing Mitigation Plan.

Respectfully,
Lori Collins
Executive Director
Whitefish Housing Authority



City of Whitefish
 Planning & Building Dept
 418 E 2nd St | PO Box 158
 Whitefish, MT 59937
 Phone: 406-863-2460
 Fax: 406-863-2419

File #: _____
 Date: _____
 Intake Staff: _____
 Check #: _____
 Amount: _____
 Date Complete: _____

MAJOR PRELIMINARY PLAT APPLICATION

FEE ATTACHED \$ 6,445.00 & \$100.00
 (see current fee schedule)

INSTRUCTIONS:

- A Site Review Meeting with city staff is required. Date of Site Review Meeting: MARCH 19, 2020
- Submit the application fee, completed application, and appropriate attachments to the Whitefish Planning & Building Department. The City recommends complete applications be submitted a minimum of **sixty (60) days prior** to the City Council meeting at which this application will be heard.
- Schedule a Date and Time with City Staff to Submit the Application: _____ (Date/Time)
- The regularly scheduled meeting of the City Council is the first and third Mondays of each month at 7:10PM in the Council Chambers at 418 E 2nd Street.
- After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Name: Big Mountain River
 Street Address: 244, 314, 322 W 2ND Street, Whitefish, MT 59937
 Assessor's Tract No.(s) 0430750, 0895150, 0110610 Lot No(s) 1,2(Hendrix)&12 (Grandview)
 Block # 1 (Hendrix) & 1 (Grandview) Subdivision Name Hendrix Tracts of WF & Plat of Grandview to WF
 Section 36 Township 31N Range 22W

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish Staff to be present on the property for routine monitoring and inspection during the approval and development process.

[Signature]
 Owner's Signature**

3-18-2020
 Date

Adnan Merchant
 Print Name

[Signature]
 Applicant's Signature

3-18-20
 Date

DAVID S RYDAN
 Print Name

[Signature] ASLA
 Representative's Signature

03/18/20
 Date

[Signature]
 Print Name

***May be signed by the applicant or representative, authorization letter from owner must be attached. If there are multiple owners, a letter authorizing one owner to be the authorized representative for all must be included.

B. APPLICATION CONTENTS:

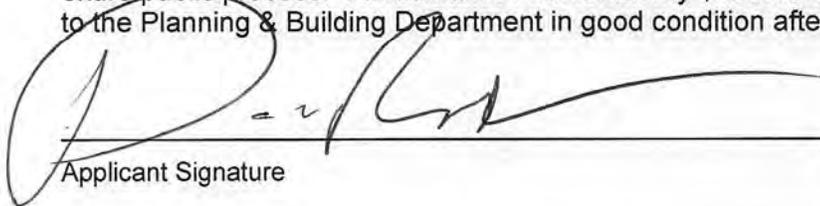
All applicable items required by *Appendix B: Preliminary Plat Submittal Requirements* of the Whitefish Subdivision Regulations must be submitted to the Whitefish Planning & Building Department with the application for preliminary plat, including the following:

Attached ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

- Eight (8) copies of the Preliminary Plat Application and supplemental information
- Electronic version of the entire application and supplemental information (i.e. pdf)
- Eight (8) copies of the preliminary plat
- Eight (8) copies of the Deed and Encumbrance Report (aka "title report"), no more than 90 days old
- Eight (8) copies of the Environmental Assessment (unless a 1st minor from a tract of record)
- Eight (8) copies of the Applicable items from Appendix B of the Whitefish Subdivision Regulations (can be found at: www.cityofwhitefish.org)
- Eight (8) copies of the Housing Mitigation Plan (unless exempt)
- Eight (8) copies of any additional information requested during the pre-application process
- Eight (8) copies of the Fair Market Land Value (state of Montana Department of Revenue for the most current year)
- Eight (8) copies of the Recommendation from the Parks Board – unless exempt 12-410(C)
- \$100 deposit for sign to be posted on site during the duration of the public process (submit a separate check, which will be returned to you after you return the sign to the Planning Office)

When all application materials are submitted to the Planning & Building Department, and the staff finds the application is complete, the staff will schedule the subdivision for a public meeting before the City Council. The Council must act within 60 working days once an application is determined to be complete pursuant to §12-3-5 of the Subdivision Regulations.

I understand I am responsible for maintaining the public notice sign on the subject property during the entire public process. I understand I will forfeit my \$100.00 deposit, if I do not return the public notice sign to the Planning & Building Department in good condition after the public review.


Applicant Signature

3-18-20
Date

C. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name: Big Mountain River, LLC Phone: (615) 299-7395
Mailing Address: 6479 US Highway 93 S, #141
City, State, Zip: Whitefish, MT 59937
Email: _____

APPLICANT (if different than above):

Name: Dave Radatti, Mindful Designs Inc. Phone: (406) 863-9177
Mailing Address: 118 2nd Street W
City, State, Zip: Whitefish, MT 59937
Email: dave@mindfuldesignsinc.com

OTHER TECHNICAL/PROFESSIONAL:

Name: Bruce Boody, Bruce Boody Landscape Architect Inc. Phone: (406) 862-4755
Mailing Address: 301 E 2nd Street, Suite 1B
City, State, Zip: Whitefish, MT 59937
Email: boodyla@bruceboody.com

D. GENERAL DESCRIPTION OF SUBDIVISION:

- Initial Preliminary Plat
- Amendment to an Approved Preliminary Plat
- Change a Condition of Approval to an Approved Preliminary Plat (attach a narrative explaining which condition you are requesting to be changed and why the condition is no longer valid or warranted)
- Re-file of an Expired Preliminary Plat; date preliminary plat expired: _____

ZONING DESIGNATION: WR-3 Low Density Multi-Family Residential

If proposing to change the underlying zoning, proposed zoning: _____

LOTS AND ACREAGE:

Total Acreage in Subdivision: 2.4 Acres Number of Lots or Rental Spaces: 8 Lots, 17 Sublots
Maximum Size of Lots or Spaces: 5,116 SF Minimum Size of Lots or Spaces: 2,424 SF
Total Acreage in Lots: 1.5 Acres Total Acreage in Streets or Roads: .6 Acres

PROPOSED USE(S) AND NUMBER OF ASSOCIATED LOTS/SPACES:

Single Family: _____ Townhouse: 17 Dwelling Units Mobile Home Park: _____
Duplex: _____ Apartment: _____ Recreational Vehicle Park: _____
Commercial: _____ Industrial: _____ Planned Unit Development: _____
Condominium: _____ Multi-Family: _____ Other: _____

CRITICAL AREAS ON-SITE OR NEARBY:

Lake Wetlands Streams Stormwater Conveyance High Groundwater
 Slopes 10-30% Slopes 30%+ Floodplain

PARKLAND/OPEN SPACE PROPOSAL: The following information is required to show how the project meets the parkland dedication requirements of the subdivision regulations (Section 12-4-10). A recommendation from the Park Board is required to be submitted along with the application, unless exempted under the subdivision regulations 12-4-10(C).

- Date of Parks Board Meeting (prior to submitting an application): Exemption 6
- Market Land Value (state of MT Department of Revenue for the most Current Year): \$1,053,121
- Total Acreage in Parks, Open Spaces and/or Common Areas: .86 Acres

IMPROVEMENTS TO BE PROVIDED:

Roads: Gravel Paved Curb Gutter Sidewalks Alleys Other (explain): _____
Water System: Individual Multiple User Neighborhood Public Other (explain): _____
Sewer System: Individual Multiple User Neighborhood Public Other (explain): _____
Other Utilities: Cable TV Telephone Electric Gas Other (explain): _____
Solid Waste: Home Pick Up Central Storage Contract Hauler Owner Haul
Mail Delivery: Central Individual
Fire Protection: Hydrants Tanker Recharge
Drainage System: To be collected and treated on site, and discharged, eventually ending up in the Whitefish River.

E. VARIANCES:

ARE ANY VARIANCES TO THE SUBDIVISION REGULATIONS BEING REQUESTED?

Yes No

If yes, please complete the Variance Section (attached) and submit the applicable fee.

May 26, 2020

Ms. Wendy Compton-Ring, Senior Planner
Whitefish Planning & Building Dept.
418 East Second Street
Whitefish, MT 59937

Re: Addendum to Preliminary Plat Application
Big Mountain River

Dear Wendy:

Recent decisions by the City of Whitefish and the Whitefish Housing Authority related to the above-reference preliminary plat application have necessitated minor adjustments to that application.

The initial proposal included the relocation of the Hendrix Avenue right-of-way, which currently bisects the site north-to-south, to the western edge of the site. The City has agreed to the relocation of the right-of-way but will abandon the right-of-way and require that it be shown on the plat as an easement in its new location. This is significant as building setbacks are required from a right-of-way, but not from an easement. This allows the applicant added flexibility in site-planning.

The applicant had also proposed to pay a fee in lieu of providing on-site affordable housing units. The Housing Authority has rejected that proposal, and is requiring on-site units. The designation of the Hendrix Avenue right-of-way as a (relocated) easement, gives the applicant additional buildable land and the ability to modify the plat to accommodate the required on-site affordable units.

The net result of the above is the addition of one-tenth of an acre of land to the site's total (now 110,875 square feet or 2.5 acres) and three new townhome sublots. A total of twenty sublots on 8 master lots are now proposed. The addition of land and units precipitated a review of the original application and accompanying documentation, and while no significant changes have been made, a number of small adjustments relating to lot size, lot configuration, lot coverage and open space ratios have been made and are reflected on the revised plat drawing.

The rationale for a variance from the subdivision design standard limiting the number of *flag lots* within the subdivision remains unchanged. The only language change relative to the variance application (and a result of the additional land being acquired) is in our response to **(2) Location/Physical Surroundings:**

“....The existing buffer and setback areas total ~~37,661~~ 38,945 square feet (.86 89 acres) and encompass ~~36~~ 37% of the ~~2.4~~ 2.5- acre site.....”

A one-page addendum to the Environmental Assessment is attached. The only notable change to that document is a *decrease* in anticipated vehicular traffic. This downward adjustment to anticipated daily trips is a result of having initially used a factor of ten trips per day per unit (the standard for a detached single family home) rather than our traffic engineer’s estimate of 5.44 trips per day per townhome.

If you have any questions or need clarification of anything herein, feel free to contact our office.

Sincerely,

Bruce Boody, L.A.

VARIANCE REQUEST

Completely address each of the following items, if requesting a variance to the Subdivision Regulations. The Council will use the information provided to evaluate the variance request – all criteria need to be met or found not applicable in order for the Council to grant the variance.

SECTION OF SUBDIVISION REGULATION CREATING HARDSHIP:

12-4-12: LOTS:

*H. Flag lots are allowed with a creative design in either infill subdivisions or new subdivisions provided adjoining flag lots share driveways that meet fire department access standards **and the lots comprise no more than fifty percent (50%) of the total lots** within the subdivision (emphasis added).*

The city's subdivision regulations define a Flag Lot as:

“(A)n irregularly shaped lot typified by being almost entirely landlocked and having limited access and/or no direct frontage except through a driveway abutting a road or street. Access to a public or private street is typically by an extended strip of land either deeded or by easement.”

EXPLAIN THE UNDUE HARDSHIP CREATED WITH STRICT COMPLIANCE OF THESE REGULATIONS:

Three of the proposed eight lots (and seven sub-lots) have frontage on Second Street. This means, by the definition cited above, that the remaining five lots and a total of ten sub-lots are considered flag lots. Because this exceeds the threshold of 12-4-12, highlighted above - more than half of the proposed lots are considered flag lots – the owner is seeking a Variance from this standard. In the absence of flag lots, and as described below, the subject property would remain as three lots, each fronting on West Second Street. It is the applicant's position that due to the property's location, configuration and topographic characteristics (detailed below), the requested variance is a reasonable solution and the minimum relief needed to allow otherwise code-complying development of the site.

PROPOSED ALTERNATIVE(S) TO STRICT COMPLIANCES WITH ABOVE REGULATIONS:

Without the requested variance the site could be subdivided into no more than five lots, with two of those lots being Flag Lots.

ANSWER THE FOLLOWING QUESTIONS IN THE SPACES PROVIDED BELOW:

1. Will the granting of the variance be detrimental to the public health, safety or general welfare or injurious to other adjoining properties? Explain.

No. The requested variance does not involve, or seek approval for, land uses other than residential and does not seek to deviate from any of the city's other development standards. The property remains zoned WR-3, as are properties

adjoining the site to the east and west. Development of the proposed subdivision will adhere to the same density limitations, yard setbacks and open space requirements, as well as building bulk, scale, mass and height standards, as adjoining WR-3-zoned properties. A Mixed-Use Planned Unit Development (“95 Karrow”) is approved on the property to the north of the site – the former Idaho Timber site. The request to deviate from a lot-configuration standard for an otherwise code-complying residential development proposal will in no way be detrimental to persons or properties in the area.

2. How is the physical surrounding, shape or topographical conditions of the property limiting the ability to fully comply with the Regulations?

The subject property possesses several unique characteristics which, when considered in total, preclude an otherwise code-complying request from full compliance with the subdivision regulations. These include:

Topography. *The site possesses a great deal of topographic variety, from relatively flat areas in the southerly portion of the property to steep slopes falling to the Whitefish River at the north/northeast end of the site. Topography effectively influences the scope and location of development on this property.*

Size, Configuration.

*The subject property is comprised of three narrow but deep residential lots. The site is too narrow east-to-west to accommodate a street built to city specifications within a 50- or 60-foot-wide right-of-way. With only +/- 280 feet of frontage on West Second Street, and minimum lot widths of 75 feet required in the WR-3 zone, **any** subdivision of the property into more than three lots will require the use of flag lots.*

Location/Physical Surrounding.

The property is situated between Second Street (Highway 93) West and the Whitefish River. Being a riverfront property with a small river-side wetland, development on the site is subject to increased ‘setbacks’ from the wetland and river. A Buffer no less than 75 feet in width is required for the delineated wetland, and an additional 20-foot-wide setback is required beyond the Buffer. Both of these lines are shown on the face of the preliminary plat, and indicate the areas protected from development. The existing buffer and setback areas total 37,661 square feet (.86 acres) and encompass 36% of the 2.4- acre site. The 100-year floodplain affects this property as well and is also shown on the plat.

The site has frontage on West Second Street, and the proposed subdivision shows a single point of ingress and egress near the center of the property. A private drive extending north from Second Street will serve the townhome development; there are no other viable options in providing access to the site, nor are there opportunities to extend an existing street or right-of-way to or through the property. The property is not in a typical lot and block subdivision grid and there are no improved or adequate easements or alleys to offer alternative access to or exit from the site.

Because the site is narrow and deep, and development is limited to the southerly 2/3 of the site by terrain constraints (soils and slopes) and floodplain and wetland setbacks, the resulting size and configuration of developable area cannot be subdivided to any reasonable (and expected) density in the absence of flag lots.

3. Is the hardship solely a financial hardship or a hardship that has been self-imposed? Explain.

The stated hardship - that due to the site's unique location, configuration and topography, an otherwise fully code-complying residential townhome development cannot be built without utilizing a number of what the city defines as flag lots - is neither a financial hardship nor a self-imposed one.

4. Will the variance cause a substantial increase in public costs? Explain.

No substantial increases for any public entity have been identified. All utility extensions are done at the expense of the developer. The access drive is a private improvement that will be maintained by the owner, and existing city services are adequate to serve the site. Please refer to the Environmental Assessment/Community Impact Report, attached, for further discussion of public costs.

5. Will the variance cause the subdivision to be in nonconformance with any adopted zoning regulations, growth policy or adopted policies or regulations? Explain.

No. Every other aspect of the proposed subdivision is in full conformance with the city's zoning and subdivision regulations. Furthermore, this is exactly the type and scale of development anticipated at this location by the Highway 93 West Corridor Study, an adopted element of the city's Growth Policy.

June 11, 2020

Ms. Wendy Compton-Ring, Senior Planner
Whitefish Planning & Building Dept.
418 East Second Street
Whitefish, MT 59937

Re: Second Variance Request
Big Mountain River

Dear Wendy:

Recent decisions made by the City of Whitefish Public Works Department, regarding street widths, have necessitated a second variance request for the Big Mountain River Project. According to the 2019 City of Whitefish Engineering Standards, the minimum asphalt width for a local subdivision street is 24-feet. However, this width is reduced to 20-feet when following subdivision standards for a private/local street. The applicant respectfully requests that the standards for a private/local street be applied to the Big Mountain River project.

At Big Mountain River's second Pre-Application meeting, on January 31, 2020, the project design team asked Public Works for the street width requirement. At that time, Public Works did not provide a requirement, and left it to the Fire Marshall to approve the proposed street width and turn radiuses. At present, reworking the site layout to include a 24-foot road width would decrease the number of proposed townhome units, and as a result, would eliminate the on-site affordable housing units.

Attached you will find a variance request. If you have any questions or need clarification of anything herein, feel free to contact our office.

Sincerely,

Bruce Boody, L.A.

VARIANCE REQUEST

Completely address each of the following items, if requesting a variance to the Whitefish Engineering Standards. The Council will use the information provided to evaluate the variance request – all criteria need to be met or found not applicable in order for the Council to grant the variance.

SECTION OF REGULATION CREATING HARDSHIP:

**TABLE 6 -1
ROAD DESIGN STANDARDS FOR LOCAL SUBDIVISION STREETS**

DESIGN STANDARDS	ARTERIAL	COLLECTOR	LOCAL	LID/	PRIVATE
				RURAL ¹	LOCAL
Minimum Right-of-Way ²	80 ft.	60 ft.	60 ft.	60 ft.	50 ft.
Minimum Asphalt Width	3	3	24 ft.⁴	20 ft.⁵	20 ft.
Maximum Grade	6%	8%	9%	9%	9%

Cul-de-sac turn around:

- a. Outside Asphalt Radius 50 ft. 50 ft. 50 ft.
- b. Minimum Outside Right-of-Way Radius⁶ 60 ft. 60 ft. 55 ft.

¹ Average net residential density of 1 acre or less. Low Impact Design (LID) requires approval by the City Engineer.

² Terrain and design constraints may dictate greater right-of-way.

³ Design approved by the City Engineer.

⁴ Where parking is required on both sides of street, 34 feet minimum roadway width is needed.

Note: Where density exceeds 8 units/net acre, parking is required on both sides of street unless **overflow/visitor parking demands are met** elsewhere. Zoning requires all parking to be met off street unless approved by Council.

⁵ **No parking allowed on 20 feet rural street.**

⁶ Right-of-way radius is intended to accommodate sidewalk and boulevard requirements.

6.1 DESIGN STANDARDS

6.1.1 General

C. Access driveways are defined as an access serving one or two lots and not more than three dwellings. **Accesses serving more than two lots and three dwellings will be considered a road and must be built to road standards.** This includes lots fronting on the street unless adequate driveway separation can be met.

EXPLAIN THE UNDUE HARDSHIP CREATED WITH STRICT COMPLIANCE OF THESE REGULATIONS:

It is the applicant's position that due to the property's location, configuration and topographic characteristics, the requested variance is a reasonable solution which would allow reasonable, code-complying development of the site. With the exception of the accompanying variance relating to the allowable number of flag lots on the site, the proposed subdivision meets or exceeds all other city standards and regulations.

In the absence of the requested variance(s), it would not be feasible to develop the site with both market-rate and the required affordable dwelling units. The proposed twenty-foot-wide paved streets (private access drives within a townhouse development, not through streets) are capable of handling the anticipated traffic. Please refer to the Environmental Assessment for anticipated traffic numbers.

PROPOSED ALTERNATIVE(S) TO STRICT COMPLIANCES WITH ABOVE REGULATIONS:

Without the requested variance(s) the site could be subdivided into no more than five lots.

ANSWER THE FOLLOWING QUESTIONS IN THE SPACES PROVIDED BELOW:

1. Will the granting of the variance be detrimental to the public health, safety or general welfare or injurious to other adjoining properties? Explain.

No. The requested variance does not involve, or seek approval for, land uses other than residential and does not seek to deviate from any of the city's other land-use development standards. The property remains zoned WR-3, as are properties adjoining the site to the east and west. Development of the proposed subdivision will adhere to the same density limitations, yard setbacks and open space requirements, as well as building bulk, scale, mass and height standards, as adjoining WR-3-zoned properties. A Mixed-Use Planned Unit Development ("95

Karrow”) is approved on the property to the north of the site – the former Idaho Timber site. The request to deviate from a street-width standard for an otherwise code-complying residential development proposal will in no way be detrimental to persons or properties in the area. No on-street parking will be allowed, there is no through traffic possible, and all parking requirements have been met.

2. How is the physical surrounding, shape or topographical conditions of the property limiting the ability to fully comply with the Regulations?

The subject property possesses several unique characteristics which, when considered in total, preclude an otherwise code-complying request from full compliance with the subdivision regulations. These include:

Topography. *The site possesses a great deal of topographic variety, from relatively flat areas in the southerly portion of the property to steep slopes falling to the Whitefish River at the north/northeast end of the site. Topography effectively influences the scope and location of development on this property.*

Location/Physical Surrounding.

The property is situated between Second Street (Highway 93) West and the Whitefish River. Being a riverfront property with a small river-side wetland, development on the site is subject to increased ‘setbacks” from the wetland and river. A Buffer no less than 75 feet in width is required for the delineated wetland, and an additional 20-foot-wide setback is required beyond the Buffer. Both of these lines are shown on the face of the preliminary plat, and indicate the areas protected from development. The existing buffer and setback areas total 37,661 square feet (.86 acres) and encompass 36% of the 2.4- acre site. The 100-year floodplain affects this property as well and is also shown on the plat.

The site has frontage on West Second Street, and the proposed subdivision shows a single point of ingress and egress near the center of the property. A private drive extending north from Second Street will serve the townhome development; there are no other viable options in providing access to the site, nor are there opportunities to extend an existing street or right-of-way to or through the property. The property is not in a typical lot and block subdivision grid and there are no improved or adequate easements or alleys to offer alternative access to or exit from the site.

Because the site is narrow and deep, and development is limited to the southerly 2/3 of the site by terrain constraints (soils and slopes) and floodplain and wetland setbacks, the resulting size and configuration of developable area is limited; wider streets would not better serve the site than the proposed 20-foot widths.

3. Is the hardship solely a financial hardship or a hardship that has been self-imposed? Explain.

The stated hardship - that due to the site's unique location, configuration and topography, an otherwise fully code-complying residential townhome development cannot be built without utilizing flag lots – the subject of another request – and the requested pavement widths, is neither a financial hardship nor a self-imposed one. The owner is asking that a street width allowed by the city's engineering standards in certain applications be allowed at this location. It is not a through street, there will be no parking on the "street" and traffic will be far less than 200 trips per day.

4. Will the variance cause a substantial increase in public costs? Explain.

No substantial increases for any public entity have been identified. The access drive is a private improvement that will be maintained by the owner, and existing city services are adequate to serve the site. Please refer to the Environmental Assessment/Community Impact Report, attached, for further discussion of public costs.

5. Will the variance cause the subdivision to be in nonconformance with any adopted zoning regulations, growth policy or adopted policies or regulations? Explain.

With the exception of the flag-lot variance, the proposed subdivision is in full conformance with the city's zoning and subdivision regulations. This is exactly the type and scale of development anticipated at this location by the Highway 93 West Corridor Study, an adopted element of the city's Growth Policy. The proposed development also features on-site affordable housing units per recently adopted regulations.

The city's engineering standards do include 20-foot pavement widths: the "Low Impact/Rural and the "Private/Local" standards as shown in Table 6-1 above. The applicant respectfully requests that the standards for private/local be applied here.

**APPENDIX B
PRELIMINARY PLAT: SUBMITTAL REQUIREMENTS**

I. SUPPLEMENTS TO THE PRELIMINARY PLAT:

A. A completed and signed subdivision application form.

Attached.

B. The required review fee.

Attached.

C. One or more vicinity map(s) showing:

1. Ingress and egress to the subdivision from the adjoining or nearest public roads.

Vehicular access is proposed off Second Street between Lot 1 of Hendrix Tracts and Lot 12 of Grandview Addition. Traffic circulation will occur via the single access road which provides ingress and egress on to Second Street/Highway 93 West.

2. Any rivers, streams or creeks adjoining or in the vicinity of the proposed subdivision.

The northeastern portion of Lot 12 of Grandview Addition borders the Whitefish River.

3. Names of any adjoining platted subdivisions and/or numbers of adjoining certificates of survey on record in the office of the County Clerk and Recorder. *The proposed subdivision adjoins Lot 11 of Grandview Addition (234 West 2nd Street) to the east, and Lot 3 of Hendrix Tracts (336 West 2nd Street) to the West. See attached drawings.*

4. Location of any buildings, railroads, power lines, towers, roads, and other land uses. *Please refer to the Preliminary Plat drawing.*

5. Any existing or proposed zoning. *As is noted on the preliminary plat, existing zoning for Lots 1 & 2, Block 1 of Hendrix Tracts, and Lot 12 of Grandview Addition is WR-3 Low Density Multi-Family Residential. No new zoning is proposed.*

B. Title report, no more than 90 days old.

Attached in Appendix 1.

C. Any existing covenant and/or deed restrictions.

There are no known covenants or deed restrictions on the property.

D. A preliminary grading plan which includes a weed management plan and a plan for temporary erosion and sedimentation control during development of the site.

See attached erosion and sediment control plan – sheet 2, Appendix 3A. Please refer also to Sheets L3 (Topography) and L6 (Utility and Stormwater Plan). Additionally, weed management measures are described in the Environmental Assessment.

E. A preliminary stormwater management plan for the entire site. See §12-4-25.

See Sheet 6, Utility and Stormwater Plan.

F. Preliminary road and utility layout, which includes water, sewer and storm water.

See Sheet 6, Utility and Stormwater Plan.

G. Parkland dedication calculations.

The net acreage of the subdivision - the total acreage of all lots, is 1.5 acres. Eleven percent of 1.5 acres is .16 acres. Point one six acres must be dedicated as a park, or pay cash in lieu. This project, however, is exempted under the subdivision regulation 12-4-11(C.6) "Where a subdivision provides for long term protection of an area identified as a water quality protection area under section 11-3-29, "Water Quality Protection", of this code, important wildlife habitat; significant cultural, historical or natural resources; agricultural interests of aesthetic values and the land area equals or exceeds the dedication requirements of subsection A of this section;"

H. If applicable, a Critical Areas Report consistent with the requirements outlined in §11-3-29, Critical Areas, of the Whitefish Zoning Jurisdiction Regulations.

A Critical Areas Report describing the stormwater management plan, best management practices, and site restoration will be prepared and submitted to the City for approval prior to Final Plat. The Wetland Delineation and Assessment Report prepared by Calypso Ecological; the Geotechnical Investigation Report prepared by Slopeside Engineering; and a Determination of Buffer and Setback Distance Report prepared by Water & Environmental Technologies are provided as Appendices 5, 3, and 7, respectively.

I. FIRM or FEMA panel map and letter identifying floodplain status.

FEMA Panel 30029C1090J

J. If applicable, a Geotechnical Review:

Attached as Appendix 3 is a Geotechnical Investigation/Report prepared by Slopeside Engineering of Kalispell.

K. If applicable, a copy of the draft covenants for the subdivision.

The draft CC&Rs are attached as Appendix 4.

L. If applicable, a tree preservation plan, §12-4-5.

Please refer to Sheet L4 Tree Preservation Plan. The Environmental Assessment also addresses tree preservation on the site.

M. If applicable, a traffic impact analysis, Section 8.9, Whitefish Engineering Standards.

When the proposed development is completed, the area of the subdivision will average approximately 170 vehicle trips per day based on a factor of ten (10) vehicle trips per day per unit. Public Works requires any development generating 200 or more Average Daily Trips (ADT) to the City street system to complete a Traffic Impact Study (TIS). Therefore, a traffic impact study will not be required as part of the proposed residential subdivision development.

N. If any common area is proposed to be part of the subdivision, the subdivider shall submit a plan for long term management of these areas. If common property and/or facilities within the subdivision are to be maintained by an association of the property owners, the subdivider shall submit a draft of the restrictions which will govern the association. These restrictions shall, at a minimum, provide that:

- 1. The property owners association will be formed prior to sale of any lots within the subdivision;**
- 2. Membership is mandatory for all property owners in the subdivision; and**
- 3. The association is responsible for any liability insurance, payment of taxes on common property and maintenance of common use areas and facilities.**

Please refer to the draft Declaration of Covenants, Conditions and Restrictions for Big Mountain River, attached as Appendix 4.

Q. If the subdivision will be phased, a phasing plan as part of the preliminary plat submittal, the subdivider may propose to delineate on the preliminary plat two or more final plat filing phases and establish an estimated schedule for completion.

Phasing of the subdivision is not proposed.

R. A community impact report, for both major and minor subdivisions, assessing the anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection as outlined in Appendix F.

See below.

S. An environmental assessment, if required.

See below.

T. If the subdivision will be utilizing on-site water and / or sewage treatment, the subdivider shall provide information on the new water supply and / or wastewater facilities that includes information that is provided on the forms and format required by the Montana Department of Environmental Quality for the use of on-site water and waste water facilities, as required under §76-3-622 of the MSPA.

N/A

U. Any other land use applications that may apply to the project such as a: rezone application, planned unit development application, variance request, growth policy amendment (text or map), etc.

N/A.

V. Other items identified by the planning director or designee through the pre-application process.

N/A

Big Mountain River Preliminary Plat
Addendum to Environmental Assessment
May 26, 2020

PART 1 – RESOURCE ASSESSMENT

No changes.

PART II - SUMMARY OF PROBABLE IMPACTS

3. Effects on Local Services

a. Indicate the proposed use and number of lots or spaces proposed for the subdivision, i.e. single family residential, multi-family residential, commercial, industrial.

The preliminary plat indicates subdividing the property into eight lots with a total of ~~seventeen~~ twenty sub-lots. Two- and three-bedroom residential townhomes are proposed, in two- and three-unit configurations as follows:

- *Lots ~~1, 2, 4, and 5 and 7~~ each contain a ~~two-bedroom~~, 2-unit (“duplex”) townhouse.*
- *Lots 1 and 3 each contain a ~~two-bedroom~~, 3-unit (triplex) townhouse.*
- *Lots ~~6, 7, and 8~~ each contain a ~~three-bedroom~~, 2 3-unit (duplex”), riverfront townhouse.*

In total, the subdivision contains ~~seventeen~~ twenty townhouse dwelling units.

PART III - COMMUNITY IMPACT REPORT

2. Roads and Maintenance

a. Estimate how much daily traffic the subdivision, when fully occupied, will generate on existing streets and arterials.

When the proposed development is completed, the ~~area of the~~ subdivision will average approximately ~~170~~ 109 vehicle trips per day based on a factor of 5.44 vehicle trips per day per unit.

Sources

14. Bob Abelin, P.E.

Abelin Traffic Services

Helena, MT

Prepared by: Brian Wood Address: 201 2nd St. #1b, Whitefish 59937



ZONING REPORT

ORDER NO.: 978FPT

TO: Frampton Purdy

DATE: February 7, 2020

RE: Big Mountain River, LLC
244 W 2nd Street, Whitefish, MT 59937
314 W 2nd Street, Whitefish, MT 59937
322 W 2nd Street, Whitefish, MT 59937

FEE: \$150.00

The assurances referred to on the face page are:

According to Flathead Premier Title Company, LLC's property records relative to the following described real property (but without examination of the Company records maintained and indexed by name):

TRACT 1:

Lot 12, Block 1 of Grandview Addition to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

EXCEPTING THEREFROM

That portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 14, 2012 as Document No. 201200003374, records of Flathead County, Montana.

TRACT 2:

Lot 1, Block 1 of Hendrix Tracts of Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

EXCEPTING THEREFROM

That portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 15, 2012 as Document No. 201200003421, records of Flathead County, Motion.

TRACT 3:

Lot 2, Block 1 of Hendrix Tracts to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

EXCEPTING THEREFROM

That portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 15, 2012 as Document No. 201200003422, records of Flathead County, Montana.

The last recorded instruments purporting to transfer title to said real property is:

Warranty Deed in favor of Big Mountain River, LLC, a Montana limited liability company, recorded May 26, 2017 as Document No. 201700010756, records of Flathead County, Montana.

NOTE: We did not find any covenants or deed restrictions on properties described above.

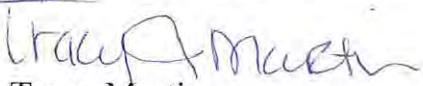
This report is based on a search of our tract indexes of the records of the Flathead County Courthouse. This is not a title or ownership report and no examination of the title to the aforementioned real property has been made. No liability beyond the amount paid for this report is assumed for this reason. Flathead Premier Title Company, LLC is not responsible beyond the amount paid for this report in connection with any errors and/or omissions contained herein.

No examination has been made of the records of Flathead Premier Title Company, LLC maintained and indexed by name, nor has an examination been made regarding matters affecting any deed(s) of trust or mortgage(s) shown in this Zoning Report, or other matters which may affect any such deed(s) of trust or mortgage(s). No report is made regarding any liens, claim of lien, defects or encumbrances other than those specifically set forth in this report. If this report was requested by reference to a *street address*, no assurances or guarantees are made that the aforementioned real property is the same as the address provided to Flathead Premier Title Company, LLC. No examination has been made with respect to the identity of the party named in the last recorded instrument purporting to transfer title to the aforementioned real property, or with respect to the validity, legal effect or priority of any matter reflected in this report.

If you are interested in additional services or title insurance coverage, or questions about additional services available, please contact Flathead Premier Title Company, LLC at 406-752-7000.

Thank you for your continued business.

Report prepared by:



Tracy Martin

Flathead Premier Title Company, LLC

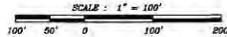
By: SANDS SURVEYING, Inc.
 2 Village Loop
 Kalispell, MT 59901
 (406) 755-6481

in NW1/4 SEC. 36,
 T.31N., R.22W., P.M.M., City of Whitefish, FLATHEAD COUNTY, MONTANA

CERTIFICATE OF SURVEY



COS# 21154



Purpose: RETRACEMENT

JOB NO: 819186 (Project 819151)
 DATE: MAY 10, 2019
 COMPLETED DATE: 6/26/2019
 FOR: BRUCE BOODY
 OWNER: BIG MOUNTAIN RIVER LLC

DESCRIPTION:

THREE TRACTS OF LAND, SITUATED, LYING AND BEING IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

LOT 1:

Lot 1, Block 1 of the Plat of the Hendrix Tracts of Whitefish, Montana (records of Flathead County, Montana), EXCEPTING THEREFROM that portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed Document No. 201200003421 (records of Flathead County, Montana) and containing 0.697 ACRES; Subject to and together with all appurtenant easements of record.

LOT 2:

Lot 2, Block 1 of the Plat of the Hendrix Tracts of Whitefish, Montana (records of Flathead County, Montana), EXCEPTING THEREFROM that portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed Document No. 201200003422 (records of Flathead County, Montana) and containing 0.871 ACRES; Subject to and together with all appurtenant easements of record.

LOT 12:

Lot 12, Block 1 of the Plat of Grandview addition to Whitefish, Montana (records of Flathead County, Montana), EXCEPTING THEREFROM that portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed Document No. 201200003374 (records of Flathead County, Montana) and containing 0.016 ACRES, more or less; Subject to and together with a retaining wall easement as shown hereon; Subject to and together with all appurtenant easements of record.

THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY, AND FLATHEAD PREMIER TITLE ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.

LEGEND:

- Set 1/2"x24" Rebar & Cap (79765)
 - Found 5/8" Rebar & Cap (100095)
 - Found 1/2" Rebar & Cap (79765) (unless noted)
 - Found 5/8" Rebar & Cap (95265L)
 - Found 5/8" Rebar & Cap (298985)
 - Found 2" Alum. Cap MDOH (147425L)
 - Found 1/2" Rebar & Cap (23435)
- POB Point of Beginning
 (P) Found Information
 (R) Record Information Per Plat of Hendrix Tracts
 (R1) Record Information Per Amd. Plat of North Half of Lot 9, Block 1 Hendrix Tracts
 (R2) Record Information Per Plat of Hendrix Tracts Lot 7 and 8 Revisited
 (R3) Record Information Per COS 19732
 (R4) Record Information Per Amd. Plat of Lots 9 & 10 of Grandview Addition to Whitefish, Montana
 (R5) Record Information Per COS 9540

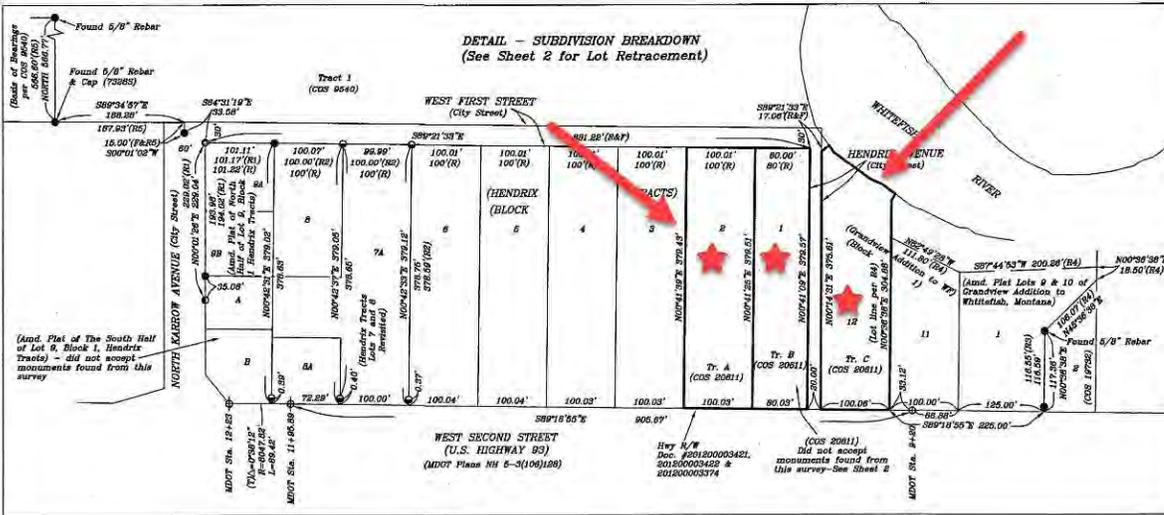
Surveyor's Notes:
 Ownership extends to low water per 70-16-201 and 70-20-201(5), M.C.A.

See Detail on this sheet for record boundary information and subdivision breakdown.

Monuments found from COS 20611 and Amd. Plat of The South Half of Lot 5, Block 1, Hendrix Tracts are too far out of tolerance and therefore not accepted by this surveyor.

Surveyor has made no investigative or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

DETAIL - SUBDIVISION BREAKDOWN
 (See Sheet 2 for Lot Retracement)



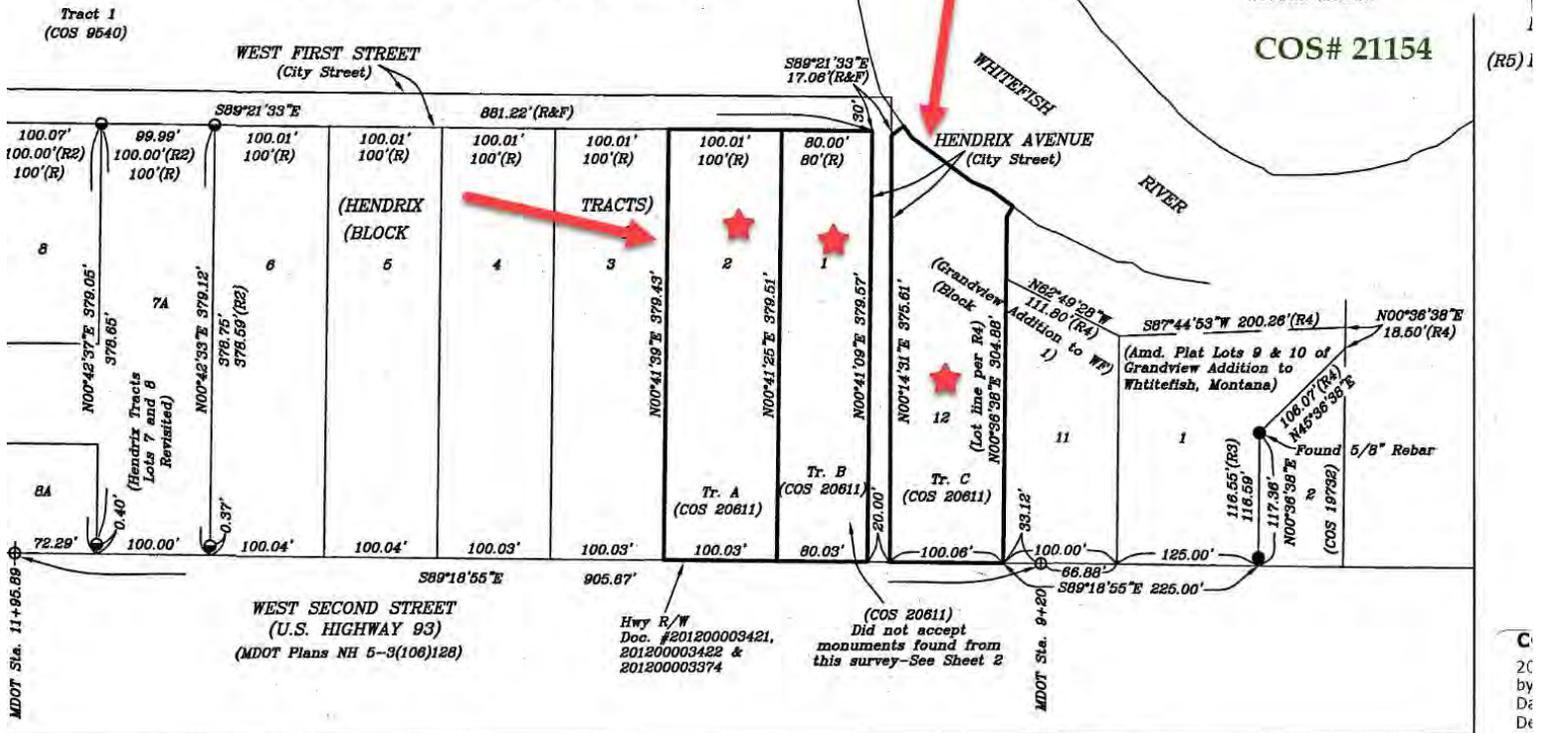
CERTIFICATE OF SURVEYOR
 THOMAS E. SANDS 7975-5
 APPROVED: June 17, 2019
 EXAMINING LAND SURVEYOR
 REG. No. 141775L5
 STATE OF MONTANA, SS
 COUNTY OF FLATHEAD)
 FILED ON the 26 DAY OF June 2019
 AT 1:02 PM. paid fee 26.50
 Debbie Purdon
 CLERK & RECORDER
 BY: S. Full
 DEPUTY
 INSTRUMENT REC. No. 261900012169

COS# 21154
 20190012860 Fees: \$26.50 by: SC
 by SANDS SURV
 Date 6/26/2019 Time 1:02 PM
 Debbie Pierson, Flathead County Montana

SHEET 1 OF 2
 CERTIFICATE OF SURVEY No. 21154

THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY, AND FLATHEAD PREMIER TITLE ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.

DETAIL - SUBDIVISION BREAKDOWN
(See Sheet 2 for Lot Retracement)



By: SANDS SURVEYING, Inc.
 2 Village Loop
 Kalispell, MT 59901
 (406) 755-6481

in NW1/4 SEC. 36, **CERTIFICATE OF SURVEY**
 T.31N., R.22W., P.M.,M., City of Whitefish, FLATHEAD COUNTY, MONTANA



JOB NO: 819.186 (Project 819.151)
 DATE: MAY 10, 2019
 COMPLETED DATE: 6/26/2019
 FOR: BRUCE BOODY
 OWNER: BIG MOUNTAIN RIVER LLC

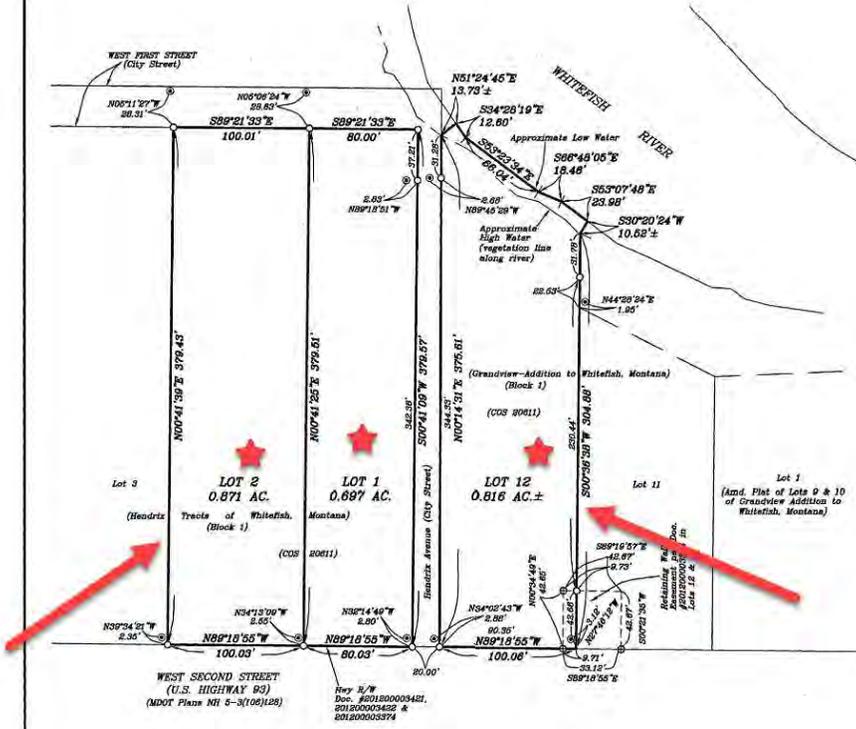
SCALE: 1" = 60'
 50' 25' 0' 50' 100'

Purpose: RETRACEMENT



COS# 21154

THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY, AND FLATHEAD PREMIER TITLE ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.



Surveyor's Notes:

Ownership extends to low water per 70-16-201 and 70-20-201(5), M.C.A.

See Detail on Sheet 1 for record boundary information and subdivision breakdown.

Monuments found from COS 80611 and Amd. Plat of The South Half of Lot 9, Block 1, Hendrix Tracts are too far out of tolerance and therefore not accepted by this surveyor.

Surveyor has made no Investigative or independent search for encumbrances of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

LEGEND:

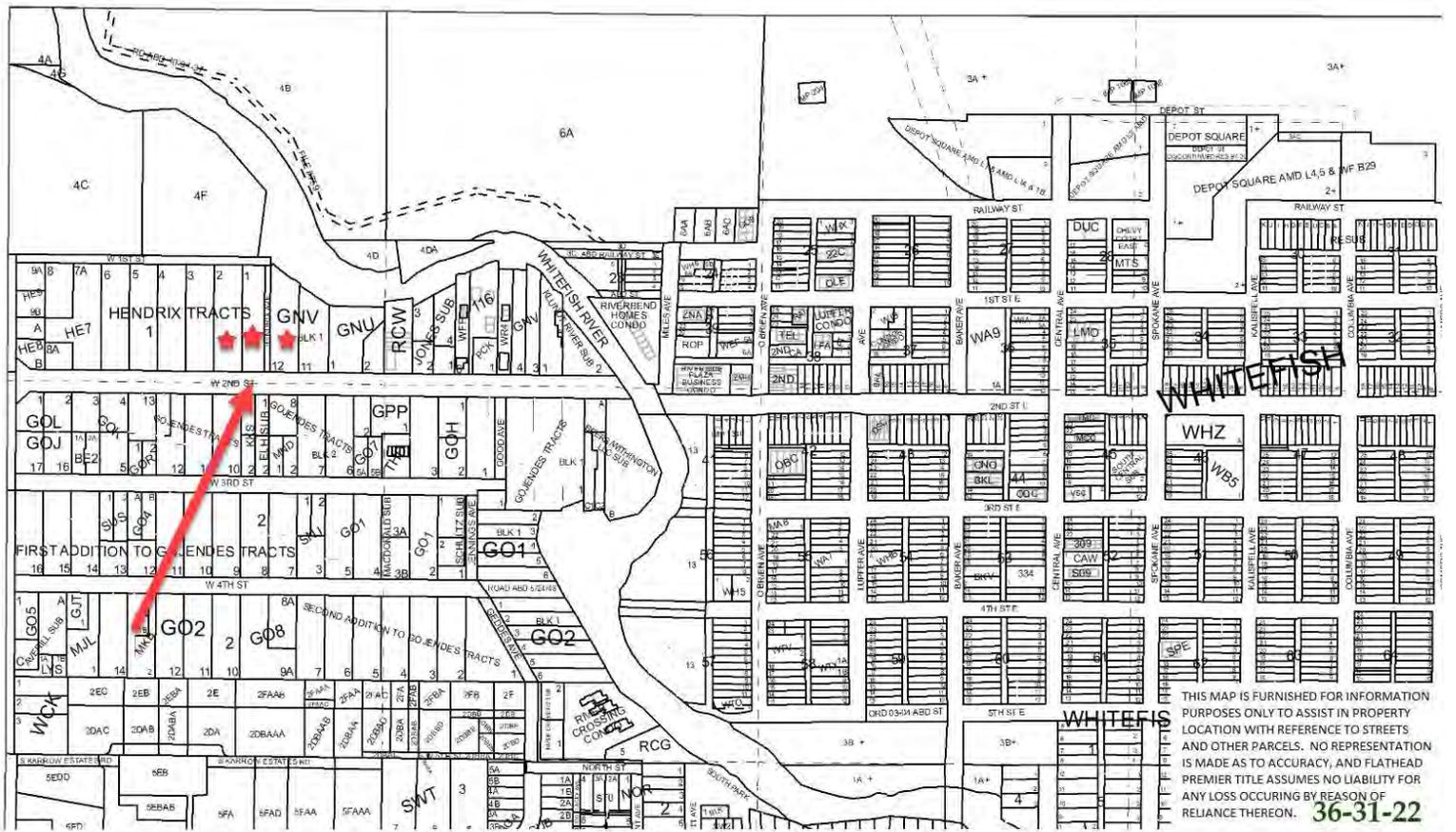
- Set 1/2"x24" Rebar & Cap (7975S)
 - Found 5/8" Rebar & Cap (10009S)
 - Found 1/2" Rebar & Cap (7975S) (unless noted)
 - Found 5/8" Rebar & Cap (9525LS)
 - Found 5/8" Rebar & Cap (2989ES)
 - Found 2" Alum. Cap MDOH (1474LS)
 - Found 1/2" Rebar & Cap (2343S)
- POB Point of Beginning
 (F) Found Information
 (R) Record Information Per Plat of Hendrix Tracts
 (R1) Record Information Per Amd. Plat of North Half of Lot 9, Block 1 Hendrix Tracts
 (R2) Record Information Per Plat of Hendrix Tracts Lot 7 and 8 Revisited
 (R3) Record Information Per COS 19732
 (R4) Record Information Per Amd. Plat of Lots 9 & 10 of Grandview Addition to Whitefish, Montana
 (R5) Record Information Per COS 9540

COS# 21154

201900012860 Fees: \$26.50 by: SC
 by SANDS SURV
 Date 6/26/2019 Time 1:02 PM
 Debbie Pierson, Flathead County Montana

SHEET 2 OF 2

CERTIFICATE OF SURVEY No. 21154



THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY, AND FLATHEAD PREMIER TITLE ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON. 36-31-22

INFORMATION
SUBDIVISION ACRES
SECTION 640.00
ALL 1/4 1/4 40.00

SURVEYS OF RECORD

D.E.

547= WFSH L21, S2 22 B42
383/460= RIVERSIDE IMP CO AC L11, 12
499/953= 6, 6AAA
499/497= GOJENDES TR L15 B2
490/812= 5DCB, RIVERSIDE IMP CO AC
490/813= 5DCB, RIVERSIDE IMP CO AC
493/345= 2FAA, 2DUBAA
496/118= GOJENDES TR L12 B2
496/484= GOJENDES TR L15 B2
498/671= 5DCB, RIVERSIDE IMP CO AC
507/802= 6AA
510/242= 5EDA
510/746= 8B, 8A, 9A, 9B, 10A, 11A
512/534= 4B, 5AC, 5AB
515/960= 5C, 6B
523/191= 5AB
528/601= 5BBG, 5BBB
541/265= 4D, 4DA
544/721= WFSH L15, 16 B31
553/742= 11D, 12
612/431= WFSH L1-8 B42

C.S.

1248= GOJENDES TR B1
1418= RIVERSIDE IMP CO AC 8B,8A,9A,9B,10A
1452= RIVERSIDE IMP CO AC 10,11,11B,12A
1465= WFSH L10,11,12 B60
1506= WFSH L23,24,25 B38
1517= RIVERSIDE ADD L10, 11, B1
1561= RIVERSIDE ADD L9,10,11,12 B10
1739= RIVERSIDE ADD L12 B1
2058= 5BBG, 5GD
2072= GOJENDES TR L6 B2
2206= 2EA, 2DA FT
2528= GOJENDES TR L7 B2
2529= GOJENDES TR L15 B2
2939= S WFSH ADD L12 B4
2976= RIVERVIEW ADD L9 B5
3015= GOJENDES TR L16 B2
3106= S WFSH L3 B4
3190= RIVERSIDE ADD L9 B12
3199= RIVERSIDE ADD L16 B1
3223= WELLS AND GRANT L17, 18 B3
3224= RIVERVIEW ADD L1 B1
3225= RIVERVIEW ADD L7 B4
3282= RIVERSIDE ADD L18 B1
3422= RIVERSIDE ADD L2, 3, 4 B4
3464= RIVERSIDE IMP CO AC 11D, 12
3466= GOJENDES TR ADD L12 B2
3853= 2FAB,2DAB,2FA,2DFA,2FAC,2DABD,
2FAA,2DBAA,2FAAA,2FAAC,2DBAAB,
2DBAC,2DBABA,2DBAA,2FAAA,2FAAC,
2DBAAB,2DBAC,2DBABA
3888= 2F,2FB,2FA,2FAB,2FA,2DFA,2DAB,
2DDBD,2DDB,2DB
4276= WFSH L9,10,11,12 B45
4614= WFSH L20,21,22 B37
4693= WFSH L19,20 B36
4692= S WFSH L1,2,4 B6
5200= WFSH L13,14 B36
5329= 2E, 2DA
5374= 5DBD, 5BD, 5BG, 5BGA
5397= RIVERSIDE ADD L11,12 B16
5568= WHITEFISH L9 B44
5739= RIVERSIDE ADD L6 B5
5817= S WFSH L1,2,3 B1
5858= WELLS AND GRANT L18,19 B3
5865= 5ED, 5EBA, 2E, 2DA
5942= RIVERSIDE ADD L11 B2
6164= 5F, 5FAA, 5LA
6212= 5EB, 5EBA, 5F, 5FA, 5FAA
6287= RIVERVIEW ADD L6 B4
6331= RIVERSIDE ADD L9,10,11,12 B11
6645= RIVERSIDE ADD L3 B5
6646= RIVERSIDE ADD L1 B16
6671= 5F, 5FB
6801= 5ED, 5EDD
6802= 2DA, 2E, 2DAB, 2EB
6819= 2E, 2DA, 2EC, 2DAC
6827= WFSH L18,19,20 B27
7007= 5FA, 5FAA, 5LA
7064= GOJENDES TR ADD L1 L16 B2
7072= RIVERSIDE IMP CO AC L13
7073= WHITEFISH B40
7148= 5FC
7155= 5BBC
7109= S WHITEFISH L1 B4
7210= WHITEFISH L1-16 B59
7213= GOJENDES TR ADD L1,2 B1
7294= WFSH L8-18 B39
7334= RIVERSIDE ADD L10,11 B12
7365= RIVERSIDE IMP CO AC 4AAA
7500= 3A
7611= 2DBD, 2DBE, 2DBBC, 2DBBB RTMT
7657= 5FAA, 5F, 5FF
7697= 5FF
7716= 5BC, 5BCA
7721= GOJENDES TR S122 L13 B2
7732= 5BC
7823= 5BE,5BEA,5BEB,5H,5HA,5J,5LA
7944= GOJENDES TR S2 L14 B2
8258= WFSH L1,2, N2 3 B49
8279= WFSH L20,23 B38, L8, 10 B25 RTMT
8570= GRANDVIEW ADD E75 L5 B1
8575= 2DAB, 2EB
8618= RIVERSIDE ADD L10 B13 RTMT
8756= RIVERSIDE ADD L7,8 B5 RTMT
8890= GOJENDES TR ADD 2 L3,4,5 B1 RTMT
8914= GOJENDES TR L5 B2
9076= GOJENDES B1 RTMT
9111= WFSH L15-21 B61
9115= HENDRIX TR L9 B1 RTMT
9134= WFSH ADD L1 B7 RTMT
9172= GOJENDES TR ADD 2 L1, 2 B2
9376= RIVERSIDE ADD L10 B3
9540= 4A
9626= 3AC
9629= RIVERSIDE ADD L2,3, W2 4 B2 RTMT
9730= WFSH L1-8, 19-25 B43
9739= 9A,10A,11A,13CCCA RTMT

11301= GOJENDES TR ADD L1 L7 B2
11311= RIVERVIEW ADD L14, 13 W6 B2 RTMT
11336= WFSH L19-23 B33 RTMT
11337= RIVERVIEW ADD L12,13 B2 RTMT
11434= WFSH L16, 17 B54 RTMT
11482= GOJENDES TR N150 L8 B2 RTMT
11547= 5BE,5BEA,5BEAA,5BEAB,5J,5HA,5LA
11639= WFSH L8,9,10,11,12 B38 RTMT
11774= WFSH L5, 6, N2 7 B60 RTMT
11825= RIVERSIDE IMP CO AC L11, 12
11865= 5FAA, 5FAAA
11865= RIVERSIDE ADD L1,2,3,9,10,11,12 B1 RTMT
11882= WFSH L6,7,8 B45, WFSH AMD L9,10,10,845 RTMT
11987= WFSH LAND CO ADD L1,8 B2
11987= RIVERVIEW ADD W62 3 L8 B6
12007= RIVERSIDE IMP CO AC L9
12066= GOJENDES B1 RTMT
12107= RIVERSIDE ADD L12,13 B2 RTMT
12129= NORTHS SUB S WFSH L1,5,6 B1 RTMT
12157= WFSH L8,9,10 B53 RTMT
12158= RIVERSIDE ADD L4 B7 RTMT
12189= WFSH L23, 24 B59 RTMT
12274= WFSH L23 B37 RTMT
12337= WFSH L19-22 B58 RTMT
12455= WFSH L19 B37 RTMT
12629= RIVERSIDE ADD L7,8 B1 RTMT
12654= RIVERVIEW ADD L7 B3 RTMT
12754= SOUTH WFSH L1-4 B5 RTMT
12809= WFSH L3 B25 RTMT
12814= WFSH LAND CO ADD L1,2 B7 RTMT
13185= RIVERVIEW L1, 2,3 B2 RTMT
13207= RIVERVIEW ADD L3 B1 RTMT
13222= RIVERVIEW ADD L1,2 B3 RTMT
13255= SOUTH WFSH L1 B2 RTMT
13256= WHITEFISH L11,12 B53 RTMT
13363= RIVERSIDE ADD L14 B2, L1 AMD L15 B2 RTMT
13464= SOUTH WFSH ADD L1,5 B3 RTMT
13489= RIVERSIDE ADD L1,2,3,4 B4 RTMT
13526= RIVERVIEW ADD L1 B1 RTMT
13530= RIVERSIDE ADD L1,2,3,9,10,11,12, ALLEY B11 RTMT
13621= 3AE
13678= RIVERVIEW ADD L2 B1 RTMT
13701= 5BA RTMT
13783= 6A, 6AD, 6AC, 6AB, 6AA, 3D RTMT
13839= 1CE RTMT
14080= SOUTH WFSH ADD L1, 2, 3, L4 B1 RTMT
14081= WHITEFISH L23, 24, 25 B38 RTMT
14073= 6A, 6AA, 7C, 7AA RTMT
14144= WHITEFISH L14, 15 B50 RTMT
14186= RIVERSIDE ADD L6 B3 RTMT
14197= 5B, 5LA
14323= WHITEFISH L10, 11 B49 RTMT
14442= RIVERSIDE ADD L12 B6, WTSACT 1ST ADD L8 B2 RTMT
14474= RIVERSIDE IMP CO AC L13 EASE
14487= WHITEFISH L15-19 B38 RTMT
14561= WHITEFISH PT B36-38,42-44 RTMT
14592= WHITEFISH PT B53 RTMT
14567= WHITEFISH L4S2, 5-8 B59 RTMT
14616= WHITEFISH L15, 16 B51 RTMT
14701= WFSH L8 S22 5, 7 B39 RTMT
14976= WFSH L1,2,3 B 47 RTMT
14983= RIVERSIDE ADD L11, 12 B14 RTMT
16044= WFSH L1,2, ABD ST B58 RTMT
15233= WFSH L8 B26 RTMT
15234= WFSH ADD L1,3 B8 RTMT
15249= WFSH LAND CO ADD L1,4 B5 RTMT
15304= RTMT LINE
15333= RIVERVIEW ADD TO WF W2 L7 B6 RTMT
15369= WF L2-4 W18, L2-4 E22 OF W40 RTMT
15456= RIVERVIEW ADD TO WF L1, 2 B6 RTMT
15534= 2G, 2DC RTMT
15535= WHITEFISH L1 B38 RTMT
15536= WHITEFISH L18, 19, 20 B49 RTMT
15537= 2, 5G RTMT
15538= RIVERSIDE ADD L2, 3, 4 N50 B4 RTMT/EASE
15547= WELLS GRANT ADD L11 B3 RTMT
15724= 6AA RTMT
15767= 5BDB, 5BGA, 5BDBA, 5BGA FT
15827= RIVERSIDE ADD L5, 6 B12 RTMT
15890= MCKEENS SUB W60 L6 B4 RTMT
15897= WF LAND 1ST ADD L8 RTMT
15915= RIVERSIDE ADD L2, B12 RTMT
15956= WHITEFISH L13 B57 RTMT
15976= RIVERSIDE ADD WF L12-18, TRB B2 RTMT
RIVERSIDE ADD WF TRB B2
15987= RIVERSIDE ADD L1 RESUB L7,8, B6 RTMT
16020= WFSH L20-24 B51 RTMT
16108= WFSH L8 B28 R1 M1
16167= RIVERSIDE ADD WF L8 B8
16379= BIG MTN GLASS SUB L1 RTMT
16432= WFSH L13 BLK 56, L13 BLK 57 RTMT
16438= WF LAND CO 1ST ADD L7 B8 RTMT
16543= WFSH L16,17,18, B47 RTMT
16546= 5BAA, 5BAAA FT
16568= WFSH L23 N1/2, L24 B54 RTMT
16673= WFSH L13,14,AMD BLK 30,31 RTMT
16783= WF L13,14 BLK 38 RTMT
16784= WF L14 E40 BLK 25 RTMT
16808= RTMT RAW
16818= 2FAAB, 2DBAAA RTMT
16875= RIVERSIDE ADD RTMT L4,5, B9 RTMT
16912= WFSH L24, 25 B48 RTMT
16913= 2 MTG
16914= WFSH L23 B35 RTMT
16939= WFSH L11-20 B26 RTMT
17033= WFSH L19 B51 RTMT
17035= WFSH L1-5 B23 RTMT
17143= WFSH L13-16 B59 RTMT
17235= RIVERSIDE IMP CO AC L13 RTMT
17243= 2FB, 2F, 2DBB, 2DB, 2BBE CRT ORD
17503= WFSH L1-3 B26 RTMT
17327= WFSH PTN L1,3 B62 RTMT
17341= WFSH L10-12 B57 RTMT
17389= WFSH L1, 2 B51 RTMT
17478= WFSH AMD L6-10, B30 RTMT
17486= WFSH L2,3, B45 RTMT
17610= RIVERVIEW ADD L6, S15 L5 RTMT
17637= SOUTH WFSH 1ST ADD L5 W40 N2 B14
17638= RIVERSIDE ADD TO WF
L7-10 B15, L6-8 B16 RTMT
17701= WHITEFISH L6-10, B 27 RTMT
17754= 5FA, 5FAD FT
17789= WHITEFISH L1-4 B57 RTMT
17824= WHITEFISH E68 L3-4 B24 RTMT
17835= RIVERSIDE ADD WF L4 B10 RTMT
17882= WHITEFISH L20, 21, 22 RTMT
17883= WFSH L1-3 B26 RTMT

19298= RIVERSIDE ADD WFSH L4-5 B16 RTMT
19306= TUBBS ADD L9,10 RTMT
19321= TUBBS ADD L8 RTMT
19389= WFSH L13-15 B62 RTMT
19437= WELLS AND GRANT ADD L9-10 B2 RTMT
19500= RIVERSIDE ADD TO WF L4, 5, 6, 7 B2 RTMT
19509= WFSH L6 B25 RTMT
19534= WFSH L5 B25 RTMT
19552= WELLS AND GRANT L13-16, B3 RTMT
19633= WFSH LAND CO ADD L1, 1, B3 RTMT
19690= KUJNDT RIVER SUB L1 RTMT
19690= WFSH L1,16 B25 RTMT
19732= GRANDVIEW AMD L9,10 L2 RTMT
19733= WHITEFISH LAND CO AD L1,6 B4 RTMT
19843= WFSH L1,3, PT ABD ALLEY B41 RTMT
19878= RIVERVIEW ADD WF L1 B2, L12,18 B3, TR B RTMT
19923= WF LAND CO 1ST ADD L2 B6 RTMT
19924= WHITEFISH L1 B25 RTMT
19925= WF RIVER LANDING CONDO RTMT
19936= WF LAND CO ADD L1,8 B4 RTMT
19951= RIVERSIDE ADD TO WF L7, 8 B11
19969= WFSH L13-16 BLK 60 RTMT
19997= 5BDB, 5BDB CRT ORD
20104= RIVERSIDE ADD WFSH L1 B2, L12-18 B3 RTMT
20148= MCKEENS L4 B5 RTMT
20180= WHITEFISH L15-18 B44 RTMT
20334= MCKEENS SUB L6 RTMT
20342= WHITEFISH PTN L13, 14 B 25 RTMT
20343= GOJENDES TRACTS PTN L7 B2 RTMT
20351= WHITEFISH L23 B64 RTMT
20414= RIVERVIEW ADD L1, B4 RTMT
20419= MCKEENS L11 RTMT
20430= NORTHS SUB S WFSH L3,4,7,8, ABD ALLEY B1
ABD PLACEY AVE, 6TH ST RTMT
20446= WFSH L6 B36 RTMT
20464= WHITEFISH L12, 13 L13 RTMT
20484= WFSH L8-10 B53 RTMT
20517= RIVERSIDE ADD L10, 11 S15 B7 RTMT
20535= WFSH L17, 18 B42 RTMT
20611= HENDRIX TR L1, 2 B1 RTMT
20615= WFSH L4 B26 RTMT
20685= RIVERSIDE ADD WF L6, B10 RTMT
20686= GOJENDES TRS ADD L1,4, 5 570 FT, B2 RTMT
20877= WF L13, 14 B53 RTMT
20924= RIVERSIDE ADD WF L9 B14 RTMT
21030= RIVERSIDE ADD WF L6 B13 RTMT
21053= WFSH LAND CO ADD L1,2 B1 RTMT
21065= WELLS & GRANT ADD L18, 82 RTMT
21109= RIVERVIEW ADD L12 B5
21154= HENDRIX TR L1, 2 B1 AND GRANDVIEW ADD L12 B1 RTMT
21222= GRANDVIEW ADD L3 W2 EX TR A B1
21272= WFSH L17, 18 B33 RTMT
21283= WFSH L15, 16 B32 RTMT
21284= WFSH L6, 7 B49 RTMT
21295= RIVERSIDE ADD WF L8 B17 RTMT
21317= WFSH S37 56' L1, 2, 3, 4, 5, 6 B42 RTMT
WFSH N71.44' L1, 2, 3, 4, 5, 6 B42

S.R.I.
SI 1048= WF AMD L13, 14 B45
SI 1077= 4D, 4DA
SI 1103= WFSH L10 B27
SI 1104= WFSH L10 B27
SI 1105= WFSH L9 B27
SI 1114= WF 1ST ST, CENTRAL AVE
SI 1136= GOJENDES TR L10 S2 B2
SI 1152= WF L22 B39
SI 1160= RIVERVIEW ADD WFSH L1 B3
SI 1161= GOJENDES TRS L2 B2
SI 1166= W 4TH ST, GEDDES AVE
SI 1197= W 3RD ST, JEMMINGS AVE
SI 1198= GOJENDES TR ADD 2 L1 B2
SI 1199= GOJENDES TR ADD 2 L6 B1
SI 1310= RIVERSIDE ADD WFSH L12 B9
SI 1310= RIVERSIDE ADD WFSH L12 B9
SI 1320= RIVERSIDE ADD WFSH L12 B9
SI 1321= RIVERSIDE ADD WFSH L12 B9
SI 1327= 7TH ST W WFSH
SI 1328= 7TH ST W WFSH
SI 1329= ARBOR GROVE SUB
SI 1330= CS 1400
SI 1331= CS 1400 P-A
SI 1332= S WFSH L5 B3
SI 1333= NORTHS SUB L6 B1
SI 1334= RIVERVIEW ADD RESUB L5 B3
SI 1414= WF L8 B25
SI 1435= S WF ADD L1 B6 B3
SI 1438= SOMERS AVE
SI 1439= SOMERS AVE
SI 1440= SOMERS AVE
SI 1441= SOMERS AVE
SI 1442= SOMERS AVE
SI 1457= WF L15, 16 B51
SI 1460= SCOTT AVE SQUARE CORR L2
SI 1463= MC KEEN SUB W60 L6 B4
SI 1478= S WFSH 1 AMD N90 B5, L1 B5
SI 1548= BRASH SUB L1
SI 1580= DEPOT SQUARE AMD L2 AMD L1
SI 1581= DEPOT SQUARE AMD L2 AMD L1



THIS MAP IS PREPARED ONLY FOR T
REPRESENTATION OF THE LOCATION

THIS MAP IS FURNISHED FOR INFORMATION
PURPOSES ONLY TO ASSIST IN PROPERTY
LOCATION WITH REFERENCE TO STREETS
AND OTHER PARCELS. NO REPRESENTATION
IS MADE AS TO ACCURACY, AND FLATHEAD
PREMIER TITLE ASSUMES NO LIABILITY FOR
ANY LOSS OCCURRING BY REASON OF
RELIANCE THEREON.

36-31-22

9798= GOJENDES TR N2 L1 B2
9814= RIVERSIDE ADD L2,3 B3 RTMT
9836= 5DC, 5DBD RTMT
9936= S WFSH ADD 1 L3 B3 RTMT
10008= RIVERSIDE ADD L1, 2, 3, 4 B15 RTMT
10066= GOJENDES TR 2 N190 L17 B2
10173= TUBBS ADD L1 RTMT
10264= S WFSH ADD 1 S2 L1 B3
10281= RIVERSIDE ADD L7,8 B12 RTMT
10288= WFSH L7,8,9,10,11 B46 RTMT
10348= WFSH L1-5 B53
10385= RIVERSIDE ADD L10,11 B2
10420= 5, 5H, 5BE, 5BEA, 5BEAC, 5BE
10465= WFSH L1,2,3 B37 RTMT
10608= WFSH L1,2,10,11,12 B35 RTMT
10635= 5GB, 5BD
10702= WFSH L3-12 B54
10869= WFSH L5,6,7 B37 RTMT
10886= 5BC
11186= GOJENDES TR S160 L4 B2
11202= WFSH L9,10 B28
11213= MCKEENS SUB L4 B4 RTMT

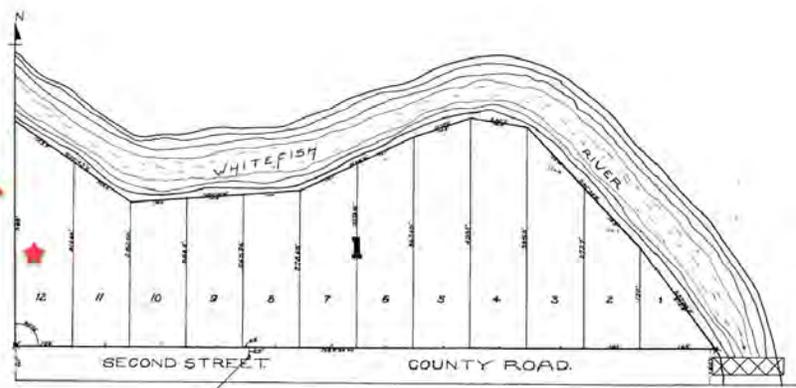
17941= RIVERSIDE ADD WF L2 RTMT
17965= WFSH L19, 20 B25 RTMT
18000= 5BBB, 5BBBA, 5BBBB UTILITY SITE
18001= 5BDB, 5BEA UTILITY SITE
18008= WF L11, 12 B49 RTMT
18034= RIVERSIDE ADD WF L9 B7 RTMT
18037= WHITEFISH L1, 2 B60 RTMT
18094= RIVERSIDE IMP CO AC RESUB L11, 12 L1, 2 RW
18201= RIVERSIDE ADD WF L4, B17 RTMT
18219= WHITEFISH L23-26, N2 L22, B42 RTMT
18241= 5EBA, 5EBAB FT
18536= RIVERSIDE IMP CO AC L5 RTMT
18641= RIVERSIDE IMP CO AC TR ABA OF L6 RTMT
18674= WTC C, D, E, F, B30 AMD B30, 31 RTMT
18675= WFSH 1, 2-3-4 E22 OF W40, B24 RTMT
18682= WHITEFISH L9, 10 B64 RTMT
18851= WFSH G-K, B30 AMD B30, 31 RTMT
18897= SOUTH WF L2 B4 RTMT
18908= MCKEENS L5 B1 RTMT
18922= WFSH PT L3, 5 B23
19003= 4DA RTMT
19054= WFSH S2 L3,L4,N2 L5 BLK 62 RTMT
19263= WFSH PT L16,17 B64 RTMT

01/27/20

3-2-10/02

THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY, AND FLEATHED PREMIER TITLE ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.

PLAT OF GRANDVIEW-ADDITION TO WHITEFISH, MONTANA. SCALE 1 INCH=80 FEET.



State of Montana County of Flathead SS. I, M. Shandera, County Register of Flathead County, do hereby certify that I have prepared the annexed plat of the Grandview Addition to Whitefish, Montana, and I hereby approve the same. M. Shandera, County Register Date of Whitefish, Montana, this 13th day of Oct 1911

4-28-11
City of Whitefish
City Council
A.B.M. 11-2-11
City of Whitefish
City Council
A.B.M. 11-2-11
City of Whitefish
City Council
A.B.M. 11-2-11

The Whitefish Land Company of Whitefish in the County of Flathead, State of Montana, in preparation of the plat hereon annexed, on the 15th day of April, 1911, did cause to be surveyed, laid out and the plat hereon annexed to be prepared, and the same to be filed in the office of the County Register of Flathead County, Montana, and the plat hereon annexed to be recorded in the office of the County Register of Flathead County, Montana, and the plat hereon annexed to be published in the Flathead Daily Star, a newspaper published in Whitefish, Montana, on the 15th day of April, 1911.

In witness whereof, the said Whitefish Land Company, by its duly authorized officers and agents, has caused the same to be signed and sealed with the seal of the said Whitefish Land Company, and the same to be attested by its Secretary, on this 15th day of April, 1911.

Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

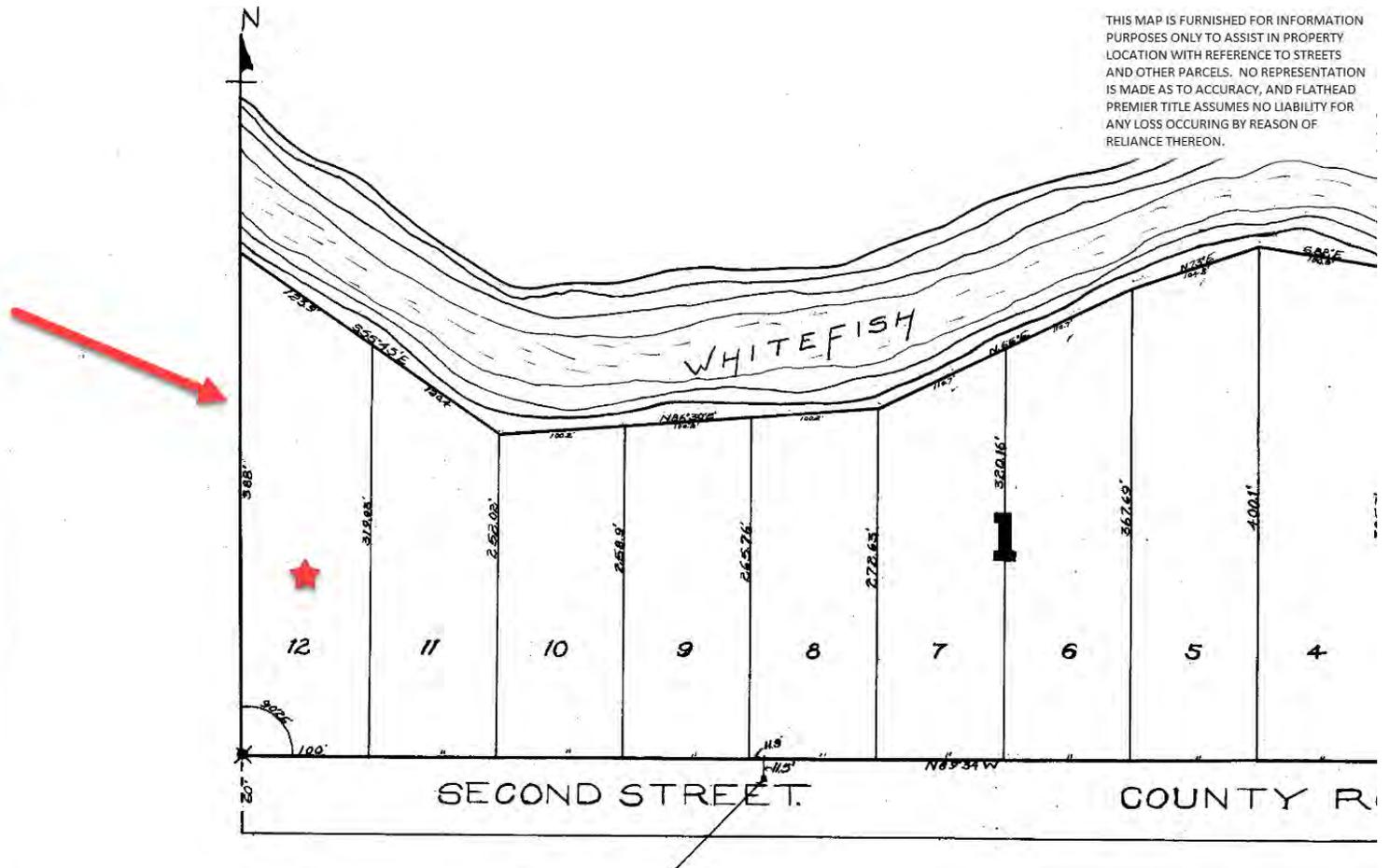
Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

Witness my hand and the seal of the said Whitefish Land Company, this 15th day of April, 1911.

THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY, AND FLATHEAD PREMIER TITLE ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.





ROWForms\Pin\522

Revised 11/06/09

0430750

State of Montana
Department of Transportation
Right-of-Way Bureau
2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001

R/W ID.: NH 5-3(106)128 Parcel No.: 43 County: Flathead
Designation: Whitefish-West
Project No. 2017-106
320948 - FT

Bargain and Sale Deed With Easement

Approved by 2/14/12

This Deed, made this 15 day of DEC, 2011, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, witnesses that,

Robert W. Pero and
Robert W. Pero Revocable Trust
1290 Birch Point Drive
Whitefish, MT 59937-2258

does hereby **grant, bargain, sell and convey** to the **Montana Department of Transportation** the following-described real property:

Parcel No. 43 on Montana Department of Transportation Project NH 5-3(106)128, as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Flathead County, Montana. Said parcel is also described as a tract of land in Lot 12, Block 1 of Grandview Addition to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 87 m² (936 sq. ft.), more or less.

ALSO, the Grantors hereby convey unto the MONTANA DEPARTMENT OF TRANSPORTATION, an easement for the installation and maintenance of a retaining wall in said Lot 12, Block 1 of Grandview Addition to Whitefish, Montana, as shown by the hatched area on said plat, containing an area of 37 m² (398 sq. ft.), more or less.

ROW:2017:P43



Bargain and Sale Deed With Easement
R/W ID.: NH 5-3(106)128
Designation: Whitefish-West

Parcel No.: 43

Excepting and reserving to Grantor(s), however, all gas, oil and minerals beneath the surface of the above-described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right, the surface thereof shall not be disturbed, interfered with or damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), his heirs, successors and assigns, all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia of water, water right and ditch ownership, or any interest therein appurtenant to the land described therein, save and except groundwater for the use, benefit and purposes of the Grantee(s).

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgment.

Robert W. Pero

(Signature)

Robert W. Pero

Trustee

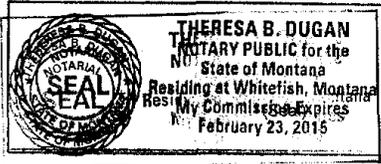
(Signature)

Trustee of the Robert W. Pero Revocable Trust

State of MT)
County of Flathead)

This instrument was acknowledged before me on December 15, 2011
(date)

by Robert W. Pero
(Grantor(s))



Theresa B. Dugan

Notary Signature Line

Theresa B. Dugan

Notary Printed Name

Notary Public for State of MT
Residing at: Whitefish
My Commission Expires: 2/23/2015

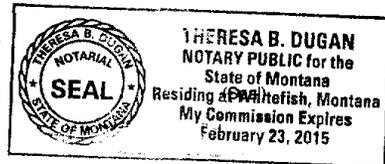
State of MT)
County of Flathead)

This instrument was acknowledged before me on December 15, 2011
(date)

by Robert W. Pero
(name of person(s))

as Trustee
(type of authority, e.g., president, trustee, member, partner, etc.)

of Robert W. Pero Revocable Trust
(name of entity on behalf of whom instrument was executed)



Theresa B. Dugan

Notary Signature Line

Theresa B. Dugan

Notary Printed Name

Notary Public for State of MT
Residing at: Whitefish
My Commission Expires: 2/23/2015

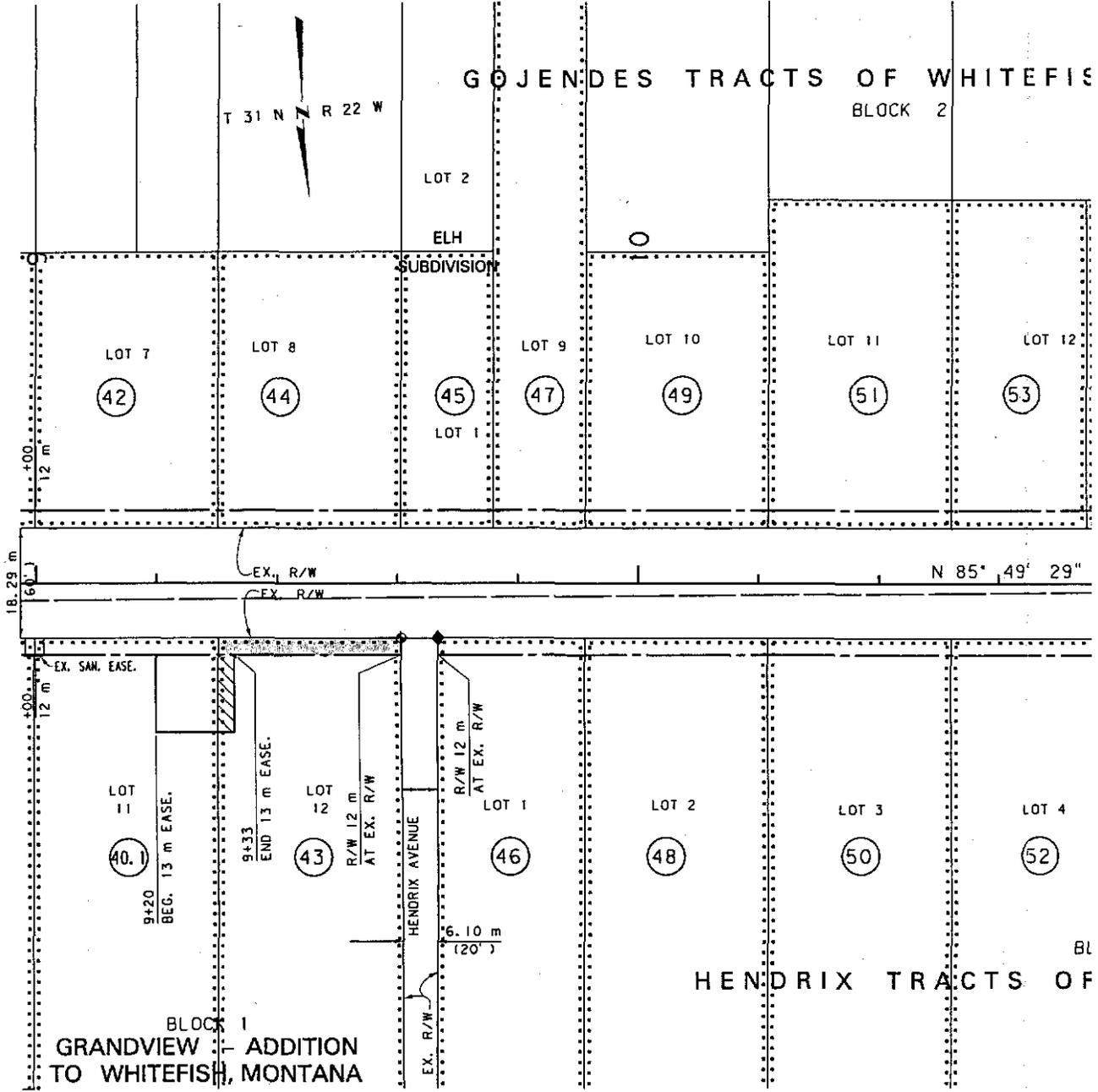
Recording Information



THOMAS DEAN & HOSKINS, INC.
 GREAT FALLS, MONTANA
 (406) 764-3010



1_2017_2017_05_17_1_P43.DGN
 9/28/2017
 3:11:08 PM
 60034



GRID STATE PLANE COORDINATES

THIS IS A STATE PLANE COORDINATE PROJECT.
 ALL DIMENSIONS, DISTANCES AND AREAS ON THIS
 PROJECT ARE GRID, EXCEPT FOR THE EXISTING
 R/W WIDTH DIMENSION, WHICH IS RECORD. THE
 COMBINATION SCALE FACTOR IS 0.99954422

FOR EXISTING R/W RETRACEMENT, SEE
 COS 16808

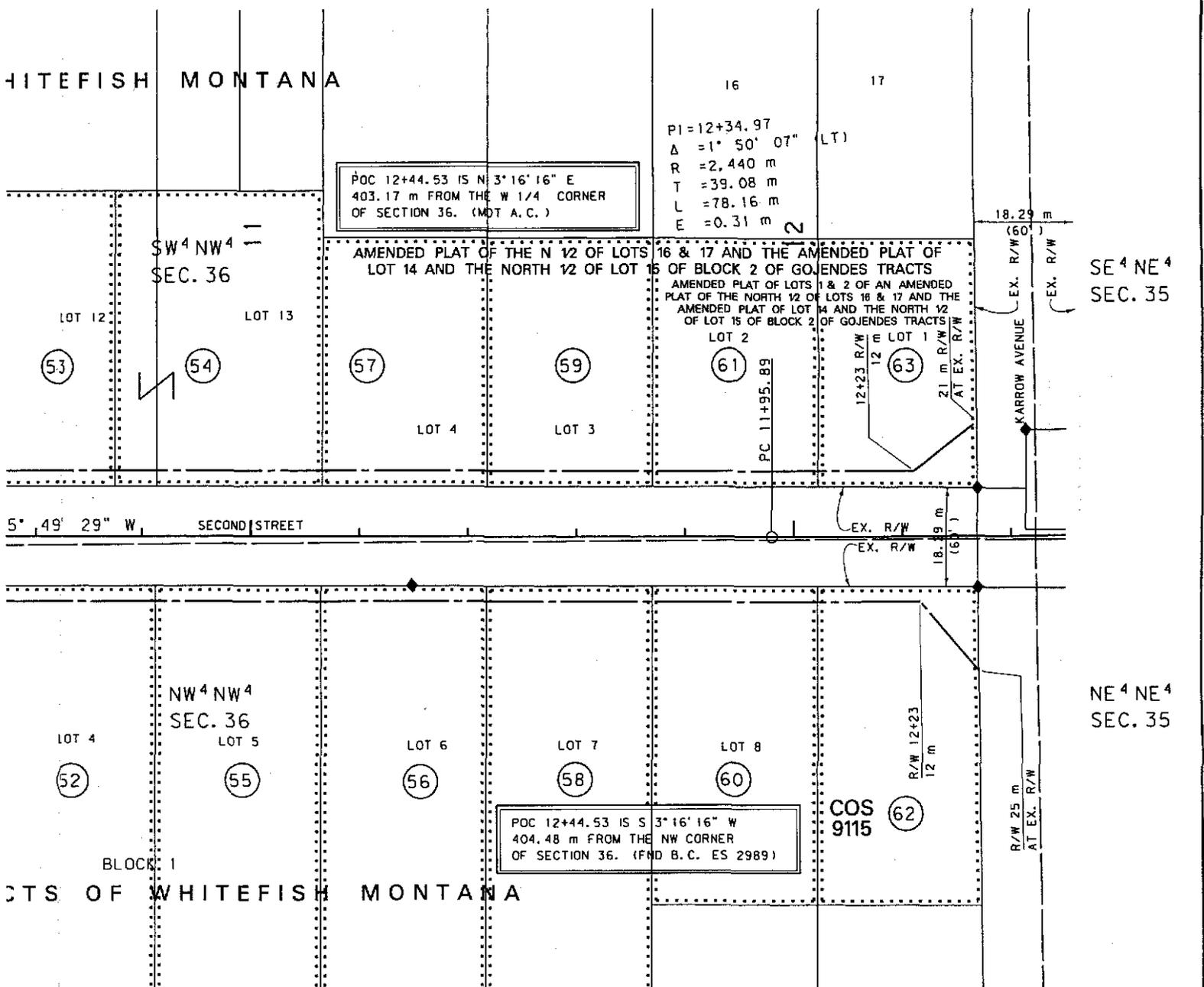
- NOTES:
1. ALL MEASUREM
 2. THE PROPOSED TRANSITION IS CONCENTRIC C
 3. THE ENGLISH / PURPOSES ONL
 4. ALL STATIONS IN REFERENCE



20120003374
 Page: 4 of 4
 Fees: \$28.00
 2/14/2012 2:58 PM

STATE	RIGHT-OF-WAY ID	SHEET NO.	TOTAL SHEETS
MONTANA	NH 5-31106112B		

PROJECT NUMBER 2017-106
 WHITEFISH-WEST



PARCEL 43 ; SHEET 1 OF 1

1. ALL MEASUREMENTS ARE METRIC EXCEPT AS NOTED
2. THE PROPOSED R/W LINE WHERE A SPIRAL CURVE TRANSITION IS USED IS A CHORD RATHER THAN A CONCENTRIC CURVE.
3. THE ENGLISH AREAS ARE FOR INFORMATIONAL PURPOSES ONLY.
4. ALL STATIONS AND OFFSETS FOR R/W BREAKS ARE IN REFERENCE TO THE R/W BASELINE.

LEGEND	
EASE.	
OWNERSHIP BOUNDARY	
RIGHT OF WAY LINE	
R.R. R/W LINE	
CENTERLINE	
FULL ACCESS CONTROL	
LIMITED ACCESS CONTROL	
TRACT CONVEYED	
DATE PREPARED	9-28-11
DATE REVISED	
THIS PLAT IS PREPARED FROM THE MONTANA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLANS & RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER.	

MONTANA
 DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY EXHIBIT
 FLATHEAD COUNTY
 SCALE 1:500



Paula Robinson, Flathead County MT by JL

ROWForms\Pln\520

Revised 11/06/09

**State of Montana
Department of Transportation**

Right-of-Way Bureau
2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001

RW ID.: NH 5-3(106)128 Parcel No.: 46 County: Flathead
Designation: Whitefish - West
Project No.: 2017-106

320949-ET

Bargain and Sale Deed

This Deed, made this 15TH day of DEC, 2011, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, **witnesses that,**

Robert W. Pero Revocable Trust
1290 Birch Point Drive
Whitefish, MT 59937-2258

does hereby **grant, bargain, sell** and **convey** to the **Montana Department of Transportation** the following-described real property:

Parcel No. 46 on Montana Department of Transportation Project NH 5-3(106)128, as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Flathead County, Montana. Said parcel is also described as a tract of land in Lot 1, Block 1 of Hendrix Tracts to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 70 m² (753 sq. ft.), more or less.

0895150

Approved by 2/15/12

ROW:2017:P46



Bargain and Sale Deed
R/W ID.: NH 5-3(106)128
Designation: Whitefish - West

Parcel No.: 46

Excepting and reserving to Grantor(s), however, all gas, oil and minerals beneath the surface of the above-described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right, the surface thereof shall not be disturbed, interfered with or damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), its successors and assigns, all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia of water, water right and ditch ownership, or any interest therein appurtenant to the land described therein, save and except groundwater for the use, benefit and purposes of the Grantee(s).

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation, and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgment.

[Signature]
(Signature)
Trustee of the Robert W. Pero Revocable Trust

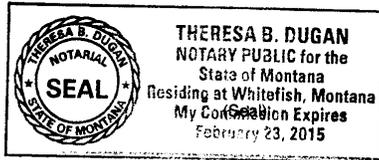
State of MT)
County of Flathead)

This instrument was acknowledged before me on December 15, 2011
(date)

by Robert W. Pero
(name of person(s))

as Trustee
(type of authority, e.g., president, trustee, member, partner, etc.)

of Robert W. Pero Revocable Trust
(name of entity on behalf of whom instrument was executed)



[Signature]
Notary Signature Line
Theresa B. Dugan
Notary Printed Name
Notary Public for State of MT
Residing at: Whitefish
My Commission Expires: 2/23/2015

State of _____)
County of _____)

This instrument was acknowledged before me on _____
(date)

by _____
(name of person(s))

as _____
(type of authority, e.g., president, trustee, member, partner, etc.)

of _____
(name of entity on behalf of whom instrument was executed)

(Seal)

Notary Signature Line

Notary Printed Name
Notary Public for State of _____
Residing at: _____
My Commission Expires: _____ / _____ / 20__

Recording Information



Paula Robinson, Flathead County MT by JL

201200003422
Page: 1 of 4
Fees: \$28.00
2/15/2012 11:01 AM

ROWForms\Pln\520

Revised 11/06/09

State of Montana Department of Transportation

Right-of-Way Bureau
2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001

R/W ID.: NH 5-3(106)128 Parcel No.: 48 County: Flathead
Designation: Whitefish - West
Project No.: 2017-106

0110610

320955-FT

Bargain and Sale Deed

This Deed, made this 15 day of DEC, 2011, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, **witnesses that,**

Robert W. Pero and
Robert W. Pero Revocable Trust
1290 Birch Point Drive
Whitefish, MT 59937-2258

does hereby **grant, bargain, sell and convey** to the **Montana Department of Transportation** the following-described real property:

Parcel No. 48 on Montana Department of Transportation Project NH 5-3(106)128, as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Flathead County, Montana. Said parcel is also described as a tract of land in Lot 2, Block 1 of Hendrix Tracts to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 87 m² (936 sq. ft.), more or less.

Approved by 2/15/12

ROW:2017:P48



Bargain and Sale Deed
R/W ID.: NH 5-3(106)128
Designation: Whitefish - West

Parcel No.: 48

Excepting and reserving to Grantor(s), however, all gas, oil and minerals beneath the surface of the above-described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right, the surface thereof shall not be disturbed, interfered with or damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), his heirs, successors and assigns, all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia of water, water right and ditch ownership, or any interest therein appurtenant to the land described therein, save and except groundwater for the use, benefit and purposes of the Grantee(s).

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation, and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgment.

Robert W. Pero

(Signature)

Robert W. Pero

Theresa B. Dugan Trustee

(Signature)

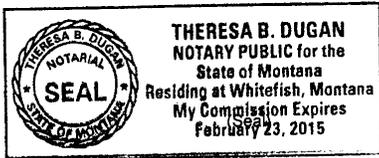
Trustee of the Robert W. Pero Revocable Trust

State of MT)

County of Flathead)

This instrument was acknowledged before me on December 15, 2011
(date)

by Robert W. Pero
(Grantor(s))



Theresa B. Dugan
Notary Signature Line

Theresa B. Dugan
Notary Printed Name

Notary Public for State of MT

Residing at: Whitefish

My Commission Expires: 2/23/2015

State of MT)

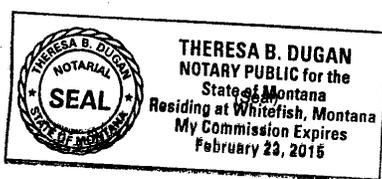
County of Flathead)

This instrument was acknowledged before me on December 15, 2011
(date)

by Robert W. Pero
(name of person(s))

as Trustee
(type of authority, e.g., president, trustee, member, partner, etc.)

of Robert W. Pero Revocable Trust
(name of entity on behalf of whom instrument was executed)



Theresa B. Dugan
Notary Signature Line

Theresa B. Dugan
Notary Printed Name

Notary Public for State of MT

Residing at: Whitefish

My Commission Expires: 2/23/2015

Recording Information



MDTA MONTANA DEPARTMENT OF TRANSPORTATION

MONTANA CADD

THOMAS, DEAN & HOSKINS, INC.
 GREAT FALLS, MONTANA
 (406) 761-3010

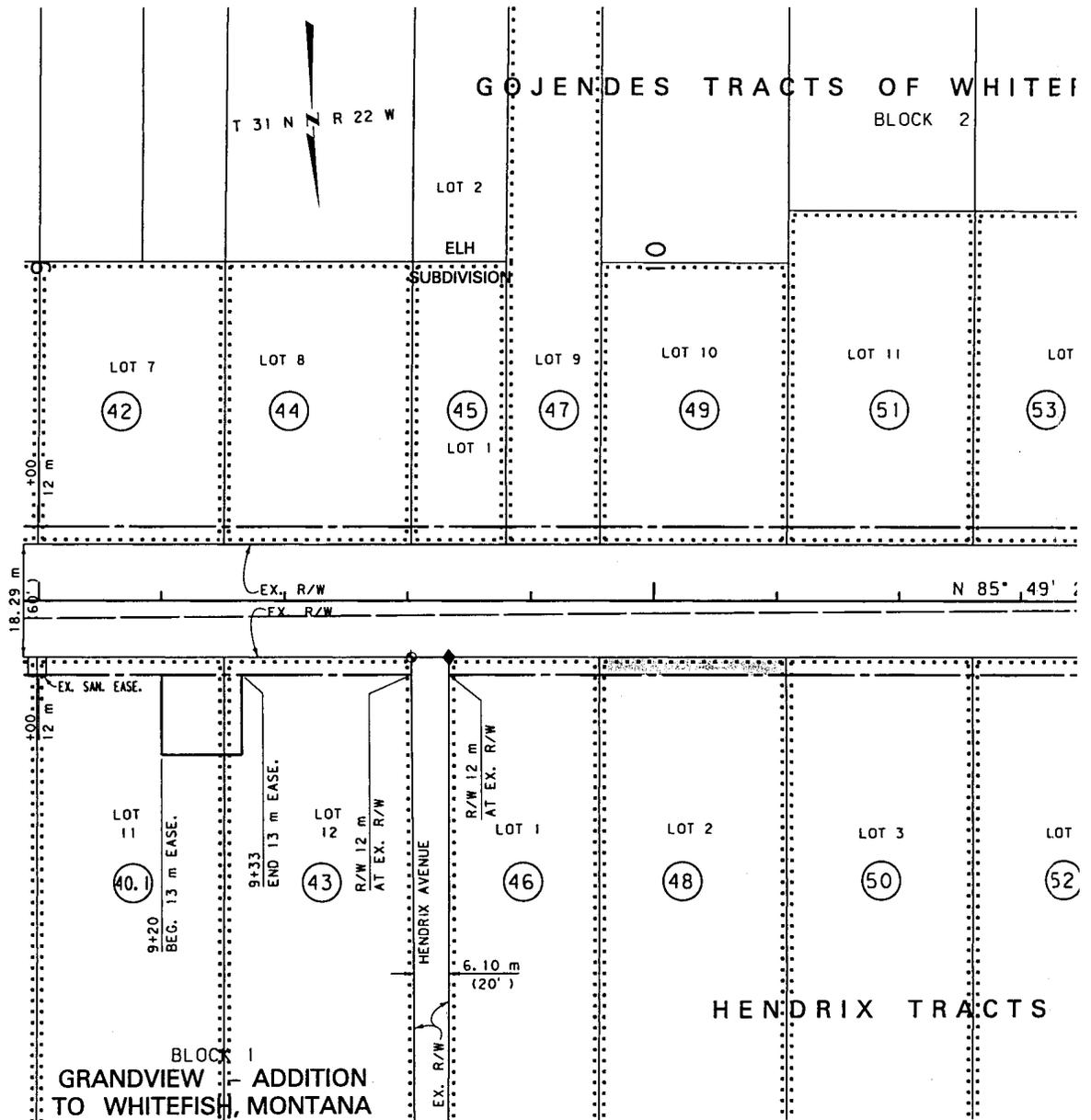
TD & HO RDR

201200003422 1-P48.DGN

2012017 ROEXH20
 10/13/2011
 4:42:45 PM
 10034

T 31 N R 22 W

GOJENDES TRACTS OF WHITEFISH
 BLOCK 2



BLOCK 1
 GRANDVIEW ADDITION
 TO WHITEFISH, MONTANA

GRID STATE PLANE COORDINATES

THIS IS A STATE PLANE COORDINATE PROJECT.
 ALL DIMENSIONS, DISTANCES AND AREAS ON THIS
 PROJECT ARE GRID, EXCEPT FOR THE EXISTING
 R/W WIDTH DIMENSION, WHICH IS RECORD. THE
 COMBINATION SCALE FACTOR IS 0.99954422

FOR EXISTING R/W RETRACEMENT, SEE
 COS 16808

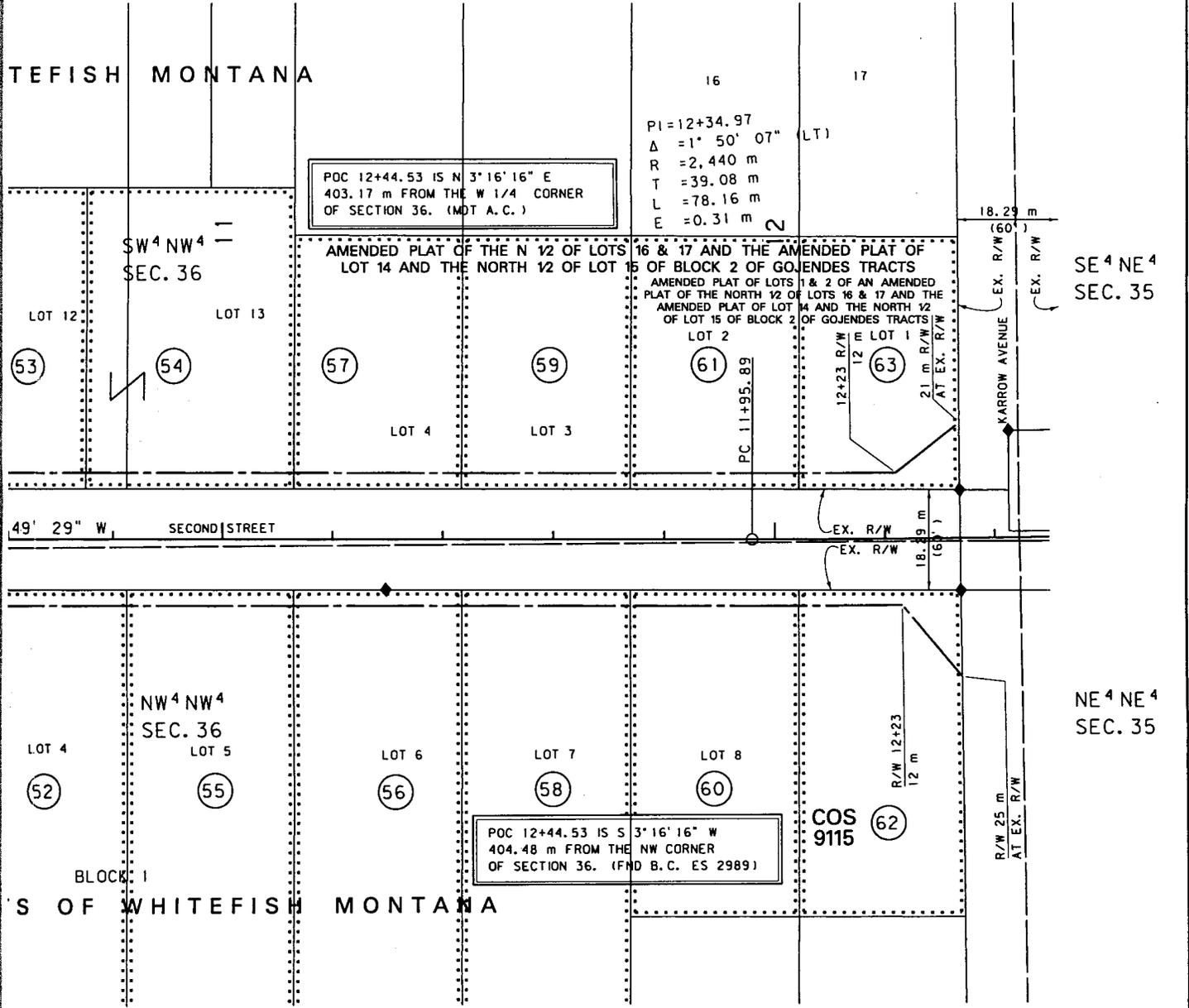
- NOTES:
1. ALL MEA
 2. THE PRO TRANSIT CONCENT
 3. THE ENG PURPOSE
 4. ALL STA IN REFER



STATE	RIGHT-OF-WAY ID	SHEET NO.	TOTAL SHEETS
MONTANA	NH 5-3(106)128		

PROJECT NUMBER 2017-106

WHITEFISH-WEST



PARCEL 48 ; SHEET 1 OF 1

ALL MEASUREMENTS ARE METRIC EXCEPT AS NOTED
 THE PROPOSED R/W LINE WHERE A SPIRAL CURVE TRANSITION IS USED IS A CHORD RATHER THAN A CONCENTRIC CURVE.
 THE ENGLISH AREAS ARE FOR INFORMATIONAL PURPOSES ONLY.
 ALL STATIONS AND OFFSETS FOR R/W BREAKS ARE IN REFERENCE TO THE R/W BASELINE.

LEGEND	
OWNERSHIP BOUNDARY	TRACT CONVEYED
RIGHT OF WAY LINE	DATE PREPARED 10-13-11
R. R. R/W LINE	DATE REVISED
CENTERLINE	THIS PLAN IS PREPARED FROM THE MONTANA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLANS & RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER.
FULL ACCESS CONTROL	
LIMITED ACCESS CONTROL	

MONTANA
 DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY EXHIBIT
 FLATHEAD COUNTY
 SCALE 1:500

National Flood Hazard Layer FIRMMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) <i>Zone A, V, A99</i>
		With BFE or Depth <i>Zone AE, AO, AH, VE, AR</i>
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <i>Zone X</i>
		Future Conditions 1% Annual Chance Flood Hazard <i>Zone X</i>
		Area with Reduced Flood Risk due to Levee, See Notes, <i>Zone X</i>
		Area with Flood Risk due to Levee <i>Zone D</i>
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard <i>Zone X</i>
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard <i>Zone D</i>
		Channel, Culvert, or Storm Sewer
OTHER FEATURES		Levee, Dike, or Floodwall
		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
MAP PANELS		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **11/12/2019 at 9:21:11 AM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



48°24'50.36"N
114°21'11.16"W

USGS The National Map: Orthoimagery. Data refreshed April, 2019.
0 250 500 1,000 1,500 2,000 Feet 1:6,000
48°24'26.47"N
114°20'33.71"W



October 22, 2019

Big Mountain River, LLC
% Mindful Designs, Inc.
118 West 2nd Street
Whitefish, MT 59937

**Subject: Geotechnical Investigation
 Big Mountain River Development
 Whitefish, Montana
 Job No. 19-448**

Dear Mr. Dave Radatti,

At your request, Slopeside Engineering, LLC (Slopeside) has conducted a geotechnical investigation for the planned Big Mountain River Development, encompassing the properties at 244, 314, and 322 West 2nd Street, in Whitefish, Montana. The Vicinity Map, Figure 1, shows the general location of the site. The investigation was conducted to evaluate subsurface materials, conditions at the site, and develop recommendations for site preparation, earthwork, building foundations, slope stability concerns, seismic considerations, concrete slab-on-grade floors, utility trench backfill, and AC pavement sections. The investigation included a review of existing subsurface information for the site vicinity, subsurface explorations, and engineering analyses. This report describes the work accomplished and provides our conclusions and recommendations for use in the design and construction of the proposed project. Slopeside has strived to perform the investigation and develop recommendations in a manner consistent with the degree of care that is presently standard to the geotechnical engineering profession.

PROJECT DESCRIPTION

The project site is located on the west side of Whitefish, north adjacent to West 2nd Street (US Hwy 93). The location of the site and general site layout are shown on the Site Plan, Figure 2.



slopesideeng@gmail.com

406-270-3480

*181 Deerfoot Trail
Kalispell, MT, 59901*

Available design details and information provided by the Project Team indicate the proposed buildings are two- to three-story structures with either crawl spaces, concrete slab-on-grade floors, or walk out basements. We anticipate maximum column and continuous wall loads will be less than 100 kips and 5 kips per lineal ft, respectively. Asphaltic concrete (AC) paved parking and roadways will provide access to the buildings. Cuts and fills with a maximum depth of about 15 ft and 3 ft, respectively, are anticipated. Utility trench depths will range from about 6 to 8 ft deep. Daylight basements are planned for the structures on the north side of the development.

SITE DESCRIPTION

General

The project site is located in an area of mixed commercial and residential development on the west side of Whitefish. The site is bordered by West 2nd Street to the south, and residential development to the east and west. The western two-thirds of the site borders the undeveloped West 1st Street right of way to the north, and the remaining third of the north boundary is shared with the Whitefish River. Past development of the site appears to have consisted of residential and ancillary structures, some with partial to full basements. In addition, it appears site leveling in the upper 2 to 5 ft of soil has occurred. Access to the townhomes will be from West 2nd Street. The majority of the existing site is vegetated with grass, underbrush, and some large evergreen and deciduous trees. Previous site grading appears to be limited; however, based on observations in the upper 2 to 5 ft of soil, it appears some site leveling and filling has occurred. Groundwater consisting of seeps or springs was not observed at the ground surface; at the time of this investigation; however, the presence of horse tails and other vegetation on the slope leading down to the river indicate groundwater approaches the ground surface and may surface on the slope during the seasonally wet times of the year.

Topography

A geologic reconnaissance of the site indicates some minor land movement has occurred at the crest of the slope near the northeast corner of the site, resulting in some surface cracking in this location. Site observations indicate that the majority of the site within the planned development area is relatively flat without slope stability concerns; however, development near the crest of and on the existing slope is a concern that could affect the planned structures if site development and grading recommendations are not followed.

The slope along the northwest and north center portions of the property grades downward toward the Whitefish River at average slopes of about 8H:1V to 3H:1V. The slope appears to steepen moving east, with slopes as steep as about 1.5H:1V near the crest of the slope in the northeast corner of the site. Observations of the terrain indicate mostly uniform slopes throughout the majority of the site. The slope in the northeast corner of the site appears to have been steepened by earthwork activities, as about 5 ft of fill material was observed in the boring at the crest of the slope. The steep portion of the slope in the northeast corner of the site where soil cracks were observed incorporates a section with about 10 to 15 ft of vertical relief at a slope of about 1.5H:1V to 2H:1V. Seeps and springs were not observed; however, we anticipate may be present in some areas under the thick underbrush based on our knowledge of the soils, groundwater table, and perched water flowing through sand lenses in this area.

Geology

The project site lies in the Rocky Mountain Trench bounded by the Salish Mountains to the West, Swan Range to the East, and Whitefish Range to the North. The trench was traversed by the Flathead Glacier and was covered by substantial areas of glacial lakes during recession of the ice mass. The surficial geology of the area consists of silts and clays deposited by glacial lakes. These soils are underlain by glacial till soils consisting of silty gravel with large cobbles and boulders that were deposited during glaciation of the area.

Site Seismicity

The site lies within the Intermountain Seismic Belt and is mapped as a zone of potentially significant seismic ground movement. Subsurface materials encountered during this limited investigation indicate the site soils should be classified as Site Class E, in accordance with the International Building Code (IBC 2012). Based on the significant presence of fine grained silt and clay soils, we anticipate the risk of liquefaction or lateral spreading is low.

SUBSURFACE CONDITIONS

General

Subsurface materials and conditions at the site were investigated on July 22 and 23, 2019, with seven borings, designated B-1 through B-7. The borings were drilled to depths of 5.3 to 40.3 ft below the ground surface. The approximate locations of the subsurface explorations are shown on the Site Plan, Figure 2. A detailed discussion of the field exploration and laboratory testing programs completed for this investigation are provided in Appendix A. Logs of the borings are provided in Appendix A on Figures 1A through 7A.

Soils

Typical soils observed at the ground surface consist of silt topsoil over silty clay fill material, and underlain by laminated lakebed deposits comprised of silt, silty clay, and lean clay soils. One to 12 inch thick sandy silt layers were observed in the laminated lakebed deposits below depths of 3.0 ft. For the purpose of discussion, the materials and soils disclosed by the subsurface investigation have been grouped into the following categories:

- 1. TOPSOIL and Silty CLAY FILL**
- 2. SILT, Silty CLAY, and Lean CLAY with Sandy SILT lenses**

1. TOPSOIL and Silty CLAY FILL. All borings advanced for this project encountered topsoil comprised of silt with abundant organics at the ground surface. The topsoil is generally dark brown with a heavily rooted zone to a depth of about 3 to 4 inches. The topsoil with abundant organic content extends to depths of 3 to 10 inches. The topsoil is underlain by brown to grayish brown silty clay fill material with random dark brown inclusions. The silty clay appears to have been disturbed and regraded, likely prior to the residential development of the site. The relative consistency of the silty clay is stiff to very stiff based on standard penetration test (SPT) blow counts of 20 to 33 blows per ft. Moisture contents of this soil unit range from about 11 to 22 percent of the soil's dry weight.

The silty clay soils extend to depths of about 1.1 to 5.2 ft, and are underlain by Glacial Lakebed deposits comprised of a layered system of silt, silty clay, and lean clay.

2. SILT, Silty CLAY, and Lean CLAY with Sandy SILT lenses. Glacial Lakebed deposits comprised of laminated silt, silty clay, and lean clay, with periodic lenses of sandy silt or silty sand were encountered beneath the silty clay fill layer at depths of 1.1 to 5.2 ft below the ground surface. Sandy silt lenses from 1 to 12 inches thick were observed within this soil unit. The sandy silt lenses contain fine grained sand particles, are medium stiff, and appear saturated. The fine grained silt, silty clay, and lean clay soils tend to strength diminish with depth as the moisture contents increase. SPT blow counts of 4 to 38 blows per ft indicate the Glacial Lakebed deposits are medium stiff to hard. Moisture contents range from 21 to 39 percent. All explorations advanced for this project were terminated in this soil unit at depths of 5.3 to 40.3 ft below the ground surface.

Groundwater

Groundwater was encountered in Borings B-1 through B-3 and in B-6; however, due to the time required for equilibration, the groundwater levels were not measured. A piezometer was constructed in Boring B-7 to a depth of 18 ft below the ground surface and was measured on July 29, 2019, with no groundwater present. We anticipate the groundwater level is typically between 15 and 20 ft below the ground surface elevation. The groundwater level rises during spring thaw and the relatively wet spring season. Groundwater elevations in this area are typically the highest during April, May, and June, and likely approach about 15 ft below the ground surface.

ENGINEERING ANALYSIS

General

Based on discussions with the project team at the time of this investigation, we understand the proposed structures will consist of a two- to three-story structures with concrete slab on grade floors, crawl spaces, or daylight basements. We anticipate cuts and fills up to about 15 and 3 ft, respectively, will be necessary for construction of the project. Maximum column and wall loads of 100 kips and 5 kips per lineal ft, respectively, are anticipated for the planned structures. We anticipate utility trench depths will be up to 6 to 8 ft deep.

Site Preparation

Site stripping will need to be conducted in all planned development areas. The removal of topsoil should extend down to the stiff brown to grayish brown, silty clay fill soils. Based on observations during the subsurface investigation, we anticipate site stripping will be necessary across the entire site planned for development. The topsoil zone will likely range from about 3 to 10 inches thick, with an average stripping thickness of about 8 inches. Following stripping, loose or organic rich fill material shall be removed down to firm clay soils. We anticipate loose fill material removal will be necessary in the vicinity of the preexisting structures and existing utility trenches.

Based on past experience, the near surface fine grained soils encountered during this investigation have little cohesion. As a result, these soils can be easily disturbed and strength

diminished during construction, particularly in relatively high moisture content areas and where seepage or surface water is allowed to pond and infiltrate. Therefore, positive site drainage is of critical importance to both construction and long-term performance of the planned structures and roadways. It is anticipated that surface runoff could provide water to the project area. Surface diversion systems should be considered necessary and will assist in maintaining the undisturbed soil strength.

Earthwork

We understand it is desirable to use on-site soils for the construction of Structural Fills and utility trench backfill, when allowed by the City of Whitefish Standards. Near surface, on-site soils consist primarily of fine-grained, moisture-sensitive silt, silty clay, and lean clay. Soils encountered beneath the topsoil zone are suitable for Structural Fill construction as long as the soils are free of organics or other deleterious materials, and cobbles and boulders larger than 4 inch maximum size are removed. Compaction of Structural Fill and utility trench backfill shall be accomplished when moisture contents are within 3 percent of the optimum moisture content as determined by ASTM D698. Observations in the upper 10 ft of soil during the subsurface and laboratory investigations revealed that the in situ soils are typically wet of the optimum moisture content as determined by ASTM D698, indicating moisture conditioning using drying methods will likely be necessary to approach the optimum moisture content for compaction. Use of on-site, fine grained soils will be a weather-sensitive earthwork operation, and commonly utilizes large spaces when moisture conditioning the material. It should be realized that fine grained soils can be difficult to compact, particularly during wet or cold weather. Construction of Structural Fill using fine grained soils during relatively wet weather or when temperatures are below freezing (including nightly low temperatures), will significantly reduce the efficiency of earthwork operations. Limiting mass grading to the relatively dry and warm late spring, summer or early fall months will reduce the likelihood of weather affecting construction operations.

The presence of sandy silt and silty sand layers will need to be planned for during excavation and utility construction. "Running sands" may occur in the sandy silt layers and tend to seep water and erode the excavation sidewalls. This will be of particular concern during utility construction. Construction of utilities in the late summer or winter months will assist in reducing the risk of "running sands" adversely affecting temporary construction and open trenches; however, trench shoring and dewatering systems will likely be necessary for deeper excavations.

Slope Stability Analysis

Observations at the site indicate slope stability concerns are present in the vicinity of the relatively steep slope at the northeast corner of the site. Experience with the soils encountered, observed groundwater levels, and perched water in sand lenses indicate the current slope is marginal and future movements are possible. We understand current regulations indicate a buffer of 75 ft from Average High Water is required in the vicinity of the Whitefish River. Although we understand the intent of this regulation, in our opinion, slope stability is a significant concern in this area and removing soil and flattening a portion of the slope will greatly increase the factor of safety against sliding.

Slopeside Engineering's experience with Glacial Lacustrine deposits in the Flathead Valley, specifically along the Whitefish River, have culminated in recommended slopes and setbacks. The common failure mechanism in these locations is a small failure that occurs at the toe of the slope due to trapped pore water pressures in silt and sand lenses. Following the initial slump, the slope failure tends to propagate upslope as seepage erodes the slide material and soil lense. Larger failures are also possible that tend to fail up to the crest of the slope, and then propagate if measures to stabilize the head scarp are not constructed.

Based on slope stability analyses conducted in the vicinity of this project, observations of subsurface explorations (including the presence of fill material to a depth of 5.2 ft near the crest of the slope) and experience with similar soil structures and slopes, Slopeside Engineering recommends permanent slopes of 3H:1V. The gradual slope recommendation of 3H:1V takes into consideration the soil types, perched water, and the presence of the Whitefish River.

Foundation Design

Footings shall be established in the undisturbed stiff to hard, silt, silty clay, and lean clay Glacial Lakebed deposits, encountered at a depth of 1.1 to 5.2 ft below the ground surface. Based on the assumed elevation of the planned footings, we anticipate the soil to a depth of more than 10 feet below the bottom of footings will consist of medium stiff to stiff fine grained soils with periodic lenses of sandy silt. Precautions to minimize disturbance of the bearing surface and reduce associated differential settlements are provided in the **Recommendations** section of this report.

Based on typical design for like structures, we anticipate maximum design loads will be less than 100 kips for column loads, and 5 kips per lineal foot for the continuous wall footings. Field and laboratory test data for this project along with previous geotechnical investigations conducted in the nearby vicinity of this project and on similar soils were used in the foundation analysis.

Bearing pressure values of 2,000 psf for continuous wall and spread column footing foundations are appropriate for the medium stiff to stiff silt, silty clay, and lean clay soils. Excavation below the upper silty clay fill layer that appears to have been disturbed in the past will be necessary for all foundations. We anticipate settlements associated with the allowable bearing pressures presented above and in the Recommendations section of this report will be less than 1 inch with differential settlements less than ½ the total settlement. Settlements are expected to occur over a relatively short time period in response to the loading. Precautions to minimize disturbance of the underlying fine grained soils are provided in the **Recommendations** section of this report.

Pavement Analysis

A flexible pavement design has been conducted using the 1993 edition of the AASHTO Guide to Pavement Design. A light duty pavement section is provided. Light duty pavement sections should be used in areas where vehicular traffic consisting of cars, pick-ups, vans, and occasional small delivery vehicles are anticipated, i.e. parking lots. The pavement analysis assumes a design life of 20 years with an 85 percent reliability level and a Terminal Service Index of 3.0. An Equivalent Single Axle Loading (ESAL) of 110,000 was assumed for light-duty pavement sections. A CBR value of 3 was used to model the subgrade, assuming the subgrade consists of stiff

silty clay soils. The pavement section is presented in the **Recommendations** section of this report.

RECOMMENDATIONS

1.0 General Site Preparation

- 1.1 The removal of topsoil and other organic material, including the clearing and grubbing of surficial vegetation and root zones, should be accomplished within the construction zone prior to any earthwork construction. We anticipate stripping thicknesses will range from 3 to 10 inches with an average stripping thickness of about 8 inches. In addition, the removal of loose fill material, likely present in the vicinity of previously removed structures and existing utilities shall be removed prior to placement of structural fill or settlement sensitive improvements. Due to the presence of moisture-sensitive fine grained soils near the ground surface, care shall be taken to reduce the risk of disturbing the soils due to heavy construction traffic. We recommend rubber-tired construction traffic be limited to areas at least 2 ft above subgrade soils consisting of moisture-sensitive silt, silty clay, and lean clay soils. Following removal of surface organics, the underlying soils shall be evaluated by a qualified geotechnical engineer for suitability as a subgrade material in all sidewalk, building, Structural Fill, and any other settlement sensitive areas. Following the evaluation, site preparation can proceed for earthwork, concrete slab subgrade, and pavement subgrade.
- 1.2 Surface drainage shall be established to direct runoff away from the construction area. Seepage may occur in the larger cuts for the foundation excavations; the contractor should be aware that drainage ditches and dewatering equipment such as sumps and collection channels may be necessary to complete the excavations.
- 1.3 Excavated material or structural fill to be placed as backfill shall not be stockpiled within 50 ft of existing slopes or above previously excavated temporary slopes. Stockpiling soil above steep slopes will add weight to the slope that will reduce the factor of safety against sliding.
- 1.4 Soils encountered at the site have a relatively high silt and clay percentage. These soils are fine grained, moisture-sensitive soils that are easily disturbed by construction activities and traffic. Due to the relatively high moisture content of these soils, we recommend construction traffic not travel over fine grained subgrade soils. In areas where heavy construction traffic is anticipated, haul roads with a minimum gravel thickness of 2 feet should be constructed over the planned subgrade. The gravel shall consist of a well-graded gravel with a maximum size of 3 inches with no more than 7 percent passing the No. 200 sieve. Geotextile fabric placed between the fine-grained soils and gravel for the haul road will reduce the risk of continued maintenance of the haul road during construction. Provided the haul road is constructed over subgrade prepared as recommended in Item 8.0, it can be used as a portion of the subbase course for the access roads and parking areas.
- 1.5 The stability of construction excavations and associated worker safety are the responsibility of the contractor in accordance with current OSHA regulations; this responsibility may

require design by a registered professional engineer. Based on the predominant soil types encountered during our investigation, temporary construction excavations that are to be planned in accordance with OSHA provisions should assume Type B material conditions for silt and clay soils; however, Type C material should be assumed for excavations encountering the sandy silt lenses, below depths of about 3 ft below the existing ground surface. Actual subsurface conditions at the time of excavation should be observed by a geotechnical engineer to determine whether slope flattening, bracing or other stabilization is necessary due to seepage or other unexpected conditions.

2.0 Excavation, Earthwork, and Construction Materials

2.1 Based on the subsurface and laboratory investigations, we anticipate subgrade soil moisture contents will be near or greater than the optimum moisture content for the soil in most areas. Track-mounted hydraulic excavators equipped with smooth-lipped buckets should be used to accomplish excavation to subgrade in all Structural Fill, roadway and foundation areas. The use of track-mounted equipment will reduce the risk of disturbing the underlying moisture-sensitive, fine-grained soils. Rubber-tired equipment, including graders and scrapers, grad-alls and skid steers, used within 2 feet of subgrade elevation will greatly increase the risk of disturbing the underlying subgrade soils.

2.2 Structural Fill constructed within proposed building footprints, roadways, engineered slopes, sidewalks, and other areas that are settlement-sensitive shall be comprised of soils that are free of organics and deleterious materials. All Structural Fill material should be placed in no greater than 8-inch thick lifts and compacted to a minimum of 95 percent of the maximum dry density as determined by ASTM D698. In addition, the moisture content of the Structural Fill at the time of compaction should be within 3 percent of the optimum moisture content as determined by ASTM D698. Cobbles and boulders larger than 4 inch maximum size shall not be used as fill material. Structural Fills should consist of on-site soils or be from a material source approved by our geotechnical engineer and meet the following composition guidelines:

- The sand and gravel-size particles comprising the fill should be hard, durable rock materials that will not degrade by moistening or under mechanical action of the compacting equipment; i.e. not shale or other clayey rock types.
- The binder/fines should have maximum Liquid Limit and Plasticity Index values of 25 and 10 percent, respectively.
- No frozen, organic, or other deleterious materials should be present in the Structural Fill.

2.3 In areas where Structural Fill is placed and compacted below building foundations or if fill operations are planned for the relatively wet fall, winter and spring months, the fill material shall be comprised of granular Structural Fill free of organics and deleterious materials. All

granular Structural Fill material shall be compacted to a minimum of 95 percent of the maximum dry density as determined by ASTM D698. In addition, the moisture content of the granular Structural Fill at the time of compaction shall be within 3 percent of the optimum moisture content as determined by ASTM D698. Granular Structural Fills should consist of aggregate from a material source approved by our geotechnical engineer and meet the following gradation and composition guidelines:

Screen or Sieve Size	Percent Passing by Weight
3-inch	100
1½-inch	85-100
No. 4	30-60
No. 200	10 maximum

- The sand and gravel-size particles comprising the fill should be hard, durable rock materials that will not degrade by moistening or under mechanical action of the compacting equipment; i.e. not shale or other clayey rock types.
- The binder/fines should have maximum Liquid Limit and Plasticity Index values of 25 and 10 percent, respectively.
- No frozen, organic, or other deleterious materials should be present in the Structural Fill.

2.4 Structural Fill shall be placed in uniform lifts not exceeding an 8-inch loose thickness and be compacted to at least 95 percent of the maximum dry density as determined by ASTM D698. Structural Fill shall be placed over undisturbed subgrade material or subgrade soils compacted to a minimum of 95 percent of the maximum dry density as determined by ASTM D698 and within 3 percent of the optimum moisture content at the time of compaction. The subgrade shall be observed by a qualified geotechnical engineer prior to fill placement. Structural Fill shall not be placed over frozen subgrade or previously placed Structural Fill that has frozen.

2.5 Utility trench and foundation wall backfill materials shall be approved by our geotechnical engineer and be placed in uniform lifts of maximum 8-inch loose thickness and be compacted to 95 percent of the maximum dry density as determined by ASTM D698. Backfill materials shall be placed and compacted per Item 2.2 or 2.3. We anticipate the moisture contents of the excavated materials will be relatively wet of the optimum moisture content and moisture conditioning will be required, making it difficult to compact during relatively wet conditions and when temperatures are less than 40 degrees (F). Backfill shall not be placed on frozen subgrade material or previously placed backfill that has frozen.

Compaction within 5 feet of foundation structures shall be accomplished using hand-operated tamping equipment only.

- 2.6 Fill placement shall be observed and tested by our geotechnical site representative. Any areas of rutting, excessive deformation, or other non-uniform performance shall be moisture conditioned and recompact, or removed and replaced, as recommended by our geotechnical engineer.
- 2.7 Structural Fill shall not be planned for the slope leading down to the Whitefish River on the northeast quarter of the property. Structural Fill planned for more gradual slopes in the vicinity of the northwest quarter of the property shall be benched into the native soils following site stripping, in accordance with the attached Benching Detail (Detail 3). All previously placed fill material shall be removed from the existing slope. In addition, slopes shall be constructed as 3H:1V slopes to increase the factor of safety against sliding. In the event 3H:1V slopes are not feasible, deep foundations to support retaining walls will likely be necessary. Based on the current site plan, it appears the majority of the steep slope will be removed during construction of the townhome unit in the northeast corner of the property. Additional site grading may be necessary in that area to flatten the existing slopes to 3H:1V or flatter.
- 2.8 Permanent cut and fill slopes shall be no steeper than 3H:1V.

3.0 Foundation Preparation and Design

- 3.1 Continuous wall and spread footing foundations shall be constructed on undisturbed native Glacial Lakebed soils comprised of silt, silty clay or lean clay (encountered approximately 1.1 to 5.2 ft below the existing ground surface). The fine grained soils shall be cleaned of all loose and deleterious material. We recommend our geotechnical engineer observe the conditions at the bottom of all footing excavations for suitability of the proposed foundation bearing pressures. Care shall be taken to minimize disturbance to the fine grained bearing surfaces. All footing excavations shall be completed with an excavator equipped with a smooth-edged bucket operating from above or outside the bearing area. Footing surfaces shall be cleaned of loosened or softened material prior to footing formwork or concrete placement.
- 3.2 In areas where groundwater seepage is present or if extra precaution against wet foundation subgrade soils is necessary due to the timing of construction, column and wall foundation footings shall be constructed on a thickness of 3 to 6 inches of open graded angular drain rock with a maximum size of 1½ inches and a minimum size of ¼ inch (Detail 4). The angular gravel shall be compacted using vibratory methods until well-keyed. A nonwoven drainage geotextile (Mirafi 140N or equivalent) shall be placed between the silt or clay soils and the open-graded drain rock to reduce the risk of “piping” of the fine grained soils. Areas where groundwater seepage is not observed, the open graded gravel thickness is unnecessary, assuming all loosened material that occurred due to excavation techniques is removed prior to concrete placement. Due to the sensitive nature of the silty soils and the

possible seepage during excavation, we recommend the open graded gravel fill or concrete placement occur rapidly following excavation and before water has a chance to pond or flow over the subgrade soils. Compaction should occur immediately after placement of gravel to reduce the risk of disturbing the underlying soils. We recommend our geotechnical engineer observe compaction of the gravel to reduce the risk of applying too much compactive effort and disturbing the underlying soils.

- 3.3 Where the removal of unsuitable material is required, replacement Granular Structural Fill should be placed and compacted per Item 2.3 to attain foundation grade. Unsuitable materials include uncontrolled previously placed fill materials, soils with support capability less than the bearing values planned for a specific footing, and any saturated or softened/disturbed native soils that may occur due to isolated seepage, weather, or construction activities.
- 3.4 Spread footing and continuous wall foundations shall be established on the undisturbed medium stiff to stiff Glacial Lakebed soils, or compacted Granular Structural Fill (Item 2.3). Spread footing and continuous wall footings can then be designed with maximum allowable bearing pressures of **2,000 psf**, provided load-settlement relations discussed in the **Engineering Analysis** are acceptable. Continuous wall and spread footing foundations shall have minimum footing widths of 18 inches and 2 ft, respectively. Larger footings are anticipated and will depend on the planned loading. All foundations shall be designed by a Structural Engineer.
- 3.5 All foundation footings should have a minimum embedment of 1.0 ft below finished interior surfaces. Exterior wall footings should be embedded a minimum of 4.0 ft below exterior grades to establish frost protection. In addition, all foundations shall be constructed a minimum 10 ft horizontal distance from the face of a slope at foundation elevation. Additional distance from slopes can be accomplished by deepening foundations.
- 3.6 Lateral load resistance can be provided by friction acting along footing bases and passive pressure acting on the footing sides. For design purposes, the following parameters are appropriate:

Material	Friction Coefficient	Passive Resistance (psf/ft depth)
Silt, Silty Clay, or Lean Clay; or Fine Grained Structural Fill	0.30	200*
Granular Structural Fill	0.50	300*

*Assumes foundation backfill compacted per Item 2.5

4.0 Lateral Earth Pressure

- 4.1 Lateral earth pressure parameters for design of cantilevered walls backfilled in accordance with Item 2.5 and Detail 1, can be designed using active earth pressures with an equivalent fluid weight of 40 pcf. A minimum uniform pressure of 100 psf should be added to the above design pressures for embedded and cantilevered walls to allow for surcharge effects during construction. Larger pressures may be necessary depending on the contractor's approach to the work.

5.0 Foundation Drainage

- 5.1 Relief of hydrostatic pressure against below grade walls and cantilevered retaining walls shall be provided using drainage as shown on Detail 1, or an approved alternate system.
- 5.2 The foundation-wall junction in areas where concrete slabs will be below finished site grades and any other wall joints that will be below-grade shall be constructed with water stops. Below-grade walls shall be dampproofed with a heavy-duty, asphaltic membrane with fiber reinforcing. If further risk reduction is desired for the intended lower level space utilization or flooring, then waterproofing systems shall be considered.

6.0 Site Drainage

- 6.1 Finished site grades should be positively sloped away from foundation and backfill zones. Grading should be designed and maintained to route runoff away from the building areas. Roof drains and subsurface drains shall not be allowed to outlet on slopes directly below the planned structures.
- 6.2 We understand crawl spaces may be used for the some of the planned structures. Exterior foundation drains consistent with Detail 1, shall be constructed around all crawl space foundation walls. The drains shall be connected to an outlet acceptable to the Civil Engineer. In addition, drainage lines or sumps shall be provided within the crawl spaces to reduce the risk of ponding water within the crawl spaces. Damp proofing crawl spaces is also recommended.
- 6.3 Seeps and springs observed at the ground surface or areas where additional drainage is desired, can be controlled with french drains sloped to drain to an acceptable outlet. French drains shall be constructed per Detail 5 and shall consist of a typical 2-ft by 2-ft trench. The french drain shall consist of a minimum 4-inch diameter perforated pipe, surrounded by open-graded drain rock (rounded gravel is acceptable) and enveloped with a nonwoven drainage geotextile. The fabric shall be protected with a minimum cover of approximately 12 inches.

7.0 Slab-on-Grade Design/Capillary Break

- 7.1 Concrete slab subgrades shall consist of native soils or Structural Fill constructed over native soils in accordance with Sections 1.0 and 2.0. Areas of unsuitable fill material or areas where rutting, yielding, or other non-uniform subgrade performance is observed, shall be removed or recompacted as recommended by our geotechnical engineer. A subgrade

modulus value of 150 psi/in should be assumed for silty clay subgrade soils prepared in accordance with Sections 1.0 and 2.0 in the concrete slab area.

- 7.2 Following the subgrade preparation of Item 7.1 for concrete slabs planned above surrounding site grades, a nominal 8-inch thick layer of $\frac{3}{8}$ to $\frac{3}{4}$ inch open-graded angular crushed rock should be provided to reduce the risk of capillary rise affecting the concrete slab. The open graded angular gravel shall be compacted using vibratory methods until well keyed. Depending on the necessary level of protection against moisture, a vapor barrier installed per the manufacturer's recommendations will likely be necessary.
- 7.3 In areas where concrete slabs are planned below surrounding site grades (daylight basement areas), following the subgrade preparation of Item 7.1, a nominal 12-inch thick layer of $\frac{1}{4}$ to $1\frac{1}{2}$ inch open-graded angular crushed rock shall be provided for slab underdrainage. The upper 2 inches of this 12 inch thick layer can be substituted with $\frac{3}{4}$ inch minus crushed rock to provide a compact surface for construction activities, if desired. The slab-on-grade base course shall be compacted using vibratory compaction methods until well-keyed. Underdrain lines shall consist of minimum 3-inch diameter slotted PVC pipes on longitudinal centers not exceeding 15 feet. These lines should be plumbed to a sump or positive gravity outfall. The drain lines shall be sloped to drain by providing trenches below the nominal drainage layer as necessary. A nonwoven drainage geotextile shall be placed between the native silt or clay and the drain rock. A generalized sketch of this system is included as Detail 2. Given the large plan area of the structures, benefits may be realized from designing slab underdrainage as two discrete systems with each system responsible for half the slab area. Depending on the necessary level of protection against moisture, a vapor barrier may also be necessary.

8.0 Asphaltic Concrete Pavement

- 8.1 In preparation for basecourse placement, the subgrade shall be excavated using an excavator with a smooth cutting edge. In areas where Structural Fill is already present, scarifying and recompacting the AC pavement section subgrade should not be necessary unless the subgrade has previously frozen. Any areas where rutting, yielding, or other non-uniform subgrade performance is observed, should be repaired and improved as recommended by our geotechnical engineer. Undisturbed silty clay soil is the assumed pavement subgrade material.
- 8.2 Placement of a woven separation geotextile fabric between the silty clay subgrade and the basecourse layer will improve constructability and reduce the risk of the subgrade soils contaminating the basecourse material. In addition, the geotextile will significantly reduce the risk of subgrade disturbance during spring thaw, when subgrade soils are weakest. The recommended geotextile should consist of Mirafi 500X or equivalent and should be placed to the manufacturer's specifications.
- 8.3 The following flexible pavement thickness design sections assume a 20-year design period, provided the traffic assumptions discussed in the **Engineering Analysis** are acceptable. The

pavement sections assume construction procedures and material requirements as outlined in the *Montana Public Works Standard Specifications, Sixth Edition, 2010*, are followed.

Pavement Component	Light-Duty Section*
Asphaltic Concrete Pavement	3 in.
1½-inch minus Crushed Base Course	15 in.

*Assumes geotextile equivalent to Mirafi 500X is placed between subgrade and base. In the event a geotextile is not used, we recommend increasing the Base Course thickness by 3 inches for both the light-duty and heavy-duty pavement sections.

9.0 Exterior Concrete Flatwork

9.1 Concrete flatwork that is allowed to move independently, such as sidewalks, typically have minimal damage of the concrete due to frost heave. As long as the concrete is allowed to raise and lower without being fixed at the edges, minimal cracking due to frost heave is anticipated.

9.2 To reduce the risk of frost heave occurring within the limits of the exterior concrete flatwork and affecting entryways and fixed concrete slabs, Slopeside recommends a combination of reducing water infiltration and removing some of the frost susceptible soils. Slopeside recommends reducing the amount of surface water infiltrating into the ground by collecting roof water in gutters and hard piping the runoff to an acceptable outlet approved by the Civil Engineer. Slopeside also recommends the frost susceptible subgrade soils be overexcavated to a depth of about 2 ft below the bottom of concrete elevation and backfilled with at least 18 inches of Structural Fill consisting of 3 inch minus “pit run” gravel with no more than 5 percent passing the No. 200 sieve, and compacted to a minimum of 95 percent of the maximum dry density as determined by ASTM D698. The upper 6 inches of base material below the concrete should consist of ¼ inch to 1 inch open-graded angular drain rock. The angular drain rock shall be compacted using vibratory methods until well-keyed, and be provided a drainage outlet.

10.0 Seismic Design

10.1 Seismic design following the static procedures outlined in the International Building Code may be conducted using a Site Class E (2012 IBC). A site specific seismic hazard study will be necessary if dynamic procedures are to be followed.

11.0 Construction Services and Quality Control

11.1 Geotechnical observation should be provided to monitor the site preparation, earthwork, and foundation stages of construction. These geotechnical services should ascertain that subsurface conditions are reasonably consistent with those determined by our investigation, and should ascertain that site and foundation preparation are consistent with our recommendations.

CONCLUSION

The foregoing recommendations present our initial geotechnical input for design and construction of the project. In order for these recommendations to be properly incorporated in the subsequent design and construction stages we recommend that our geotechnical engineering staff remain involved with the project to ascertain that our recommendations have been properly interpreted both during design and construction. These services will reduce the potential for misinterpretation of subsurface conditions and geotechnical design recommendations that are important in the preparation of project plans, specifications and bid documents.

LIMITATIONS

Slopeside Engineering, LLC, has strived to prepare this report in accordance with generally accepted geotechnical engineering practices in this area solely for use by the client for design purposes and is not intended as a construction or bid document representing subsurface conditions in their entirety. The conclusions and recommendations presented are based upon the data obtained during the investigation as applied to the proposed design and construction details discussed in this report. The nature and extent of variations between the subsurface explorations may not become evident until construction. If variations are then exposed, it will be necessary to reevaluate the recommendations of this report.

If changes in the concept, design data, or location of the structures are planned, the recommendations contained in this report shall not be considered valid unless the changes are reviewed by our geotechnical engineer, and a written response is provided.

Sincerely,



Joshua C. Smith, P.E.
Principal Geotechnical Engineer



No Scale Intended

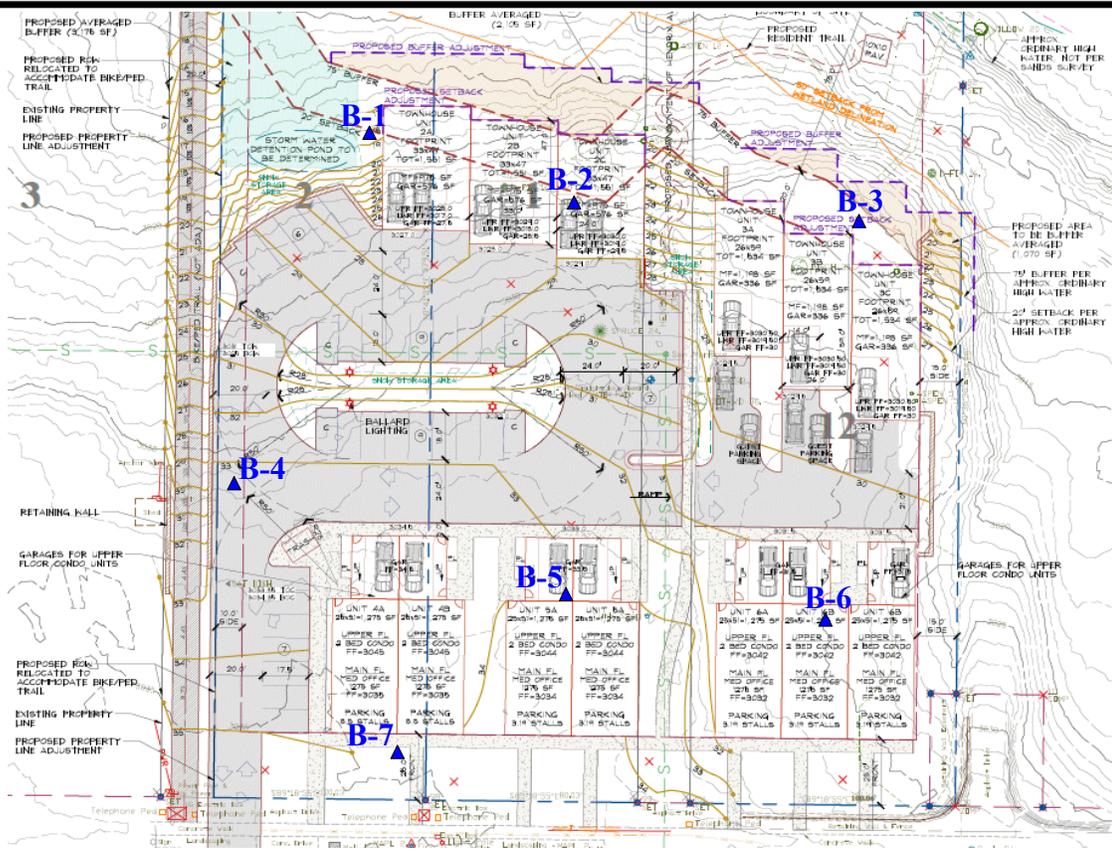


Project: Big Mountain River Development
Whitefish, Montana

Job Number: 19-448
Date: August 7, 2019

Vicinity Map
Slopeside Engineering, LLC
Kalispell, MT
FIGURE 1





No Scale Intended

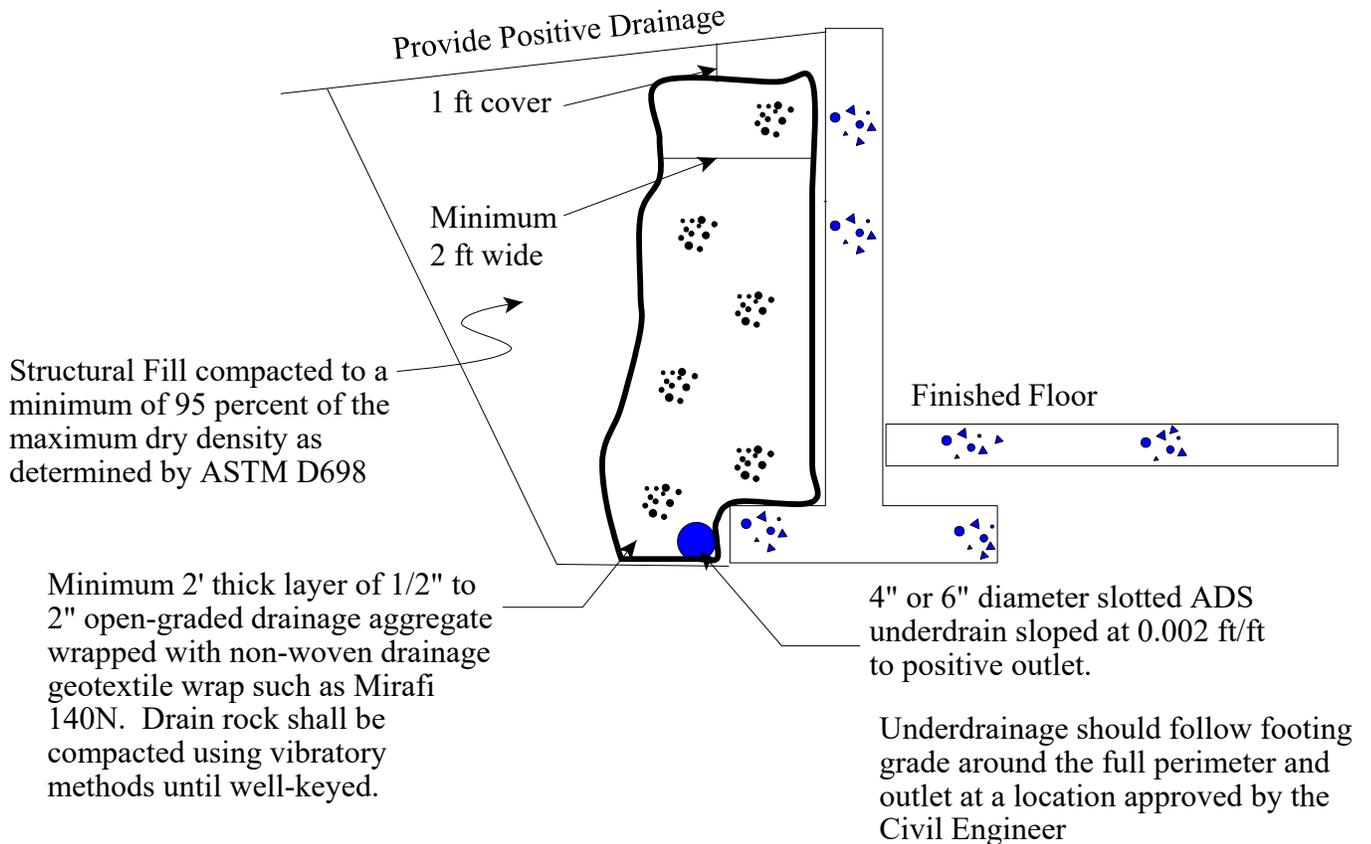
Project: Big Mountain River Development
Whitefish, Montana

Job Number: 19-448
Date: August 7, 2019

Site Plan
Slopeside Engineering, LLC
Kalispell, MT
FIGURE 2



Wall Backfill/Drainage



No Scale Intended

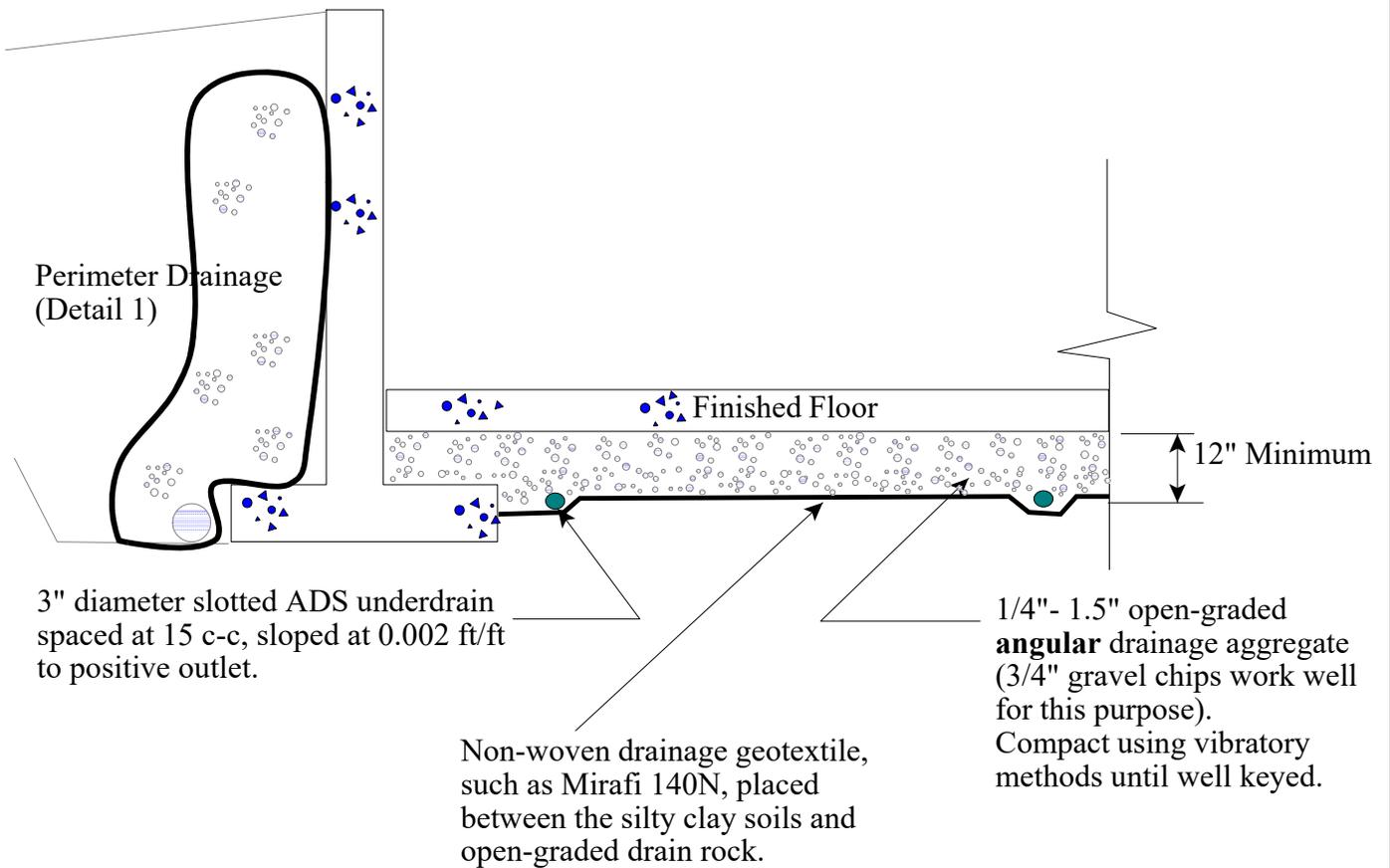
Project: Big Mountain River Development
Whitefish, Montana

Job Number: 19-448
Date: August 7, 2019

Perimeter Underdrainage
Slopeside Engineering, LLC
Kalispell, MT
Detail 1



Slab Underdrainage



Given the plan area of the building, it may be beneficial to design two discrete underdrainage systems, each designated to provide drainage to half of the planned slab area.

No Scale Intended

Project: Big Mountain River Development
Whitefish, Montana

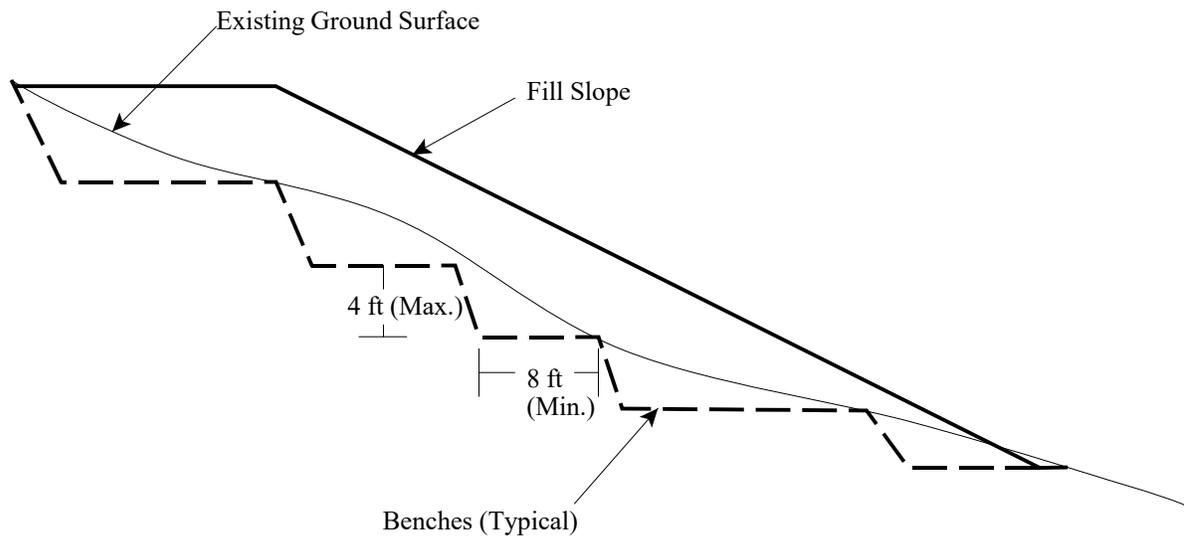
Job Number: 19-448
Date:

August 7, 2019

Slab Underdrainage
Slopeside Engineering, LLC
Kalispell, MT
Detail 2



Benching Detail for Fill Slopes



No Scale Intended

Project: Big Mountain River Development
Whitefish, Montana

Job Number: 19-448
Date: August 7, 2019

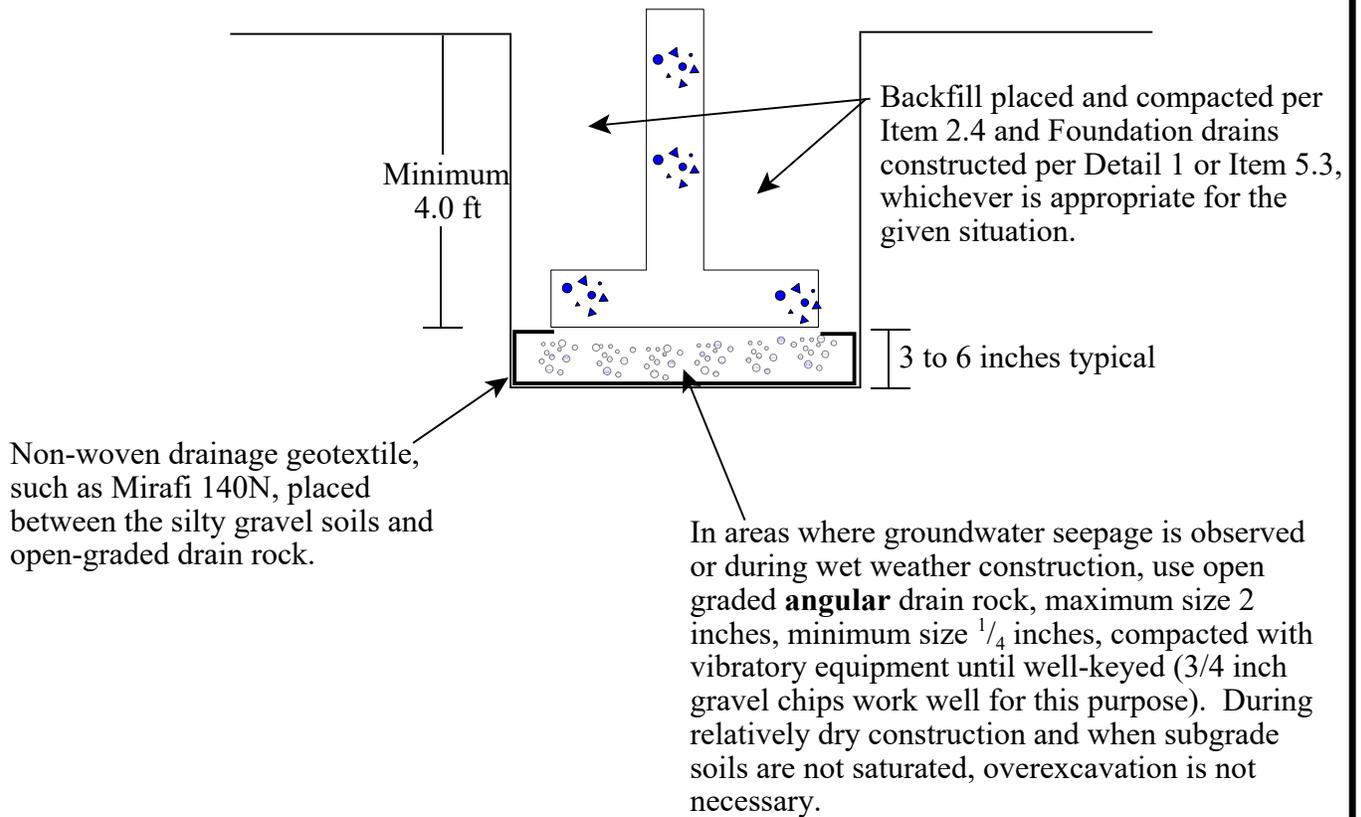
Benching Detail for Fill Slopes

Slopeside Engineering, LLC
Kalispell, MT



Detail 3

Footing Subgrade Preparation (if necessary)



No Scale Intended

Project: Big Mountain River Development
Whitefish, Montana

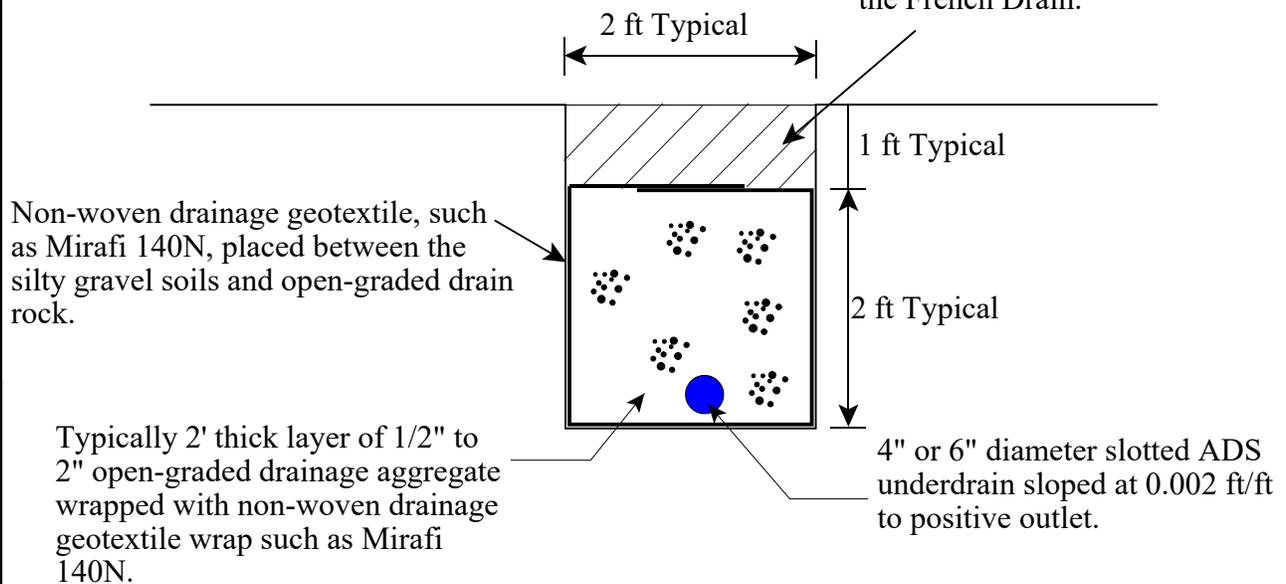
Job Number: 19-448
Date: August 7, 2019

Foundation Detail
Slopeside Engineering, LLC
Kalispell, MT
Detail 4



Typical French Drain

Approximately 1 ft of cover. Use open-graded drainage aggregate if drain is designed to control the flow of surface water. Otherwise, topsoil is appropriate in nonstructural areas, and Structural Fill or Roadway subbase can be used, depending on the location of the French Drain.



No Scale Intended

Project: Big Mountain River Development
Whitefish, Montana

Job Number: 19-448
Date: August 7, 2019

Typical French Drain
Slopeside Engineering, LLC
Kalispell, MT
Detail 5



APPENDIX A

Field Explorations and Laboratory Testing

FIELD EXPLORATIONS AND LABORATORY TESTING

FIELD EXPLORATIONS

General

The subsurface materials and conditions at the site were investigated by Slopeside on July 22 and 23, 2019, with seven borings designated B-1 through B-7. The locations of the subsurface explorations are shown on the Site Plan, Figure 2. All field explorations were observed by an experienced engineer provided by our firm, who maintained a detailed log of the materials disclosed during the course of the work. The following subsections contain a detailed description of the field investigation completed for this project.

Borings

The borings were completed to depths of 5.3 to 40.3 ft. The borings were drilled with hollow-stem auger techniques using a truck-mounted Mobile B61 drill rig provided and operated by Crowley Environmental Drilling of Butte, Montana. Disturbed samples were obtained from the borings at 2.5- to 5-ft intervals of depth. Disturbed samples were obtained using a standard split-spoon sampler and undisturbed samples were obtained using a thin-walled shelly-tube sampler when deemed appropriate. At the time of sampling, the Standard Penetration Test (SPT) was conducted. This test consists of driving a standard split-spoon sampler into the soil a distance of 18 in. using a 140-lb hammer dropped 30 in. The number of blows required to drive the sampler the last 12 in. is known as the Standard Penetration Resistance, or N-value. The N-values provide a measure of the relative density of granular soils, such as sand, and the relative consistency or stiffness of cohesive soils, such as silt and clay. The soil samples obtained in the split-spoon sampler were carefully examined in the field, and representative portions were saved in airtight plastic bags for further examination and physical testing in our laboratory. Logs of the borings are provided on Figures 1A through 7A. Each log presents a descriptive summary of the various types of materials encountered and notes the depth where the materials and/or characteristics of the materials change. To the left of the descriptive summary, the numbers and types of samples taken during drilling operations are indicated. To the right, N-values are shown graphically, along with the natural moisture contents, Atterberg Limits, and Torvane shear strength values.

LABORATORY TESTING

General

All samples obtained from the subsurface explorations were returned to our laboratory where the physical characteristics of the samples were noted, and field classifications were modified where necessary. The laboratory testing program for this project consisted of natural moisture contents, Atterberg Limits, and One-Dimensional Consolidation tests.

Natural Moisture Content

Natural moisture content determinations were made in conformance with ASTM D2216. The results are shown on the boring logs, Figures 1A through 7A.

Atterberg Limits

Atterberg Limits are defined as soil plasticity determined by the moisture range through which a soil passes from a plastic to liquid consistency. This test was conducted in conformance with ASTM D4318 and results are presented on the Boring Logs, Figure 7A, and on Figure 8A.

One-Dimensional Consolidation Testing

Consolidation is the process of time-dependent settlement of silt and clay soil when subjected to an increased loading. This testing is conducted in a fixed-ring consolidometer in general accordance with the procedures of ASTM D2435-03. The test measures sample surface area; pressure versus strain relations are thereby determined. Specimens for the testing are trimmed from “undisturbed” samples retrieved commonly by Shelby tube samplers. Specimen dimensions for testing are typically 2.5 inches in diameter by 1.0 inch in height. During the test, specimens may be inundated at a selected normal pressure to simulate field conditions. Test data is generally reduced using the square root of time fitting method to determine specimen strain at 100 percent of primary consolidation for each load increment. This strain at progressive load increments is plotted to construct the consolidation curve for which field soil deformation can be approximated. The results of this test have been presented on Figure 8A.



BORING LOG B-1

PROJECT: Big Mountain River Development

PROJECT NO.: 19-448

CLIENT: Mindful Designs, Inc.

DATE: July 23, 2019

LOCATION: See Site Plan

ELEVATION: 3,018

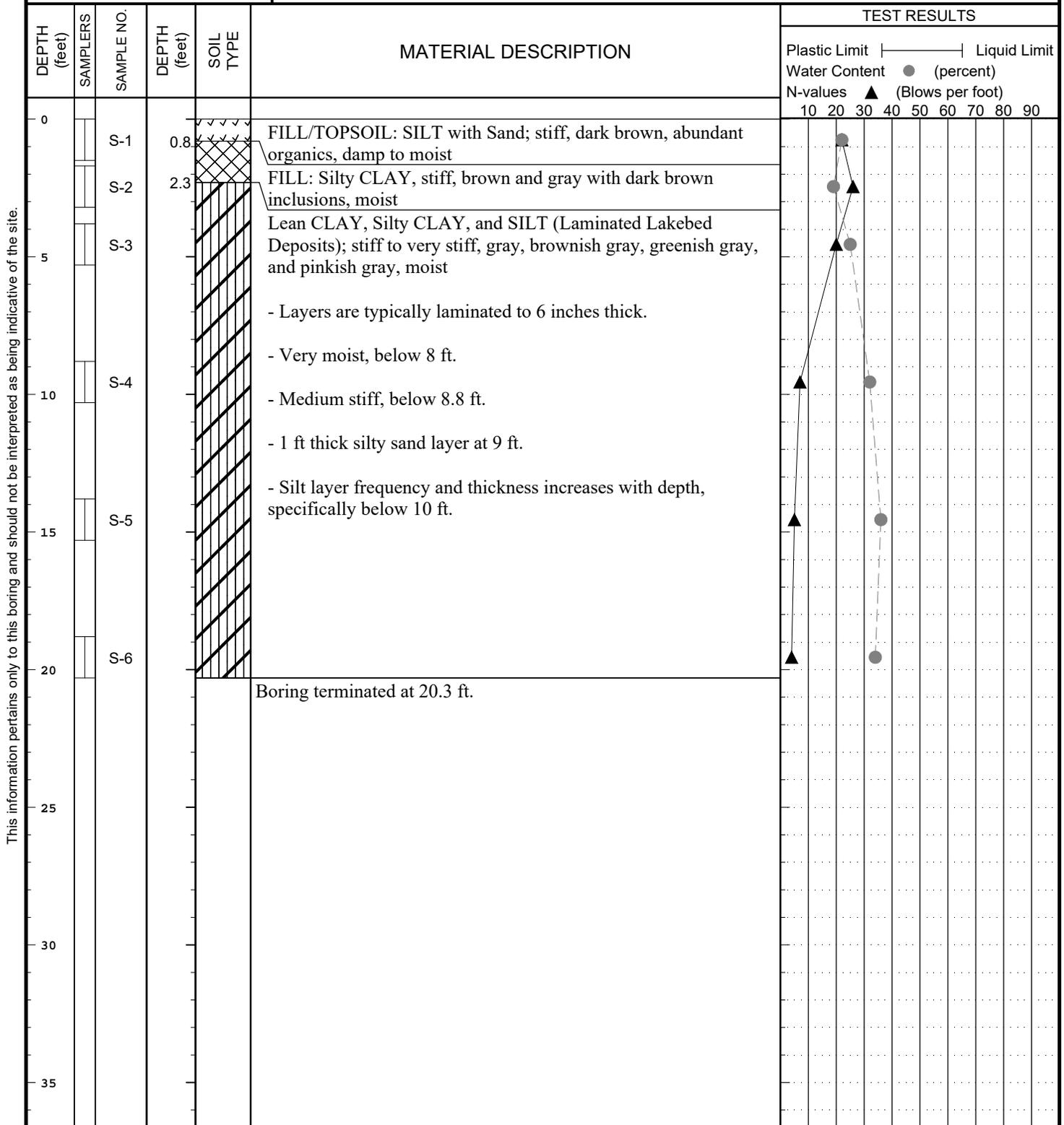
SUBCONTRACTOR: Crowley Environmental Drilling

LOGGED BY: Joshua Smith

METHOD: Mobile B-61, Hollow stem auger

GW: ∇

GW(2): ∇



This information pertains only to this boring and should not be interpreted as being indicative of the site.

Groundwater encountered; however, not measured due to time required for equilibration.

Figure 1A



BORING LOG B-2

PROJECT: Big Mountain River Development

CLIENT: Mindful Designs, Inc.

LOCATION: See Site Plan

SUBCONTRACTOR: Crowley Environmental Drilling

METHOD: Mobile B-61, Hollow stem auger

PROJECT NO.: 19-448

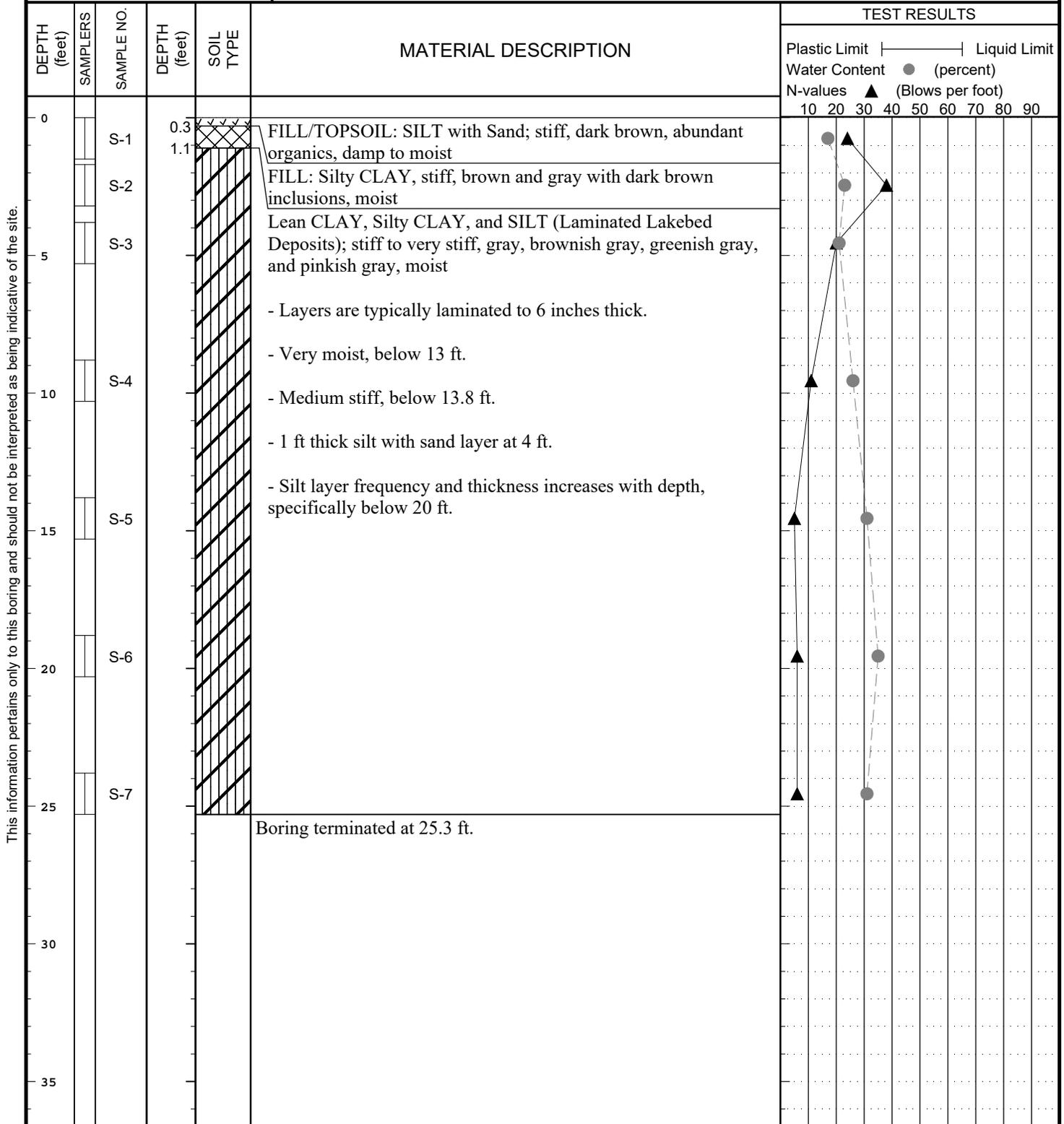
DATE: July 22, 2019

ELEVATION: 3,025

LOGGED BY: Joshua Smith

GW: ∇

GW(2): ∇



This information pertains only to this boring and should not be interpreted as being indicative of the site.

Groundwater encountered; however, not measured due to time required for equilibration.

Figure 2A



BORING LOG B-3

PROJECT: Big Mountain River Development

PROJECT NO.: 19-448

CLIENT: Mindful Designs, Inc.

DATE: July 22, 2019

LOCATION: See Site Plan

ELEVATION: 3,025

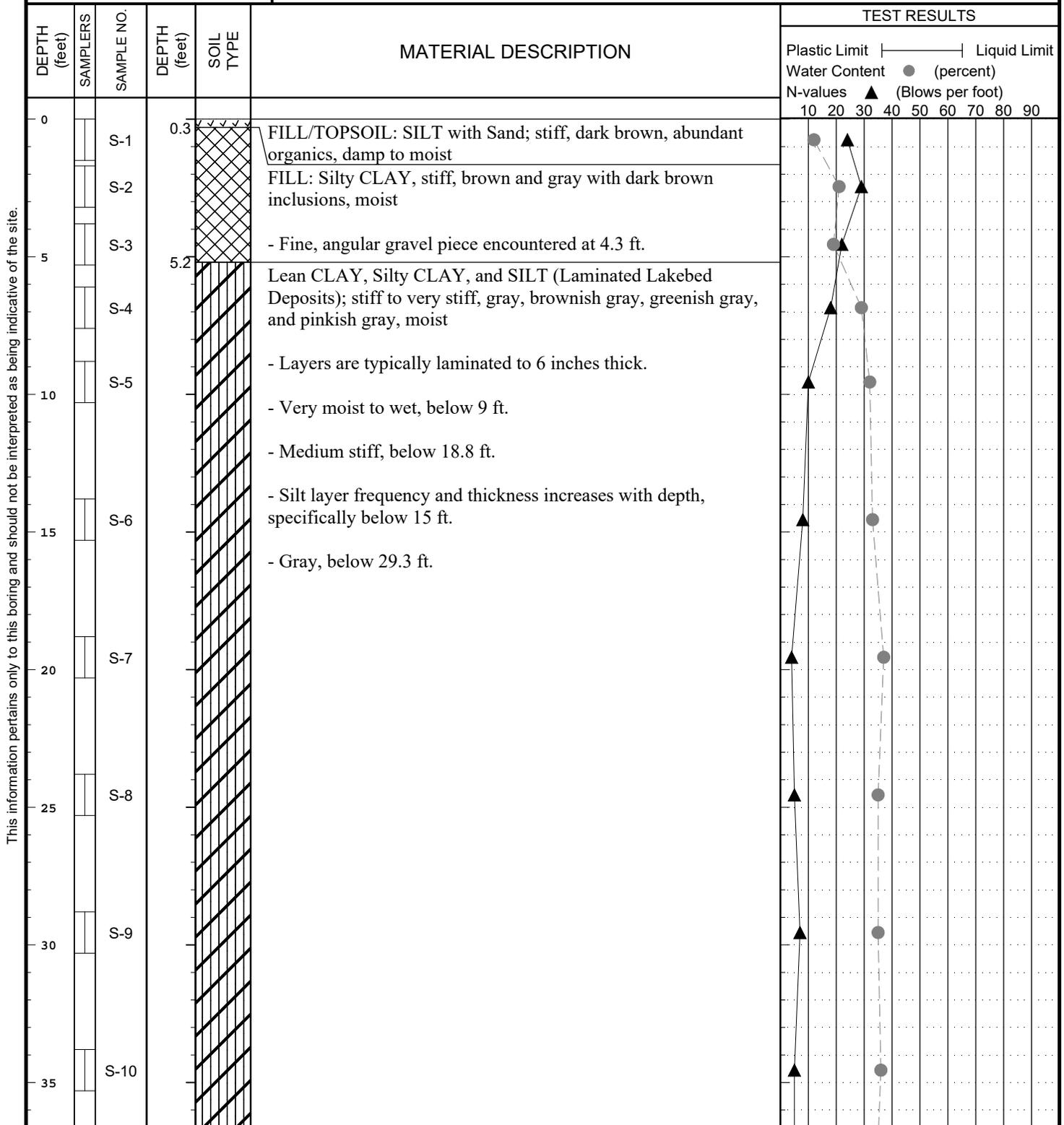
SUBCONTRACTOR: Crowley Environmental Drilling

LOGGED BY: Joshua Smith

METHOD: Mobile B-61, Hollow stem auger

GW: ∇

GW(2): ∇



This information pertains only to this boring and should not be interpreted as being indicative of the site.

Groundwater encountered; however, not measured due to time required for equilibration.

Figure 3A



BORING LOG B-3

PROJECT: Big Mountain River Development

PROJECT NO.: 19-448

CLIENT: Mindful Designs, Inc.

DATE: July 22, 2019

LOCATION: See Site Plan

ELEVATION: 3,025

SUBCONTRACTOR: Crowley Environmental Drilling

LOGGED BY: Joshua Smith

METHOD: Mobile B-61, Hollow stem auger

GW: ▽

GW(2): ▽

This information pertains only to this boring and should not be interpreted as being indicative of the site.

DEPTH (feet)	SAMPLERS	SAMPLE NO.	DEPTH (feet)	SOIL TYPE	MATERIAL DESCRIPTION	TEST RESULTS																
						Plastic Limit	Liquid Limit		Water Content (percent)		N-values (Blows per foot)											
40		S-11			Boring terminated at 40.3 ft.	▲		●														
45																						
50																						
55																						
60																						
65																						
70																						
75																						

Figure 3A



BORING LOG B-4

PROJECT: Big Mountain River Development

PROJECT NO.: 19-448

CLIENT: Mindful Designs, Inc.

DATE: July 23, 2019

LOCATION: See Site Plan

ELEVATION: 3,032

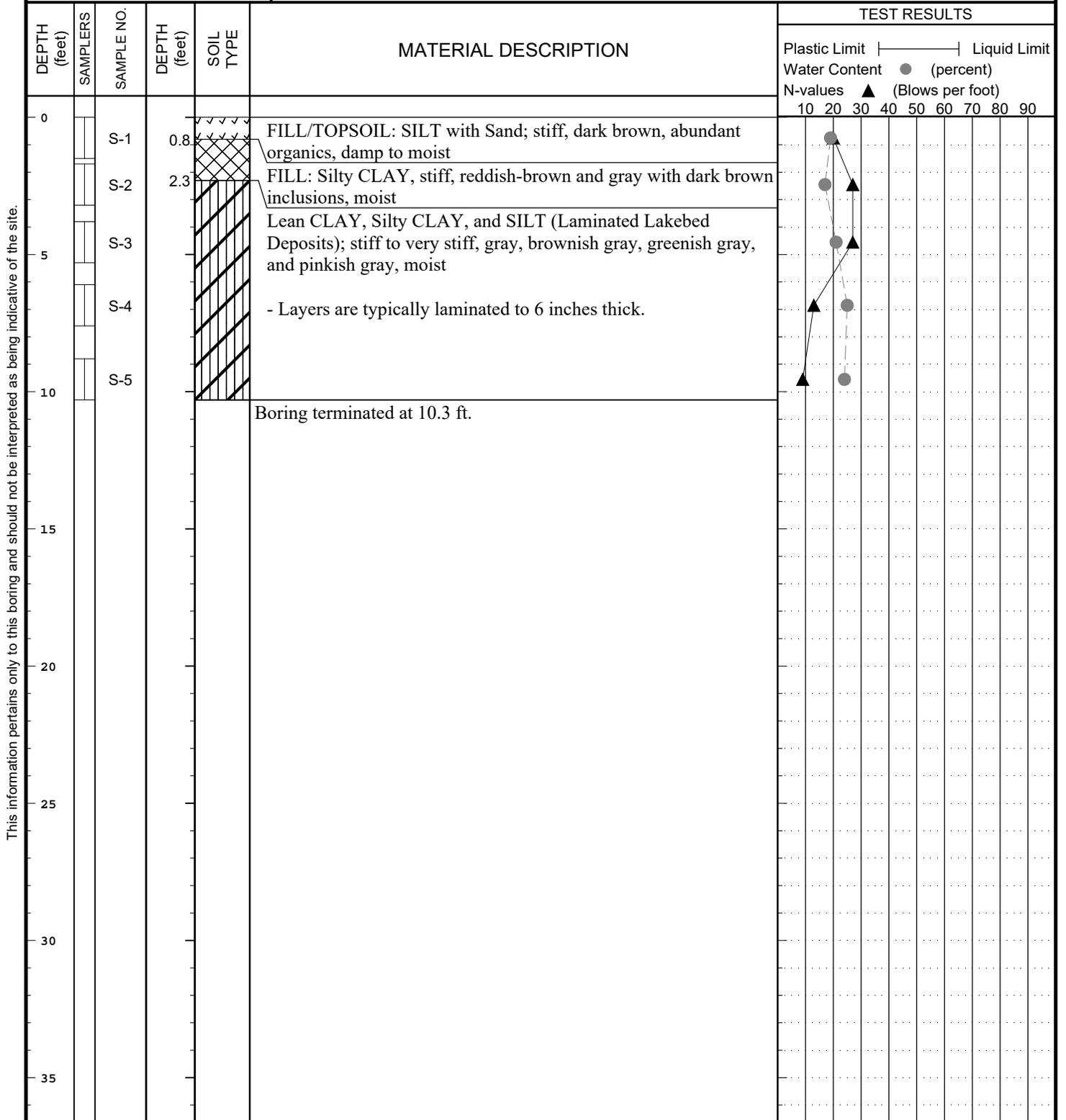
SUBCONTRACTOR: Crowley Environmental Drilling

LOGGED BY: Joshua Smith

METHOD: Mobile B-61, Hollow stem auger

GW: ∇

GW(2): ∇



This information pertains only to this boring and should not be interpreted as being indicative of the site.

Groundwater not encountered.

Figure 4A



BORING LOG B-5

PROJECT: Big Mountain River Development

PROJECT NO.: 19-448

CLIENT: Mindful Designs, Inc.

DATE: July 23, 2019

LOCATION: See Site Plan

ELEVATION: 3,034

SUBCONTRACTOR: Crowley Environmental Drilling

LOGGED BY: Joshua Smith

METHOD: Mobile B-61, Hollow stem auger

GW: ∇

GW(2): ∇

This information pertains only to this boring and should not be interpreted as being indicative of the site.

DEPTH (feet)	SAMPLERS	SAMPLE NO.	DEPTH (feet)	SOIL TYPE	MATERIAL DESCRIPTION	TEST RESULTS															
						Plastic Limit	Water Content	N-values	Liquid Limit	(percent)											
						10	20	30	40	50	60	70	80	90							
0		S-1	0.2		FILL/TOPSOIL: SILT with Sand; stiff, dark brown, abundant organics, damp to moist	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
		S-2	3.0		FILL: Silty CLAY, stiff, reddish-brown and gray with dark brown inclusions, moist	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
5		S-3			Lean CLAY, Silty CLAY, and SILT (Laminated Lakebed Deposits); stiff to very stiff, gray, brownish gray, greenish gray, and pinkish gray, moist	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
					- Layers are typically laminated to 6 inches thick.																
					Boring terminated at 5.3 ft.																
10																					
15																					
20																					
25																					
30																					
35																					

Groundwater not encountered.

Figure 5A



BORING LOG B-6

PROJECT: Big Mountain River Development

PROJECT NO.: 19-448

CLIENT: Mindful Designs, Inc.

DATE: July 23, 2019

LOCATION: See Site Plan

ELEVATION: 3,030

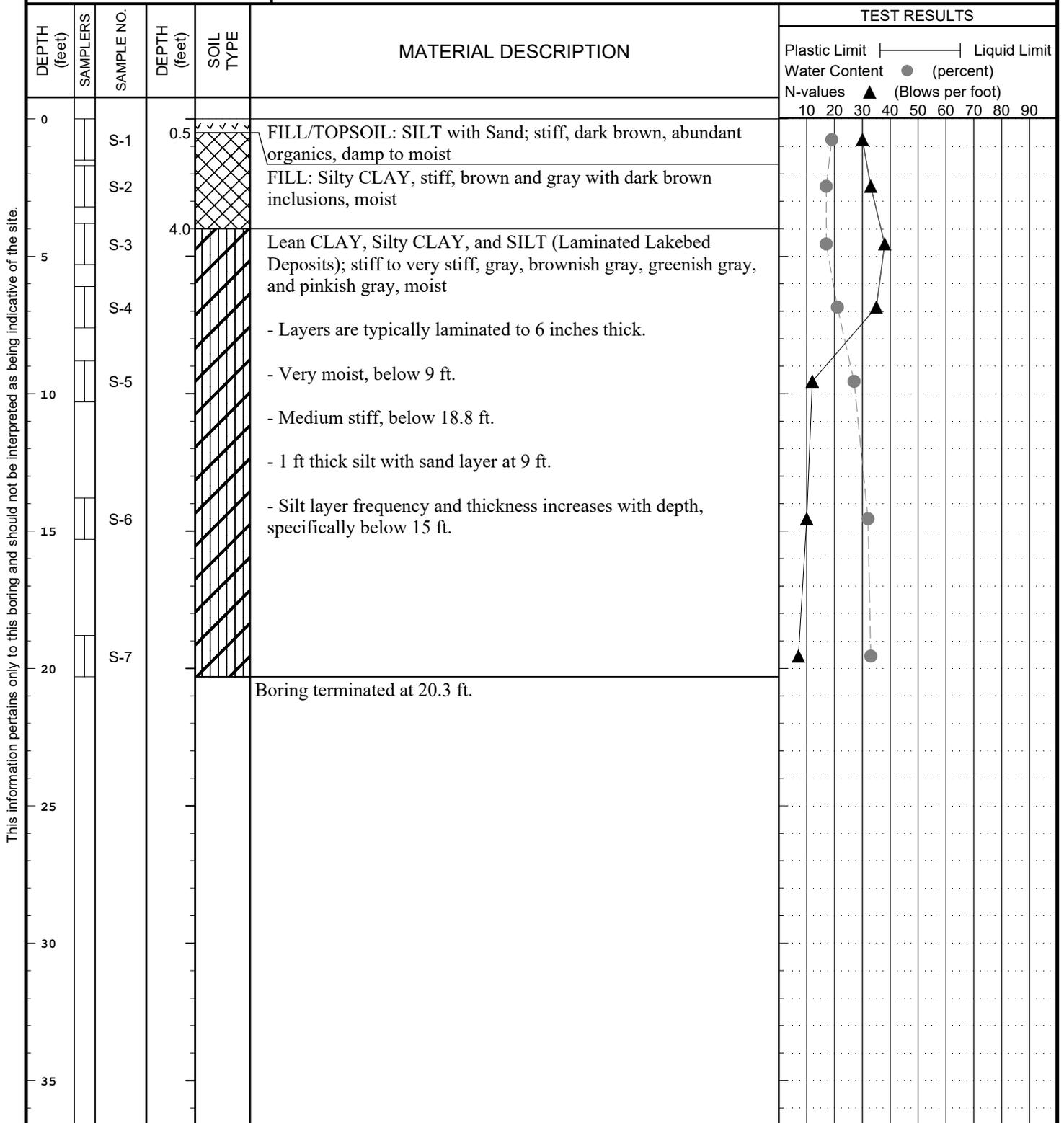
SUBCONTRACTOR: Crowley Environmental Drilling

LOGGED BY: Joshua Smith

METHOD: Mobile B-61, Hollow stem auger

GW: ∇

GW(2): ∇



This information pertains only to this boring and should not be interpreted as being indicative of the site.

Groundwater encountered; however, not measured due to time required for equilibration.

Figure 6A



BORING LOG B-7

PROJECT: Big Mountain River Development

CLIENT: Mindful Designs, Inc.

LOCATION: See Site Plan

SUBCONTRACTOR: Crowley Environmental Drilling

METHOD: Mobile B-61, Hollow stem auger

PROJECT NO.: 19-448

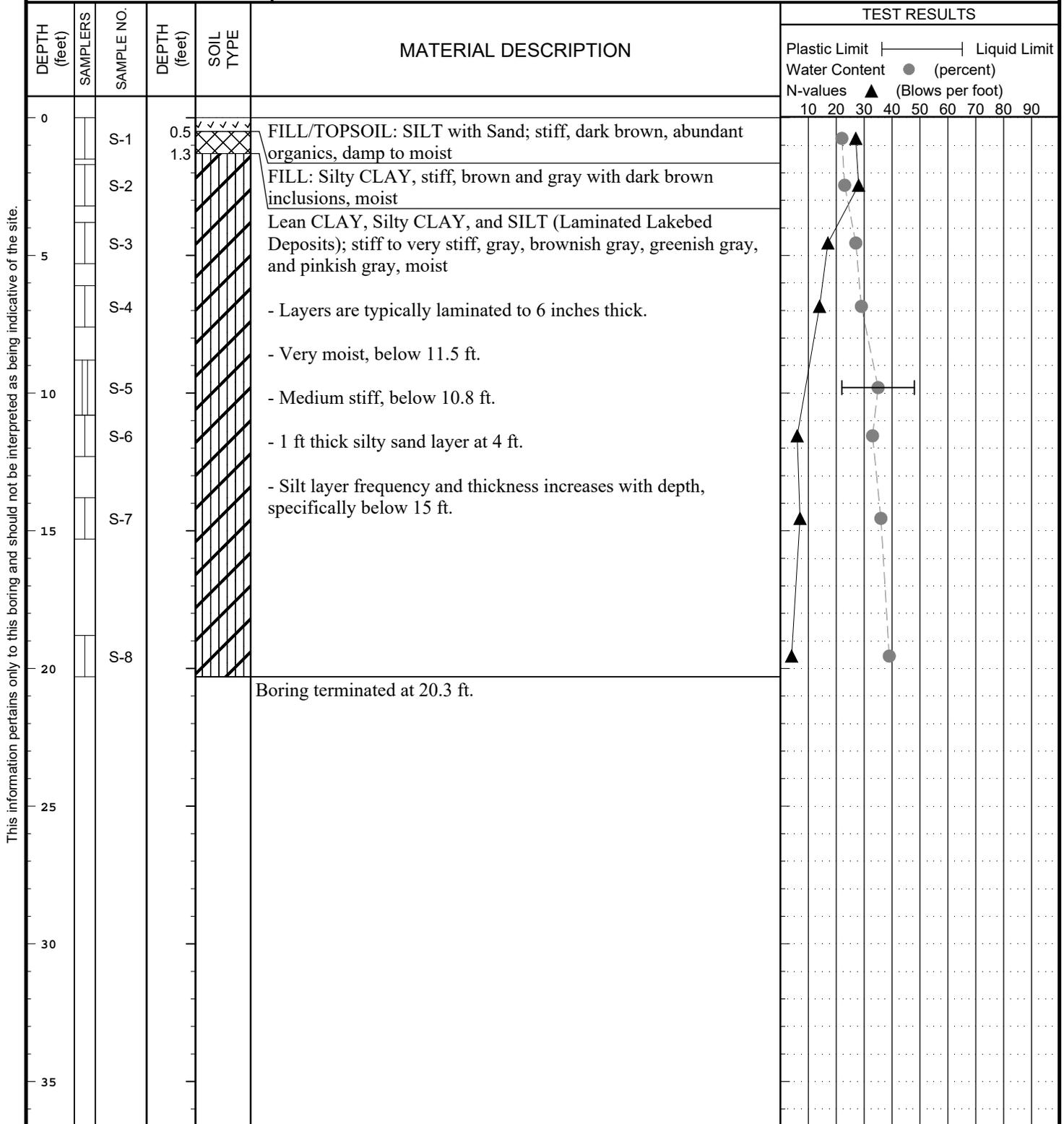
DATE: July 23, 2019

ELEVATION: 3,035

LOGGED BY: Joshua Smith

GW: >18ft 7/29/19

GW(2):

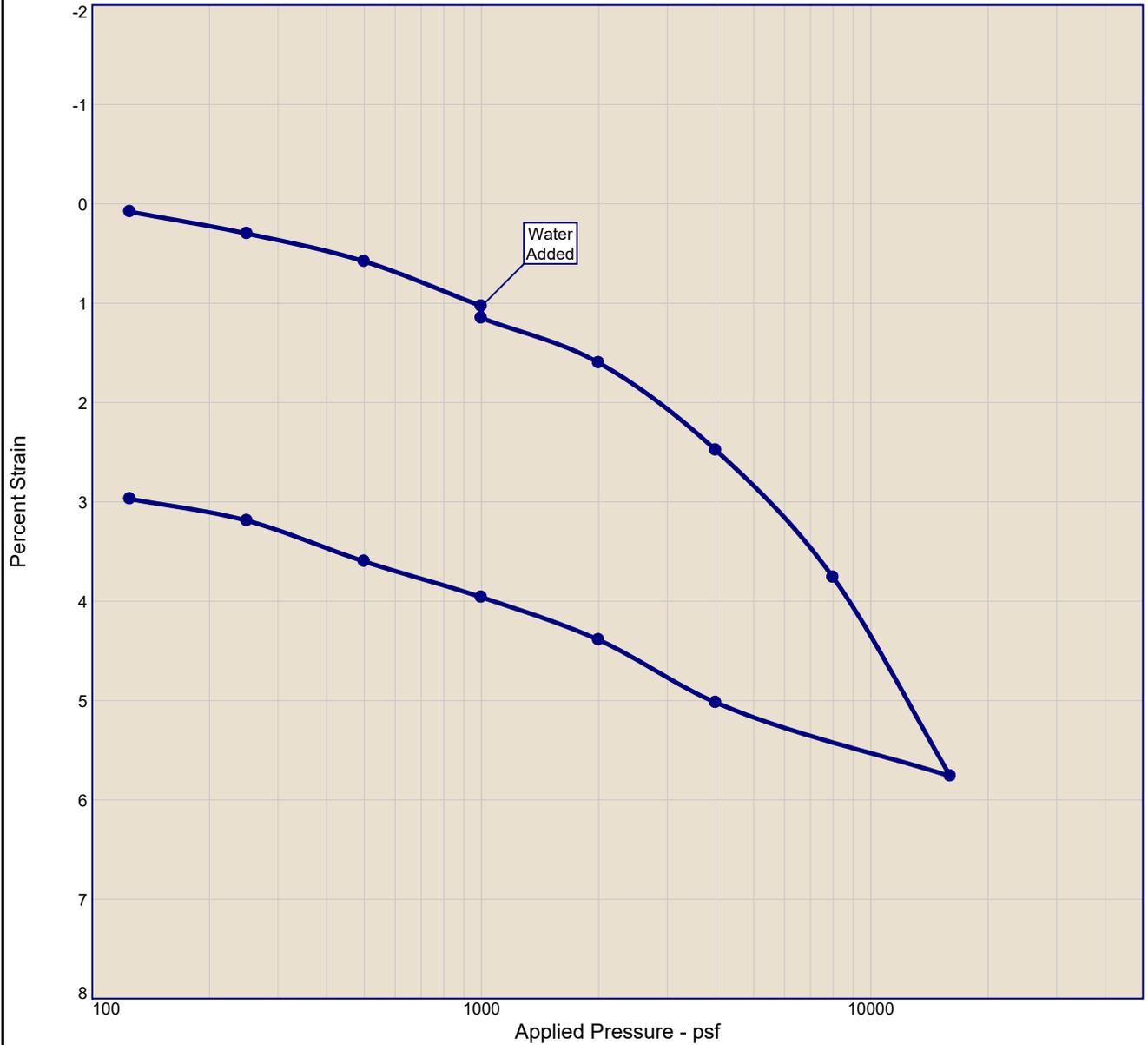


This information pertains only to this boring and should not be interpreted as being indicative of the site.

Groundwater not encountered. Installed 1.5 inch diameter piezometer to a depth of 18 ft for periodic groundwater measurements. Torvane shear strength taken on shelly tube sample at 10.8 ft is 0.55 tsf.

Figure 7A

CONSOLIDATION TEST REPORT



Natural		Dry Dens. (pcf)	LL	PI	Sp. Gr.	P _c (psf)	C _c	Initial Void Ratio
Saturation	Moisture							
100.3 %	33.7 %	87.7	48	26	2.65	4442	0.13	0.891

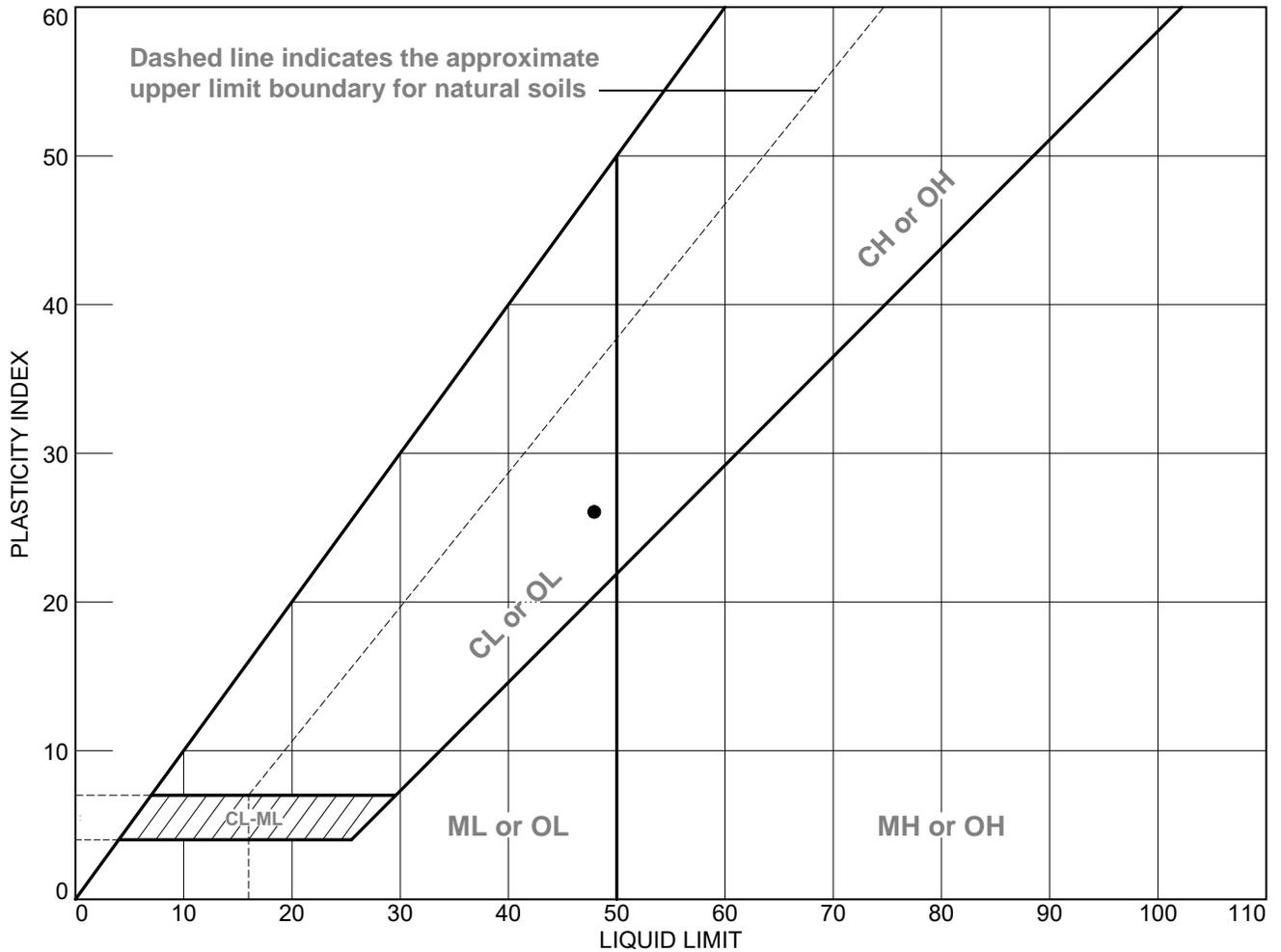
MATERIAL DESCRIPTION							USCS	AASHTO
Lean Clay							CL	

Project No. 19-507 Project: Slopeside 2019 Testing	Client: Slopeside Engineering Depth: 8.8'-10.6' Sample Number: 3230	Remarks: 9.3'-9.4' Dry density 9.1-9.6' 89.9 pcf at 33.7% moisture
---	--	--



Figure

LIQUID LIMIT, PLASTIC LIMIT, AND PLASTICITY INDEX



SOIL DATA								
SYMBOL	SOURCE	SAMPLE NO.	DEPTH	NATURAL WATER CONTENT (%)	PLASTIC LIMIT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	USCS
●		3230	8.8'-10.6'	34	22	48	26	CL



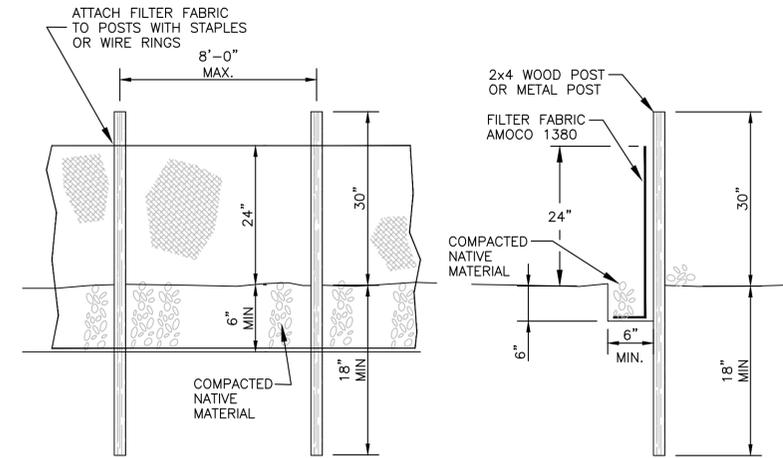
Client: Slopeside Engineering
Project: Slopeside 2019 Testing

Project No.: 19-507

Figure

EROSION CONTROL NOTES

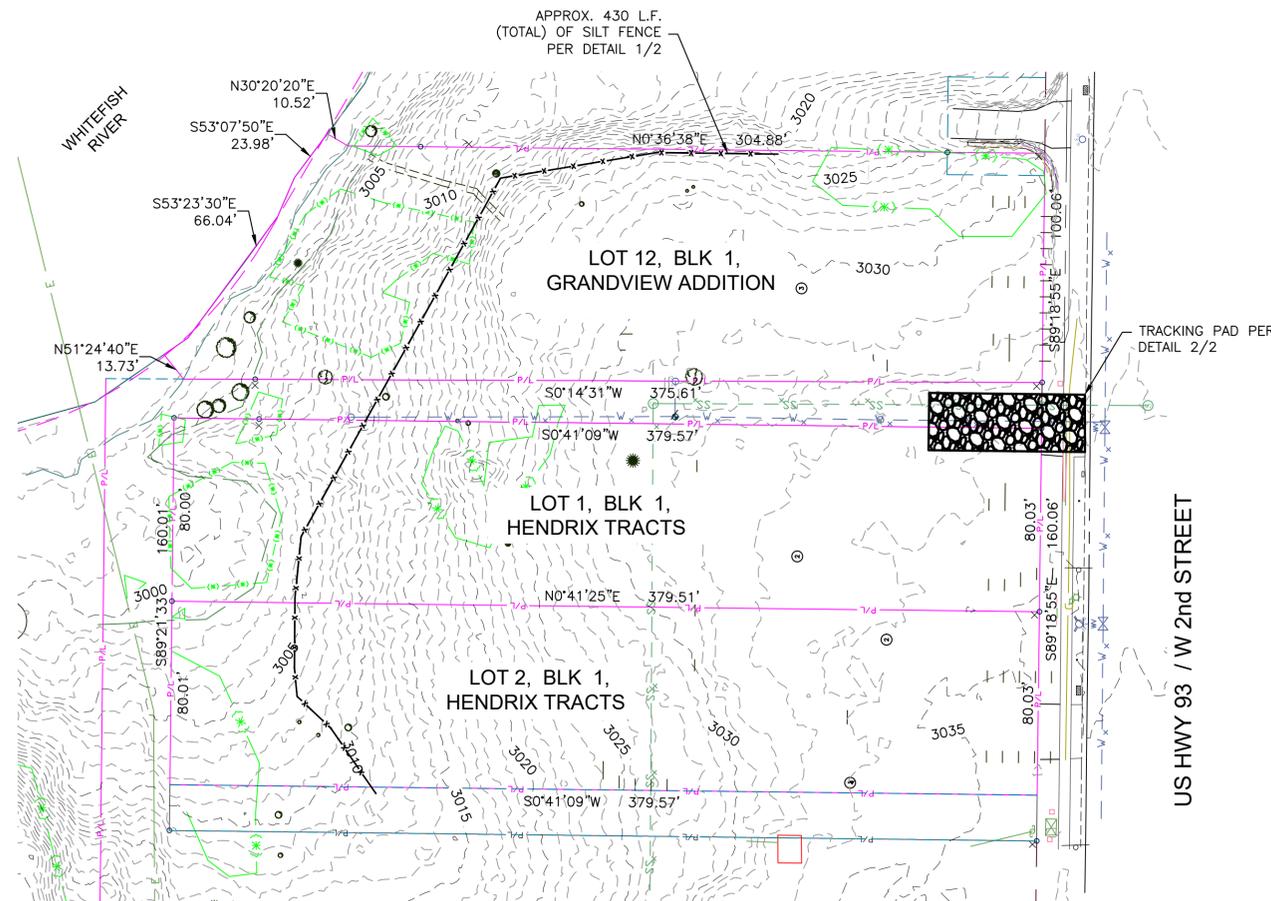
1. THE PROJECT SITE AND ADJACENT AREAS DISTURBED DURING CONSTRUCTION SHALL BE PROTECTED WITH TEMPORARY EROSION CONTROL MEASURES DURING THE ENTIRE COURSE OF THE PROJECT. THE CONTRACTOR SHALL EMPLOY EROSION, SEDIMENT AND STORM WATER DRAINAGE CONTROL BEST MANAGEMENT PRACTICES (BMPs) WITH ALL CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL NOT ALLOW UNTREATED RUNOFF TO DRAIN FROM THE PROJECT SITE.
2. CONSTRUCTION ACTIVITIES WHICH DISTURB EQUAL TO OR MORE THAN ONE ACRE REQUIRE A GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY ALSO KNOWN AS A "GENERAL PERMIT" WHICH IS ADMINISTERED BY THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ).
3. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ANY NECESSARY/REQUIRED PERMITS TO SUCCESSFULLY COMPLETE THE PROJECT AS INDICATED IN THE PLANS AND SPECIFICATIONS. THIS INCLUDES A STORM WATER POLLUTION PREVENTION PLAN (SWPPP) FROM MDEQ FOR CONSTRUCTION ACTIVITIES WHICH DISTURB EQUAL TO OR MORE THAN ONE ACRE.
4. CONTRACTOR SHALL INSTALL EROSION/SEDIMENT CONTROL BEFORE ANY CONSTRUCTION BEGINS AT THE SITE.
5. PRIOR TO CONSTRUCTION THE CONTRACTOR SHALL INSTALL EROSION/SEDIMENT CONTROL MEASURES AS SHOWN, TO TRAP SILT AND OTHER MATERIALS CARRIED IN RUNOFF WATER. THE SEDIMENT AND EROSION CONTROL MEASURES SHALL REMAIN IN-PLACE AND BE CLEANED AND MAINTAINED UNTIL CONSTRUCTION IS COMPLETED AND VEGETATION HAS BEEN ESTABLISHED.
6. WASHOUT OF CONCRETE TRUCKS SHALL OCCUR OFF-SITE AT AN APPROVED LOCATION. DO NOT WASH OUT TRUCKS INTO STREETS, DRAINAGE AREAS, GUTTERS OR ANY STORM DRAIN SYSTEM.
7. BMPs SHALL BE INSPECTED EACH DAY WORK IS UNDERWAY AT THE SITE AND IMMEDIATELY AFTER ANY STORM EVENT OF 0.5" OR MORE OF PRECIPITATION OCCURS. CONTRACTOR SHALL CLEAN OR MAINTAIN SUCH DEVICES WHEN THEY ARE NOT EFFECTIVE IN TRAPPING AND RETAINING SEDIMENT, AND ADD DEVICES WHERE NEEDED. ANY NECESSARY REPAIRS TO BMPs SHALL BE MADE WITHIN 24 HOURS OF OBSERVATION OR NOTIFICATION FROM THE PROJECT ENGINEER.
8. ALL BMPs SHALL MEET AND BE INSTALLED PER CITY OF WHITEFISH STANDARD SPECIFICATIONS & DRAWINGS (LATEST EDITION).
9. TRACKING PAD AND ADJACENT STREETS SHALL BE CONTINUOUSLY CLEANED AND MAINTAINED BY CONTRACTOR.
10. ALL STORM DRAINAGE INLETS SHALL BE PROTECTED FROM SEDIMENTATION WITH DRAINGUARDS. DRAINGUARDS SHALL BE KEPT IN PLACE UNTIL STABILIZATION OF DISTURBED AREAS IS ACHIEVED.



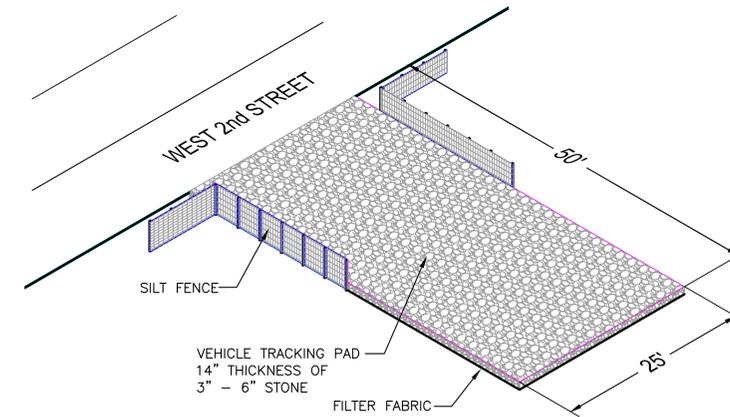
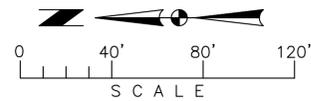
NOTES:

1. ENDS OF INDIVIDUAL ROLLS OF FABRIC SHALL BE SPLICED TOGETHER ONLY AT A SUPPORT POST WITH A MINIMUM 6" OVERLAP.
2. SILT FENCE FABRIC TO BE SECURELY FASTENED TO METAL POST WITH WIRE TIES OR HOG RINGS (3 PER POST). FOR WOODEN POSTS, FABRIC SHALL BE FASTENED WITH NO. 17 GAGE STAPLES (5 PER POST) OR NO. 14 GAGE NAILS (4 PER POST).

SILT FENCE DETAIL 1
2
NOT TO SCALE



EROSION CONTROL PLAN



NOTE:
ALL VEHICLES ENTERING AND EXITING THE CONSTRUCTION AND/OR BUILDING SITE SHALL TRAVERSE THE VEHICLE TRACKING PAD TO MINIMIZE MUD AND DIRT FROM TRACKING OFF SITE. ROCK SHALL BE REPLENISHED IF TRACKING OCCURS. TRACKING PAD SHALL BE RENEWED AS NECESSARY TO RETAIN EFFECTIVENESS. ALL MATERIALS SPILLED, DROPPED, WASHED OR TRACKED FROM VEHICLES ONTO ROADWAYS SHALL BE REMOVED IMMEDIATELY.

VEHICLE TRACKING STONE ENTRANCE REQUIREMENTS:

- 3"-6" DIAMETER WASHED ROCK
- UNDERLYING FILTER FABRIC TO BE REQUIRED AS STATED

FILTER FABRIC REQUIREMENTS:

- TENSILE GRAB STRENGTH = 200 LBS (ASTM D4632)
- ELONGATION MINIMUM = 15% (ASTM D4632)
- SEAM BREAKING STRENGTH MINIMUM = 180 LBS (ASTM D4632)
- APPARENT OPENING SIZE MAXIMUM = 0.3 MM (#50 SIEVE) (ASTM D4751)
- PERCEPTIVITY MINIMUM = 0.3/SEC (ASTM D4491)

VEHICLE TRACKING PAD DETAIL 2
2
NOT TO SCALE

NOT FOR CONSTRUCTION

REV	DATE	REVISION

TD&H
Engineering

406.751.5246 • tdhengineering.com
450 CORPORATE DR., SUITE 101 • KALISPELL, MONTANA, 59901

DRAWN BY: DJK
DESIGNED BY: DJK
QUALITY CHECK:
DATE: 03/16/2020
JOB NO.: K19-054
FIELDBOOK

EROSION CONTROL PLAN - BIG MOUNTAIN RIVER, LLC
244, 314, 322 W 2nd STREET WHITEFISH, MT 59937

LOT 1, 2, BLK1 HENDRIX TRACTS, LT 12, BLK1 GRANDVIEW ADD
SECTION 36, T31N, R22W, PMM

Return after recording to:
Mindful Designs, Inc.
118 2nd Street
Whitefish, Montana 59937

Above this line is for recording purposes only

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIG MOUNTAIN RIVER**

This Declaration of Covenants, Conditions and Restrictions (this “Agreement”) is made this ____ day of _____, 2020, by Big Mountain River, LLC (hereinafter referred to as “Declarant”). The Declarant, as owner of the Property legally described below, hereby declares that said Property, and all parts and parcels thereof, shall at all times be owned, held, used and occupied subject to the provisions contained in this agreement and to the covenants, conditions, and restrictions contained herein.

1. Property. The Declarant owns that property legally described as follows (collectively the “Property” or individually a “Lot”):
 - *TRACT 1: Lot 12, Block 1 of Grandview Addition to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.
EXCEPTING THEREFROM, That portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 14, 2012 as Document No. 201200003374, records of Flathead County, Montana.*
 - *TRACT 2: Lot 1, Block 1 of Hendrix Tracts of Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.
EXCEPTING THEREFROM That portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 15, 2012 as Document No. 201200003421, records of Flathead County, Motion.*
 - *TRACT 3: Lot 2, Block 1 of Hendrix Tracts to Whitefish, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.*

EXCEPTING THEREFROM That portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 15, 2012 as Document No. 201200003422, records of Flathead County, Montana.

2. Shared Party Walls. A wall or walls may be located on the division line between adjacent structures on the Lot(s) (hereinafter the “Party Wall(s)”). These structures may also share a roofline, fence, driveway, landscaping, certain stormwater drainage facilities, certain structural facilities, utilities, mechanical systems, ventilation facilities, and other systems (all of which are collectively referred to as the “Common Elements”). The Declarant, and each and every subsequent owner of a Lot (“Owner”) that contains Party Walls, including its appurtenant improvements, by their ownership of any Lot subjected hereto, hereby agrees to the following with regard to the Party Wall(s), the Common Elements and related matters.

- a. Ownership and Easements. Each Owner shall have and is hereby granted a one-half, undivided interest in and to the Party Wall(s) and Common Elements in which they share with an adjoining Owner. Each Owner shall have and is hereby granted an easement over the one-half, undivided interest held by the other adjacent Owner in and to the Party Wall(s) and Common Elements they have in common. Neither Owner shall unreasonably obstruct the other Owner(s) use of Party Wall(s) and/or Common Elements which they share. Each Owner shall have and is hereby granted an easement across and under the Property for underground utilities that serve their Lot.
- b. Use. Each of the Owners shall have the right to use the Party Wall(s), which they share with adjoining Owner(s), to laterally support the adjacent building on their respective Lot(s). Any other uses of the Party Wall(s) are permissible, provided they do not interfere with or impair the rights of the other adjoining Owner, excepting that openings or windows are prohibited in Party Wall(s). Each Owner shall have the right to use the Common Elements which they share with an adjoining Owner. Any uses of the Common Elements, which one party shares with another, are permissible provided that they do not interfere with or impair the rights of the adjoining Owner.
- c. Maintenance, Repair and Modification. Each Owner is responsible for maintaining the Party Wall(s) and Common Elements which they share with an adjoining Owner in a safe and functioning condition. Adjoining Owners agree that any damage caused by the act or omission of one Owner (including his agents, guests, tenants, and invitees) will be repaired to its original condition at the sole expense of the Owner who caused the damage. Any repairs or replacement required that are not the result of the act or omission of either Owner will be made at the joint and equal expense of both Owners sharing that Common Element or Party Wall(s), and either Owner may undertake such necessary repairs or replacement and receive contribution from the other Owner for one-half of the reasonable expenses incurred. Any portion of the Party Wall(s) or Common Elements exclusively used by one Owner will be repaired or replaced at the sole expense of that Owner.

- i. Appurtenant Property Maintenance. Each Owner may make modifications, additions, or alterations to the Party Wall(s) or Common Elements appurtenant to his Property with the consent of the adjoining Owner, which consent will not be unreasonably withheld, and provided that said modifications, additions or alterations do not interfere with or impair the rights of other Owners.
- ii. Vegetative Stormwater Filter Maintenance Plan. A vegetative stormwater filter area exists on the Property. This area consists of native plants and grasses that serve as a stormwater quality treatment device. The filter is intended to reduce erosion and the transport of solids, particulates, hydrocarbons, and nutrients from stormwater generated within the lots. For a vegetative filter to be effective in removing pollutants from stormwater runoff, proper maintenance is necessary to ensure proper filter function. Each and every Owner of a Lot should inspect vegetation at least annually for evidence of erosion, as well as for overall health of the vegetation and for unwanted growth or the presence of invasive plant species. When areas of unwanted or invasive plants are found, Owners should remove the unwanted growth using methods to limit the disruption to the remaining vegetation. The use of herbicides or other chemical applications should be prohibited within this area so as not to affect the adjacent pond area and associated vegetation. During these inspections, Owners should inspect areas for accumulation of excessive sediment or debris and remove any contaminants as necessary. Removed sediment and debris should be disposed of in a manner consistent with applicable local, state, and federal regulations. Owners shall also take preventative measures so as not to inhibit the filtration capabilities of the vegetation or add unnecessary pollutant loads to the area. Lot Owners should not introduce activities that could damage the vegetation, such as vehicle access, excavation, removal of vegetative areas, or the building of any structures or hardscape surfaces within the easement boundary. Owners should also be cognizant when stockpiling any earthen materials, applying chemicals, or introducing excessive water flows to the area. If an area of the filter is found to be damaged, Owners should revegetate the damaged area with similar plants and grasses and remediate any soil media as necessary.

3. Duty to Maintain Individual Elements. Each Owner shall keep all exterior walls and the roof on his own Property in good condition and repair at his sole cost and expense. Each Owner may only make modifications, additions, or alterations to the exterior walls, roof or exterior appearance (including paint or stain color) of the improvements on his own Property with the written consent of the other adjoining Owner(s), which consent will not be unreasonably withheld. No such modifications, additions, or alterations shall interfere with or impair the rights of other Owner(s). The exterior appearance of the buildings and improvements shall remain consistent, and any proposed modifications, additions, or alterations of the exterior appearance shall take such desired aesthetic consistency into account.

4. Covenants

- a. The parties recognize that sharing a common wall can result in sound from one building being audible in the adjoining building. Each Owner agrees not to create sound or allow others to create sound in their building that is unreasonably disturbing to the occupants of the adjoining building. The Property allows short-term rentals subject to the requirements of City, County, and State law. If any Owner elects to rent his Lot, the tenants thereof shall be informed of the duty to minimize sound that can be heard in the adjacent building and the Owner shall be liable for violations of this covenant by his agents, guests, tenants, and invitees.
- b. No poultry, birds, excepting inside pet birds, which may be kept inside the house, shall be permitted. Cats, dogs or other small household pets, not to exceed two in total number, for each Lot Owner may be kept. All pets are to be leashed, kenneled, (underground electric fences are permitted) or otherwise confined to the Owners Lot, except when leashed and controlled by the owner. If a breach occurs, the Lot Owner of the pet is responsible for any liability and cleaning.
- c. No fence may be constructed upon the Property or any Lot thereon, without the prior written consent of the Association.
- d. The parking or storage of campers, camping trailers, pickup campers, trucks over $\frac{3}{4}$ ton, boats, trailers or unlicensed, or inoperable, vehicles must be screened from public view as viewed from the public right of ways.
- e. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Lot owners.
- f. All structures upon any Lot shall be kept in good repair and appearance.
- g. No garbage, rubbish, trash, or other waste may be kept or placed in public view as viewed from the public right of ways; except on those designated days for public collection and stored securely in trash receptacles.
- h. Owners will conform to all architectural and design guidelines as set by the Association (or its Architectural Committee) regarding exterior finishes and new construction.
- i. No business or commercial activities shall be conducted on any of the Lots except home-based businesses as defined herein. Home-based businesses means business of a professional nature or a home-based business as defined by Flathead County; but specifically excluding retail, manufacturing, or other businesses that impair the quiet, residential character of the neighborhood. Examples of allowable home-based businesses include: an architect's home office, an artist studio, computer programming, a contractor's office, or insurance sales. Examples of disallowed home-based businesses include: an auto repair shop, a barbershop, a beauty shop, a

daycare, a restaurant, or warehouse facility. These examples are not inclusive and are included here for illustrative purposes only.

5. Homeowner's Association. Each Owner of a Lot within the Property shall, by virtue of their ownership of a Lot, be a member of the Big Mountain River Homeowner's Association, Inc.; which entity will have been formed, under the laws of the state of Montana, to provide for i) ownership, maintenance and repair of all common area(s) (hereinafter collectively and singularly referred to as the "Common Area(s)"), which include those land areas and improvements identified on the Plat of the Big Mountain River, utilities common to all Lots, and those streets, alley ways and easements identified on the Plat of the Big Mountain River, ii) maintenance and repair of all Common Element(s) and iii) a structure under which all Owners may act as a group in accordance with this Declaration and the Association Bylaws.
 - a. The Association's Board may, from time to time, adopt rules, regulations, budgets and fee schedules regarding the use, enjoyment and maintenance of the Property. Furthermore, the Association's Board may adopt a fee schedule for violations of promulgated rules and regulations. Any assessed fee will be assessed against the Owner and may be made a lien against that owner's Lot and appurtenances. Any lien made against a Lot under this section shall bear interest at the legal rate, from the date of filing, and may be foreclosed in the same manner set forth in the Bylaws.
 - b. In order to provide the Association with adequate working capital, the Association shall collect \$1,000 from Buyer at the time of the sale or purchase of a Lot, which amount may be adjusted no more than yearly by the Association. Such payment to this fund shall not be considered advance payment of annual assessments.
6. Liability for Injuries. Any injury to third parties caused by the use, maintenance, or modification of the Party Wall(s) or Common Elements is the responsibility of both Owners jointly, unless the injury is caused by the act or omission of one of the Owners.
7. Reserved Declarant Rights. Notwithstanding anything in this Declaration, or the Bylaws, to the contrary, the Declarant does hereby reserve the right(s) to:
 - a. At any time, Declarant may assign, to such other party or parties as Declarant deems appropriate, all or any portion of Declarant's rights, duties and obligations with respect to this Declaration, whether provided under this Declaration, the Bylaws, or any other agreements or documents related thereto.
 - b. For so long as Declarant owns one or more Lots (hereinafter "Period of Declarant Control"), Declarant may:
 - i. unilaterally, at any time and without the vote or consent of any other Owner(s), amend this Declaration, in whole or in part; and
 - ii. appoint the Board of Directors of the Association,

unless it sooner decides, in its sole and absolute discretion, to end its Period of Declarant Control by filing with the Clerk and Recorder of Flathead County, Montana a notice providing for the Cessation of Declarant Control.

8. Insurance. Each Owner shall obtain and keep in force homeowners insurance insuring their Lot and appurtenances thereto, and their interest in the Party Wall(s) and Common Elements, to their full insurable value against fire and other casualties, and name the Association and adjacent Lot Owners who share said Wall(s) and Common Elements as an “additional insured” on said policy of insurance. Each party shall also obtain and keep in force liability insurance covering their Property, personal property and their interest in the Party Wall(s) and Common Elements share with other Owners. On request of an Owner, the adjoining Owner shall provide written proof of such insurance.

9. Encroachments; Boundary Line Adjustment. If, for any reason, it is determined that any parts of the building (or other improvements existing at the time this Agreement is recorded) that are located primarily on one Owner’s Property (the “Encroaching Building”) encroach onto an adjoining Owner’s Property, the Owner of the Encroaching Building shall have and is granted an easement over the adjoining Owner’s Property to permit such encroachment. If, for any reason, it is determined that the Party Wall(s) is not located exactly on the common division line between two Lot(s), the Party Wall(s) shall nonetheless be treated as a common wall, with the ownership, easements, costs and expenses of maintenance, repair and replacement, and other rights and responsibilities being determined as provided in this Agreement. In such event, either Owner may request that the boundary line between the two Lot(s) be revised so that the boundary line coincides with the Party Wall(s), and the Owners shall both cooperate to accomplish such a boundary line adjustment, including any needed conveyances of Property, at no charge to each other, except that the Owners shall share equally in the costs of the boundary line adjustment survey, recording costs and other costs of accomplishing the boundary line adjustment.

10. Duration, Waiver and Modification of Agreement. This Agreement shall terminate at such time as Party Wall(s) and Common Elements no longer exist. Except as otherwise provided during the Period of Declarant Control, this Agreement may only be amended by a written instrument executed by the President of the Association, certifying that more than 75% of the members of said Association have voted in favor of said amendment.

11. Successors in Interest. This Agreement shall create mutual easements and covenants that run with the Property, and each and every part, parcel or lot thereof, as long as the Party Wall(s) or Common Elements exist, benefiting and binding all successors, heirs, assigns of all Owners.

12. Non-Merger. It is acknowledged that, at present, the Lot(s) are owned by the Declarant. However, it is anticipated that the common ownership of the Lot(s) will be severed at some time in the future. It is the express intent of the parties that the easements provided herein shall not be deemed to be merged or ineffective by reason of the present common ownership of the Lot(s). If for any reason the present common ownership of the Lot(s) is deemed to cause a merger or otherwise render ineffective any easements provided herein, all such easements shall be deemed

automatically granted and re-granted and in full force and effect at such time as the common ownership is severed by conveyance of the Lot(s) to a third party, and all such easements shall thereupon be deemed to be effective and in full force and effect without any further action by the parties or their successors or assigns.

13. Enforcement. Each Owner shall have the right to enforce the terms herein provided by any action or proceeding at law or in equity against any person or Owner violating or attempting to violate any of the aforementioned restrictions, either to restrain violation or to recover damages. If after sending a notice of default, the defaulting/violating party fails to cure the default within 10 days of the postmarked date of the notice default, the non-defaulting party or parties may, without breaching the peace, cure the default and file a lien upon the defaulting Owner's Lot for costs and fees attributable to the curative actions. The costs and fees attributable to curative actions shall bear interest at the legal rate.

14. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

15. Severability. If any term or provision of this Agreement shall be held to be invalid or unenforceable for any reason, that term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining terms and provisions, and this Agreement shall be construed as if such invalid or unenforceable term or provisions had not been included.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on those dates indicated below.

DATED this ____ day of _____, 2020.

DECLARANT: (BIG MOUNTAIN RIVER, LLC)

X _____
_____ as Appointed Agent
of BIG MOUNTAIN RIVER, LLC

[STATE OF MONTANA ; COUNTY OF FLATHEAD]

This instrument was acknowledged before me on the ____ day of _____, 2020 by _____ as Appointed Agent of BIG MOUNTAIN RIVER, LLC.

X _____

(SEAL)

Notary Public for the state aforesaid

CALYPSO ECOLOGICAL CONSULTING, LLP

P.O. Box 5438
Whitefish, MT 59937



February 27, 2020

Bruce Boody Landscape
301 East 2nd Street, Suite 1B
Whitefish, MT 59937

Dear Bruce:

Per your request, I completed a wetland delineation along a stretch of the Whitefish River in Whitefish, MT that is part of the proposed Big Mountain River LLC Project. This letter summarizes my findings of wetlands delineated along the river within the project boundaries.

I visited the property on May 27, 2019. Most of the property is on an upland slope which descends to the Whitefish River. Most of this slope was determined to be within upland vegetation and not included in the wetland boundary.

The wetland boundary exists as a relatively narrow strip along the Whitefish River. The wetland strip varies in width, depending on the steepness of the adjacent slope. The survey took place in the spring when the water level of the river is high, allowing an easy assessment of the high water mark of the Whitefish River along the steeper banks. This was evidenced by upland vegetation on an abrupt steep slope and a narrow strip of wetland vegetation and soils on adjacent flatter ground next to the river. In one area, however, the upland slope was further back from the water's edge and not as steep, resulting in a wider swath of flat ground adjacent to the river. In this area, not all of the flat ground was underwater but a high water table was present, along with hydric soils and hydrophytic vegetation.

Wetland characteristics include 100% hydrophytic vegetation, hydric soils, and evidence of wetland hydrology, the three characteristics required to be considered a wetland. Dominant wetland vegetation included redosier dogwood (*Cornus sericeus*, FACW), gray alder (*Alnus incana*, FACW), white willow (*Salix alba*, FACW), cattail (*Typha latifolia*, OBL), beaked sedge (*Carex utriculata*, OBL), meadow foxtail (*Alopecurus pratensis*, FACW), and redtop (*Agrostis stolonifera*, FAC). Hydric soils were present in both soil pits with either a dark surface layer over a depleted sandy redox subsurface layer or a deeper dark surface layer with redoximorphic features, each meeting criteria for hydric soil. Finally, wetland hydrology was present as saturation in the top twelve inches of the assessment pit, as well as the presence of reduced iron, both primary wetland hydrology indicators. Two additional secondary wetland hydrology indicators were also present, including geomorphic position and passing the FAC-neutral test.

Adjacent upland areas had no evidence of wetland hydrology or wetland soils. Vegetation along the steep banks was found to be primarily facultative upland, dominated by quaking aspen and upland shrubs. Soils here met no criteria for hydric soils and there was no evidence of wetland hydrology. Vegetation near the flatter ground without a steep bank did meet criteria for wetland vegetation as this area was dominated by non-native facultative wet and facultative

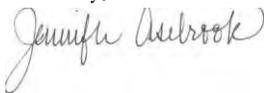
grasses. But the soils in this upland area met no criteria for hydric soils and there was no evidence of wetland hydrology.

Overall, all construction activities are taking place out of the wetland boundary (see attached construction maps). The only work within the wetland boundary is support for one floating dock structure with helical piers. The piers are similar to very large screws that are turned into the river bottom until it reaches a specific resistance, based on the weight of the structure and use. There is no permanent impact to wetland areas from this work.

I am attaching four ACOE wetland field forms that were used in this wetland delineation. I am also attaching photos of the wetland and upland areas along with maps that show the wetland boundary, wetland delineation plots, and construction activities.

Please call or email me if you have questions or need additional information.

Sincerely,

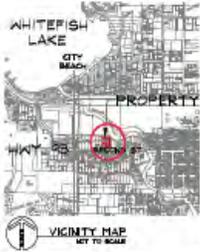
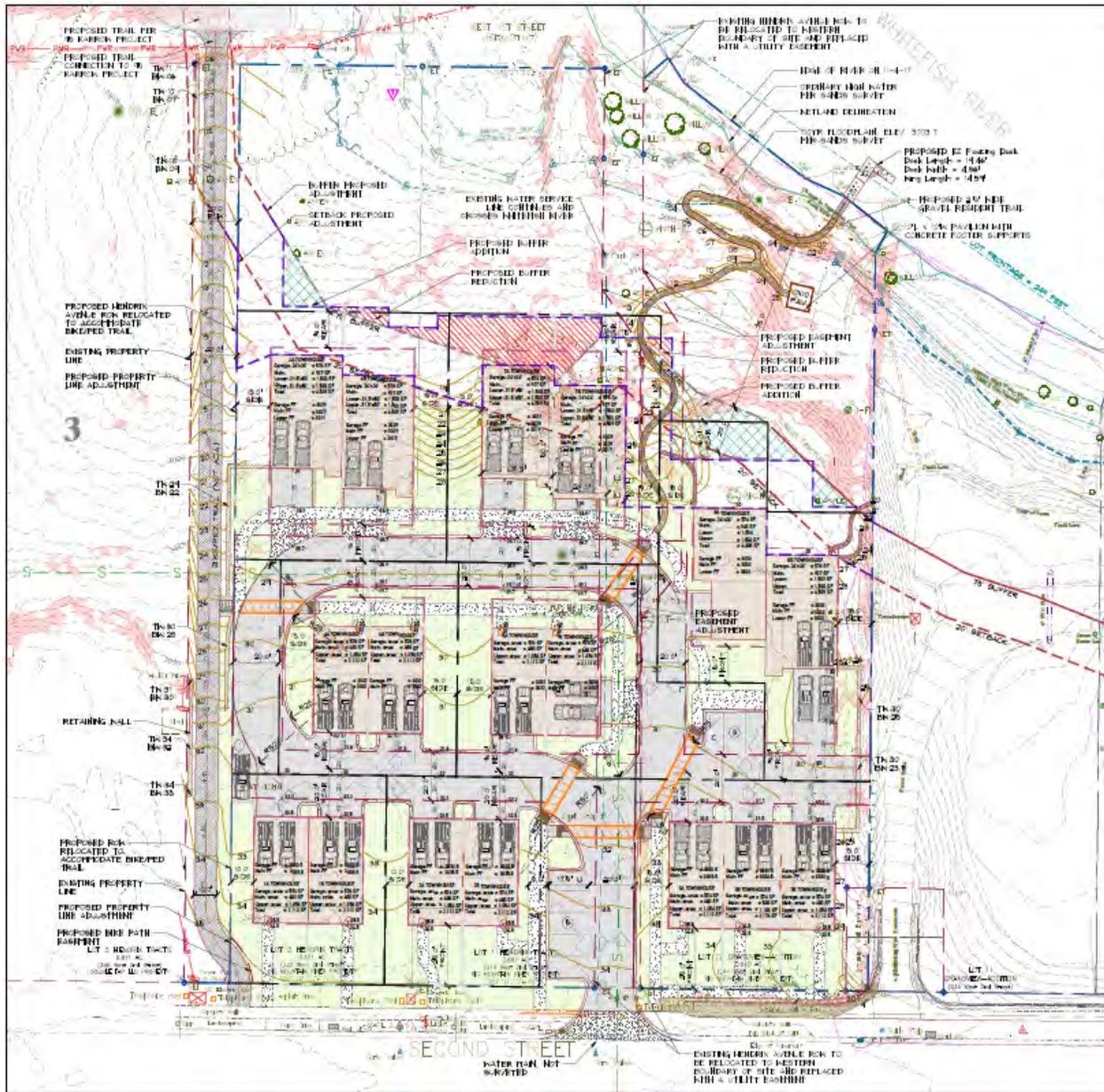
A handwritten signature in cursive script that reads "Jennifer Asebrook".

Jennifer Asebrook
(406) 871-8020
jenasebrook@gmail.com

Appendix A. Big Mountain River LLC Wetland Delineation

- **Maps of wetland boundaries and development plan**





SITE SUMMARY

UNITS 4 TOWNHOUSE DUPLEXES	2,404 FOOTPRINT	2 BEDROOM	
UNITS 1 TOWNHOUSE TRIPLEX	3,244 FOOTPRINT	31.25% FOOTPRINT	3 BEDROOM
UNITS 3 DEVELOPMENT TOWNHOUSE DUPLEXES	21,547 FOOTPRINTS	3 BEDROOM	
17 TOTAL UNITS			

LEGEND

EXISTING

[Red dashed line]	PROPERTY LINE BY SURVEY
[Red solid line]	PROPERTY EASEMENT
[Red dotted line]	PROPERTY 444-T
[Red dash-dot line]	444-T EASEMENT
[Red solid line]	DEED CENTER BY SURVEY
[Red solid line]	CIRCLE BY SURVEY
[Red solid line]	LINE OF RIVER 10'-4'-11"
[Red solid line]	GRADE BY SURVEY 100' TO 100' AS SHOWN
[Red solid line]	10'-0" HIGH RETAINING WALL
[Red solid line]	10' TYP. ELEVATION
[Red solid line]	RETAINING ELEVATION

BUFFER AVERAGING

[Green hatched area]	PROPOSED BUFFER AVERAGE TOTAL AREA = 45,000 SF
[Red hatched area]	PROPOSED BUFFER AVERAGE TOTAL AREA = 10,000 SF

SLOPES

[Pink hatched area]	4:1 (H) 20:1 (V) 10:1 (H)
---------------------	---------------------------

WORKING SUMMARY

PHASE 3 LOW DENSITY MULTI-FAMILY RESIDENTIAL

- PERMITTED USES:**
- Residential:
 - Class A manufactured homes
 - Single detached homes 8 to 12 individual units
 - Guest and domestic worker quarters
 - Manufactured home subdivisions 2 acres minimum size
 - One family two-family triplex and duplex dwellings
- CONVENTIONAL USES:**
- Accessory apartments
 - Day and breakfast establishments
 - Daycare centers (more than 12 individual)
 - Dwelling groups or clusters
 - Guesthouse, only on lots over ten thousand (10,000) SF
 - Hotels
 - Livestock, subject to an administrative conditional use permit
 - Multi-family dwellings (in excess of four (4) dwelling units)
 - Manufactured or subdivided homes
 - Personal services
 - Private recreational facilities
 - Professional and administrative
 - Production office
 - Schools K - 12
 - Town and type I community residential facilities

- PROPERTY DEVELOPMENT STANDARDS:**
- The following property development standards shall apply to lots and buildings within this district:
- MINIMUM LOT AREA**
- Single family dwelling 6,000 SF
 - Other dwelling unit 3,000 SF
 - Attached one-family dwelling on a duplex 2,400 SF
- MINIMUM LOT WIDTH:** 25 feet
- MINIMUM DISTRICT WIDTH:** 25 feet
- MINIMUM YARD SPACES:**
- Front 25 feet
 - Side 10 feet
 - Rear 10 feet
 - Triplex or duplex 10 feet
- MAXIMUM HEIGHT:** 25 feet
- PERMITTED LOT COVERAGE:** 40% max

NOTE:
This list is abbreviated from the original zoning regulations. For full regulations, refer to zoning regulations § 11-2-10.

PARKING REQUIREMENTS

RESIDENTIAL TWO-FAMILY DWELLING
1 TOWNHOUSE DUPLEXES = 14 Dwelling Units
REQ 2 Spaces per Dwelling Unit
REQ TOTAL 28
PROVIDED IN GARAGE 28
RESIDENTIAL MULTI-FAMILY DWELLING
1 TOWNHOUSE TRIPLEXES = 3 Dwelling Units
REQ 3 Spaces per Dwelling Unit, Plus 1 Guest Space
Req each 3 Units per Two-Dwelling or Larger Unit:
REQ 4
REQ PROJECT 1
PROVIDED IN GARAGE 6
PROVIDED OPEN AIR 11
SUMMARY:
RESIDENTIAL REQ 28
RESIDENTIAL REQ W/2, REQ REDUCTION 28
PROVIDED IN GARAGE 34
PROVIDED IN OPEN AIR 10
TOTAL PROVIDED 44



SURVEY BY:
BRUCE BOODY
LANDSCAPE ARCHITECTURE, INC.
2 VILLAGE LOOP
KAUSSELL, MT 59801
(406) 753-6481

REVISIONS:

BIG MOUNTAIN RIVER LLC
10000 Highway 100, Suite 100
Bigfork, MT 59714
TEL: (406) 837-1000
WWW.BIGMOUNTAINRIVER.COM



SCALE: 1"=20'

DATE: 02-28-20

JOB #: 18-36

TOWNHOUSE CONCEPT

SHEET 11 of 4

Appendix B. Photographs of Big Mountain River LLC wetland delineation.



Photo 1. River's edge at east side of delineation. Narrow wetland with steep upland bank.



Photo 2. Wetland plot W-2. Flatter wetland area with no steep bank.



Photo 3. Wetland plot W-1 and Upland plot U-1. River's edge in center of delineation. Narrow wetland with steep upland bank.

Appendix C. Big Mountain River LLC Wetland Delineation

- **Wetland Delineation forms**

WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project Site: Big Mountain River LLC City/County: Whitefish/Flathead Sampling Date: 5/27/2019
 Applicant/Owner: _____ State: MT Sampling Point: U-1
 Investigator(s): Calypso Ecological Consulting, LLP/J. Asebrook Section, Township, Range: S28, T28N, R21W
 Landform (hillslope, terrace, etc.): _____ Local relief (concave, convex, none): none Slope (%): 15
 Subregion (LRR): E - Rocky Mtn Forests & Rangeland Lat: _____ Long: _____ Datum: NAD83
 Soil Map Unit Name: _____ NWI classification: upland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks.)
 Are Vegetation , Soil , Or Hydrology , significantly disturbed? Are "Normal Circumstances" present? Yes No
 Are Vegetation , Soil , Or Hydrology , naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the Sampling Area within a Wetland?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Hydric Soil Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Wetland Hydrology Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
REMARKS:					

VEGETATION – Use scientific names of plants

Tree Stratum (Plot Size: _____)	Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test Worksheet:		
1. <i>Populus tremuloides</i>	15	yes	FACU	Number of Dominant Species That Are OBL, FACW, or FAC:	0	(A)
2. _____	_____	_____	_____	Total Number of Dominant Species Across All Strata:	3	(B)
3. _____	_____	_____	_____	Percent of Dominant Species That Are OBL, FACW, or FAC:	0%	(A/B)
4. _____	_____	_____	_____			
50% = _____, 20% = _____	15	= Total Cover				
Sapling/Shrub Stratum (Plot Size: _____)				Prevalence Index worksheet:		
1. <i>Symphoricarpos albus</i>	50	yes	FACU	Total % Cover of:		
2. <i>Rosa woodsii</i>	20	yes	FACU	Multiply by:		
3. <i>Spiraea betulifolia</i>	10	no	FACU	OBL species	0	x1 = 0
4. _____	_____	_____	_____	FACW species	0	x2 = 0
5. _____	_____	_____	_____	FAC species	15	x3 = 45
50% = _____, 20% = _____	80	= Total Cover		FACU species	95	x4 = 380
Herb Stratum (Plot Size: _____)				UPL species	0	x5 = 0
1. <i>Elymus repens</i>	5	no	FAC	Column Totals:	(A) 105	(B) 425
2. <i>Myosotis sylvatica</i>	10	no	FAC	Prevalence Index = B/A = 4.05		
3. _____	_____	_____	_____	Hydrophytic Vegetation Indicators:		
4. _____	_____	_____	_____	<input type="checkbox"/>	Dominance Test is >50%	
5. _____	_____	_____	_____	<input type="checkbox"/>	Prevalence Index is ≤3.0 ¹	
6. _____	_____	_____	_____	<input type="checkbox"/>	Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet)	
7. _____	_____	_____	_____	<input type="checkbox"/>	Wetland Non-Vascular Plants ¹	
8. _____	_____	_____	_____	<input type="checkbox"/>	Problematic Hydrophytic Vegetation ¹ (Explain)	
9. _____	_____	_____	_____	¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.		
10. _____	_____	_____	_____			
11. _____	_____	_____	_____			
50% = _____, 20% = _____	15	= Total Cover				
Woody Vine Stratum (Plot Size: _____)				Hydrophytic Vegetation Present?		
1. _____	_____	_____	_____	Yes	<input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. _____	_____	_____	_____			
50% = _____, 20% = _____	_____	= Total Cover				
% Bare Ground in Herb Stratum _____						

REMARKS: Vegetation does not meet criteria for hydrophytic vegetation.
:

WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project Site: Big Mountain River LLC City/County: Whitefish/Flathead Sampling Date: 5/27/2019
 Applicant/Owner: _____ State: MT Sampling Point: W-1
 Investigator(s): Calypso Ecological Consulting, LLP/J. Asebrook Section, Township, Range: S28, T28N, R21W
 Landform (hillslope, terrace, etc.): _____ Local relief (concave, convex, none): concave Slope (%): 1
 Subregion (LRR): E - Rocky Mtn Forests & Rangeland Lat: _____ Long: _____ Datum: NAD83
 Soil Map Unit Name: _____ NWI classification: Emergent wetland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks.)
 Are Vegetation , Soil , Or Hydrology , significantly disturbed? Are "Normal Circumstances" present? Yes No
 Are Vegetation , Soil , Or Hydrology , naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Is the Sampling Area within a Wetland?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Hydric Soil Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Wetland Hydrology Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
REMARKS:					

VEGETATION – Use scientific names of plants

Tree Stratum (Plot Size: _____)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. <i>Salix alba</i>	100	yes	FACW	Dominance Test Worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>3</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
50% = _____, 20% = _____	100	= Total Cover																		
Sapling/Shrub Stratum (Plot Size: _____)																				
1. <i>Cornus sericeus</i>	20	yes	FACW	Prevalence Index worksheet: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Total % Cover of:</th> <th style="width: 50%;">Multiply by:</th> </tr> </thead> <tbody> <tr> <td>OBL species <u>0</u></td> <td>x1 = <u>0</u></td> </tr> <tr> <td>FACW species <u>130</u></td> <td>x2 = <u>260</u></td> </tr> <tr> <td>FAC species <u>1</u></td> <td>x3 = <u>3</u></td> </tr> <tr> <td>FACU species <u>0</u></td> <td>x4 = <u>0</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x5 = <u>0</u></td> </tr> <tr> <td>Column Totals: (A) 131</td> <td>(B) 263</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>2.02</u></td> </tr> </tbody> </table>	Total % Cover of:	Multiply by:	OBL species <u>0</u>	x1 = <u>0</u>	FACW species <u>130</u>	x2 = <u>260</u>	FAC species <u>1</u>	x3 = <u>3</u>	FACU species <u>0</u>	x4 = <u>0</u>	UPL species <u>0</u>	x5 = <u>0</u>	Column Totals: (A) 131	(B) 263	Prevalence Index = B/A = <u>2.02</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>0</u>	x1 = <u>0</u>																			
FACW species <u>130</u>	x2 = <u>260</u>																			
FAC species <u>1</u>	x3 = <u>3</u>																			
FACU species <u>0</u>	x4 = <u>0</u>																			
UPL species <u>0</u>	x5 = <u>0</u>																			
Column Totals: (A) 131	(B) 263																			
Prevalence Index = B/A = <u>2.02</u>																				
2. <i>Alnus incana</i>	10	yes	FACW																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
50% = _____, 20% = _____	30	= Total Cover																		
Herb Stratum (Plot Size: _____)																				
1. <i>Poa palustris</i>	1	no	FAC	Hydrophytic Vegetation Indicators: <input checked="" type="checkbox"/> Dominance Test is >50% <input checked="" type="checkbox"/> Prevalence Index is ≤3.0 ¹ <input type="checkbox"/> Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <input type="checkbox"/> Wetland Non-Vascular Plants ¹ <input type="checkbox"/> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
50% = _____, 20% = _____	1	= Total Cover																		
Woody Vine Stratum (Plot Size: _____)																				
1. _____	_____	_____	_____	Hydrophytic Vegetation Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>																
2. _____	_____	_____	_____																	
50% = _____, 20% = _____	_____	= Total Cover																		
% Bare Ground in Herb Stratum _____																				

REMARKS: Vegetation passes dominance test and the prevalence index for hydrophytic vegetation.

SOIL

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (Moist)	%	Type ¹	Loc ²		
0-5	<u>10YR2/1</u>	<u>100</u>						
5-16+	<u>10YR5/2</u>	<u>90</u>	<u>10Y5/6</u>	<u>10</u>	<u>C</u>	<u>M</u>	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

¹Type: C= Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)	Indicators for Problematic Hydric Soils³:
<input type="checkbox"/> Histosol (A1) <input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> 2 cm Muck (A10)
<input type="checkbox"/> Histic Epipedon (A2) <input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Black Histic (A3) <input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Other (Explain in Remarks)
<input type="checkbox"/> Hydrogen Sulfide (A4) <input type="checkbox"/> Loamy Gleyed Matrix (F2)	
<input checked="" type="checkbox"/> Depleted Below Dark Surface (A11) <input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Thick Dark Surface (A12) <input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Sandy Mucky Mineral (S1) <input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4) <input type="checkbox"/> Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present): Type: _____ Depth (Inches): _____	Hydric Soils Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
--	--

Remarks: Meets hydric soil criteria: depleted subsoil layer with redoximorphic features below dark surface.

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one required; check all that apply)		Secondary Indicators (2 or more required)	
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Water-Stained Leaves (B9)	
<input type="checkbox"/> High Water Table (A2)	(except MLRA 1, 2, 4A, and 4B)	(MLRA 1, 2, 4A, and 4B)	
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)	
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)	
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)	
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input checked="" type="checkbox"/> Geomorphic Position (D2)	
<input type="checkbox"/> Algal Mat or Crust (B4)	<input checked="" type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)	
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)	
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Stunted or Stresses Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)	
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)	
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)			

Field Observations: Surface Water Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____ Water Table Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): <u>14"</u> Saturation Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Depth (inches): <u>10"</u>	Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks: Meets wetland hydrology with primary indicators saturation and presence of reduced iron. Also meets two secondary indicators.

WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project Site: Big Mountain River LLC City/County: Whitefish/Flathead Sampling Date: 5/27/2019
 Applicant/Owner: _____ State: MT Sampling Point: U-2
 Investigator(s): Calypso Ecological Consulting, LLP/J. Asebrook Section, Township, Range: S28, T28N, R21W
 Landform (hillslope, terrace, etc.): _____ Local relief (concave, convex, none): none Slope (%): 0
 Subregion (LRR): E - Rocky Mtn Forests & Rangeland Lat: _____ Long: _____ Datum: NAD83
 Soil Map Unit Name: _____ NWI classification: upland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks.)
 Are Vegetation , Soil , Or Hydrology , significantly disturbed? Are "Normal Circumstances" present? Yes No
 Are Vegetation , Soil , Or Hydrology , naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Is the Sampling Area within a Wetland?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Hydric Soil Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Wetland Hydrology Present?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

REMARKS:

VEGETATION – Use scientific names of plants

Tree Stratum (Plot Size: _____)	Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test Worksheet:																
1. _____	_____	_____	_____	Number of Dominant Species That Are OBL, FACW, or FAC: <u>1</u> (A) Total Number of Dominant Species Across All Strata: <u>1</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100%</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
50% = <u>0</u> , 20% = _____	<u>0</u>	= Total Cover		Prevalence Index worksheet: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center;"><u>Total % Cover of:</u></td> <td style="width: 50%; text-align: center;"><u>Multiply by:</u></td> </tr> <tr> <td>OBL species</td> <td>x1 = _____</td> </tr> <tr> <td>FACW species <u>90</u></td> <td>x2 = <u>180</u></td> </tr> <tr> <td>FAC species <u>10</u></td> <td>x3 = <u>30</u></td> </tr> <tr> <td>FACU species</td> <td>x4 = _____</td> </tr> <tr> <td>UPL species</td> <td>x5 = _____</td> </tr> <tr> <td>Column Totals: (A) 100</td> <td>(B) 210</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = 2.1</td> </tr> </table>	<u>Total % Cover of:</u>	<u>Multiply by:</u>	OBL species	x1 = _____	FACW species <u>90</u>	x2 = <u>180</u>	FAC species <u>10</u>	x3 = <u>30</u>	FACU species	x4 = _____	UPL species	x5 = _____	Column Totals: (A) 100	(B) 210	Prevalence Index = B/A = 2.1	
<u>Total % Cover of:</u>	<u>Multiply by:</u>																			
OBL species	x1 = _____																			
FACW species <u>90</u>	x2 = <u>180</u>																			
FAC species <u>10</u>	x3 = <u>30</u>																			
FACU species	x4 = _____																			
UPL species	x5 = _____																			
Column Totals: (A) 100	(B) 210																			
Prevalence Index = B/A = 2.1																				
Sapling/Shrub Stratum (Plot Size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
50% = _____, 20% = _____	<u>0</u>	= Total Cover																		
Herb Stratum (Plot Size: _____)																				
1. <i>Alopecurus pratensis</i>	<u>90</u>	<u>yes</u>	<u>FACW</u>																	
2. <i>Agrostis stolonifera</i>	<u>10</u>	<u>no</u>	<u>FAC</u>																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	<u>F</u>																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
50% = _____, 20% = _____	<u>100</u>	= Total Cover																		
Woody Vine Stratum (Plot Size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
50% = _____, 20% = _____	_____	= Total Cover																		
% Bare Ground in Herb Stratum _____																				

Hydrophytic Vegetation Indicators:

Dominance Test is >50%

Prevalence Index is ≤3.0¹

Morphological Adaptations¹ (Provide supporting data in Remarks or on a separate sheet)

Wetland Non-Vascular Plants¹

Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes No

REMARKS: Vegetation passes dominance test and the prevalence index for hydrophytic vegetation.

WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project Site: Big Mountain River LLC City/County: Whitefish/Flathead Sampling Date: 5/27/2019
 Applicant/Owner: _____ State: MT Sampling Point: W-2
 Investigator(s): Calypso Ecological Consulting, LLP/J. Asebrook Section, Township, Range: S28, T28N, R21W
 Landform (hillslope, terrace, etc.): _____ Local relief (concave, convex, none): concave Slope (%): 1
 Subregion (LRR): E - Rocky Mtn Forests & Rangeland Lat: _____ Long: _____ Datum: NAD83
 Soil Map Unit Name: _____ NWI classification: Emergent wetland
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes No (If no, explain in Remarks.)
 Are Vegetation , Soil , Or Hydrology , significantly disturbed? Are "Normal Circumstances" present? Yes No
 Are Vegetation , Soil , Or Hydrology , naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Is the Sampling Area within a Wetland?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Hydric Soil Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Wetland Hydrology Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
REMARKS:					

VEGETATION – Use scientific names of plants

Tree Stratum (Plot Size: _____)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. _____	_____	_____	_____	Dominance Test Worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A) Total Number of Dominant Species Across All Strata: <u>4</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
50% = _____, 20% = _____	<u>0</u>	= Total Cover																		
Sapling/Shrub Stratum (Plot Size: _____)				Prevalence Index worksheet: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Total % Cover of:</th> <th style="width: 50%;">Multiply by:</th> </tr> </thead> <tbody> <tr> <td>OBL species <u>25</u></td> <td>x1 = <u>25</u></td> </tr> <tr> <td>FACW species <u>55</u></td> <td>x2 = <u>110</u></td> </tr> <tr> <td>FAC species <u>25</u></td> <td>x3 = <u>75</u></td> </tr> <tr> <td>FACU species _____</td> <td>x4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x5 = _____</td> </tr> <tr> <td>Column Totals: (A) 105</td> <td>(B) 210</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = 2.0</td> </tr> </tbody> </table>	Total % Cover of:	Multiply by:	OBL species <u>25</u>	x1 = <u>25</u>	FACW species <u>55</u>	x2 = <u>110</u>	FAC species <u>25</u>	x3 = <u>75</u>	FACU species _____	x4 = _____	UPL species _____	x5 = _____	Column Totals: (A) 105	(B) 210	Prevalence Index = B/A = 2.0	
Total % Cover of:	Multiply by:																			
OBL species <u>25</u>	x1 = <u>25</u>																			
FACW species <u>55</u>	x2 = <u>110</u>																			
FAC species <u>25</u>	x3 = <u>75</u>																			
FACU species _____	x4 = _____																			
UPL species _____	x5 = _____																			
Column Totals: (A) 105	(B) 210																			
Prevalence Index = B/A = 2.0																				
1. <i>Cornus stolonifera</i>	<u>5</u>	<u>no</u>	<u>FACW</u>																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
50% = _____, 20% = _____	<u>5</u>	= Total Cover																		
Herb Stratum (Plot Size: _____)																				
1. <i>Alopecurus pratensis</i>	<u>50</u>	<u>yes</u>	<u>FACW</u>																	
2. <i>Agrostis stolonifera</i>	<u>25</u>	<u>yes</u>	<u>FAC</u>																	
3. <i>Carex utriculata</i>	<u>15</u>	<u>yes</u>	<u>OBL</u>																	
4. <i>Typha latifolia</i>	<u>10</u>	<u>yes</u>	<u>OBL</u>																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
50% = _____, 20% = _____	<u>100</u>	= Total Cover																		
Woody Vine Stratum (Plot Size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
50% = _____, 20% = _____	_____	= Total Cover																		
% Bare Ground in Herb Stratum _____																				
Hydrophytic Vegetation Indicators: <input checked="" type="checkbox"/> Dominance Test is >50% <input checked="" type="checkbox"/> Prevalence Index is ≤3.0 ¹ <input type="checkbox"/> Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <input type="checkbox"/> Wetland Non-Vascular Plants ¹ <input type="checkbox"/> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																				
Hydrophytic Vegetation Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>																				

REMARKS: Vegetation passes dominance test and the prevalence index for hydrophytic vegetation.



City of Whitefish
 Planning & Building Dept
 418 E 2nd St | PO Box 158
 Whitefish, MT 59937
 Phone: 406-863-2460
 Fax: 406-863-2419

Date Submitted: _____

Associated File #: _____

HOUSING MITIGATION PLAN

INSTRUCTIONS:

A Pre-Submission Meeting with city staff and the Legacy Homes Coordinator is required.

Date of Meeting: march 19th, 2020

Attach the following:

- Standardized deed restriction(s) for the Legacy Homes
- Site plan
- Unit designs
- Details on amenities and heating systems
- Estimated utility costs for Legacy rental units; the monthly rental prices should be adjusted if heat, electric, or water utilities are not included (Appendix B of Legacy Homes Program Administration)
- Estimated homeowner's association (HOA) structure and fees, if applicable
- A separate narrative, as needed

A complete Housing Mitigation Plan must accompany a land use permit application and will not be accepted alone (§11-1A-5, WCC).

The Housing Mitigation Plan will be approved as part of the land use permit.

A. PROJECT INFORMATION:

Project Name: currently referred to as: BMR LLC

Street Address: 244, 314 and 322 West Second Street

Assessor's Tract No.(s) 0430750; 0895150; 0110610 Lot No(s) LOT 12 GRANDVIEW ADDITION; LOTS 1&2 HENDRIX TRACTS

Block # 1 Subdivision Name GRANDVIEW ADDITION AND HENDRIX TRACTS

Section 36 Township 31 Range 22W

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge.

David S Radatti

5-14-20

Applicant's Signature _____

Date _____

David S Radatti

Print Name _____

B. INCENTIVES USED (check all that apply to this project; Planned Unit Development projects may use one column or the other but not both):

Conditional Use Permits:

Reduced Parking for 2+ Bedroom: 20%

Increased Maximum Bldg Height: 5-feet (3 floor max and not permitted in the WB-3 zoning district)

Increase Lot Coverage: 10%

Increase Density: 20%

Subdivision:

Reduced Lot Size: 20%

Reduce Lot Width: 10%

Increase Lot Coverage: 10%

Increase Density: 20%

C. LAND USE PERMIT TYPE ACCOMPANYING THIS HMP (check all that apply):

- Administrative Conditional Use Permit Minor Subdivision
 Conditional Use Permit Major Subdivision
 Planned Unit Development

D. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name: Big Mountain River LLC Phone: 615-525-6796
Mailing Address: 6475 US highway 93 South
City, State, Zip: whitefish, MT, 59937-8282
Email: agha@usc.edu; amerchant789@gmail.com

APPLICANT (if different than above):

Name: David Radatti DBA Mindful Designs Phone: 406 -250-0336
Mailing Address: 118 second street west,
City, State, Zip: whitefish, mT, 59937
Email: dave@mindfuldesignsinc.com

OTHER TECHNICAL/PROFESSIONAL:

Name: Bruce Boody Phone: 406 862-4755
Mailing Address: 301 Second Street, Suite 1B
City, State, Zip: Whitefish, MT 59937
Email: bruceb@bruceboody.com

----- For City Staff Use Only -----

- Approved: _____
 Approved with conditions: _____
 Denied: _____

PROJECT DETAILS

1. Total Number of Residential Units Proposed by Type:
 _____ Single-family detached homes
20 Single-family attached homes (townhouses); in what number of buildings 8
 _____ Multi-family (duplex, triplex, apartments, condominiums); in what number of buildings _____
 _____ TOTAL

4 Number of Legacy Home Units Required for Project (20% of TOTAL above)

2. Are the Legacy Units proposed to be integrated into the project?
x Yes (Continue to Question 3)
 _____ No (Skip to Question 11)

3. 4 Number of Legacy Home Units Required for Project (See #1 above)

 Type and Number of Legacy Homes Units Proposed On-Site:
 _____ Single-family detached home
3 Single-family attached home (townhouses); in what number of buildings 3
 _____ Multi-family apartments; in what number of buildings _____
 _____ Multi-family condominiums; in what number of buildings _____
 _____ Fraction of unit left over, for which in-lieu fee (ILF) will be paid
 \$ _____ ILF to be paid (\$77,954 x fraction of unit)

4. If the type of Legacy units does not match the type of Market units (single-family detached or attached, townhome, multi-family, etc.), provide justification below. Note: If all Market units are single-family detached homes, up to half of the required Legacy units may be attached single-family homes (townhomes) and the type of Legacy units required will be based on the needs identified annually by the City.

 they match

5. Indicate the price Legacy units are to be offered at and the household income levels (percent of Area Median Income [AMI]) those units are meant to target. Rental units are meant to be affordable to households earning 60%-80% of AMI and the average price of all Legacy rental units in the project must be affordable to households earning 70% AMI. Ownership units are meant to be affordable to households earning 80.1%-120% AMI and the average price of all ownership Legacy units in the project must be affordable to households earning 100% AMI. Attach additional sheet if more rows are needed.

Sales Price	Monthly Rent ¹	Target Household Income (%AMI)	Type of Unit	Size of Unit (sf)	# Bedrooms in Unit	# of Units Offered at Price
AS DICTATED BY	NA	80	TRIPLEX	1000	1	1
WHA COST	NA	90	TRIPLEX	1150	2	1
STRUCTURE	NA	120	TRIPLEX	1150	2	1

¹ Indicate whether heat, electric, and water utilities are included in the rental prices provided. Rental prices must be reduced if these utilities are not included.

6. Number of bedrooms per unit in Project:

	All Units	Legacy	
	# Units	# Units	Proportion of Legacy Units for Each Bedroom Count
Studio/0 Bedroom	0	0	
1 Bedroom	1	1	
2 Bedroom	TBD	2	
3+ Bedroom	TBD	0	
Total	17	3	

The mix of the number of bedrooms offered in Legacy units must mirror the mix of bedrooms offered in the Market units, provided the mix is responsive to the needs and demographics of Whitefish residents. Legacy Homes with more than 3 bedrooms are not desirable. If Legacy bedroom numbers are not proportionate to Market bedroom numbers, provide rationale or justification:

IN A 5-21-20 MEETING WITH LORI COLLINS AND WENDY COMPTON-RING WE DISCUSSED THIS RATIO. AT THIS TIME WE ARE UNCERTAIN OF HOW MANY OF OUR MARKET RATE UNITS WILL BE 3 BEDROOM VS 2 BEDROOM (THE SF OF SOME OF THESE UNITS IS ON THE CUSP OF BEING A LARGE 2 BEDROOM OR A SMALL 3 BEDROOM AND WE HAVE TO WORK THROUGH DESIGN SPECIFICS BEFORE ASSIGNING THIS). HOWEVER, AFTER THE MEETING, IT SOUNDED LIKE THE WHA WOULD BENEFIT FROM (2) 2 BEDROOM AU'S AND (1) 1 BEDROOM AU -- SO THAT IS WHAT WE PROVIDING

7. The size of each Legacy unit may vary within a development, but no unit will be smaller than the minimum sizes, and the size of all units by type must meet the average sizes shown below.

# Bedrooms	Legacy Rental Units		Legacy Ownership Units	
	Minimum Size (sf)	Average Size (sf)	Minimum Size (sf)	Average Size (sf)
Studio/0 Bedroom	350	450	400	500
1 Bedroom	550	650	700	1,000
2 Bedroom	725	825	800	1,150
3 Bedroom	900	1000	1,100	1,300

Indicate the project's minimum and average size per Legacy unit type:

# Bedrooms	Legacy Rental Units		Legacy For-Sale Units	
	Minimum Size (sf)	Average Size (sf)	Minimum Size (sf)	Average Size (sf)
Studio/0 Bedroom				
1 Bedroom			1000	1000
2 Bedroom			1150	1150
3 Bedroom				

8. If a project's HOA's Covenants, Conditions and Restrictions (CC&Rs) define a minimum square footage for homes in the development, an exemption for Legacy Homes and their smaller square footages must be made. Provide the CC&R's and exemptions, if applicable.

non-applicable

9. Provide plans to illustrate, and indicate location of Legacy Homes relative to market rate units:

- Distributed evenly throughout development and/or buildings
- Clustered on same site as market rate units
- Different site from market rate units

Provide rationale or justification if Legacy units are not distributed evenly throughout the market rate units:

10. When phased construction is planned for a development, the proportion of Legacy units must be constructed in proportion to the market rate units constructed during each phase of development. Attach a proposed production schedule of Market and Legacy Homes, including issuance of building permits.

THIS PROJECT WILL BUILD OUT IN AN ESTIMATED 24 MONTH TIME PERIOD -- IN ONE FELL SWOOP. AT THIS TIME, WE HAVE NOT DETERMINED WHICH BUILDINGS WILL BE BUILT IN WHICH ORDER -- THIS WILL COME DOWN TO JOB SITE LOGISTICS AND EFFICIENT SEQUENCING, WHICH WE WILL DETERMINE AT A TIME MUCH CLOSER TO BREAKING GROUND WHEN WE HAVE A COMPLETE CONSTRUCTION IMPLEMENTATION PLAN IN PLACE. SINCE IS NOT A PHASED PROJECT, WENDY AND LORI DID NOT THINK THIS WOULD BE A PROBLEM

11. If the percentage of Legacy Homes provided on-site (plus a fractional ILF) in the project is less than 20%, what is the method of alternative compliance proposed?

- Provide Legacy Homes in off-site location
- Pay fee in lieu of Legacy Homes (\$116,930 x required units = \$ 116,930)
- Provide land in lieu of Legacy Homes
- Provide a combination of methods listed above
- Other method proposed

Describe why and how the alternative method of compliance is justified and how it helps the City achieve its housing goals as established in the Strategic Housing Plan and meet the needs of the most current Housing Needs Assessment. (attach narrative on separate piece of paper, if needed)

HONESTLY, WE ARE TRYING TO MAKE THIS PROJECT HAPPEN, FINANCIALLY. WE UNDERSTAND THAT WHA WOULD RATHER HAVE HOMES THAN MONEY AND WE WANT TO HELP OUT AND PROVIDE THAT. IF THE FINANCES DONT PENCIL OUT FOR A DEVELOPER/INVESTOR, THE PROJECT WILL NOT HAPPEN. WE ARE OFFERING TO PROVIDE TO BUILD THREE OF FOUR UNITS, FOR AN AVERAGE OF 96.6 AMI. PAYING THE FEE FOR OUR 4TH UNIT WILL HELP US ACTUALLY MAKE THIS A REALITY. IF WE ARE ABLE TO BUILD THE 4TH UNIT OUT AS AN ADU (TO BE DETERMINED AFTER COMPLETING DESIGN AND BUDGETING) WE PROPOSE IT TO BE A 3 BEDROOM AT 110% AMI, BRINGING OUR AVERAGE TO 100%. WE WOULD LIKE APPROVAL ON THIS CONTINGENCY PLAN AT THIS TIME, IN CASE WE ARE ABLE TO MAKE THAT HAPPEN FOR THE WHA.

12. Any other information to help City staff and the Whitefish Housing Authority determine compliance with the Legacy Homes Program.



November 18, 2019

Wendy Compton-Ring
Whitefish Planning Department
P.O. Box 158
Whitefish, MT 59937

Re: *Determination of Buffer and Setback Distances for 224, 234, and 244 West 2nd Street, Whitefish, Montana*
WET Project No. 1120.19

Dear Wendy,

Big Mountain River, LLC and James and Sharron Laidlaw are individually pursuing the development of five contiguous parcels that border the Whitefish River, all of which also front West 2nd Street in Whitefish, Montana. One of the initial development criteria is to determine the appropriate buffer and setback distances from the river that will be applied for site review.

The Big Mountain River parcels consist of Lots 1 and 2 of the Hendrix Tracts (314 and 322 West 2nd Street) and Lot 12 of the Grandview Addition (244 West 2nd Street). The two Laidlaw properties include Lot 11 of the Grandview Addition (234 West 2nd Street) and Lot 1 of the Amended Plat of the Grandview Addition (224 West 2nd Street). Bruce Boody Landscape Architect has developed a site plan for the three Big Mountain River properties; however, the development plan for the Laidlaw properties is still in the conceptual stage. The two developments are being simultaneously addressed because of their proximal location to each other and project schedules.

Existing Land Use and Zoning

The site is bordered by West 2nd Street on the south, residential development to the east and west, and the Whitefish River forming the northern border. Past development of the site appears to have consisted of residential and ancillary structures, some with partial to full basements. The four western parcels are vacant but were historically used for individual residences. There are currently three, single-family residences located on Lot 1 of the Amended Plat of the Grandview Addition (224 West 2nd Street). A site vicinity map showing the location of these properties relative to other features is provided as Figure 1.

The subject properties are located in an area of mixed commercial and residential development on the west side of Whitefish. The area is zoned Low Density Multi-Family Residential (WR-3). Although the adapted 93 West Corridor Study allows for designation as Neighborhood Mixed-Use Transitional (WT-3).

Geomorphology

A Base Map of the combined properties showing the site geomorphology and existing development features is provided in Attachment A. The geomorphology of the five parcels is characterized by irregular slopes and depressions which reflects a number of different anthropogenic influences. For instance, the geotechnical investigation completed by Slopeside Engineering (October 22, 2019) for the Big Mountain River properties found site grading has occurred throughout the area based on observing fill material in the upper 2 to 5 feet of the soil profile. Soil boring log B-3 identified 5.2 feet of fill on the upper bench at the northeast corner of the property indicating the original ground surface has been historically extended and not representative of the original ground surface.

The geotechnical report also noted the slope along the northwest and north-central portions of the property grades downward toward West 1st Street right-of-way and the Whitefish River at an average of about 8H:1V to 3H:1V. The slope then steepens moving east, being as steep as 1.5H:1V near the crest at the northeast corner of the site. The report concluded the slope at the northeast corner was steepened by previous earthwork activities. Surface soil cracks were observed in this area that incorporates a section with about 10 to 15 feet of vertical relief at a slope of about 1.5H:1V to 2H:1V. A copy of the Slopeside Geotechnical Report is provided in Attachment B.

Although the slope along the northwest margin of the site is fairly uniform, another man-made feature is manifest by the shape of the topographic contours along the east side of Lot 1 of Hendrix Tracts. The flat, uniformly-spaced contours display that a road was extended from the top of the bench out into the river. The V-shaped contours that parallel each side of the road represent the drain ditch (i.e. barrow area) on each side of the historic road. These features were ground-truthed in the field.

In contrast, the two Laidlaw parcels have been significantly altered from historic excavation. The topographic contours display a U-shaped appearance with relatively steep sides and flat bottom that gradually slopes from Highway 93 down to the river on Lot 11 (234 West 2nd Street). The excavation continues to wrap around the north side of the bench at the base on Lot 1 (224 West 2nd Street). The hillslope on the western margin of Lot 11 is as steep as 1.5H:1V with the south and east margins generally about 4H:1V. The north-facing slope on Lot 1 is about 2H:1V. The excavation is relatively old because the Montana Department of Revenue (DOR) property records indicate two of the houses on this parcel were constructed in 1928. It is surmised this property was utilized as the borrow area for fill material to originally construct West 2nd Street to grade. In addition, the recent realignment of Highway 93 has further manipulated the property through the construction of the retaining wall, which could be wrongfully perceived as the top of bank and render the property undevelopable. It should be noted there is no culvert under the highway and therefore, this area does not constitute a critical stormwater conveyance.

It is also apparent the slope at the northeast corner of Lot 1 was altered by excavation to provide access down to the river from a dilapidated historic cabin that is still present on site. As shown on the base map, additional evidence of site grading and contouring is the historic landscaping that consists of a river-rock pond and arch and a pathway constructed to the river.

This information clearly demonstrates that all five parcels have been extensively altered either through fill placement or excavation and the original ground surface used to identify the top of bank would be impossible to define as it is virtually indiscernible.

Determination of Buffer and Setback Distances

Whitefish code 11-3-29 Subsection C.1.a., provides guidance for determining the appropriate buffer and setback distances along the Whitefish River as: *The buffer shall be the top of bank (where evident) or seventy-five feet (75') from the ordinary high-water mark, whichever is greater. If there is an associated wetland along the river, the seventy-five feet (75') shall be measured from the edge of the wetland. If any structure is proposed within two hundred feet (200') of the buffer on a property that abuts the river, a geotechnical letter consistent with Subsection D of this section shall be required. Such an analysis may also be required if the director of public works determines, based on field observation and in consultation with the applicant, that a proposed structure beyond this setback may be damaged by slope failure, slumping or other geologic instability, or that it may contribute to such instability on other properties. Unless an approved geotechnical letter concludes that a larger setback is necessary, the setback shall equal the rear yard setback in the applicable zone, but in no case shall it be less than twenty feet (20').*

As noted, the two methods to determine the buffer distance are either: 1) top of bank location; or 2) use the established distance of 75 feet from the ordinary high-water mark. The general definition of a streambank is the land immediately adjacent to and which slopes toward the bed of a watercourse which is necessary to maintain the integrity of a watercourse. The Whitefish Water Quality Protection regulations define “top of bank” as: *The top of the intact bluff against which fine grained talus rests, where a generally sharp and distinct break occurs from a relatively flat slope on the higher elevation to steep slope leading down toward the edge of the floodplain, taking into account the possibility of false top of bank due to rotational slumps or other land movement.*

Based on the aforementioned definition, I used a topographic survey recently completed by Sands Surveying and conducted three field visits to determine the top of bank, where evident. My delineation begins at the northeast corner of the Laidlaw property and traverses westerly to the northwest corner of the Big Mountain River property. As previously described, the northeast 100 feet of Lot 1 (224 West 2nd Street) was excavated and graded to create a park area that gradually slopes down to the river to provide river access. At a distance of approximately 100 feet from the east property line a bench is present at the 3009-foot contour, which extends westerly with the elevation increasing to the 3012-foot contour near the Laidlaw/Big Mountain River property line. A notable change in slope also occurs near the eastern margin of the Big Mountain River property at an elevation of 3004 feet which essentially represents the 100-year floodplain elevation (see Base Map). This bench extends northwesterly and becomes imperceptible near the historic access road.

In 2017, the City requested Randy Overton, Water Source Hydrology, provide an opinion regarding the location of the top of bank on Lot 12 and Lot 1 of the Big Mountain River properties located at 244 and 314 West 2nd Street, respectively. The top of bank locations from Mr. Overton's report have been transposed onto the Base Map. In addition, three topographic cross sections, which extend perpendicular to the contours, were generated to better define where a generally sharp and distinct break occurs. Mr. Overton's top of bank locations are also plotted on the cross sections to examine their relative position on the overall topographic slope.

Mr. Overton's report indicates the top of bank at the east margin of Lot 12 (224 West 2nd Street) is 217 feet beginning from the edge of the sidewalk and extending north to the top of bank. This location would put the top of bank at an elevation of 3026.5 feet, which is still on a relatively flat area of the lot (see Figure 2 - Cross Sections A – A' and B – B'). However, Mr. Overton acknowledges: *...the area has been modified by grading north of an apparent break in slope. He further states that: Between the top of bank location and the river it is also apparent that there are a series of slump blocks that bear the signature of retrogressive rotational slope failure that occurred sometime in the past, and that have been modified by minor grading or smoothing.* This is the area where the geotechnical investigation encountered 5.2 feet of fill. Based on the findings of the geotechnical investigation, in combination with Mr. Overton's observations, it is apparent the top of bank is not readily evident at this location. However, the presence of the unstable soils poses a significant risk for failure.

Mr. Overton also located the top of bank along the property line between Lots 1 and 2 (314 and 322 West 2nd Street). His report states: *The measurement along the west property began at the edge of the sidewalk and extended 196 feet north to the top of bank. The top of bank between the property lines follows a more or less straight line.* This top of bank location has also been plotted on the Base Map and topographic Cross Section C – C' (see Figure 3). As shown on both the topographic map, the top of bank is located on a uniform section of the slope at an elevation of 3029 feet and does not coincide with a "sharp or distinct break" per the water quality protection definition. Cross Section C – C' clearly displays the ground surface uniformly slopes down to the river and there is no evident distinct break to identify the top of bank.

Proposed Buffer and Setback

Our analysis shows that it is not possible to identify the top of bank along this stretch of the Whitefish River because historic land-use activities (fill placement and excavation) have substantially altered the original ground surface. As a result, the top of bank is essentially indiscernible. We therefore propose that the most pragmatic approach is to apply the 75-foot buffer distance from the mean high-water mark and utilize a 20-foot setback.

Benefits of 75-foot Buffer

As previously described, a series of stress fractures have been identified near the crest of the slope at the northeast corner of the Big Mountain River property and at the northwest corner of the Laidlaw property (see Base Map). These fractures are precursors of a rotational slump. The conceptual site plan for the Big Mountain River property includes a proposed excavation to a depth of five feet. Removal of the fill and original soil will unload the weight and thereby stabilize and prevent a slump failure from occurring. The area will be contoured and revegetated. By leaving this area intact the end result will be a catastrophic slope failure potentially reaching the river.

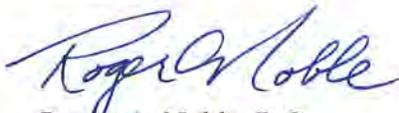
Previous Whitefish Staff Interpretations

The Big Mountain River property is adjacent to another development where the Whitefish Planning Department previously determined that using the 75-foot buffer was applicable based on the same rationale provided in this report. The staff report for the 95 Karrow project (WPP 17-04/WPU 17-02) states: *The applicant intends to remove the fill which includes wood chips, concrete, metal and other debris. As such the exact location of the top of bank is indiscernible; therefore, the applicant is using 75-feet as the buffer.* The western margin of the Big Mountain River project abuts the 95 Karrow development.

In summary, it has been shown that identifying the top of bank is nebulous at best because historic land-use activities have altered the original ground surface. As a result, the top of bank is not evident. The most pragmatic approach is to apply the 75-foot buffer distance from the mean high-water mark and utilize a 20-foot setback.

We are requesting your opinion on this matter so the two property owners will have guidance on how to proceed with further development plans. If you have any questions regarding the information contained in this letter, please do not hesitate to contact me.

Sincerely,



Roger A. Noble, P.G.
Sr. Hydrogeologist

c: David Radatti
James Laidlaw
Bruce Boody

List of Figures

Figure 1 – Site Vicinity Map

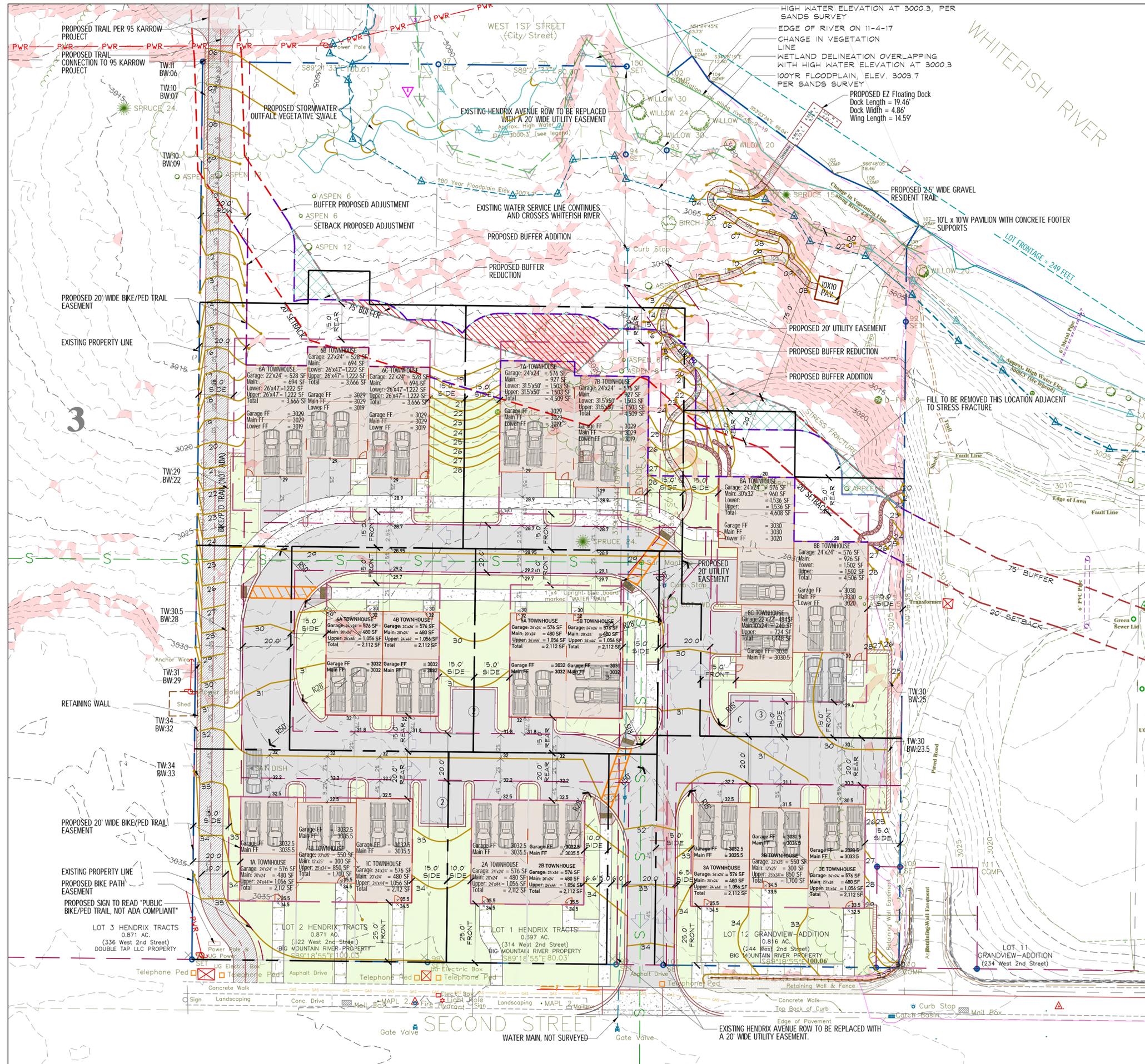
Figure 2 – Topographic Cross-Sections A – A' and B – B'

Figure 3 – Topographic Cross-Section C – C'

List of Attachments

Attachment A – Topographic Base Map

Attachment B – Geotechnical Investigation Report for Big Mountain River Development



SITE SUMMARY

6 UNITS	3 TOWNHOUSE DUPLEXES 24'x44' BUILDING FOOTPRINT 2 BEDROOM
6 UNITS	2 TOWNHOUSE TRIPLEXES (4) 24'x44' BUILDING FOOTPRINT (2) 25'x34' BUILDING FOOTPRINT 2 BEDROOM
6 UNITS	2 RIVERFRONT TOWNHOUSE TRIPLEXES BUILDING FOOTPRINT VARIES (5) 3 BEDROOM (1) 2 BEDROOM
2 UNITS	1 RIVERFRONT TOWNHOUSE DUPLEX 1,502 SF BUILDING FOOTPRINT 3 BEDROOM
20 TOTAL UNITS	

LEGEND

- PROPERTY LINE BY SURVEY
- INTERIOR PROPERTY LINE BY SURVEY
- PROPOSED PROPERTY EASEMENT
- PROPERTY LOT
- PROPERTY SUBLOT
- SUBLOT SETBACKS
- INDEX CONTOUR BY SURVEY
- CONTOUR BY SURVEY
- EDGE OF RIVER ON 11-4-17
- CHANGE IN VEGETATION LINE ALONG RIVER 10-11-19
- APPROX. HIGH WATER ELEVATION 3000.3
- 100 YEAR FLOODPLAIN
- WETLAND DELINEATION

BUFFER AVERAGING

- PROPOSED BUFFER ADDITION
TOTAL AREA = 1,217 SF
- PROPOSED BUFFER REDUCTION
TOTAL AREA = 1,219 SF

SLOPES

- SLOPES GREATER THAN 30%

ZONING SUMMARY
 WR-3 LOW DENSITY MULTI-FAMILY RESIDENTIAL

PERMITTED USES:
 Residential:
 • Class A manufactured homes.
 • Daycare (registered home, 5 to 12 individuals).
 • Guest and domestic worker quarters.
 • Manufactured home subdivisions (5 acre minimum size).
 • One-family, two-family, triplex and fourplex dwellings.

CONDITIONAL USES:
 • Accessory apartments.
 • Bed and breakfast establishments.
 • Daycare centers (more than 12 individuals).
 • Dwelling groups or clusters.
 • Guesthouses, only on lots over ten thousand (10,000) SF.
 • Hostels.
 • Livestock, subject to an administrative conditional use permit.
 • Multi-family dwellings in excess of four (4) dwelling units.
 • Nursing or retirement homes.
 • Personal services.
 • Private recreational facilities.
 • Professional artist studio/gallery.
 • Professional offices.
 • Schools (K - 12).
 • Type I and type II community residential facilities.

PROPERTY DEVELOPMENT STANDARDS:
 The following property development standards shall apply to land and buildings within this district:

MINIMUM LOT AREA:
 - Single-family dwelling 6,000 SF
 - Other dwellings/unit 3,000 SF
 - Attached one-family dwelling on a subplot: 2,400 SF

MINIMUM LOT WIDTH: 75 feet
MINIMUM SUBLOT WIDTH: 25 feet
MINIMUM YARD SPACES:
 - Front 25 feet
 - Side 10 feet
 - (Triplex or larger) 15 feet
 - Rear 20 feet

MAXIMUM HEIGHT: 35 feet
PERMITTED LOT COVERAGE: 40 % max

NOTE:
 This list is abbreviated from the original zoning regulations. For full regulations, refer to zoning regulations 11-2-H.

PARKING REQUIREMENTS

RESIDENTIAL: TWO-FAMILY DWELLING
 4 TOWNHOUSE DUPLEXES = 8 Dwelling Units
 REQ: 2 Spaces per Dwelling Unit
 REQ TOTAL: 16
 PROVIDED IN GARAGE: 16

RESIDENTIAL: MULTI-FAMILY DWELLING
 4 TOWNHOUSE TRIPLEX = 12 Dwelling Units
 REQ: 2 Spaces per Dwelling Unit, Plus 1 Guest Space for each 3 Units per Two-Bedroom or Larger Units
 REQ: 24
 REQ GUEST: 4
 PROVIDED IN GARAGE: 24
 PROVIDED OPEN AIR: 7

SUMMARY:
 RESIDENTIAL REQ: 44
 PROVIDED IN GARAGE: 40
 PROVIDED IN OPEN AIR: 7
 (Additional spaces available in private drives)

TOTAL PROVIDED: 47

BRUCE BOODY
 Landscape Architect Inc.
 301 Second Street
 Whitefish, MT 59937
 phone 406.862.4765
 fax 406.862.9758
 boody@bruceboody.com

SURVEY BY:
SANDS SURVEYING INC.
 TOM SANDS
 2 VILLAGE LOOP
 KALISPELL, MT 59901
 (406) 755-6481

Revisions:

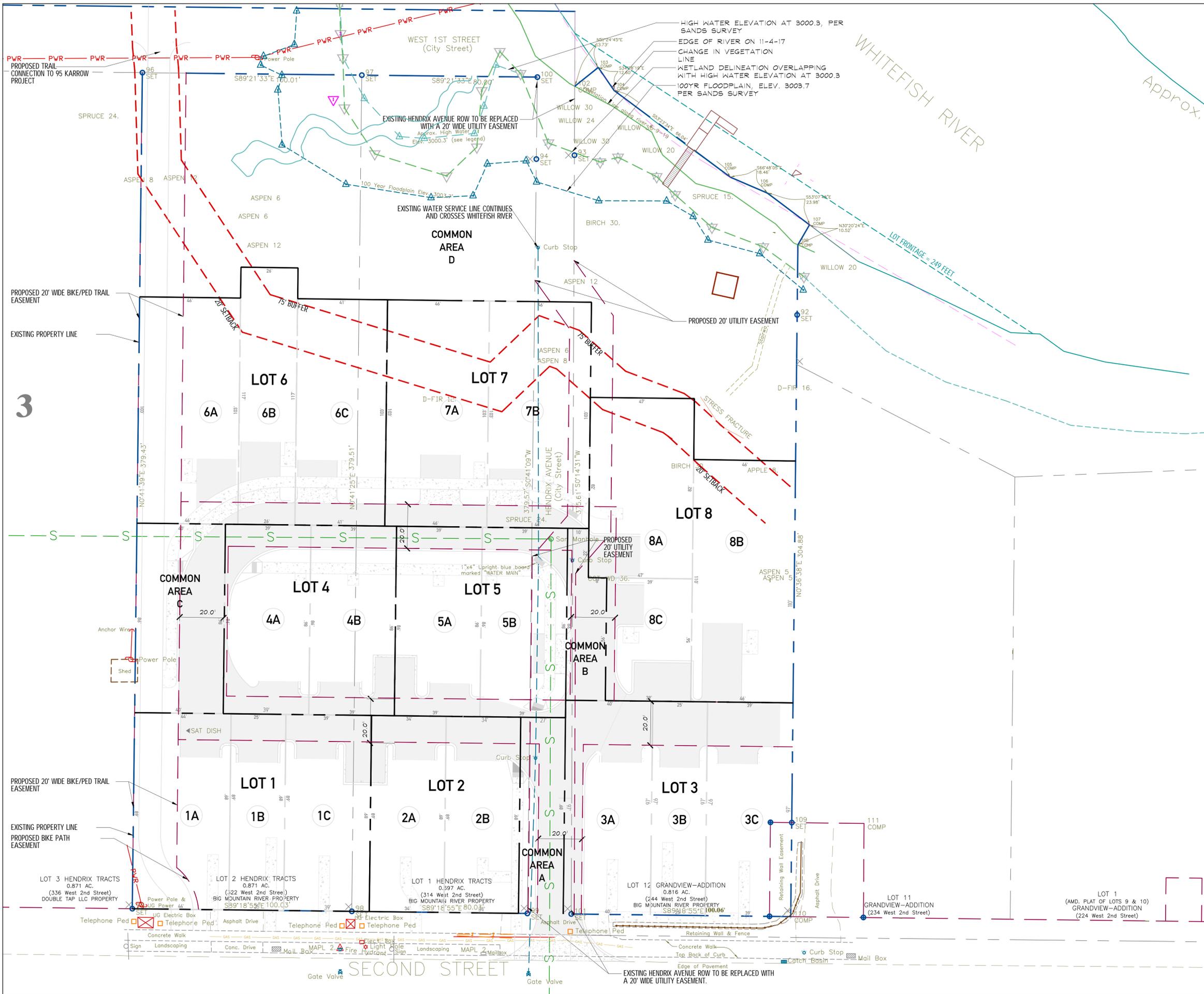
BIG MOUNTAIN RIVER LLC
 Assn: 9122X36-HEN-2-BLK1;
 9122X36-HEN-1-BLK1; HENDRIX TR 2-3-10 HEN
 9122X36-GNV-12-BLK1; GRANDVIEW ADD
 TO WHITEFISH 9-2-10 GNV

SCALE: 1"=20'
DATE: 05-22-20
JOB #: 18-38

PRELIMINARY PLAT SUBMITTAL REVISION

TOWNHOUSE CONCEPT PLAN

SHEET L1 of 6



WHITEFISH LAKE
CITY BEACH
PROPERTY

VICINITY MAP
NOT TO SCALE

SUBDIVISION ACREAGE SUMMARY

AREA TOTALS	GROSS SF	NET SF	GROSS AC	NET AC
LOTS	67,701	57,895	1.6	1.4
ROAD EASEMENTS	13,955	n/a	.3	n/a
COMMON AREA	39,043	35,046	.9	.8
ENTIRE SUBDIVISION	110,853	n/a	2.5	n/a

LOT TABLE

LOT	SUBLOT	GROSS SF	NET SF	GROSS AC	NET AC
1	A	3,917	3,620	.09	.08
	B	2,225	1,917	.05	.04
	C	3,472	2,996	.08	.07
2	A	3,031	2,613	.07	.06
	B	3,472	2,508	.08	.06
	C	3,781	3,001	.09	.07
3	A	3,856	2,417	.09	.06
	B	2,424	1,920	.06	.04
	C	3,781	3,001	.09	.07
4	A	3,354	2,556	.08	.06
	B	3,354	2,651	.08	.06
	C	3,354	2,651	.08	.06
5	A	3,358	2,658	.08	.06
	B	3,348	2,646	.08	.06
	C	3,348	2,646	.08	.06
6	A	4,726	4,466	.11	.1
	B	2,671	2,772	.06	.06
	C	4,776	4,309	.11	.1
7	A	4,776	4,309	.11	.1
	B	4,776	4,309	.11	.1
	C	2,173	1,952	.05	.05
8	A	3,877	3,474	.1	.1
	B	5,110	5,110	.12	.12
	C	2,173	1,952	.05	.05
TOTAL OF ALL LOTS		67,701	57,895	1.6	1.4

COMMON AREA TABLE

AREA	GROSS SF	NET SF	GROSS AC	NET AC
A	1,813	0	.04	0
B	1,218	1,034	.03	.02
C	3,477	0	.08	0
D	32,535	31,303	.75	.72
TOTAL OF ALL AREAS	39,043	32,337	.9	.74

PARKLAND DEDICATION CALCULATIONS

TOTAL OF ALL LOTS = 1.6 AC
1.6 x .11 (11%) = .17 AC

Point one seven (.17) Acres must be dedicated as parkland, or pay cash in lieu.

This project, however, is exempted under the subdivision regulation 12-4-11(C.6): "Where a subdivision provides for long term protection of an area identified as a water quality protection area under section 11-3-29, "Water Quality Protection" of this code, important wildlife habitat; significant cultural, historical or natural resources; agricultural interests of aesthetic values and the land area equals or exceeds the dedication requirements of subsection A of this section."

BRUCE BOODY
Landscape Architect Inc.
301 Second Street
Whitefish, MT 59937
phone 406.862.4765
fax 406.862.9758
boody@bruceboody.com

SURVEY BY:
SANDS SURVEYING INC.
TOM SANDS
2 VILLAGE LOOP
KALISPELL, MT 59901
(406) 755-6481

Revisions:

BIG MOUNTAIN RIVER LLC
Assn: 9122X36-HEN-2-BLK1;
9122X36-HEN-1-BLK1; HENDRIX TR 2-3-10 HEN
9122X36-GNV-12-BLK1; GRANDVIEW ADD
TO WHITEFISH 9-2-10 GNV

SCALE: 1"=20'

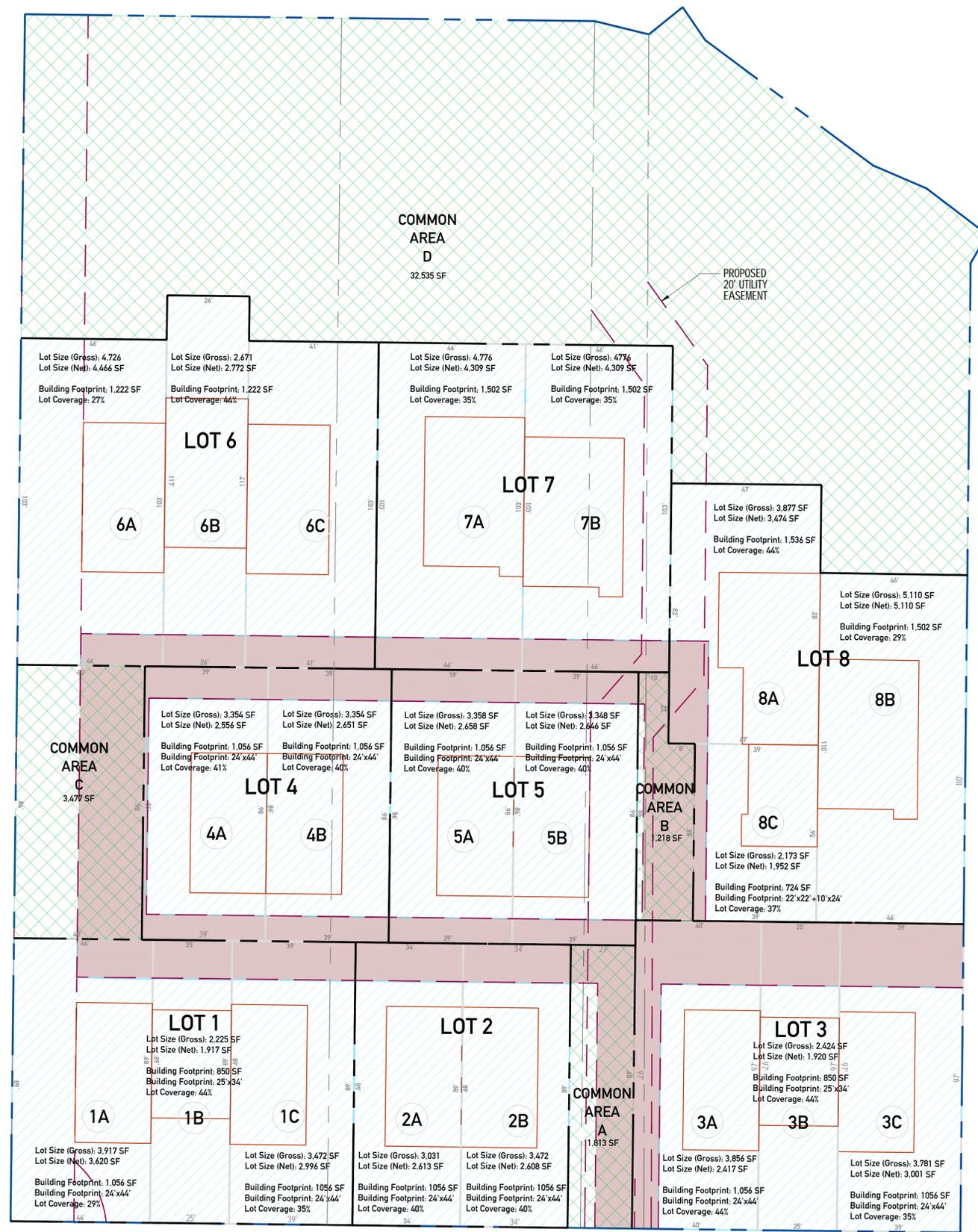
DATE: 05-22-20

JOB #: 18-38

PRELIMINARY PLAT SUBMITTAL REVISION

PRELIMINARY PLAT PLAN

SHEET L2 of 6



LEGEND

EXISTING

- PROPERTY LINE BY SURVEY
- INTERIOR PROPERTY LINE BY SURVEY

PROPOSED

- PROPERTY LOT
- PROPERTY SUBLOT
- SUBLOT AREA (NET)
- EASEMENT
- ROAD RIGHT OF WAY
- COMMON AREA
- BUILDING FOOTPRINT

WHITEFISH LAKE

CITY BEACH

PROPERTY

HWY 93 SECOND ST

VICINITY MAP
NOT TO SCALE

SUBDIVISION ACREAGE SUMMARY

AREA TOTALS	GROSS SF	NET SF	GROSS AC	NET AC
LOTS	67,701	57,895	1.6	1.4
ROAD EASEMENTS	13,955	n/a	.3	n/a
COMMON AREA	39,043	35,046	.9	.8
ENTIRE SUBDIVISION	110,853	n/a	2.5	n/a

LOT TABLE

LOT	SUBLOT	GROSS SF	NET SF	GROSS AC	NET AC
1	A	3,917	3,620	.09	.08
	B	2,225	1,917	.05	.04
	C	3,472	2,996	.08	.07
2	A	3,031	2,613	.07	.06
	B	3,472	2,508	.08	.06
3	A	3,856	2,417	.09	.06
	B	2,424	1,920	.06	.04
	C	3,781	3,001	.09	.07
4	A	3,354	2,556	.08	.06
	B	3,354	2,651	.08	.06
5	A	3,358	2,658	.08	.06
	B	3,348	2,646	.08	.06
6	A	4,726	4,466	.11	.1
	B	2,671	2,772	.06	.06
7	A	4,776	4,309	.11	.1
	B	4,776	4,309	.11	.1
8	A	3,877	3,474	.1	.1
	B	5,110	5,110	.12	.12
	C	2,173	1,952	.05	.05
TOTAL OF ALL LOTS		67,701	57,895	1.6	1.4

COMMON AREA TABLE

AREA	GROSS SF	NET SF	GROSS AC	NET AC
A	1,813	0	.04	0
B	1,218	1,034	.03	.02
C	3,477	0	.08	0
D	32,535	31,303	.75	.72
TOTAL OF ALL AREAS	39,043	32,337	.9	.74

PARKLAND DEDICATION CALCULATIONS

TOTAL OF ALL LOTS = 1.6 AC
1.6 x .11 (11%) = .17 AC

Point one seven (.17) Acres must be dedicated as parkland, or pay cash in lieu.

This project, however, is exempted under the subdivision regulation 12-4-11(C.6): "Where a subdivision provides for long term protection of an area identified as a water quality protection area under section 11-3-29, "Water Quality Protection", of this code, important wildlife habitat; significant cultural, historical or natural resources; agricultural interests of aesthetic values and the land area equals or exceeds the dedication requirements of subsection A of this section."



BRUCE BOODY
Landscape Architect Inc.
301 Second Street
Whitefish, MT 59937
phone 406.862.4756
fax 406.862.9756
boody@bruceboody.com

SURVEY BY:
SANDS SURVEYING INC.
TOM SANDS
2 VILLAGE LOOP
KALISPELL, MT 59901
(406) 755-6481

Revisions:

BIG MOUNTAIN RIVER LLC
Assn: 9122X36-HEN-2-BLK1;
9122X36-HEN-1-BLK1; HENDRIX TR 2-3-10 HEN
9122X36-GNV-12-BLK1; GRANDVIEW ADD
TO WHITEFISH 9-2-10 GNV

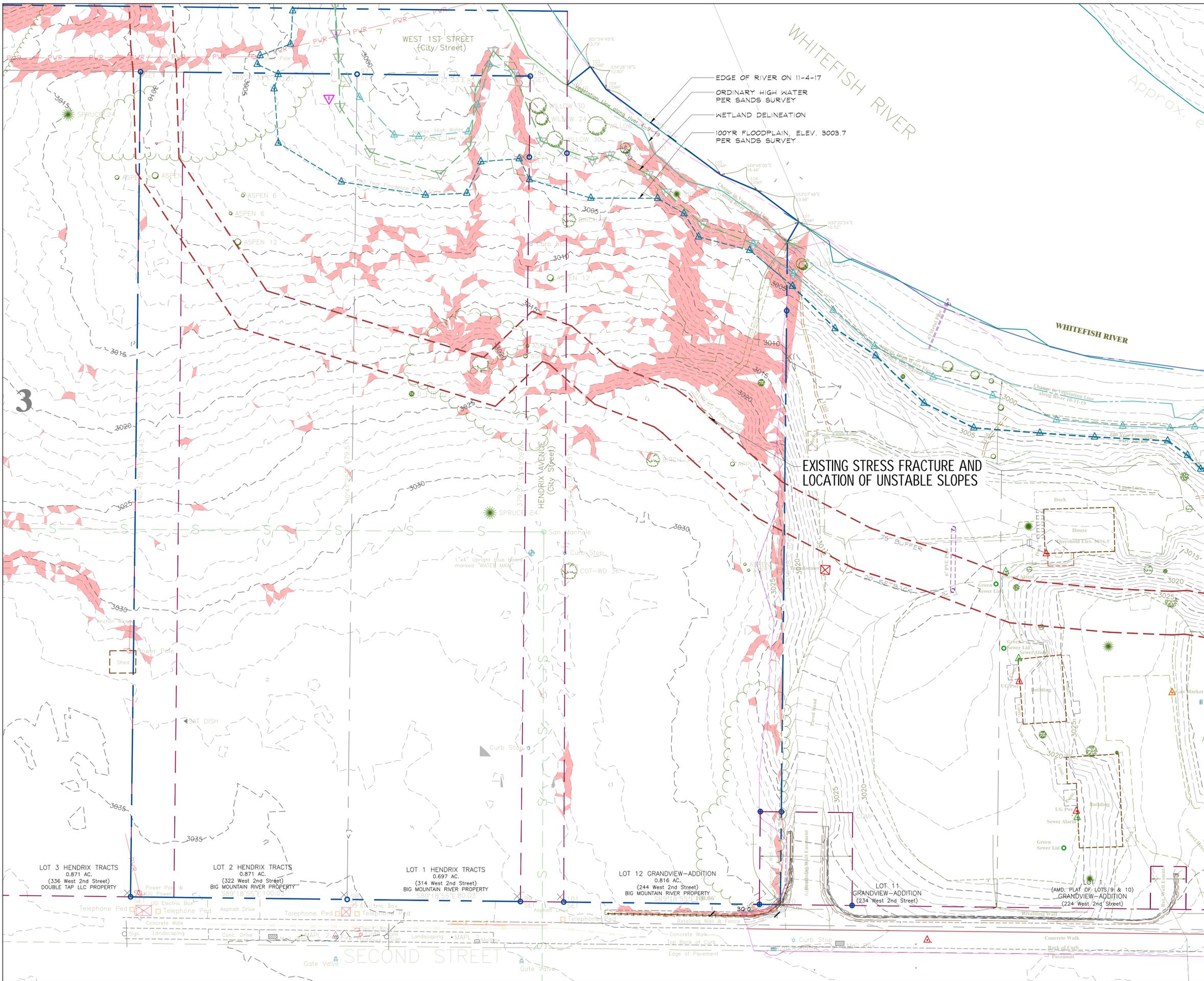
SCALE: 1"=20'

DATE: 05-22-20

JOB #: 18-38

PRELIMINARY PLAT SUBMITTAL REVISION PRELIMINARY PLAT PLAN DIAGRAMMATIC

SHEET L6 OF 6



LEGEND

EXISTING

- PROPERTY LINE BY SURVEY
- PROPERTY EASEMENT
- INDEX CONTOUR BY SURVEY
- CONTOUR BY SURVEY
- EDGE OF RIVER ON 11-4-17
- CHANGE IN VEGETATION LINE ALONG RIVER 10-11-19
- APPROX. HIGH WATER ELEVATION 3000.3
- 100 YEAR FLOODPLAIN
- WETLAND DELINEATION

SLOPES

- SLOPES GREATER THAN 30%



BRUCE BOODY
Landscape Architect Inc.
301 Second Street
Whitefish, MT 59937
phone 406.862.4755
fax 406.862.9755
boody@bruceboody.com

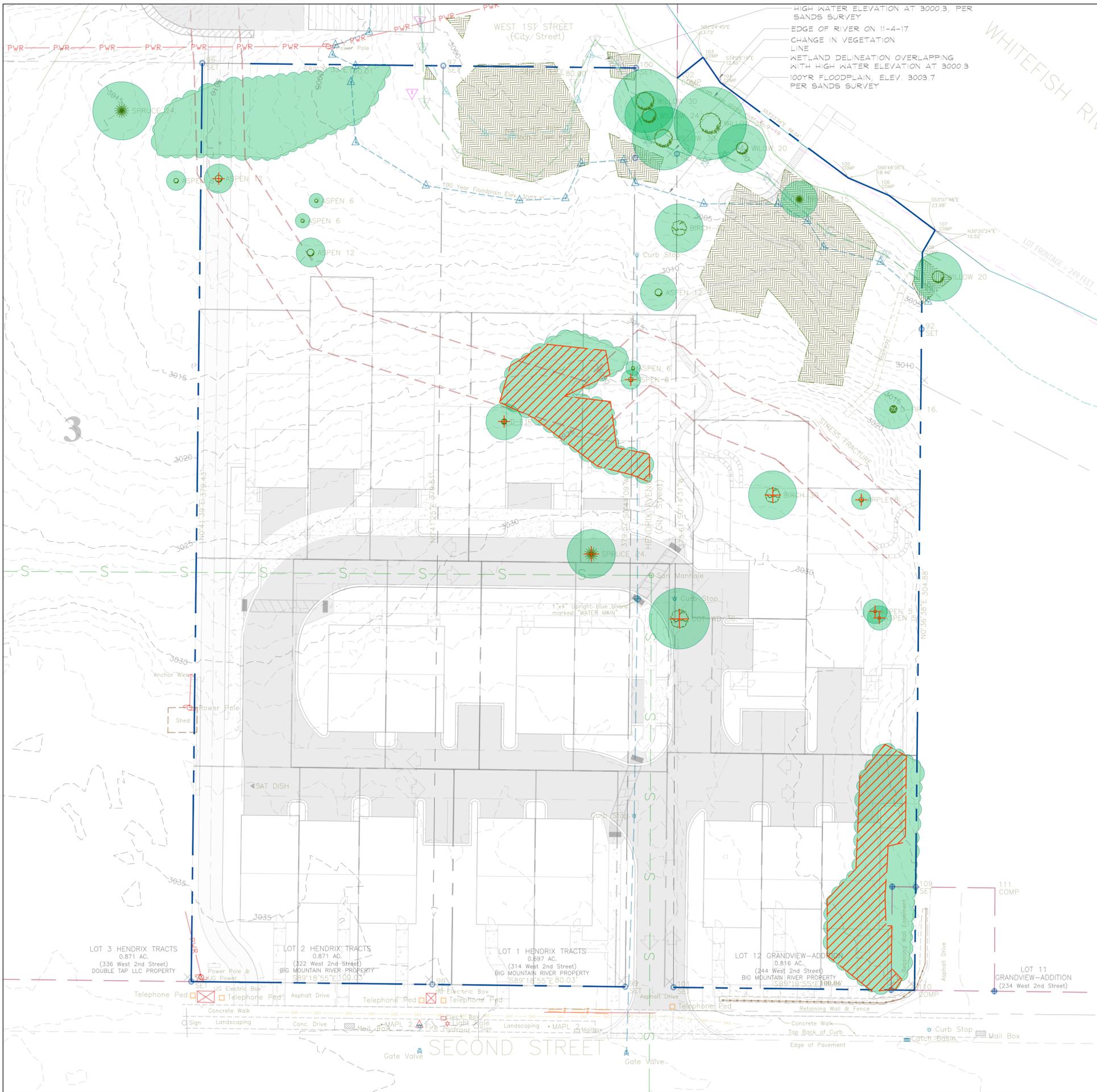
SURVEY BY:
SANDS SURVEYING INC.
TOM SANDS
2 VILLAGE LOOP
KALISPELL, MT 59901
(406) 755-6481

Revisions:

BIG MOUNTAIN RIVER LLC
Assn: 9122X36-HEN-2-BLKI;
9122X36-HEN-1-BLKI; HENDRIX TR 2-3-10 HEN
9122X36-GNV-12-BLKI; GRANDVIEW ADD
TO WHITEFISH 5-2-10 GNV

SCALE: 1"=20'
DATE: 3-20-20
JOB #: 18-38

PRELIMINARY PLAT SUBMITTAL
TOPOGRAPHY PLAN



HIGH WATER ELEVATION AT 3000.3, PER SANDS SURVEY
 EDGE OF RIVER ON 11-4-17
 CHANGE IN VEGETATION LINE
 WETLAND DELINEATION OVERLAPPING WITH HIGH WATER ELEVATION AT 3000.3
 100YR FLOODPLAIN, ELEV. 3003.7 PER SANDS SURVEY

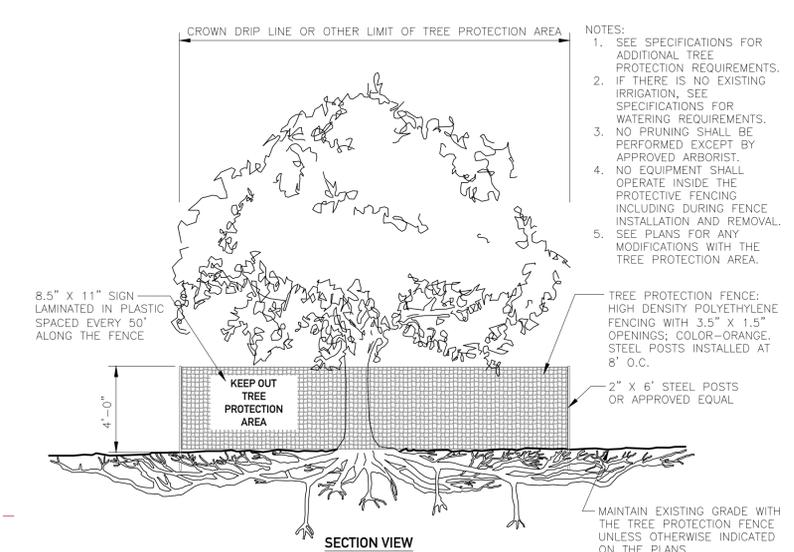
LEGEND

EXISTING TREES TO BE PRESERVED

- BIRCH OR COTTONWOOD TREE
- ASPEN TREE
- DOUGLAS FIR TREE
- ENGELMANN SPRUCE TREE
- TREE GROUPING
- NATIVE SHRUB GROUPING

EXISTING TREES TO BE REMOVED

- BIRCH OR COTTONWOOD TREE
- ASPEN TREE
- DOUGLAS FIR TREE
- ENGELMANN SPRUCE TREE
- TREE GROUPING



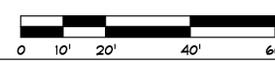
1 TEMPORARY TREE PROTECTION
 1/4" = 1'-0"

- NOTES:
- SEE SPECIFICATIONS FOR ADDITIONAL TREE PROTECTION REQUIREMENTS.
 - IF THERE IS NO EXISTING IRRIGATION, SEE SPECIFICATIONS FOR WATERING REQUIREMENTS.
 - NO PRUNING SHALL BE PERFORMED EXCEPT BY APPROVED ARBORIST.
 - NO EQUIPMENT SHALL OPERATE INSIDE THE PROTECTIVE FENCING INCLUDING DURING FENCE INSTALLATION AND REMOVAL.
 - SEE PLANS FOR ANY MODIFICATIONS WITH THE TREE PROTECTION AREA.

TREE PROTECTION FENCE: HIGH DENSITY POLYETHYLENE FENCING WITH 3.5" X 1.5" OPENINGS; COLOR-ORANGE. STEEL POSTS INSTALLED AT 8' O.C.

2" X 6' STEEL POSTS OR APPROVED EQUAL

MAINTAIN EXISTING GRADE WITH THE TREE PROTECTION FENCE UNLESS OTHERWISE INDICATED ON THE PLANS



BRUCE BOODY
 Landscape Architect Inc.
 301 Second Street
 Whitefish, MT 59937
 phone 406.862.4765
 fax 406.862.9758
 boody@bruceboody.com

SURVEY BY:
 SANDS SURVEYING INC.
 TOM SANDS
 2 VILLAGE LOOP
 KALISPELL, MT 59901
 (406) 755-6481

Revisions:

BIG MOUNTAIN RIVER LLC
 Assn: 9122X36-HEN-2-BLK1;
 9122X36-HEN-1-BLK1; HENDRIX TR 2-3-10 HEN
 9122X36-GNV-12-BLK1; GRANDVIEW ADD
 TO WHITEFISH 9-2-10 GNV

SCALE: 1"=20'

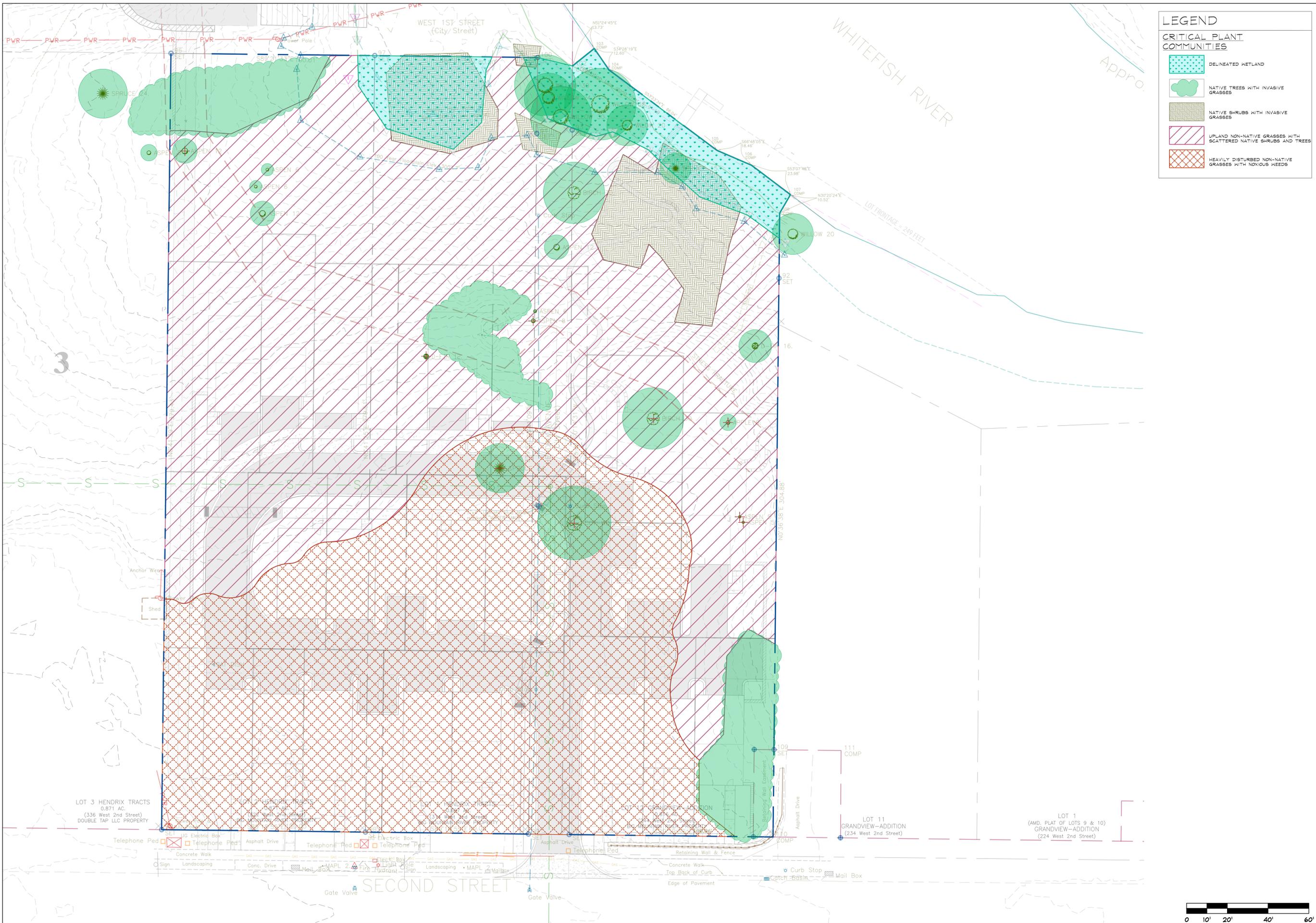
DATE: 05-22-20

JOB #: 18-38

PRELIMINARY PLAT SUBMITTAL REVISION

TREE PRESERVATION PLAN

SHEET L4 of 6



LEGEND

CRITICAL PLANT COMMUNITIES

- DELINEATED WETLAND
- NATIVE TREES WITH INVASIVE GRASSES
- NATIVE SHRUBS WITH INVASIVE GRASSES
- UPLAND NON-NATIVE GRASSES WITH SCATTERED NATIVE SHRUBS AND TREES
- HEAVILY DISTURBED NON-NATIVE GRASSES WITH NOXIOUS WEEDS

BRUCE BOODY
 Landscape Architect Inc.
 301 Second Street
 Whitefish, MT 59937
 phone 406.862.4756
 fax 406.862.9756
 boody@bruceboody.com

SURVEY BY:
 SANDS SURVEYING INC.
 TOM SANDS
 2 VILLAGE LOOP
 KALISPELL, MT 59901
 (406) 755-6481

Revisions:

BIG MOUNTAIN RIVER LLC
 Assn: 9122X36-HEN-2-BLK1;
 9122X36-HEN-1-BLK1; HENDRIX TR 2-3-10 HEN
 9122X36-GNY-12-BLK1; GRANDVIEW ADD
 TO WHITEFISH 9-2-10 GNY

NORTH

SCALE: 1"=20'

DATE: 05-22-20

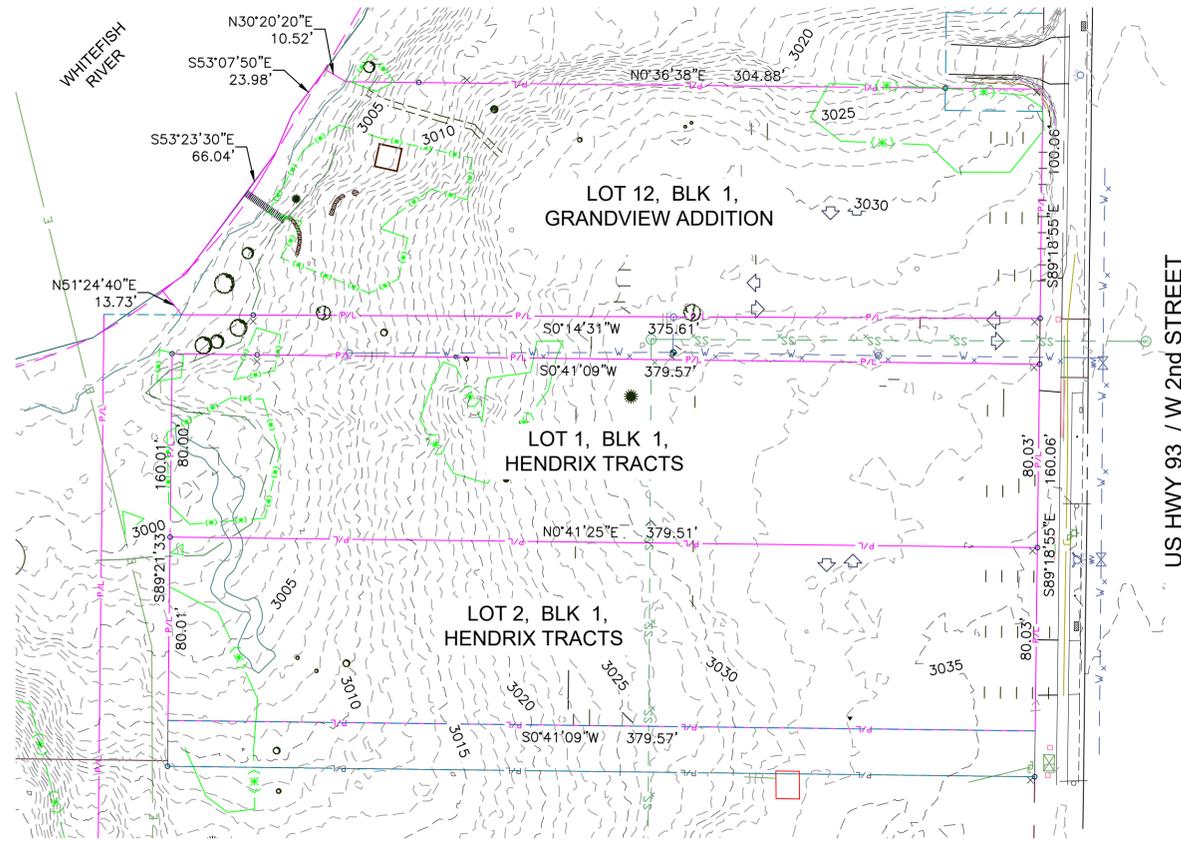
JOB #: 18-38

PRELIMINARY PLAT
 SUBMITTAL
 REVISION

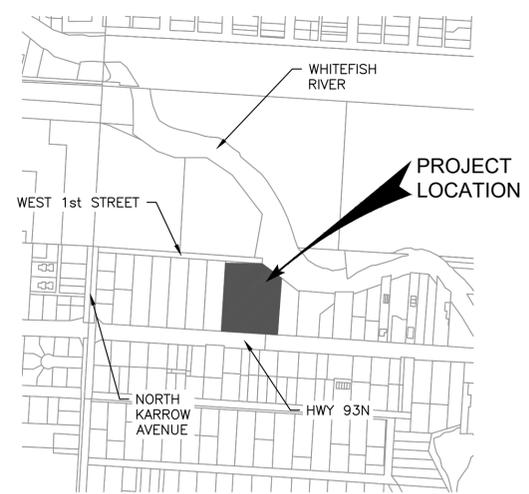
CRITICAL PLANT
 COMMUNITIES

SHEET L5 of 6

NOT FOR CONSTRUCTION



EXISTING CONDITIONS



VICINITY MAP
NOT TO SCALE

GENERAL NOTES

DATUM
THE MONTANA STATE PLANE COORDINATE SYSTEM, FEDERAL INFORMATION PROCESSING STANDARD (FIPS) ZONE 2500, NORTH AMERICAN DATUM, 1983 (NAD 83), INTERNATIONAL FEET, WAS USED FOR HORIZONTAL CONTROL AND THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 88) WAS USED FOR THE VERTICAL CONTROL.

MUNICIPAL SERVICES
SANITARY SEWER AND WATER SERVICE BY THE CITY OF WHITEFISH. SERVICE EXTENSIONS REQUIRED
SOLID WASTE DISPOSAL BY CONTRACT HAULER. (EXISTING)
STORM DRAINAGE TO BE COLLECTED, TREATED ON SITE, AND DISCHARGED.

MAIL DELIVERY
PEDESTAL GROUP MAILBOX.

EMERGENCY SERVICES
POLICE AND FIRE PROTECTION PROVIDED BY THE CITY OF WHITEFISH.

DESCRIPTION
LOTS 1 & 2 OF BLK 1, HENDRIX TRACTS AND LOT 12 OF BLK 1, GRANDVIEW ADDITION, CITY OF WHITEFISH, SECTION 36, T31N, R22W, PMM, FLATHEAD COUNTY, MONTANA
ASSESSOR # - 0895150, 0110610, 0430750

PROPOSED USE
TOWNHOUSE

ZONING
CURRENT ZONING IS CITY OF WHITEFISH ZONING ORDINANCE DESIGNATION WR-3 LOW DENSITY MULTI FAMILY RESIDENTIAL. SETBACKS ARE BASED ON SAID DESIGNATION.

LANDSCAPE
LANDSCAPING PER CITY OF WHITEFISH STANDARDS.

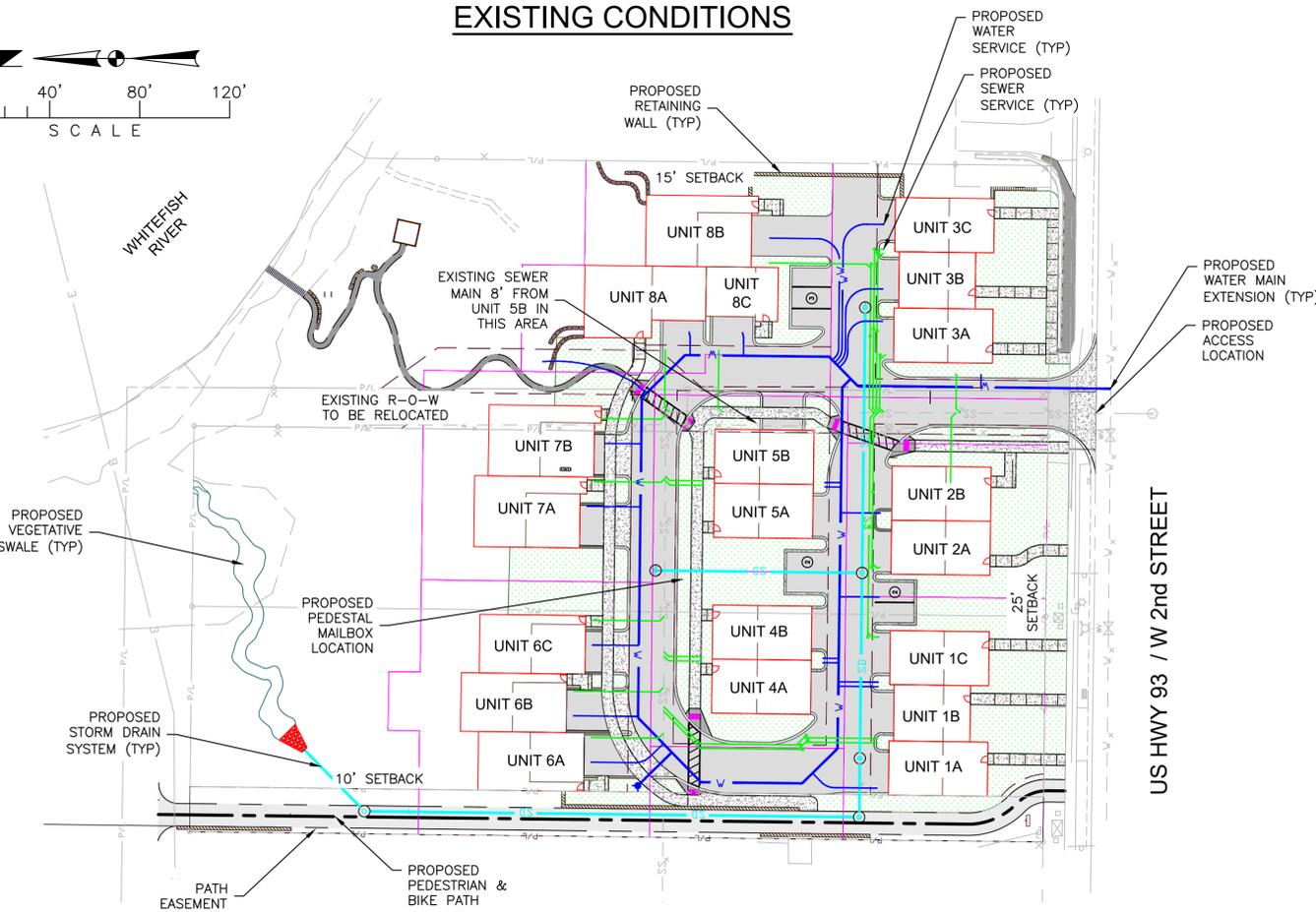
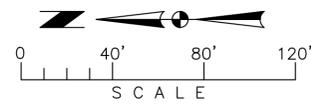
TRAFFIC
ACCESS OFF US HWY 93 / 2nd STREET. PARKING ON SITE.

PARKING
47 SPACES TOTAL. COMBINATION OF GARAGE, OPEN AIR, DRIVEWAY, FULL SIZE AND COMPACT.

LIGHTING
SITE LIGHTING WILL BE INSTALLED PER CITY OF WHITEFISH STANDARDS

LEGEND

- PERIMETER BOUNDARY
- CONTOUR LINE (1' INTERVAL)
- CONTOUR LINE (5' INTERVAL)
- EXISTING STRUCTURE
- EDGE OF ASPHALT
- EXISTING WIRE FENCE
- EXISTING WOOD FENCE
- PROPERTY PIN
- CONTROL POINT
- GAS VALVE
- LUMINAIRE
- EASEMENT BOUNDARY
- RETAINING WALL
- EDGE OF GRAVEL
- GAS LINE
- WATER LINE
- ELECTRIC LINE
- SEWER LINE
- STORM DRAIN LINE
- TELEPHONE
- FIRE HYDRANT
- WATER METER & CURB STOP
- BARRIER POST
- MANHOLE
- DECIDUOUS TREE (12" OR LARGER)
- CONIFEROUS TREE (12" OR LARGER)
- CONCRETE
- UTILITY POLE
- GAS METER
- GUY WIRE
- PROPOSED WATER
- PROPOSED SEWER
- PROPOSED STORM DRAIN
- PROPOSED ASPHALT



PROPOSED LOT LAYOUT

REV	DATE	REVISION

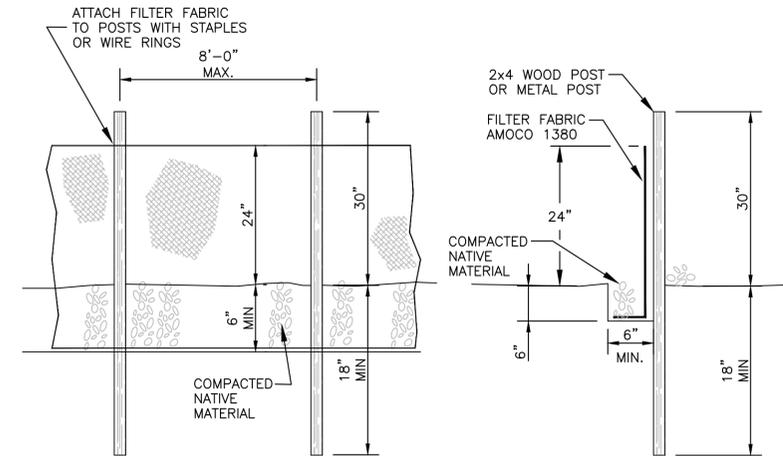
TD&H Engineering
406.751.5246 • tdhengineering.com
460 CORPORATE DR., SUITE 101 • KALISPELL, MONTANA 59901

DRAWN BY: DJK
DESIGNED BY: DJK
QUALITY CHECK: DJK
DATE: 05/23/2020
JOB NO.: K19-054
FIELDBOOK

PRELIMINARY PLAT - BIG MOUNTAIN RIVER, LLC
244, 314, 322 W 2nd STREET WHITEFISH, MT 59937
LT 1, 2, BLK1 HENDRIX TRACTS, LT 12, BLK1 GRANDVIEW ADD
SECTION 36, T31N, R22W, PMM

EROSION CONTROL NOTES

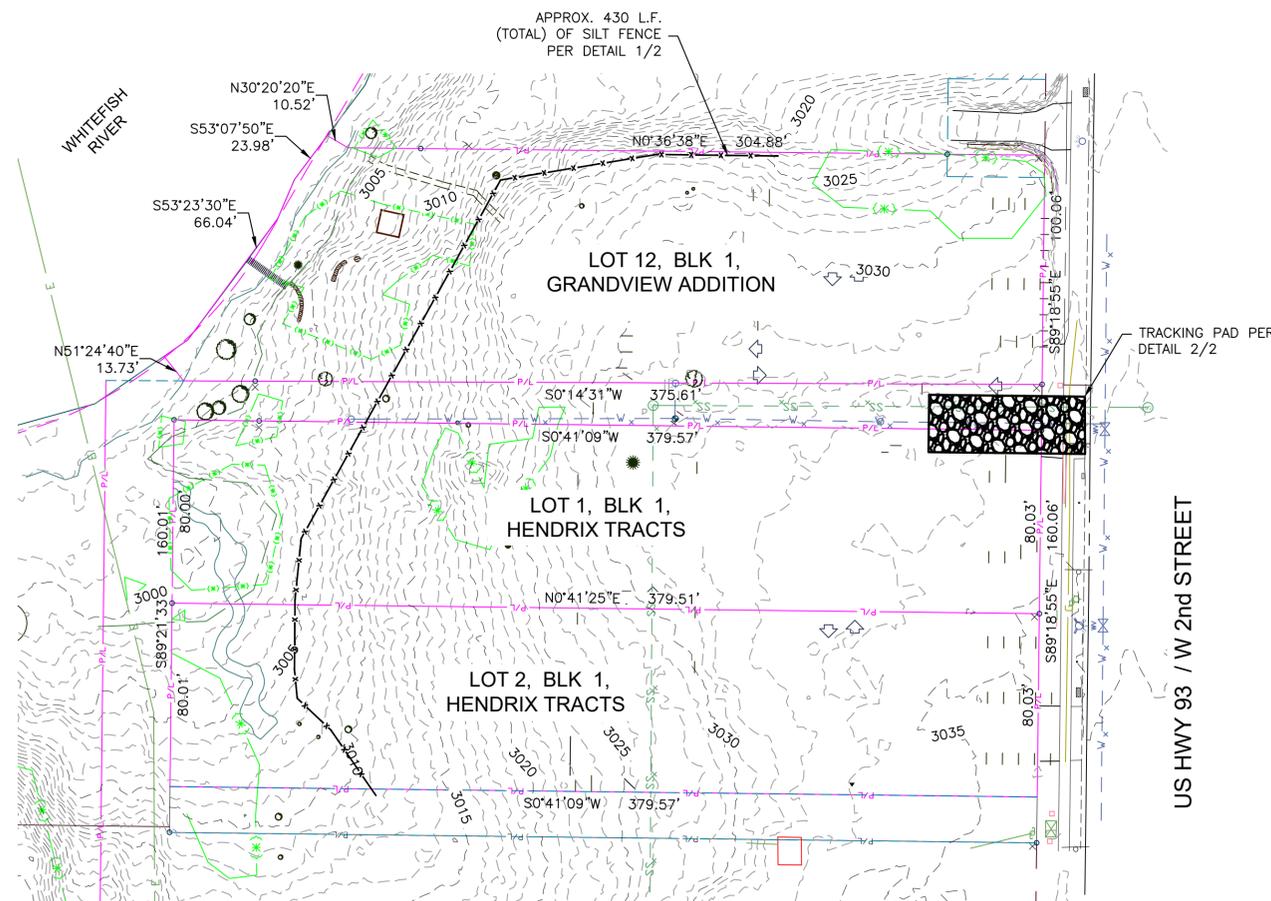
1. THE PROJECT SITE AND ADJACENT AREAS DISTURBED DURING CONSTRUCTION SHALL BE PROTECTED WITH TEMPORARY EROSION CONTROL MEASURES DURING THE ENTIRE COURSE OF THE PROJECT. THE CONTRACTOR SHALL EMPLOY EROSION, SEDIMENT AND STORM WATER DRAINAGE CONTROL BEST MANAGEMENT PRACTICES (BMPs) WITH ALL CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL NOT ALLOW UNTREATED RUNOFF TO DRAIN FROM THE PROJECT SITE.
2. CONSTRUCTION ACTIVITIES WHICH DISTURB EQUAL TO OR MORE THAN ONE ACRE REQUIRE A GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY ALSO KNOWN AS A "GENERAL PERMIT" WHICH IS ADMINISTERED BY THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ).
3. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ANY NECESSARY/REQUIRED PERMITS TO SUCCESSFULLY COMPLETE THE PROJECT AS INDICATED IN THE PLANS AND SPECIFICATIONS. THIS INCLUDES A STORM WATER POLLUTION PREVENTION PLAN (SWPPP) FROM MDEQ FOR CONSTRUCTION ACTIVITIES WHICH DISTURB EQUAL TO OR MORE THAN ONE ACRE.
4. CONTRACTOR SHALL INSTALL EROSION/SEDIMENT CONTROL BEFORE ANY CONSTRUCTION BEGINS AT THE SITE.
5. PRIOR TO CONSTRUCTION THE CONTRACTOR SHALL INSTALL EROSION/SEDIMENT CONTROL MEASURES AS SHOWN, TO TRAP SILT AND OTHER MATERIALS CARRIED IN RUNOFF WATER. THE SEDIMENT AND EROSION CONTROL MEASURES SHALL REMAIN IN-PLACE AND BE CLEANED AND MAINTAINED UNTIL CONSTRUCTION IS COMPLETED AND VEGETATION HAS BEEN ESTABLISHED.
6. WASHOUT OF CONCRETE TRUCKS SHALL OCCUR OFF-SITE AT AN APPROVED LOCATION. DO NOT WASH OUT TRUCKS INTO STREETS, DRAINAGE AREAS, GUTTERS OR ANY STORM DRAIN SYSTEM.
7. BMPs SHALL BE INSPECTED EACH DAY WORK IS UNDERWAY AT THE SITE AND IMMEDIATELY AFTER ANY STORM EVENT OF 0.5" OR MORE OF PRECIPITATION OCCURS. CONTRACTOR SHALL CLEAN OR MAINTAIN SUCH DEVICES WHEN THEY ARE NOT EFFECTIVE IN TRAPPING AND RETAINING SEDIMENT, AND ADD DEVICES WHERE NEEDED. ANY NECESSARY REPAIRS TO BMPs SHALL BE MADE WITHIN 24 HOURS OF OBSERVATION OR NOTIFICATION FROM THE PROJECT ENGINEER.
8. ALL BMPs SHALL MEET AND BE INSTALLED PER CITY OF WHITEFISH STANDARD SPECIFICATIONS & DRAWINGS (LATEST EDITION).
9. TRACKING PAD AND ADJACENT STREETS SHALL BE CONTINUOUSLY CLEANED AND MAINTAINED BY CONTRACTOR.
10. ALL STORM DRAINAGE INLETS SHALL BE PROTECTED FROM SEDIMENTATION WITH DRAINGUARDS. DRAINGUARDS SHALL BE KEPT IN PLACE UNTIL STABILIZATION OF DISTURBED AREAS IS ACHIEVED.



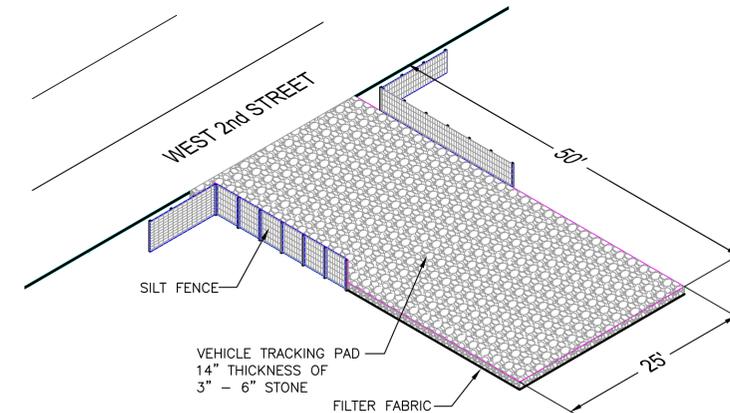
NOTES:

1. ENDS OF INDIVIDUAL ROLLS OF FABRIC SHALL BE SPLICED TOGETHER ONLY AT A SUPPORT POST WITH A MINIMUM 6" OVERLAP.
2. SILT FENCE FABRIC TO BE SECURELY FASTENED TO METAL POST WITH WIRE TIES OR HOG RINGS (3 PER POST). FOR WOODEN POSTS, FABRIC SHALL BE FASTENED WITH NO. 17 GAGE STAPLES (5 PER POST) OR NO. 14 GAGE NAILS (4 PER POST).

SILT FENCE DETAIL 1
2
NOT TO SCALE



EROSION CONTROL PLAN



NOTE:
ALL VEHICLES ENTERING AND EXITING THE CONSTRUCTION AND/OR BUILDING SITE SHALL TRAVERSE THE VEHICLE TRACKING PAD TO MINIMIZE MUD AND DIRT FROM TRACKING OFF SITE. ROCK SHALL BE REPLENISHED IF TRACKING OCCURS. TRACKING PAD SHALL BE RENEWED AS NECESSARY TO RETAIN EFFECTIVENESS. ALL MATERIALS SPILLED, DROPPED, WASHED OR TRACKED FROM VEHICLES ONTO ROADWAYS SHALL BE REMOVED IMMEDIATELY.

VEHICLE TRACKING STONE ENTRANCE REQUIREMENTS:

- 3"-6" DIAMETER WASHED ROCK
- UNDERLYING FILTER FABRIC TO BE REQUIRED AS STATED

FILTER FABRIC REQUIREMENTS:

- TENSILE GRAB STRENGTH = 200 LBS (ASTM D4632)
- ELONGATION MINIMUM = 15% (ASTM D4632)
- SEAM BREAKING STRENGTH MINIMUM = 180 LBS (ASTM D4632)
- APPARENT OPENING SIZE MAXIMUM = 0.3 MM (#50 SIEVE) (ASTM D4751)
- PERCEPTIVITY MINIMUM = 0.3/SEC (ASTM D4491)

VEHICLE TRACKING PAD DETAIL 2
2
NOT TO SCALE

NOT FOR CONSTRUCTION

REV	DATE	REVISION

TD&H
Engineering
406.751.5246 • tdhengineering.com
450 CORPORATE DR., SUITE 101 • KALISPELL, MONTANA 59901

DRAWN BY: DJK
DESIGNED BY: DJK
QUALITY CHECK:
DATE: 05/23/2020
JOB NO.: K19-054
FIELDBOOK

EROSION CONTROL PLAN - BIG MOUNTAIN RIVER, LLC
244, 314, 322 W 2nd STREET WHITEFISH, MT 59937
LT 1, 2, BLK1 HENDRIX TRACTS, LT 12, BLK1 GRANDVIEW ADD
SECTION 36, T31N, R22W, PMM

(This page left blank intentionally to separate printed sections)

PLANNING & BUILDING DEPARTMENT
418 E 2nd Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



June 30, 2020

Mayor and City Council
City of Whitefish
PO Box 158
Whitefish MT 59937

RE: Shigo/Larsen Accessory Apartment at 725 Somers Avenue (WCUP 20-08)

Honorable Mayor and Council:

Summary of Requested Action: John Shigo and Christina Larsen are requesting a Conditional Use Permit to construct an accessory apartment at 725 Somers Avenue. The site is developed with a single-family home and an existing garage with a 2nd floor to be used as the accessory apartment. The property is zoned WR-2 (Two-Family Residential District) and the Whitefish Growth Policy designates this property as 'Urban'.

Planning & Building Department Recommendation: Staff recommended approval of the Conditional Use Permit application subject to six conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing on June 18, 2020. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on June 18, 2020 and considered the request. Following the hearing, the Planning Board unanimously approved the request. In making their decision, the Planning Board adopted staff report WCUP 20-08 with Findings of Fact and recommended Conditions of Approval.

Proposed Motion:

- I move to approve WCUP 20-08, the Findings of Fact in the staff report and the six conditions of approval, as recommended by the Whitefish Planning Board on June 18, 2020.

This item has been placed on the agenda for your regularly scheduled meeting on July 6, 2020. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

/s/ Wendy Compton-Ring

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A: Planning Board Recommended Conditions of Approval
Draft Minutes, Planning Board Meeting, 6-18-20

Exhibits from 6-18-20 Staff Packet

1. Staff Report – WCUP 20-08, 6-18-20
2. Adjacent Landowner Notice, 5-29-20
3. Advisory Agency Notice, 5-29-20
4. Email, Joos, 6-8-20

The following was submitted by the applicant:

5. Application for Conditional Use Permit, 5-1-20

c: w/att Michelle Howke, City Clerk

c: w/o att John Shigo, 725 Somers Ave Whitefish, MT 59937

Exhibit A
Shigo/Larsen
Conditional Use Permit WCUP 20-08
Whitefish Planning Board
Recommended Conditions of Approval
June 18, 2020

1. The project shall be constructed in compliance with the plans submitted April 30, 2020, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8(E)(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.
2. One off-street parking space shall be designated for the accessory apartment and two off-street parking spaces shall be designated for the primary residence. (§11-3-1(D))
3. The existing unpaved driveway must be paved according to §11-6-3-1(D)(2) and all stormwater generated by the proposal must be retained on-site. (§11-3-2(C))
4. Prior to building permit issuance, the property owner must provide the City a recorded copy of either a deed restriction or a restrictive covenant that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure and may only be rented for a period of 30 days or more. (§11-3-1(C))
5. Short term rental for less than 30 days is not permitted. (§§11-3-1(C); 11-2G-1)
6. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8)

**WHITEFISH PLANNING BOARD
MINUTES OF MEETING
June 18, 2020**

<p>CALL TO ORDER AND ROLL CALL</p>	<p>Chair Steve Qunell called the regular meeting of the Whitefish Planning Board to order at 6:00 pm. Board members present were Whitney Beckham, John Ellis, Scott Freudenberger, Allison Linville, John Middleton, and Toby Scott. Planning Director David Taylor, Senior Planner Wendy Compton-Ring and Long Range Planner Hilary Lindh represented the Whitefish Planning and Building Department. Public Works Director Craig Workman also attended.</p> <p>There were approximately 14 people attending in addition to the board members and staff.</p>
<p>AGENDA CHANGES <i>6:00 pm</i></p>	<p>None.</p>
<p>APPROVAL OF MINUTES <i>6:00 pm</i></p>	<p>Scott moved, and Freudenberger seconded to approve the April 16, 2020 minutes without corrections. The motion passed unanimously.</p>
<p>COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA) <i>6:00 pm</i></p>	<p>None.</p>
<p>OLD BUSINESS: <i>6:02 pm</i></p>	<p>None.</p>
<p>PUBLIC HEARING 1: SHIGO AND LARSEN CONDITIONAL USE PERMIT REQUEST <i>6:02 pm</i></p>	<p>A request by John Shigo and Christina Larsen for a Conditional Use Permit to construct an accessory apartment in an existing structure at 725 Somers Avenue. The property is zoned WR-2 (Two-Family Residential District) and can be legally described as Lot 4, Block 3 McKeens Subdivision in S36, T31N, R22W, Flathead County.</p>
<p>STAFF REPORT WCUP 20-08 (Compton-Ring)</p>	<p>Senior Planner Compton-Ring reviewed her staff report and findings. As of the writing of WCUP 20-08, one letter in support was received and is included in the packet.</p> <p>Staff recommended adoption of the findings of fact within staff report WCUP 20-08 and for approval of the conditional use permit to the Whitefish City Council.</p>

BOARD QUESTIONS OF STAFF	None.
APPLICANT / AGENCIES	John Shigo, 725 Somers Avenue, said he has been a Whitefish resident for 27 years, 12 at his current address. When the garage was built in 2007, he did not plan on a bathroom or apartment, but now want to install a bathroom which necessitates the Conditional Use Permit. They do not intend to use the unit as a rental; it is for their personal use to give the family additional room as they have a small home. They may put in a very small accessory kitchen at some point in the future. He feels it fits well with the neighborhood as there are multiple garages and multiple-story garages.
PUBLIC COMMENT	Chair Qunell opened the public hearing and no one wished to speak. Chair Qunell closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION	<p>Ellis moved and Linville seconded to adopt the findings of fact within staff report WCUP 20-08, with the six (6) conditions of approval, as proposed by City Staff.</p> <p>Chair Qunell asked and Compton-Ring said once they get CUP approval, they can add a bathroom now and a kitchen in the future; a kitchen does not have to be added now.</p>
VOTE	The motion passed unanimously. The matter is scheduled to go before the Council on July 6, 2020.
PUBLIC HEARING 2: SECREASE CONDITIONAL USE PERMIT REQUEST <i>6:05 pm</i>	A request by Eric Holden on behalf of Pamela Secrease for a Conditional Use Permit to construct an accessory apartment above a new garage at 909 Kalispell Avenue. The property is zoned WR-2 (Two-Family Residential District) and can be legally described as Lots 10 and 11 S15', Block 17 Riverside ADD W in S36, T31N, R22W, P.M.M., Flathead County.
STAFF REPORT WCUP 20-10 (Lindh)	<p>Planner Lindh reviewed her staff report and findings. As of the writing of WCUP 20-10, one comment from the adjacent neighbor was received regarding the disputed location of the north property line which will be confirmed during building permit. No other comments have been received.</p> <p>Staff recommended adoption of the findings of fact within staff</p>

SHIGO/LARSEN
CONDITIONAL USE PERMIT
WCUP 20-08
June 11, 2020

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request for a Conditional Use Permit to allow an accessory apartment in a WR-2 zone at 725 Somers Avenue. This application has been scheduled before the Whitefish Planning Board for a public hearing on Thursday, June 18, 2020. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, July 6, 2020.

PROJECT SCOPE

The applicant is requesting a conditional use permit to construct an accessory apartment on the 2nd floor of an existing garage. The garage was constructed in 2007 and meets all current accessory structure requirements. The garage accesses off the public alley to the east of the garage.

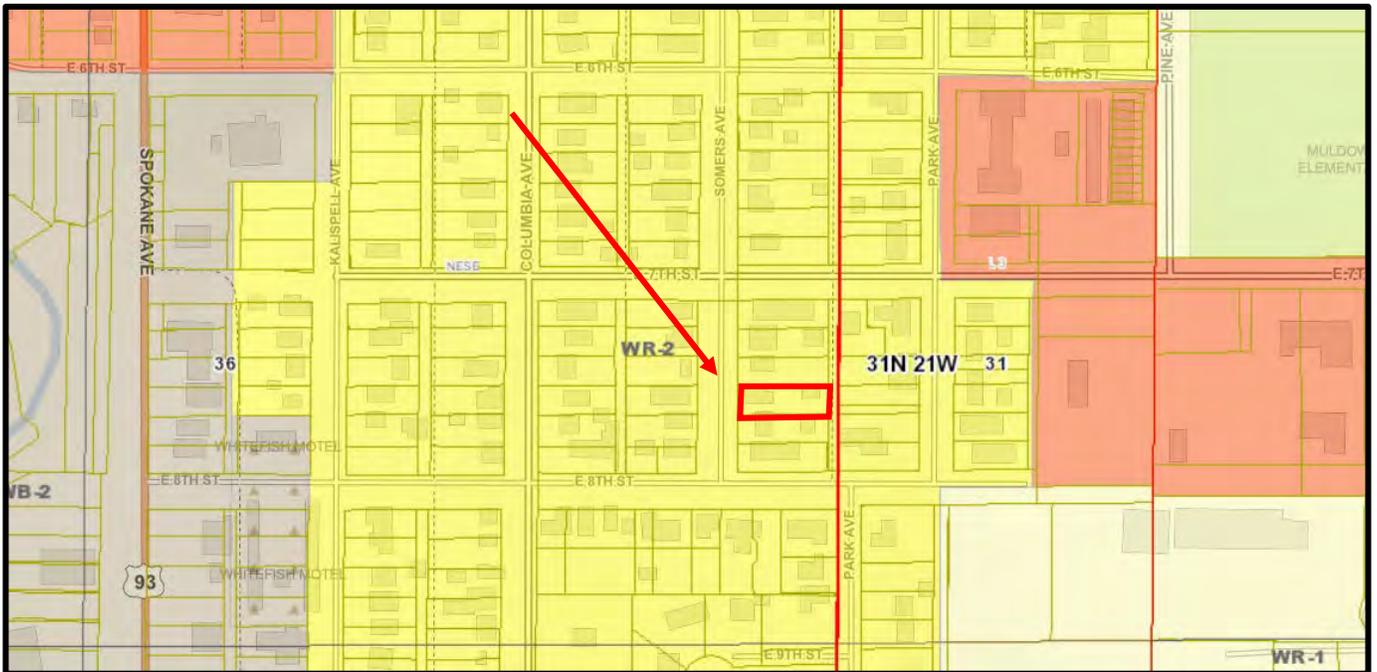


A. OWNER:

John Shigo & Christina Larsen
725 Somers Avenue
Whitefish, MT 59937

B. SIZE AND LOCATION OF PROPERTY:

The subject property is approximately 7,884 square feet. It is located at 725 Somers Avenue and can be described as Lot 4 in Block 3 of McKeens Subdivision in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana.



C. EXISTING LAND USE:

The subject property is currently developed with a single-family residence and a detached 2-story garage.

D. ADJACENT LAND USES AND ZONING:

North:	Residential	WR-2
West:	Residential	WR-2
South:	Residential	WR-2
East:	Residential	WR-2

E. ZONING DISTRICT:

The property is zoned WR-2, Two-Family Limited Residential District. The purpose of this district is intended for residential purposes to provide for one-family and two-family homes in an urban setting, connected to municipal utilities and services.

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Growth Policy designation for this area is 'Urban' which corresponds to the WR-2, Two-Family Limited Residential District.

This is generally a residential designation that defines the traditional neighborhoods near downtown Whitefish, but it has also been applied to a second tier of neighborhoods both east of the river and in the State Park Road area. Residential unit types are mostly one and two-family, but town homes and lower density apartments and condominiums are also acceptable in appropriate locations using the PUD. Densities generally range from 2 to 12 units per acre. Limited neighborhood commercial located along arterial or collector streets are also included in this designation. Zoning includes WLR, WR-1, and WR-2.

G. UTILITIES:

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	Republic Services
Electric:	Flathead Electric Co-op
Natural Gas:	Northwestern Energy
Phone:	CenturyLink
Police:	City of Whitefish
Fire:	City of Whitefish

H. PUBLIC COMMENTS:

A notice was mailed to adjacent landowners within 300-feet of the subject parcel on May 29, 2020. A sign was posted to the property on May 27, 2020. A notice was emailed to advisory agencies on May 29, 2020. A notice of the public hearing was published in the *Whitefish Pilot* on June 3, 2020. As of the writing of this staff report, one comment in support of the request was received.

REVIEW AND FINDINGS OF FACT

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per §11-7-8(J) of the Whitefish Zoning Regulations.

1. Growth Policy Compliance:

Finding 1: The proposed use complies with Growth Policy Designation of Urban because the proposal is for an accessory apartment in association with a single-family residence in compliance with the WR-2 zoning.

2. Compliance with regulations. The proposal is consistent with the purpose, intent, and applicable provisions of these regulations.

The property is zoned WR-2, Two-Family Residential District. The development proposal is consistent with the purpose and intent of the applicable regulations.

Setbacks, Height and Lot Coverage:

The garage was constructed in 2007 and all accessory structure requirements were met at the time of building permit including setbacks, height and lot coverage.

Parking:

The zoning requires two spaces for the single-family home and one space for the apartment. There is adequate space on the property to meet these requirements and this will be confirmed at the time of building permit. There is space for parking off the alley, within the garage and one space off Somers Avenue. The parking and driveway off the alley are not paved, as required by §11-6-3-1D(2). Staff will recommend this as a condition of approval.



Accessory Apartment Standards:

The subject property for the proposed accessory apartment complies with both the minimum lot size and lot width requirements of the WR-2 zoning. The structure is detached and accessory to a single-family home. The apartment does not exceed 600 square feet.

Finding 2: The proposed use complies with the WR-2 zoning district because it conforms to the development standards outlined in the zoning and §11-3-1 of the Whitefish Zoning Regulations regarding accessory apartments, as conditioned.

3. Site Suitability. The site must be suitable for the proposed use or development, including:

Adequate usable land area: The subject parcel is approximately 7,900 square feet in size. The maximum permitted lot coverage in this zoning district is 40%. All setbacks and lot coverage requirements are met.

Access that meets the standards set forth in these regulations, including emergency access: The accessory apartment and garage access from the public alley to the east of the property.

Absence of environmental constraints that would render the site inappropriate for the proposed use or development, including, but not necessarily limited to floodplains, slope, wetlands, riparian buffers/setbacks, or geological hazards: The proposed development is not located within the 100-year floodplain. Additionally, there are no wetlands, riparian zones, or geological hazards on or near the subject property.

Finding 3: The subject property is suitable for the proposed accessory apartment because the proposal complies with the minimum lot size, minimum lot coverage, and required setbacks; access to the proposed structure will be from an existing alley; and there are no environmental constraints on the property to limit development.

4. Quality and Functionality. The site plan for the proposed use or development has effectively dealt with the following design issues as applicable.

Parking locations and layout: Section 11-6-2(A) of the Whitefish Zoning Regulations requires two (2) parking spaces per single family dwelling unit and §11-3-1(D) requires one (1) off-street space must be provided for the accessory apartment. The proposed lot provides adequate space to accommodate all parking needs on-site with the identified parking space located inside the proposed garage, and the existing driveway located along the eastern property line.

Traffic Circulation: The proposed use should not impact traffic circulation on the existing road.

Open space: The submitted site plan appears to have adequate open space.

Fencing/Screening: Fencing and screening are not required by the zoning regulations.

Landscaping: Section 11-4-1 of the Whitefish Zoning Regulations exempts single-family dwellings and accessory apartments from the landscaping requirements; therefore, no landscape plan is required.

Signage: No signage is proposed for the accessory apartment.

Undergrounding of new and existing utilities: The subject property currently has existing utilities located on-site which service the single-family residence. Any new utilities will be required to be installed underground.

Finding 4: The quality and functionality of the proposed development is adequate because the applicant can meet the required number of parking spaces, the proposed use will not impact existing traffic circulation, no signage is proposed for the accessory apartment, and all new utilities will be undergrounded.

5. **Availability and Adequacy of Public Services and Facilities.**

Sewer and water: The subject property is currently serviced by municipal water and sewer. Separate water and sewer service is required for the accessory apartment.

Storm Water Drainage: The new stormwater standards require an engineered stormwater plan if the impervious surface is 10,000 square feet; however, the entire lot is less than 10,000 square feet so no stormwater plan will be required.

Fire Protection: The Whitefish Fire Department serves the site and response times and access are adequate. The proposed use is not expected to have significant impacts upon fire services.

Police: The City of Whitefish serves the site and response times and access are adequate. The proposed use is not expected to have significant impacts upon police services.

Streets: The subject property is located on Somers Avenue, a paved public street.

Finding 5: The subject property appears to have adequate availability of public services because the property is currently served by sewer and water, is within the jurisdiction of the Whitefish Fire Department and the City of Whitefish Police Department, and is accessed from Somers Avenue.

6. **Neighborhood/Community Impact:**

Traffic Generation: Traffic impacts are anticipated to be minimal as the subject property has an existing single-family residence and is located within an existing neighborhood with similar uses. The accessory apartment should not result in a significant impact to traffic on Somers Avenue or surrounding roadways.

Noise or Vibration: No additional noise or vibration is anticipated to be generated from the proposed use. Any additional noises or vibrations would be associated with construction and are not anticipated to be permanent impacts.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from the residential use currently onsite. The existing driveway is not paved, the applicant will be required to pave the driveway as a condition of approval as required in §11-6-3-1(D)(2).

Smoke, Fumes, Gas, and Odor: No impact is anticipated with regard to smoke, fumes, gas or odors.

Hours of Operation: There are no hours of operation anticipated with this use beyond those that would be typical for a residential property.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact because the accessory apartment will not increase traffic generation on surrounding streets, there will be no noise or vibration beyond associated construction disturbance, no fumes or other odors are anticipated, and there will be no hours of operation for the residential use.

7. **Neighborhood/Community Compatibility:**

Structural Bulk and Massing: The proposed accessory apartment will meet the lot coverage and height standards. The proposed structure is accessory to the main single-family home and will be similar to existing adjacent residential uses in the neighborhood.

Scale: The proposed accessory apartment meets the accessory structure setbacks. This allows for adequate open space within the subject property to maintain the character and scale of the neighborhood.

Context of Existing Neighborhood: The existing neighborhood is predominantly single-family residential. The proposed use is not expected to impact or change the character of the existing neighborhood. The proposed use is consistent with the existing zoning and the structures already constructed within the neighborhood.

Density: The design of the proposed structure is similar to other buildings in the area. The density is not out of character with the area.

Community Character: The proposed accessory apartment will not be detrimental to the immediate neighborhood integrity as the accessory apartment reflects the housing standards established in the area and will be utilized as an accessory use to the existing primary residence.

Finding 7: The proposed accessory apartment is compatible with the surrounding neighborhood because the use is similar to existing uses in the neighborhood, it will be consistent with the design, size and density of the immediate area, and it will be utilized as an accessory use to the existing primary residence.

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 20-08 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be constructed in compliance with the plans submitted April 30, 2020, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8(E)(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. One off-street parking space shall be designated for the accessory apartment and two off-street parking spaces shall be designated for the primary residence. (§11-3-1(D))
3. The existing unpaved driveway must be paved according to §11-6-3-1(D)(2) and all stormwater generated by the proposal must be retained on-site. (§11-3-2(C))
4. Prior to building permit issuance, the property owner must provide the City a recorded copy of either a deed restriction or a restrictive covenant that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure and may only be rented for a period of 30 days or more. (§11-3-1(C))
5. Short term rental for less than 30 days is not permitted. (§§11-3-1(C); 11-2G-1)
6. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8)



The City of Whitefish would like to inform you that John Shigo & Christina Larsen is requesting a Conditional Use Permit to construct an accessory apartment within an existing structure. The property is currently developed with a single-family home and detached garage and is zoned WR-2 (Two-Family Residential District). The property is located at 725 Somers Avenue and can be legally described as Lot 4, Block 3 McKeens subdivision S36 T31N R22W, P.M.M., Flathead County.

You are welcome to provide comments on the project. Comments can be in written or email format. The Whitefish Planning Board will hold a public hearing for the proposed project request on:

Thursday, June 18, 2020
6:00 p.m.
Whitefish City Council Chambers, City Hall
418 E 2nd Street, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, July 6, 2020** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department and on the Planning Department webpage – Current Land Use Actions: www.cityofwhitefish.org. The public is encouraged to comment on the above proposal and attend the hearing. Please send comments to the Whitefish Planning Department (address below) or email at wcompton-ring@cityofwhitefish.org.



VICINITY MAP

Comments received by the close of business on June 8, 2020, will be included in the packets to Board members. Comments received after the deadline will be summarized to Board members at the public hearing.

PLANNING & BUILDING DEPARTMENT
PO Box 158
418 E Second
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



Date: May 29, 2020
To: Advisory Agencies & Interested Parties
From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, June 18, 2020 at 6:00 pm in the Whitefish City Council Chambers at **418 E Second Street**. During the meeting, the Board will hold a public hearing on the item listed below. Upon receipt of the recommendation from the Planning Board, the Whitefish City Council will hold a subsequent public hearing for the items 1 & 2 on July 6, 2020 and items 3 & 4 on July 20, 2020. City Council meetings start at 7:10 pm at **418 E Second Street** in the Whitefish City Council Chambers on the second floor.

1. A request by Big Mountain River LLC for an eight lot (20 subplot) subdivision. The property is zoned WR-3 (Low-Density Multi-Family Residential District), is located at 244, 314 & 322 W 2nd Street and can be legally described as Lots 1 & 2 Hendrix subdivision; Lot 12 Grandview in S36, T31N, R22W, Flathead County. (WPP 20-01) Compton-Ring
2. A request by John Shigo and Christina Larsen for a Conditional Use Permit to construct an accessory apartment in an existing structure at 725 Somers Avenue. The property is zoned WR-2 (Two-Family Residential District) and can be legally described as Lot 4, Block 3 McKeens Subdivision in S36, T31N, R22W, Flathead County. (WCUP 20-08) Compton-Ring
3. A request by Eric Holden on behalf of Pamela Secrease for a Conditional Use Permit to construct an accessory apartment above a new garage at 909 Kalispell Avenue. The property is zoned WR-2 (Two-Family Residential District) and can be legally described as Lots 10 and 11 S15', Block 17 Riverside ADD W in S36, T31N, R22W, P.M.M., Flathead County. (WCUP 20-10) Lindh
4. A request by Sweet Peaks Ice Cream, Inc., for a Conditional Use Permit to allow an ice cream manufacturing facility at 6588 Highway 93 South. The property is zoned WB-2 (Secondary Business District) and can legally be described as Lot A of the Best Bet Subdivision in S36, T31N, R22W, Flathead County. (WCUP 20-09) Taylor

Documents pertaining to these agenda items are available for review at the Whitefish Planning & Building Department, 418 E Second Street, during regular business hours, and the application and site plans are available [HERE](#). The full application packet along with public comments and staff report will be available on the City's webpage: www.cityofwhitefish.org under Planning Board six days prior to the Planning Board public hearing date noted above. Inquiries are welcomed.

Depending on state-wide directives, the meeting may be held remotely via WebEx and the public will have an opportunity to comment via an internet connection. Written comments are preferred due to limitations of technology. If a live meeting is held, interested parties are encouraged to send in written comments rather than attending the meeting in person due to the public health crisis. There may be restrictions in place limiting the number of people in any given room, although accommodations will be made for public comment. Comments in writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: dtaylor@cityofwhitefish.org. For questions or further information regarding these proposals, phone 406-863-2410.

From: [Brian Joos](#)
To: [Wendy Compton-Ring](#)
Subject: Comment on 725 Somers Avenue CUP
Date: Thursday, June 4, 2020 9:30:51 PM

Wendy,

My comment for the Whitefish Planning Board regarding the Conditional Use Permit request by John Shigo & Christina Larsen is as follows:

I live less than one full block away from the location of this proposed project and can see it from my home. I believe strongly that the Whitefish Planning Board should grant the Conditional Use Permit as requested. This kind of development simultaneously creates additional housing stock and benefits the existing homeowners by creating the potential for rental income to offset the always increasing cost of owning a home in Whitefish. In addition, it is infill that does not contribute to urban sprawl, and it increases the value of the property at issue, which is of benefit to all surrounding neighbors. In my opinion, this kind of project should be permitted as a matter of right in our neighborhood. I support it wholeheartedly.

Brian Joos
711 Park Avenue
PO Box 1433
Whitefish, MT 59937
EXTERNAL SENDER verified by City of Whitefish IT



City of Whitefish
 Planning & Building Dept
 418 E 2nd St | PO Box 158
 Whitefish, MT 59937
 Phone: 406-863-2460
 Fax: 406-863-2419

File #: _____
 Date: _____
 Intake Staff: _____
 Check #: _____
 Amount: _____
 Date Complete: _____

CONDITIONAL USE PERMIT

FEE ATTACHED \$ _____
 (see current fee schedule)

INSTRUCTIONS:

- A Site Review Meeting with city staff is required. Date of Site Review Meeting: NA - Per Wendy 4/28/2020
- Submit the application fee, completed application, and appropriate attachments to the Whitefish Planning & Building Department a minimum of **forty-five (45) days prior** to the Planning Board meeting at which this application will be heard.
- The regularly scheduled meeting of the Whitefish City Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 418 E 2nd Street.
- After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Name: Shigo Garage Upgrade - Plumbing
 Street Address: 725 Somers Ave
 Assessor's Tract No.(s) 0613870/3122X36-MKS-4-B Lot No(s) 4
 Block # 3 Subdivision Name MCKEENS SUB
 Section S36 Township T31 N Range R22

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish Staff to be present on the property for routine monitoring and inspection during the approval and development process.

[Signature]
 Owner's Signature**

4/28/2020
 Date

John Shigo
 Print Name

[Signature]
 Applicant's Signature

4/28/2020
 Date

John Shigo
 Print Name

 Representative's Signature

 Date

 Print Name

** May be signed by the applicant or representative, authorization letter from owner must be attached. If there are multiple owners, a letter authorizing one owner to be the authorized representative for all must be included.

B. APPLICATION CONTENTS:

Attached ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

- Eight (8) copies of the Conditional Use Permit Application
- Eight (8) copies of the written description of how the project meets the criteria in Section E
- Eight (8) copies of the Site Plan – drawn to scale, which shows in detail the proposed use, property lines and setback lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, signage, and any unusual topographic features such as slopes, drainage, ridges, etc.
- Housing Mitigation Plan (unless exempt)
- Where new buildings or additions are proposed, building sketches and elevations must be submitted
- Tree Preservation Plan – show a site plan with trees 6-inch DBH or greater to be preserved with project
- If the project is a multi-family development, complete the **Multi-Family Development Standards Supplemental**
- If the project is a mixed-use or non-residential development, complete the **Mixed-Use and Non-Residential Building Development Standards Supplemental**
- Electronic version of entire application (i.e. pdf)
- Any additional information requested during the pre-application process

When all application materials are submitted to the Planning & Building Department, the application will be scheduled for public hearing before the Planning Board and City Council.

C. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name: John Shigo/Christina Larsen Phone: 406-270-7477
Mailing Address: 725 Somers Ave
City, State, Zip: Whitefish, MT 59937
Email: shigojw@yahoo.com

APPLICANT (if different than above):

Name: _____ Phone: _____
Mailing Address: _____
City, State, Zip: _____
Email: _____

OTHER TECHNICAL/PROFESSIONAL:

Name: _____ Phone: _____
Mailing Address: _____
City, State, Zip: _____
Email: _____

D. DESCRIBE PROPOSED USE:

The proposal is to plumb and existing garage/studio effectively making it an accessory apartment. This requires hooking up to the water system and sewer system. The existing garage and second story loft area was built in 2006 to Whitefish City Codes and was permitted and inspected. The current building meets all electrical, foundation, framing, insulation, frost protection and snow load requirements.

The main purpose for the upgrade is to make the space more usable for my family by providing a bathroom for convenience. Additionally it will allow us to have available water for a garden and landscaped area at the back of our property.

ZONING DISTRICT: WR-2

E. FINDINGS: The following criteria form the basis for approval or denial of the Conditional Use Permit. The burden of satisfactorily addressing these criteria lies with the applicant. Review the criteria below and discuss how the proposal conforms to the criteria. If the proposal does not conform to the criteria, describe how it will be mitigated.

1. Describe how the proposal conforms to the applicable goals and policies of the Whitefish City-County Growth Policy.

The proposed project conforms to the goals and policy's of the Whitefish City County growth policy. It is within the urban growth boundry and will maintain the city's small town feel with. This proposal is a request to install plumbing and convert an existing structure into a accessory apartment.

2. Describe how the proposal is consistent with the purpose, intent and applicable provisions of the regulations.

The proposed project is to plumb (hook up to existing's homes water supply and sewer system. The building is an existing 16' x 28' x 22' tall, with a second story finished loft with family space. Total building foot print is 448 sqf.

The project will provide off street parking in the existing garage.

The proposed project meets all city setback requirements for an accessory apartment as outlined in city regulations.

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?

The property is located in WR-2 zoning where it is permissible to have an accessory apartment with conditional use permits.

The project exist on an oversized lot of 7844 sqf, existing home and garage loft occupy 22% off the land, with 78% of the yard as usable space.

The lot is in town in an existing neighborhood with no sensitive areas present.

The location allows for full access of the street and off of the paved alley for access by city emergency services as well as utility services and access to the parking.

4. How are the following design issues addressed on the site plan?
 - a. Parking locations and layout
 - b. Traffic circulation
 - c. Open space
 - d. Fencing/screening
 - e. Landscaping
 - f. Signage
 - g. Undergrounding of new utilities
 - h. Undergrounding of existing utilities

4a - Parking is in the existing garage accessed from the alley. Additionally a second outside parking spot is available to the north side of the garage entry.

4b - Traffic flow - is either out of the north end of the alley on to 7th street or the south end out to 8th street.

4c - 78% of the lot is not covered by existing buildings on the lots

4d - Privacy fence around a portion of the garage

4e - Existing residential landscaping in the yard

4f - NA

4g - Water line will be put in from the house to the garage - via MT trenchless. Sewer access will be just to the south side of the garage in an existing open area.

4h - existing underground utilities will not be disrupted - current underground utilities are gas and electrical service.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
 - a. Sewer
 - b. Water
 - c. Stormwater
 - d. Fire Protection
 - e. Police Protection
 - f. Street (public or private)
 - g. Parks (residential only)
 - h. Sidewalks
 - i. Bike/pedestrian ways – including connectivity to existing and proposed developments

5a - Current home has sufficient capacity to support a new sewer connection.

5b - Existing Home is on Somers Ave has a 1" line from the main to the new meter pit and a 1" line from the meter pit to the home. Current water supply meets requirements of a new fixture count.

5c - 5i - no significant changes to existing services in comparison to as to now.

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general? Describe any adverse impacts under the following categories.
 - a. Excessive traffic generation and/or infiltration of traffic into neighborhoods
 - b. Noise, vibration, dust, glare, heat, smoke, fumes, odors

The project should have little to no change on the existing neighborhood as the primary use has not changed.

During sewer and water connections there will be limited construction noise and dust. We anticipate the connection phase will take less than 2 or 3 days.

7. What are the proposed hours of operation?
N/A

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:

- a. Structural bulk and massing
- b. Scale
- c. Context of existing neighborhood
- d. Density
- e. Community Character

8a - Building is in size and shape compatible with the neighborhood and constructed of similar materials as nearby homes. Overall scale 16'x28'x22' tall - matches other accessory apartment and garages in the neighborhood.

8b - Compatible with other nearby buildings with like construction materials

8c - The current building exist in harmony with the neighborhood and is similar in size. As stated earlier the building already exist we just would like to convert to an accessory apartment by adding a bathroom.

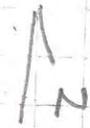
8d - Proposed use is within the city guidelines for WR-2 zoning

8e - No change - existing building exist and the primary use is not changing.

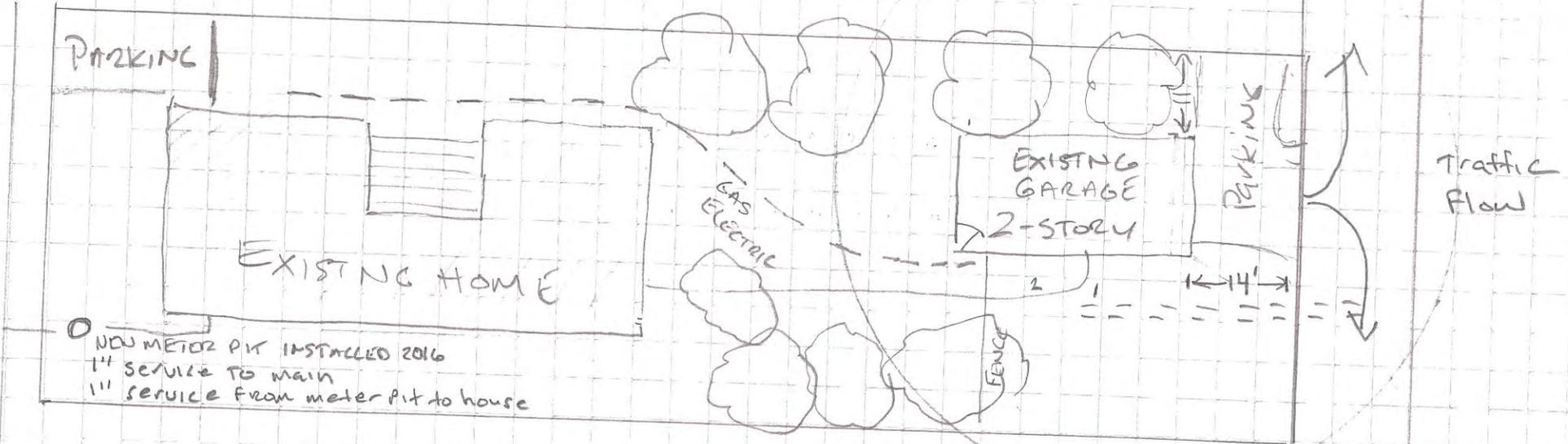
725 SOMERS AVE, WHITEFISH, MT
 SUBDIVISION - MCKEENS
 BLOCK 3 LOT 4

DETAIL # 1

8th STREET



SOMERS AVE



○ NEW METER PIT INSTALLED 2016
 1" SERVICE TO MAIN
 1" SERVICE FROM METER PIT TO HOUSE

NO TREE LOSS

Proposed utilities:

- 1) NEW SEWER CONNECTION
- 2) NEW WATERLINE ON HOME'S METER

OWNERS:

JOHN SHIGO / CHRISTINA LARSON
 725 SOMERS AVE
 WHITEFISH, MT 59937
 406-270-7477 / 406-270-3099

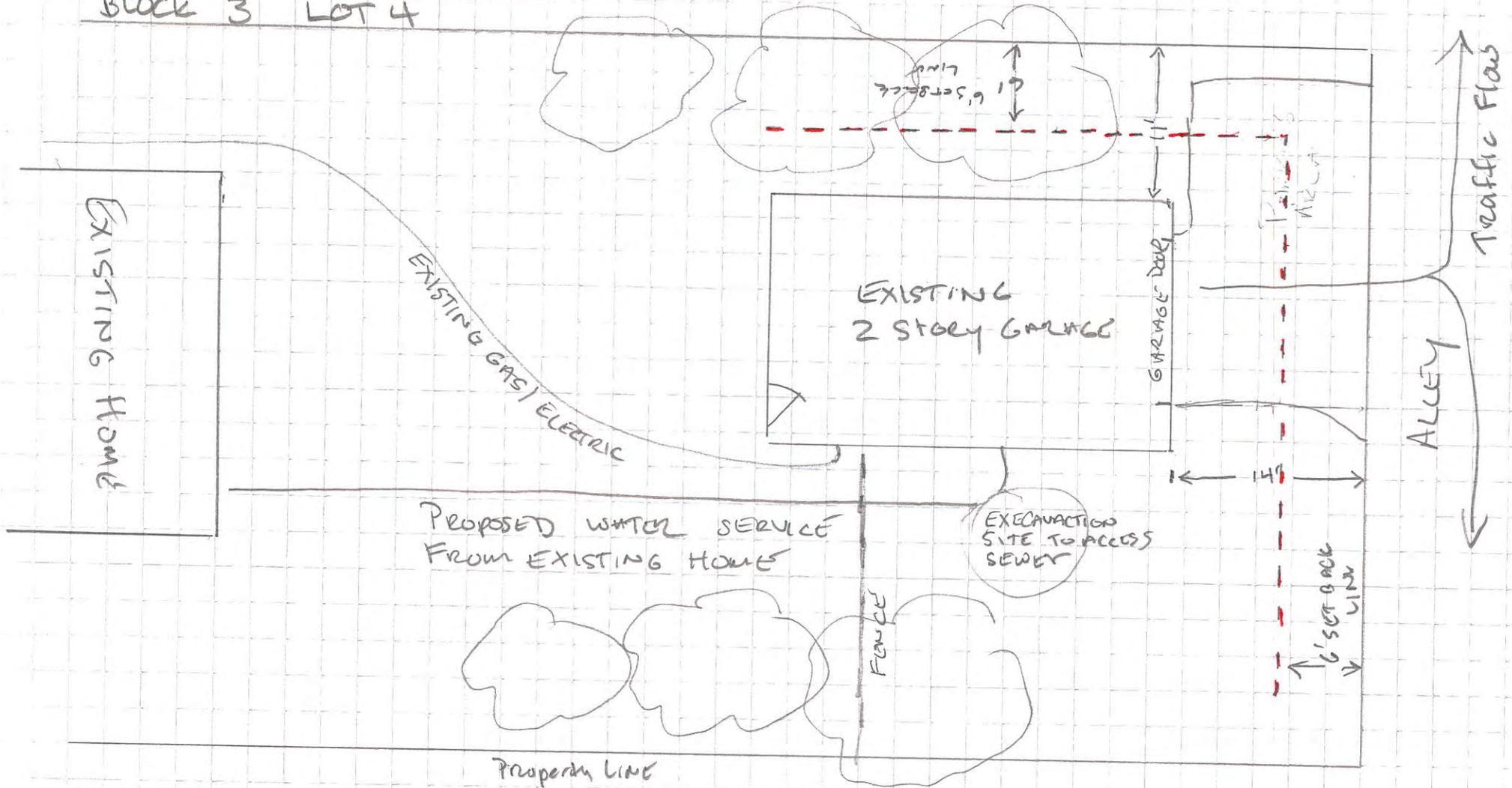
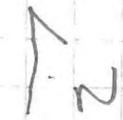
1/4" = 5'

Submitted on graph paper per Wendy 4/28/2020

7th STREET

Page 1

725 SOMERS AVE, WHITEFISH, MT
SUBDIVISION - MCKEENS
BLOCK 3 LOT 4



OWNERS

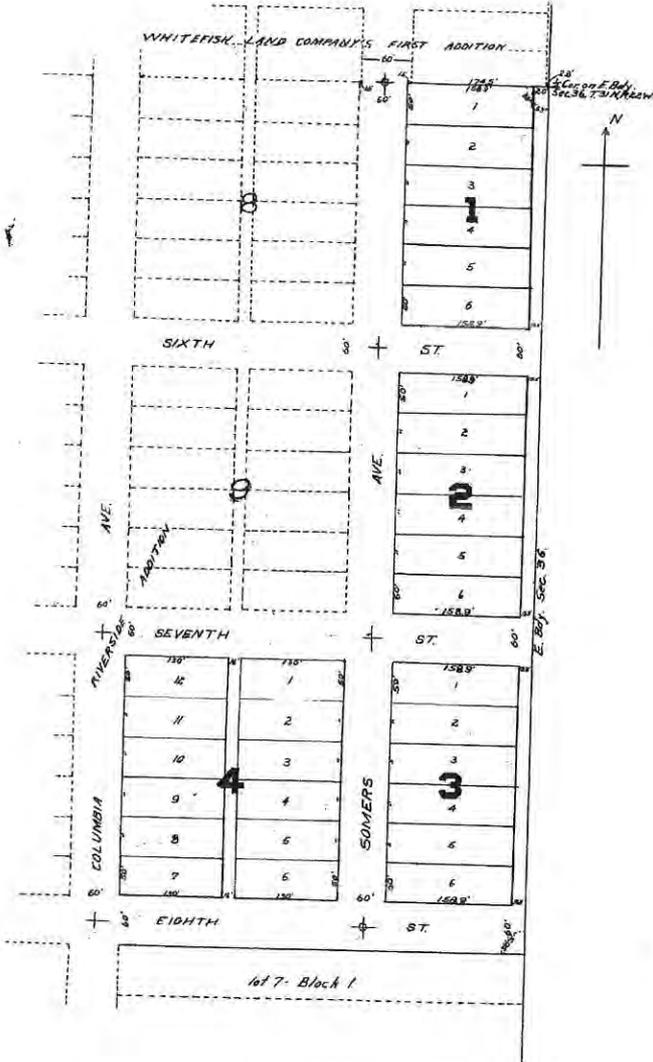
JOHN SHIGO/ CHRISTINA LARSON
725 SOMERS AVE
WHITEFISH, MT 59937
406-270-7477 / 406-270-3099

1" = 10'
--- = 6' SET BACK LINE

PAGE 2

MCKEEN'S SUBDIVISION OF WHITEFISH MONTANA

Scale: 1" = 100'



CERTIFICATE OF DEDICATION

We, Albert R. McKeen and Margaret M. McKeen, husband and wife, of the County of Flathead, State of Montana, do hereby certify that we have caused to be surveyed, subdivided and platted lots and blocks, streets, avenues and alleys, as shown by the plat and certificate of survey hereunto enclosed, all of the following described tracts of land, to-wit: lots numbered one to six, inclusive, and the north 216 feet of lot numbered seven of block numbered one of the Riverdale Addition to Whitefish, Montana, according to the plat thereof on file in the office of the County Clerk and Recorder, containing 7.81 acres, to be known and designated as McKeen's Subdivision of Whitefish, Montana, and the lands included in all streets, avenues and alleys shown on said plat, are hereby granted and devoted to the use of the public forever.

In witness whereof, we have hereunto set our hands, and affixed our seals, on this the first day of December, A.D. 1919.

In the presence of:

Albert R. McKeen
Margaret M. McKeen

State of Montana,
County of Flathead, s.s.

On this the first day of November, A.D. 1919, before me, W.K. Trippett, a notary public in and for the county and state aforesaid, personally appeared Albert R. McKeen and Margaret M. McKeen, husband and wife, known to me to be the persons whose names are subscribed to the foregoing certificate of dedication, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal, the day and year above written.

W.K. Trippett
NOTARY PUBLIC for the State of Montana,
Residing at Whitefish, Montana.
My commission expires Oct. 18, 1922.

CERTIFICATE OF SURVEY

State of Montana,
County of Flathead, s.s.

I, W.K. Trippett, do solemnly swear that between the 22nd and the 26th days of September, A.D. 1919, I made a careful and accurate survey of the tracts of land included within McKeen's Subdivision of Whitefish, Montana, as shown on the annexed plat; that said plat was made in strict conformity to said survey; that the dimensions of all lots, blocks, streets, avenues and alleys and the courses thereof, as shown thereon are true and correct to the best of my information and belief; that I set iron monuments, 2 inches diameter, 28 feet long, at the intersection of all streets and avenues as shown thereon and indicated thus: \times ; that said survey was made in strict accordance with sections 3465 to 3476, inclusive, of the Political Code of the State of Montana, and chapter 102 of the session laws of the 15th legislative assembly.

Subscribed and sworn to before me, this the 30th day of October, A.D. 1919.

W.K. Trippett
Joseph Reed
NOTARY PUBLIC for the State of Montana,
Residing at Whitefish, Montana.
My commission expires Jan. 29th, 1922.

CERTIFICATE OF CITY ENGINEER

State of Montana,
County of Flathead,
City of Whitefish, s.s.

I, Henry J. Hoag, City Engineer of Whitefish, Montana, hereby certify that I have examined the annexed plat of McKeen's Subdivision of Whitefish, Montana, and that said plat conforms, as near as the circumstances will admit to the adjoining parts of the city already platted.

Dated at Whitefish, Montana, this first day of December, A.D. 1919.

Henry J. Hoag
City Engineer

CERTIFICATE OF CITY COUNCIL

State of Montana,
County of Flathead,
City of Whitefish, s.s.

We, J.E. Skyles, Mayor, and E.G. Prestbye, clerk of the City of Whitefish, do hereby certify that at a meeting of the City Council of the City of Whitefish, held on the 3rd day of November, A.D. 1919, the annexed plat of McKeen's Subdivision was examined and approved by said City Council, and that said platted area containing less than 20 acres, is hereby ordered that no park or playground be set aside or dedicated.

In witness whereof, we have hereunto set our hands and caused the seal of the City of Whitefish, Flathead County, Montana, to be affixed on the 3rd day of November, A.D. 1919.

Attest: E.G. Prestbye
Clerk

J.E. Skyles
Mayor

CERTIFICATE OF COUNTY COMMISSIONERS

State of Montana,
County of Flathead, s.s.

We, Andrew W. Swaney, Chairman of the Board of County Commissioners of Flathead County and S.C. Bibbe, Clerk of said Board, do hereby certify that at a meeting of said Board of County Commissioners, held on the 15th day of December, 1919, the annexed plat of McKeen's Subdivision of Whitefish, Montana, was examined and approved by said Board of County Commissioners and the streets, avenues and alleys shown on said plat were declared to be public highways; that said platted area containing less than 20 acres, it was thereby ordered that no park or playground be set aside or dedicated.

In witness whereof, we have hereunto set our hands and caused the seal of Flathead County, Montana to be affixed on the 15th day of December, A.D. 1919.

Attest: S.C. Bibbe
Clerk

A.W. Swaney
Chairman

Filed for Record, Fee
County of Flathead, 1
Filed on the 16 day of Dec
A.D. 1919. 019 05 01919
W.C. Bibe
County Clerk
Pr. Carl G. Benetel

CERTIFICATE OF COUNTY SURVEYOR

State of Montana,
County of Flathead, s.s.

I, F.P. Scott, County Surveyor of Flathead County, hereby certify that I have examined the annexed plat of McKeen's Subdivision of Whitefish, Montana, and hereby approve the same.

Dated at Kalispell, Montana, this 15th day of December, A.D. 1919.

F.P. Scott
County Surveyor

CERTIFICATE OF COUNTY ATTORNEY

State of Montana,
County of Flathead, s.s.

I, T.H. MacDonald, County Attorney of Flathead County, Montana, hereby certify that I have examined the abstract of title to the land described on the annexed plat of McKeen's Subdivision of Whitefish, Montana, and that Albert R. McKeen is the owner in fee simple of said land so platted.

Dated at Kalispell, Montana, this _____ day of _____, A.D. 1919.



(This page left blank intentionally to separate printed sections)

CONDITIONAL DEDICATIONS BY LANDOWNER

RECITALS

WHEREAS, Kelly and Courtney Laabs, through their LLC, own Lot 1 of Subdivision 195, Flathead County, Montana (Rec. 200124910430) and have an option to purchase four lots in the Dakota Meadows subdivision in Whitefish;

WHEREAS, the Laabs seek to adjust the boundary lines of the above-described property and claim that their adjustment is exempt from subdivision review by the City of Whitefish;

WHEREAS, the City of Whitefish's Planning Department determined that Laabs claimed exemption is an attempt to evade subdivision review and Flathead County has made the same finding;

WHEREAS, the Laabs appealed the Planning Department's finding of evasion and a hearing was held before the Whitefish City Council on June 15, 2020;

WHEREAS, at the hearing, the Laabs offered to make certain dedications to the City such as right of way, sidewalks, and park land;

WHEREAS, pursuant to WCC 12-7-4-A, the City Council may consider "all surrounding circumstances" in deciding whether to affirm or reverse the finding of the Planning Director;

WHEREAS, the City Council tabled its final decision on the matter while the Laabs and the City discussed terms of any potential dedications; and

WHEREAS, the City would like to memorialize the Laabs' intentions in writing for the Council's consideration prior to its final vote.

NOW, THEREFORE, the parties enter the following:

CONDITIONAL AGREEMENT

1. The following terms are subject to the following conditions precedent: (1) that the City Council approve the proposed exemption as allowed in WCC 12-7-5-A (thus reversing the Planning Director's finding); (2) that Flathead County approve the proposed exemption; (3) that the boundary line adjustment is recorded by the Flathead County Clerk; and (4) that the Laabs, or their assigns, close on their purchase of the four lots in the Dakota Meadows subdivision which are part of the boundary line adjustment.
2. Upon the satisfaction of all conditions set forth in paragraph 1, the Laabs agrees to the following:
 - a. Dedicate to the City of Whitefish the 40 feet of existing declared city street as shown in the plat of Subdivision No. 195, attached hereto as Exhibit A;

- b. Construct a 5 foot wide concrete sidewalk per City of Whitefish standards along the Dakota Avenue frontage as shown in Detail SD-14, attached hereto as Exhibit B;
- c. Provide cash in lieu of park land dedication in the amount of \$57,108;
- d. Record a deed restriction for 777 Dakota restricting the property to no more than four (4) lots. The Laabs reserve the right to record additional terms as they see fit so long as it does not increase the number of lots.
- e. To personally guarantee their performance obligations set forth in paragraphs (a) – (d) above by posting a bond equal to 125% of the cost of the sidewalk improvements. The Laabs and the City agree to work with each other in good faith to enter into a final improvement guarantee agreement similar to but not subject to the provisions of the Subdivision Improvement Guarantee set forth in WCC 12-3-11(I)(5). Failure to enter into an improvement guarantee agreement will not affect or void the City’s decision following the hearing or the Laabs’ obligations, if the contingencies are satisfied, set forth in paragraphs (a) – (c) above.

Kelly Laabs



 Individually and on behalf of his LLC

Courtney Laabs



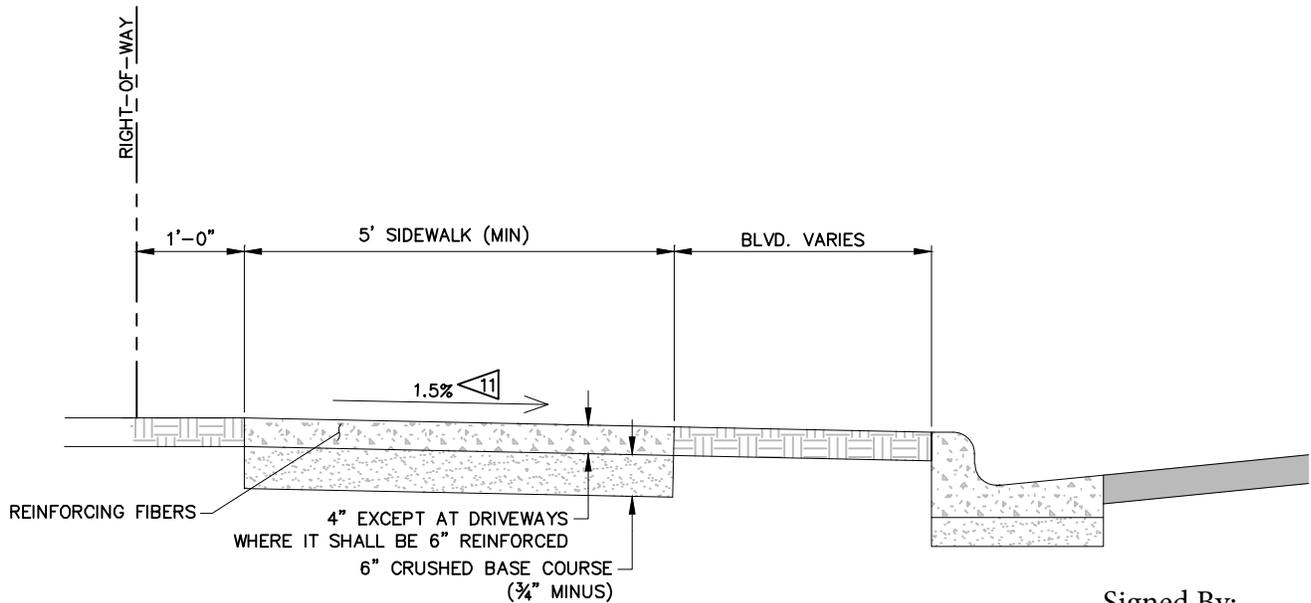
 Individually and on behalf of her LLC

City of Whitefish

By: _____

Title: _____

CHAPTER 6 STREETS



Signed By:

Courtney and
Kelly Laabs

STANDARD SIDEWALK

SCALE: NONE

NOTES:

1. CONCRETE SHALL BE M-4000 WITH $\frac{3}{4}$ " MAXIMUM AGGREGATE AND A 28-DAY STRENGTH OF 4000 PSI, 5% TO 8% AIR CONTENT WITH A MAXIMUM SLUMP OF FOUR (4) INCHES.
2. CONCRETE SHALL INCLUDE 0.75 POUNDS OF REINFORCING FIBERS PER CUBIC YARD.
3. CONTRACTION JOINTS SHALL BE SPACED THE SAME DIMENSION AS THE WIDTH BUT NOT EXCEED 6 FEET EACH WAY. CONTRACTION JOINTS SHALL BE CONSTRUCTED BY SAWING OR SCORING. A TOOL SHALL BE USED WHICH WILL LEAVE CORNERS ROUNDED AND DESTROY AGGREGATE INTERLOCK FOR THE SPECIFIED MINIMUM DEPTH. CONTRACTION JOINTS SHALL BE A MINIMUM OF $\frac{1}{4}$ OF THE TOTAL DEPTH OF THE CONCRETE.
4. ALL SIDEWALKS GREATER THAN SIX FEET IN WIDTH SHALL BE SAWCUT LENGTHWISE DOWN THE CENTER A MINIMUM OF $\frac{1}{4}$ THE TOTAL DEPTH OF THE CONCRETE.
5. EXPANSION JOINTS, USING $\frac{1}{2}$ " MATERIAL SHALL BE SPACED AT INTERVALS OF 45' MAXIMUM.
6. ALL EDGES AND JOINTS SHALL BE ROUNDED WITH AN EDGING TOOL OF A MINIMUM $\frac{1}{4}$ " RADIUS.
7. SIX INCHES OF BASE MATERIAL IS REQUIRED. BASE MATERIAL SHALL BE $\frac{3}{4}$ " CRUSHED BASE COURSE COMPACTED TO 95% PER AASHTO, T-99, OR SAND THOROUGHLY COMPACTED IN PLACE.
8. GRADE, ALIGNMENT AND FORMS SHALL BE INSPECTED BY THE CITY OR THEIR DESIGNATED INSPECTOR PRIOR TO POURING.
9. ALL CONCRETE DRIVEWAY SECTIONS SHALL BE 6" THICK WITH REINFORCEMENT. (SEE DRIVEWAY APPROACH DETAIL SD-15)
10. ALL COLD JOINTS SHALL HAVE SMOOTH DOWEL BARS PLACED IN BOTTOM $\frac{1}{3}$ OF CONCRETE AT 18" O.C. EACH WAY AND 6" FROM EDGES, OR KEY WAYS INSTALLED TO PREVENT VERTICAL SEPARATION.

2.0% MAX.

BY: SANDS SURVEYING, INC.
1995 THIRD AVENUE EAST
KALISPELL, MT. 59901
PH. (406) 755-6481

DATE: NOVEMBER 8, 2000

JOB NO: 125403

FOR: MARY JANE STREET

OWNER: REVISED & RESTATED LIVING TRUST OF
MARY JANE STREET

PLAT OF SUBDIVISION No. 195 IN THE SE1/4NW1/4 SEC. 25, T.31N., R.22W., P.M.,M., FLATHEAD COUNTY, MONTANA



CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED PROPERTY OWNERS, DO HEREBY CERTIFY THAT WE HAVE CAUSED TO BE SURVEYED AND PLATTED INTO LOTS ALL THE FOLLOWING DESCRIBED PROPERTY AS DESCRIBED IN THE CERTIFICATE OF DEDICATION, AND SHOWN BY THE ANNEXED PLAT OR MAP AND SITUATED IN FLATHEAD COUNTY, MONTANA:

A TRACT OF LAND, SITUATED, LYING, AND BEING IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

BEGINNING at the northwest corner of the Southeast Quarter of the Northwest Quarter of Section 25, Township 31 North, Range 22 West, P.M.,M., Flathead County, Montana; Thence along the north boundary of said SE1/4NW1/4 S89°48'52"E 669.57 feet to a found iron pin; Thence S00°01'29"W 993.06 feet to a found iron pin; Thence N89°43'42"W 429.31 feet to a found iron pin; Thence N00°00'34"E 330.77 feet to a found iron pin; Thence N89°45'54"W 200.00 feet to a found iron pin on the easterly R/W of Dakota Avenue; Thence along said R/W N00°00'34"E 328.98 feet to a found iron pin; Thence leaving said R/W N89°58'56"W 40.00 feet to the west boundary of said SE1/4NW1/4; Thence along said west boundary N00°00'34"E 332.61 feet to the point of beginning and containing 13.130 ACRES; Subject to and together with a 60 foot road known as Dakota Avenue as shown hereon; Subject to and together with a 60 foot private road and utility easement as shown hereon; Subject to and together with all appurtenant easements of record.

The above described tract of land shall hereafter be known as:
SUBDIVISION No. 195.

UTILITY EASEMENT CERTIFICATE

The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "UTILITY EASEMENT" to have and to hold forever.

In witness whereof, we have caused our hands to be this

day of May, 2001
Mary Jane Street The Revoked and Restated Living Trust of Mary Jane Street

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS

On this 30 day of May, 2001, before me a Notary Public for the State of Montana, personally appeared Mary Jane Street and known to me to be the person(s) whose name(s) are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Susan Johnson
Notary Public for the State of Montana
Residing at Whitefish, MT
My commission expires 11/11/2002

CERTIFICATE OF CITY COUNCIL

We, Andy Feunoy, Mayor for the City of Whitefish, and Michelle Looney, City Clerk of the City of Whitefish, Montana do hereby certify that the accompanying plat was duly examined and approved by the City Council of the City of Whitefish at its regular meeting held on the 7th day of September, 2001.

ALL Michelle Looney
Mayor of Whitefish, Montana City Clerk of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY

I, John M. Pheasant, City Attorney for the City of Whitefish, Montana, do hereby certify that I have examined the Certificate of Title by a licensed title company on the land described in the Certificate of Dedication on the annexed Plat of SUBDIVISION No. 195 and find that Mary Jane Street Trust of its Revoked and Restated Living Trust of Mary Jane Street are the owners in fee simple of the land so platted. Dated this day of September, 2001.

John M. Pheasant
City Attorney for the City of Whitefish

CERTIFICATE OF SURVEYOR

Thomas E. Sands
THOMAS E. SANDS 7975-S

APPROVED: 11/12, 2000

Jan H. Butts
Examining Land Surveyor 528-S

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS

Filed for record this 6 day of Sept, 2001, at 10:43 clock AM

Susan W. Haverfield
Flathead County Clerk / Recorder

By: Thomas E. Sands
Instrument Record No. 200104910180

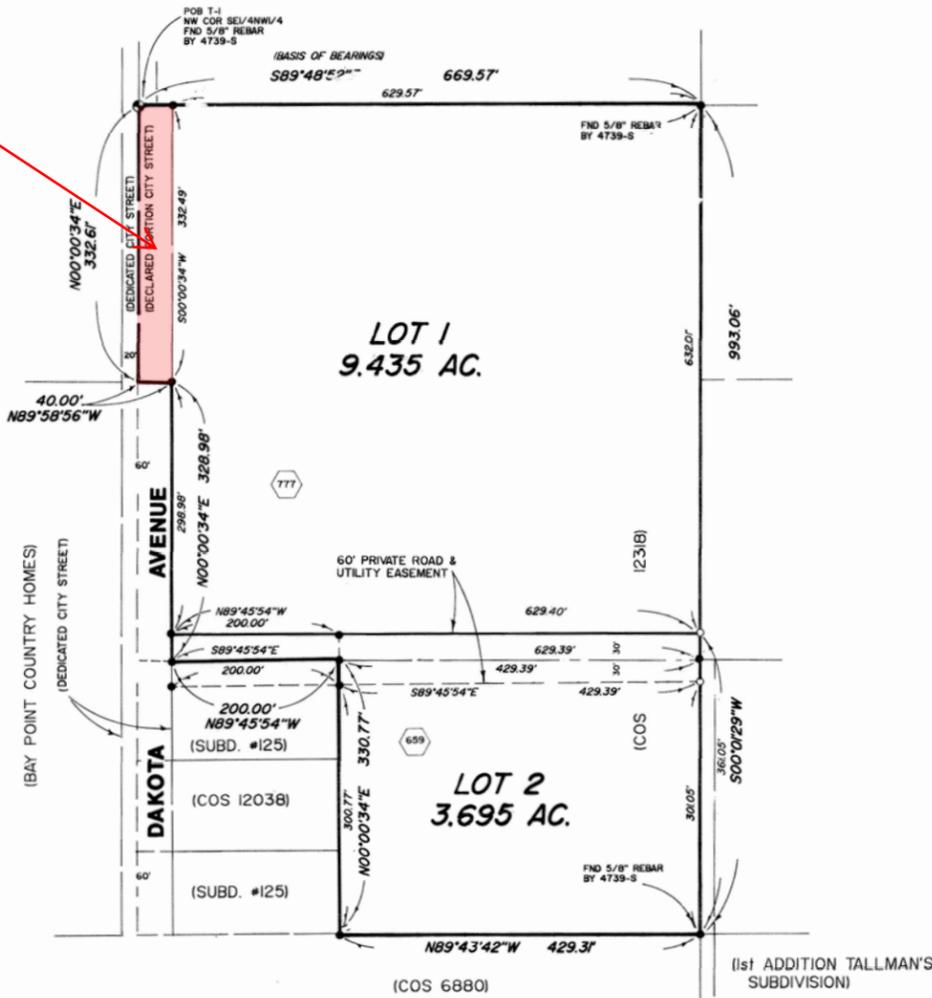
ABST # 1574
File # 10-6-34 \$16.00

TOTAL AREA: 13.130 AC.

To be dedicated to the City of Whitefish (+/-0.30 Ac)

By: Courtney and Kelly Laabs

- LEGEND**
- 1/16th CORNER (AS NOTED)
 - FND 1/2" REBAR BY 7579-S (UNLESS NOTED)
 - SET 1/2"x24" REBAR WITH 1/4" PLASTIC CAP, STAMPED SANDS, 7975-S
 - ADDRESS





MEMORANDUM

To: Mayor Muhlfeld and City Council

From: Dave Taylor, AICP, Planning Director

Date: June 15, 2020

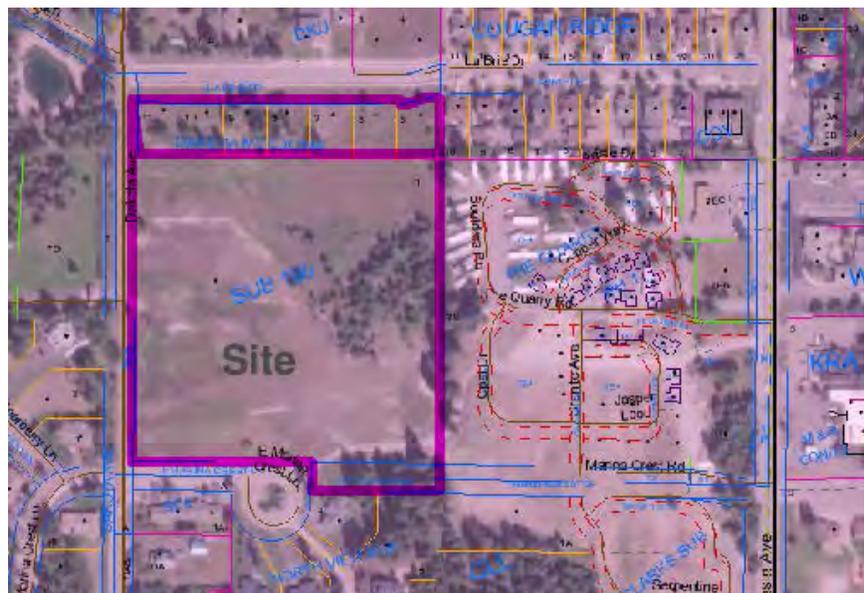
RE: Determination of Exemption Hearing Request for 777 Dakota Avenue WSE 20-02

Introduction

Both the Zoning Administrator and the County Clerk and Recorder's Office denied a request by Richard Swan of TD&H on behalf of Kelly and Courtney Laabs for a Subdivision Exemption Boundary Line Adjustment for 777 Dakota Avenue (Lot 1 of Subdivision 195 and Lots 7,8,9 and 10 of Dakota Meadows) as a Subdivision Evasion. The City Code outlines that the applicant can request a hearing of the City Council within 30 days of such a denial, and the applicant can then argue the merits of their request. After said hearing, the City Council then decides whether the Exemption should be approved or not. If approved, the County Clerk and Recorder is notified that the proposed plat can then be recorded. The application, proposed plat, and letters of denial by both the City Zoning Administrator and the County are attached for your review.

Background

Title 12-7 of the City Subdivision Regulations provides for review of certain exemptions of the subdivision requirements. One of those exemptions is a boundary line adjustment, wherein a property owner may request an exemption from the subdivision regulations if common boundary lines of a lot within a subdivision are simply adjusted or moved. There are certain criteria provided (see



attached Subdivision Exemptions code sections) wherein either City Staff or the Flathead County Clerk and Recorder's Office may deny such a request as an evasion of subdivision regulations.

The primary reason for a denial of an exemption is if the applicant appears to be trying to avoid going through subdivision, which would involve both a preliminary and final plat, and the improvements required therein under the City Subdivision Regulations. In this case, staff determined that the proposed boundary line adjustment was an attempt at evasion, and Flathead County agreed.

The applicant originally approached city staff with ideas for a similar request for a boundary line adjustment for 777 Dakota Avenue and they were told that it would likely be considered an evasion and they needed to apply for a major subdivision. They then submitted a preliminary design for a five-lot major subdivision and applied to go to the City Site Review Committee for feedback. At the April 2 Site Review meeting the proposal was reviewed and the applicant was given input by City Staff from Planning, Public Works, Fire, and Parks. At the meeting, the applicant was informed of the subdivision improvement requirements, namely that Marina Crest Lane would need to be extended east to the edge of the property to fulfill the Transportation Plan requirements, right-of-way dedication was required along Dakota Avenue for a full 60' wide right-of-way, a sidewalk or cash-in-lieu would be required for Dakota Avenue, the parkland dedication or cash-in-lieu requirements would need to be met, and the Legacy Homes Program requirements for deed restricted housing or cash-in-lieu would have to be satisfied. The applicant seemed unhappy with those requirements at the meeting. A few days later the applicant again inquired about doing a boundary line adjustment subdivision exemption with an adjacent subdivision in order to create the lots without having to incur the cost of the subdivision requirements. They were informed that it would likely be considered an evasion, but they were free to apply.

On April 24, the applicant applied for a subdivision exemption for a boundary line adjustment. That proposal was to eliminate two lot lines between existing lots in the adjacent Dakota Meadows subdivision off of Labrie Drive, and then move those lot lines onto the 9.44 acre lot at 777 Dakota to then create three lots there. Since lots were being removed from one subdivision and added to the other, there would essentially be no net gain. The zoning administrator denied that request on the basis of the evasion of subdivision criteria and the fact that the proposal was not a 'relocation of common boundary lines.'

The applicant then came back with a new modified subdivision exemption proposal, which is the one before you. In this version, the lot lines would be removed between several lots in the Dakota Meadows subdivision and combined with portions of the 9.44 acre lot off of Dakota to create four revised lots. That was also denied by the zoning administrator and subsequently by Flathead County.

Evasion Review Criteria

Here is what the code asks the City Council to consider with regard to subdivision evasion criteria:

12-7-5-A. Evasion Review Criteria for Subdivision Exemptions: Determination of Exemption: In determining whether an exemption is claimed for the purpose of evading subdivision review under these regulations, the council shall take into consideration all of the surrounding circumstances which may include, but are not limited to, the prior history of the particular property proposed for the exemption, the proposed configuration of the parcels to determine if the proposed exempt transactions display any pattern of development by use of exempt land divisions or any other circumstances which would result in the apparent creation of a subdivision without review.

Note that there is not one criteria that determines an evasion, but the Council must take into consideration all of the surrounding circumstances. In the case of this submittal, there are numerous suspect circumstances. The reasons for denial that are stated in the attached letters include the following:

- The lot lines being adjusted are between two platted subdivisions, which neither MCA 76-3-207 nor section 12-7-3 of the Whitefish City Code provide an explicit exemption for.

While the City Code and State Law allows for a relocation of common boundaries involving platted subdivisions per 12-7-5-E, that exemption allows the relocation of common boundaries or the aggregation of lots for five or fewer lots within a platted subdivision, which this clearly does not qualify for. It also allows the relocation of a common boundary between a single lot within a platted subdivision and adjoining land “outside a platted subdivision”, which generally means the adjoining land has never been platted as part of subdivision. The next sentence of 12-7-5-E “*A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas*” shows that outside a platted subdivision refers to an unplatted parcel. Nowhere does either the City Subdivision Regulations or the Montana Subdivision and Platting Act specifically allow aggregation of lots or for relocation of common boundaries between two platted subdivisions such as the application requests. Even if “outside a platted subdivision” could be assumed to refer to any adjacent parcel, platted or not, the proposal still would not qualify as that exemption is limited to a single lot within a platted subdivision. While the city may have signed off on boundary line adjustments between platted subdivisions in the past, those typically involved a single common boundary line between a single lot from each adjusted to remedy an encroachment or setback violation.

- The proposed amended plat includes more than a ‘common boundary line’ adjustment. Per 12-7-5-B-2, the proper use of the exemption for relocating common boundary lines is to ‘*establish a new boundary between adjoining parcels of land...*’ This does more than establish a new boundary between two adjoining parcels, it also removes common boundary lines within one platted subdivision to create new lots within a lot in an adjoining subdivision. It also expands small residential lots within a platted

subdivision to create larger tracts that go outside that subdivision that could be further subdivided without respect for future infrastructure requirements.

- The resulting lots are inconsistent with the approved subdivision of Dakota Meadows and the uses in it, as well as the protective covenants adopted with that subdivision.

Those items show inconsistency with the purpose of boundary line adjustments as well as a pattern of development with results in the apparent creation of a subdivision without review, which is a criterion showing evasion per 12-7-5-A.

- Prior to this Boundary Line Adjustment request, a major subdivision proposal for this property was brought to the City Site Review Committee, and the proponents appeared put off by the subdivision requirements of road and sidewalk improvements and the affordable housing requirements of the City's Legacy Homes Program for deed restrictions or cash-in-lieu. This Boundary Line Adjustment application was then later submitted with a similar layout, indicating this application is an attempt to evade the subdivision requirements.

The fact that the division of 777 Dakota was originally considered as a subdivision and then changed to a boundary line adjustment by the applicant shows intent to avoid the subdivision review.

Apart from the criteria met in the attached denial letter, the proposed application shows in their proposed plat a pattern of development consistent with a new subdivision as they are attempting to create new developable lots for sale out of an existing larger tract of land by borrowing lot lines from a previously platted and approved subdivision with its own covenants and restrictions, and they are clearly using the exemption in order to avoid paying for public improvements, parks, and affordable housing.

Additionally, the applicant did not submit copies of any new restrictive covenants for the revised lots located on what is currently 777 Dakota Avenue which might prohibit future subdivision. The newly created lots would be created in such a way that while they could be further subdivided based on the WR-2 zoning, any opportunity to create a transportation or utility grid system to properly access and service those lots that would conform to city standards would be lost. Even if there were restrictive covenants that would prohibit further subdivision of those new lots, the proposal remains an attempt to evade subdivision.

Also, staff was able to find a copy of the restrictive covenants for the Dakota Meadows that were included with the Final Plat (see attachment). Combining lots that may be subject to covenants with property not subject to the same covenants and restrictions creates significant issues.

Recommendation

Staff recommends that the City Council review the attached materials and Subdivision Evasion Criteria and support Staff's recommendation that the subdivision exemption be denied on the basis that it is an attempt to evade City subdivision requirements.

CITY OF WHITEFISH SUBDIVISION REGULATIONS

Chapter 7: EXEMPTIONS AND EVASION CRITERIA

12-7-1: PURPOSE:

The MSPA provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the use of the exemption is an attempt to evade the MSPA. The exemptions are found in part 2 of title 76, chapter 3, Montana Code Annotated.

12-7-3: DIVISIONS OF LAND EXEMPT FROM REVIEW BUT SUBJECT TO SURVEY REQUIREMENTS AND ZONING REGULATIONS:

A. Except as provided in subsection B of this section, the following divisions of land are not subdivisions under the MSPA or these regulations, but are subject to the surveying requirements of 76-3-401, Montana Code Annotated, for divisions of land not amounting to subdivisions and are subject to applicable zoning regulations adopted under title 76, chapter 2, Montana Code Annotated:

1. Divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;
2. Divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;
3. Divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;
4. For five (5) or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and
5. Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

B. Notwithstanding the provisions of subsection A of this section:

1. Within a platted subdivision filed with Flathead County clerk and recorder, a division of lots that results in an increase in the number of lots or that redesigns or rearranges six (6) or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder;
2. A change in use of the land exempted under subsection A3 of this section for anything other than agricultural purposes must be reviewed as a subdivision and will be subject to the review procedures outlined in these regulations.

C. The city council may examine a division of land to determine whether or not the requirements of these regulations apply to the division and may establish a review fee not to exceed two hundred dollars (\$200.00) for the examination.

12-7-4: PROCEDURES FOR REVIEW OF SUBDIVISION EXEMPTIONS:

Any person seeking exemption from the requirements of these regulations and the MSPA shall submit to the planning director a paper copy of a certificate of survey, or if a survey is not required, an instrument of conveyance and a completed subdivision exemption affidavit which provides evidence of entitlement to the claimed exemption. The affidavit shall be filed with the certificate of survey, unless otherwise not required, creating the parcel(s) subject to exemption:

A. Prior to submittal of the certificate of survey to the Flathead County clerk and recorder, the survey shall be reviewed by the planning director for compliance with the Whitefish zoning jurisdiction regulations and applicable development standards. Existing buildings and structures shall be indicated on the certificate of survey along with the building setbacks from property boundaries, existing and proposed land areas within the parcels or lots and any other relevant information related to the property.

For purpose of zoning compliance review, where two (2) contiguous lots, parcels or tracts of record are held in a common or single ownership, and where both of these tracts of record are nonconforming, they shall be considered as a single site for the purpose of meeting the requirements of the zoning district in which they are located. This section considers lots as merged for the purposes of zoning regulation for size, setbacks or similar development standards but does not aggregate individual parcels of land in a manner described by section 76-3-103(16)(b), Montana Code Annotated.

Relocated or new property boundaries shall not be located so existing buildings or structures do not comply with the required setbacks of the zoning district in which the properties are located. If existing buildings are nonconforming with regard to setbacks, the relocated property boundary must bring the building setback more in compliance and in no case shall the relocated or new property boundary create a setback which is less compliant with the applicable zoning regulations.

Relocated or new property boundaries shall not be established to create parcels or lots not in compliance with the minimum lot size requirements of the zoning district in which the properties are located.

A lot line adjustment between two (2) or more lots, parcels or tracts of record where neither lot is in compliance with the minimum area requirements of the zoning district in which it is located may proceed with a lot line adjustment provided the final lot area for each lot(s) remains the same and neither lot(s) becomes more nonconforming with the underlying zoning standards.

B. For those parcels for which an exemption from subdivision review is claimed, a paper copy of the certificate of survey, in final form, and a subdivision exemption affidavit signed by the property owner and the planning director shall be submitted to the Flathead County clerk and recorder for review.

C. If the Flathead County clerk and recorder and/or other appropriate government representatives determine the claimed exemption may constitute an evasion of the act under these regulations, the county clerk and recorder shall notify the planning department and landowner or surveyor within five (5) days stating in writing the reason leading to such a determination. Thereafter, the planning department shall review the findings of the clerk and recorder's office and make a final

determination as to whether or not the claimed exemption may constitute an evasion of the act under these regulations. The planning department shall notify the landowner in writing and the landowner may withdraw the instrument or may request in writing within thirty (30) days of the date of written notification to the landowner by the planning department that he/she be given a hearing before the city council.

D. If the Flathead County clerk and recorder does not make such determination and the instrument otherwise complies with all laws, the instrument is eligible for recording.

E. Upon receipt of the written request for hearing, the council shall set a time and place for the hearing and inform the landowner thereof. The planning department shall provide an evaluation and recommendation on the subject instrument. At the hearing, the landowner may present any additional evidence in support of the claim of exemption. The council shall approve or disapprove the proposed exemption within thirty (30) days of the receipt of the request for hearing. The council shall provide written notification of its decision to the landowner or surveyor and the county clerk and recorder. If the proposed exemption is approved, the council shall notify the county clerk and recorder that the instrument is deemed not to be an evasion of the act or these regulations. If the proposed exemption is disapproved, the council shall instruct the county clerk and recorder not to file the exemption instrument.

12-7-5: EVASION REVIEW CRITERIA FOR SUBDIVISION EXEMPTIONS:

A. Determination Of Exemption: In determining whether an exemption is claimed for the purpose of evading subdivision review under these regulations, the council shall take into consideration all of the surrounding circumstances which may include, but are not limited to, the prior history of the particular property proposed for the exemption, the proposed configuration of the parcels to determine if the proposed exempt transactions display any pattern of development by use of exempt land divisions or any other circumstances which would result in the apparent creation of a subdivision without review.

1. Pattern Of Development: In considering the proposed land exemption for the creation of a division of land or multiple divisions of land by use of or proposed use of an exemption for a pattern of development, the following circumstances shall be considered:
 - a. Original Tract Less Than Twenty Acres: It may be concluded a pattern of development may occur whenever more than three (3) parcels which includes two (2) exempt parcels and a remaining parcel are divided from the original tract of less than twenty (20) acres, regardless of ownership, by use of an exemption from subdivision review;
 - b. Original Tract Twenty Acres Or More: It may be concluded that a pattern of development may occur whenever more than four (4) parcels under twenty (20) acres which includes three (3) exempt parcels and a remaining parcel are divided from the original tract of twenty (20) acres or more, regardless of ownership, by use of an exemption from subdivision review;
 - c. Pattern Of Development Evidenced: It may be concluded a pattern of development is evidenced when the use of an exemption(s) contiguous to platted lots where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.

B. Relocation Of Common Boundary Lines: The intended purpose of the exemption allowing the relocation of common boundary lines is to allow a change in the location or the elimination of a boundary line between adjoining properties outside of a platted subdivision.

1. Certificates of survey claiming this exemption must clearly distinguish between the existing boundary locations and, in case of a relocation of the boundary line, the new boundary location. This must be accomplished by representing the existing boundary with a dashed line and the new boundary, if applicable, with a solid line. The appropriate certification set forth in ARM 24.183.1104(1)(f) must be included on the certificate of survey. Certificates of survey showing the relocation of common boundary lines must be accompanied by a quitclaim or warranty deed or recordable agreement from adjoining property owners for the entire newly described parcel(s) or that portion of the tract(s) being affected at the time of recording.
2. The proper use of the exemption for relocating common boundary lines is to establish a new boundary between adjoining parcels of land outside of a platted subdivision, without creating an additional parcel. The exemption may not be used if the division of land would result in the permanent creation of one or more additional parcels of land.
3. It may be presumed the use of this exemption is for the purpose of evading subdivision review if:
 - a. The reviewing agent determines the documentation submitted according to this chapter does not support the stated reason for relocation; or
 - b. The proposed relocation creates a parcel of less than one hundred sixty (160) acres which, prior to the relocation included more than one hundred sixty (160) acres.

E. Relocation Of Common Boundaries Involving Platted Subdivisions: Certain revisions to subdivisions platted since July 1, 1973, which include relocation of common boundaries and the aggregation of lots for five (5) or fewer lots within a platted subdivision or the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision, are permitted without review and is exempt from subdivision review. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

1. If a change is made to a platted subdivision which results in an increase in the number of lots or redesigns or rearranges six (6) or more lots, the amended plat will be subject to review and approval by the city council prior to being filed with the clerk and recorder.
2. If the resulting lots are inconsistent with the approved subdivision and the uses in it, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
3. If the resulting lots do not comply with existing zoning, covenants, and/or deed restrictions, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.

DRAFT

After Recordation, Return To:

**DECLARATION OF EASEMENTS, CONDITIONS, COVENANTS
AND RESTRICTIONS OF DAKOTA MEADOWS**

THIS DECLARATION made this _____ day of _____, 2006, by DMG, LLC, a Montana limited liability company, of Whitefish, Montana, hereinafter called "Declarant".

WITNESSETH:

WHEREAS, Declarant is the record owner of the real property situated in Flathead county, Montana, which is more particularly described as follows:

Lots 1 through 11 of Dakota Meadows, according to the Subdivision Plat #XXXXXXXXXX of Dakota Meadows on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

WHEREAS, Dakota meadows is intended to be a residential community and these Conditions, Covenants and Restrictions are designed to reflect that intention. All landowners shall be subject to the control of the Architectural Control Committee provided for herein.

WHEREAS, the undersigned desires to record this Declaration of Easements, Conditions, Covenants and Restrictions, and to subject all the real property described above to the Conditions, Covenants and Restrictions hereinafter set forth, each and all of which are intended for the unfit of said property, and for each owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and be binding upon the successors in interest to said property, and any owner thereof.

All persons or corporations who now or shall hereafter acquire any interest in and to the above described property shall be held to agree and covenant with the owner of any of the property located in the tracts hereinabove described, or any parcel thereof, with all

their heirs, successors and assigns, to conform to and observe the following Conditions, Covenants and Restrictions as to the use thereof, and as to the construction of dwellings and improvements thereon.

ARTICLE I

ROAD, UTILITY AND EASEMENTS

Declarant hereby dedicates and grants permanent and perpetual easements for installation, maintenance and repair of utilities, and ingress and egress purposes, including maintenance and repair, along the sixty (60) foot public road and utility easements which are shown on the Subdivision Plat of Dakota Meadows, on file in the office of the Clerk and Recorder of Flathead County, Montana.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Every owner of a tract which is subject to assessment shall be a member of Dakota Meadows Homeowners Association (hereinafter "the Association"). Membership shall be appurtenant to and may not be separated from ownership of any tract which is subject to assessment. Each owner shall be responsible to notify the Secretary of the Association of any transfer of ownership.

The owner(s) of each tract shall be entitled to one vote for each tract owned. When more than one person holds an interest in a tract, all such persons shall be members. The vote for such tract shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any tract.

The business and property of the Association shall initially be managed by the Declarant. Until such time as one hundred percent (100%) of the tracts have been sold by the Declarant, the Declarant shall exercise all powers to act on behalf of the Association. At such time, 100% of the tracts are sold, Declarant, or its designee, shall call and chair a special meeting of the members for the purpose of electing a Board of Directors for the Association.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligations of Assessments. The undersigned, for each tract owned, hereby covenant, and each owner of any tract, by

acceptance of a Deed therefore, whether or not it shall be expressed in such Deed, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges; and
- b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with interest, costs, and reasonable attorney fees, shall also be the personal obligation of the person who is the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the owner's successor in title unless expressly assumed by them.

2. **Purpose of Assessments.** The entrance to the development and the boulevard between the sidewalk and the road shall be deemed Common Areas and shall be maintained by the Association. In addition, the Association shall maintain the trench drains along the northern, southern, and western boundaries of the subdivision. The assessments levied by the Association shall be used exclusively for landscaping and maintenance of the entrance to the development, exterior maintenance of structures, entrance to the development, boulevard landscaping and sprinkler system, maintenance of the right-of-way area between the west boundary of Lot 11 and the edge of the pavement on Dakota Avenue, and cleanliness of boulevards and streets.

3. **Annual Assessments.** The initial annual assessment shall be Three Hundred and 00/100 Dollars (\$300.00) per tract.

Commencing in January 2007, the Board of Directors of the Association may fix the annual assessment for the ensuing year, provided that after January 15, 2009, the annual assessment may not be increased by more than ten percent (10%) of the annual assessment for the prior year without a vote of the membership.

4. **Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, maintenance or replacement of a capital improvement within said road and utility easement, including fixtures and personal property related hereto, provided that any such assessment for capital improvements shall have the approval of two-thirds (2/3) of the votes of the members present in person or by proxy at a meeting duly called for such purpose. If such assessment is not approved, there shall be no special assessment.

5. **Notice and Quorum for Any Action Under Section 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6. **Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all tracts and may be collected on a monthly basis.

7. **Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence May 15, 2007. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Tract at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth when the assessment and charges on a specified Tract have been paid.

8. **Effects of Nonpayment of Assessments; Remedies of the Association.** Any assessment or charge not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments or charges provided for herein by abandonment of his tract or parcel.

9. **Subordination of the Lien to Mortgages.** The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Tract shall not affect the assessment lien. However, any holder of a first mortgage or trust indenture who obtains title to a tract pursuant to the remedies provided in the mortgage or trust indenture, or by deed (assignment) in lieu of foreclosure, will not be liable for such tract's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the holder of the mortgage or trust indenture. Except as provided herein, no sale or transfer shall relieve any tract from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV

INSURANCE

1. **Liability Insurance.** Public liability and property damage insurance shall be purchased by the Board or acquired by assignment from Declarant, as promptly as possible following its election, and shall be maintained in force at all times, the premium thereon to be paid out of the Association's funds. The insurance shall be carried in reputable companies authorized to do business in Montana. The minimum amounts of coverage shall be \$500,000.00 for personal injury to any one person, \$1,000,000.00 for personal injury to number of persons sustained in any one accident or mishap, and \$100,000.00 property damage. The policy shall name the Association, its directors, officers, employees and agents in the scope of their employment, as insured. This policy shall insure against, but may not be limited to, injury or damage occurring on any of the easements or rights of way referenced herein.

2. **Other Insurance.** The Board of Directors of the Association may purchase additional insurance as the Board may determine to be advisable including, but not limited to, workmen's compensation insurance, demolition insurance to remove improvements that are not rebuilt, fidelity bonds, and insurance on Association-owned personal property. All premiums therefore shall be paid out of the Association's funds.

3. **Owner's Additional Insurance.** An owner may carry such personal liability and property damage insurance respecting his individual living tract as he may desire; however, any such policy shall include a waiver of subrogation clause against Association and all other owners.

ARTICLE V

HOLDERS OF DEEDS OF TRUST

Each holder of a deed of trust, upon written request by such holder to the Board, shall be entitled to timely written notice of: (1) any proposed amendment of this Declaration affecting a change in (i) the boundaries of any tract or the exclusive easement rights appertaining thereto, (ii) the number of votes in the Homeowner's Association pertaining to any tract or (iii) the purposes to which any tract is restricted; (2) any condemnation loss or casualty loss which affects a material portion of a tract on which there is a first mortgage held; (3) any delinquency in the payment of assessments or charges owned by an owner of a tract subject to a first mortgage, where such delinquency has continued for a period of sixty (6) days; (4) any lapse, cancellation or material modification of any insurance policy maintained by the Homeowner's Association pursuant to Article IV.

ARTICLE VI

ARCHITECTURAL COMMITTEE

1. **Architectural Control Committee.** The “Architectural Control Committee” shall consist of the Declarant or a person or persons designated by Declarant until such time as one hundred percent (100%) of the Lots have been sold by Declarant. Thereafter, the “Architectural Review committee” shall consist of those persons who shall be appointed by the Board of Directors of the Association. The “Architectural Control committee” shall consist of the Board of Directors of the Association, or of a special “Architectural Control Committee” of at least three (3) or more persons appointed by the Board, all of whom must be members of the Association.

2. **Architectural Control.** All Owners intending to construct a dwelling or build or alter any type structure whatever upon any tract, shall first submit their plans and specification, in writing, to the Architectural Control Committee. All structures, exterior improvements, including paint colors, shall be submitted to the Architectural Control Committee for approval prior to commencement of work. No dwelling house or other structure shall be erected, placed, or altered on any tract until the construction plans and specifications along with the proposed site therefore have been approved in writing by the Architectural Control Committee as to the quality of workmanship and materials, harmony of external design with existing structures, and location of the structure with respect to topography and finish grade elevation. Construction plans and specifications shall include the following:

- a. Site plan, including building(s), and drainage plan;
- b. Exterior elevations of all structures;
- c. Exterior finishes, including paint color; and,
- d. Description of all fencing and landscaping.
- e. Detached garages not to exceed sixteen feet (16') maximum height from natural grade, not to exceed twenty-four feet by twenty-four feet (24' x 24') square.

3. **Approval by Committee.** Approval or disapproval by the Architectural Control committee must be in writing. In the event the committee fails to act within thirty (30) days after the proposed plans and specifications of any structure have been submitted in writing, or, of an entire dwelling, no specific approval shall be required for such structure and the pertinent provisions of this Declaration shall be deemed to have been fully complied with.

ARTICLE VII

PROTECTIVE COVENANTS

The following Protective Covenants are designed to provide a uniform plan for the ownership, use and development of the hereinabove described property, to preserve, insofar as practical, the natural beauty of said property, and to encourage the development of said property for country residential living.

1. **Tract Size.** No parcel shall be further divided.

2. **Land Use.** All tracts or parcels of land within the subject property shall be used for single-family residential purposes only. No piece, parcel, tract, or any part of the above-described property shall be used at any time for any business, trade, manufacture, or other commercial purpose whatsoever.

3. **Structures.**
 - a. No building shall be erected, altered, placed or permitted on any other Lot, tract, parcel, or piece of the above-described property, except one single-family dwelling used for residential purposes, provided that one (1) detached garage shall be permitted per Lot.

 - b. Any dwelling erected or placed upon the subject property shall be used only as a private, single-family residence, and no dwelling building or structure may be applied to, used, or occupied as a multi-family structure.

 - c. No more than one (1) single-family dwelling house shall be erected, placed or situated upon any Tract or Lot.

 - d. All construction upon the subject property shall comply with the requirements of the most current edition of the Uniform Building Code adopted and in effect in the City of Whitefish on the date of commencement of construction, and all applicable master plan and zoning requirements of the City of Whitefish, Flathead County, or the State of Montana.

4. **Setback Lines.** No building or structure shall be erected, placed or located upon any parcel or tract of land closer than permitted by the Whitefish Zoning Regulations in effect on the date of commencement of construction. The Association will be separately metered for boulevards and common area.

5. **Water and Sewer Service.** All property shall be connected to the Whitefish City Water and Sewer System, which shall provide water and sewer service for the properties, subject to payment of charges for such service. Each Lot or building shall be

separately metered for water and sewer service.

6. **Utilities.** All utilities and utility connections on the subject property shall be underground, with the exception of phone and cable connection boxes which are placed above ground.

7. **Garbage.** All garbage containers used in connection with any structure erected upon the above described premises shall be kept from view of the public. No garbage containers shall be maintained which are not of a suitable type and which do not have cover sufficient to prevent the escape of noxious odors from such container. If not kept inside, as in a garage, then garbage containers must be either sunk in the ground or placed in an enclosure completely screened from view. However, on garbage pick-up days, garbage containers may be exposed to view for the convenience of the garbage collector.

8. **Vehicles** No trucks exceeding one (1) ton, trailers, semi-trailers, other trailers of every type and description, including travel trailers, boat trailers, snowmobile trailers and motorcycle trailers, pick-up box, campers, or other similar units designed to be transported or pulled by motor vehicles or any other unsightly vehicle shall be parked or allowed to remain in said properties unless stored in a garage.

9. **Exterior Maintenance.** The Association shall maintain the entrance to the development, boulevards and boulevard sprinkler system and all other structures in the Common Area, to include painting and repairing the structures; maintaining the lawn and grounds to preclude noxious weeds and other noxious growths;; and not permitting refuse piles or other unsightly objects to accumulate or remain on the grounds. Paint on buildings, fences and other structures shall be required to be in subdued, "earth tones" such as will tend to harmonize with the vegetation of the area and tend to preserve the natural view, which is a community asset at present.

10. **Signs:** No signs, billboards, or advertising structures of any nature may be erected, maintained, or used on the subject property or any part thereof, except that one advertising sign, which must be in compliance with City of Whitefish regulations, may be erected for the sole and exclusive purpose of advertising for the sale or lease of the property upon which the sign is erected, provided that the Declarants shall have the right to place a "For Sale" sign which is four feet (4') by eight feet (8') at the entrance of the property for a period of not more than three (3) years from the date of this Declaration.

11. **Pets:** All animals shall be kept under full control of the property owner, and shall not be permitted to run at large. Barking dogs or offensive noise from any animal will not be tolerated. Repeated complaints regarding barking dogs may result in a hearing before the Board after due notice. The board shall be authorized to order the owner/renter to remove the offending dog from the project. When pets are outside a building and within the Project, but not on the Owner's Lot, they must be on a leash at

one end and held at the other end by the Owner/guest. The Owner/guest must remove animal waste, place it in a tightly sealed plastic bag, and dispose of it in an enclosed garbage container. If an Owner/guest disposes of animal waste on the Project any place except in a garbage container, the Owner of the dog may be fined in an amount to be determined by the Board of Directors. All Owners/guests shall comply with the Flathead County Dog Ordinance or any other ordinance, rule or regulations of Flathead County or the State of Montana regarding animals.

12. **Landscaping:** Front yard landscaping shall be complete within one (1) year of the date of occupancy of the residence on any Lot. A landscape plan shall be submitted to Architectural Control Committee for approval prior to commencement of landscaping work.

13. **Waste.** All trash, garbage, or other waste materials shall be kept in sanitary containers with airtight lids.

14. **Nuisance.** No noxious or offensive activities shall be carried on upon the property, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

15. **Roads.** All roads to or upon the subject property, or any parcel or tract thereof, shall be paved, a minimum of thirty-two feet (32') wide, within a sixty foot (60') right-of-way. All Owners of said tracts of land within the subject property shall pay assessments for upkeep, maintenance and repair of all road situated within the subject property in accordance with Article III herein. The roads will be conveyed to the City of Whitefish who will maintain the roads. The Association shall maintain the five foot (5') boulevard on each side of the roadway, including the landscaping and sprinkler system within the boulevard.

16. **Fences.** No fence shall be constructed closer to the road than the closest projection of the residence to the road right-of-way. Side and rear fences shall not exceed five feet (5') in height. A plan for any proposed fence shall be submitted to the Architectural Control Committee for approval prior to commencement of installation.

17. **Term.** The provisions of this Declaration shall be binding for the term of twenty (20) years from the date of this Declaration, after which time the Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of 2/3 (two-thirds) of the total area of the real property described on Exhibit "A" has been recorded agreeing to change this Declaration in whole or in part. These covenants may be amended by 2/3 (two-thirds) agreement of the Owners of all the real property subject to these covenants.

18. **Enforcement.** The Board of Directors of the Homeowner's Association or any Owner shall have the right to enforce these conditions, covenants and restrictions by

any proceeding at law or equity. The method of enforcement may include proceedings to enjoin the violation, to recover damages, or both. Failure by any owner to enforce such provision shall not be deemed to be a waiver of the right to do so thereafter. Any person or entity who may recover any and all damages resulting from such violation, and it is expressly understood that the prevailing party in an action to enjoin the violation of these covenants or to enforce these covenants, the prevailing party in such action shall be entitled to recover reasonable attorney's fees in addition to any other damages and costs.

19. **Severability.** Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

20. **Amendment.** After one hundred percent (100%) of the tracts have been sold, this Declaration may be amended by an instrument signed by the owners of seventy-five percent (75%) of the lots in Dakota Meadows, which instrument has been recorded, agreeing to such amendment. Each parcel of land, regardless of size or of any deeded ownership interest in a multi-family residential unit, shall be entitled to one (1) vote under this Article.

IN WITNESS WHEREOF, the Declārants hereunto executed this Declaration of Conditions, Covenants and Restrictions this _____ day of _____, 2006.

DMG, LLC, a Montana
Limited Liability Company

BY: _____
Member

STATE OF MONTANA)
 :SS.
County of Flathead)

This instrument was acknowledged before me this _____, 2006, by _____, as a Member of DMG, LLC.

Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

(SEAL)

CONDITIONS OF APPROVAL
DAKOTA MEADOWS PRELIMINARY PLAT - #WPP-03-3
APPROVED BY WHITEFISH CITY COUNCIL
APRIL 21, 2003

1. That the development of the subdivision shall be in substantial conformance with the approved preliminary plat that shall govern the general location of the lots and roadways.
2. That the improvements (water, sewer, roads, street lights, sidewalks, driveways, etc.) within the subdivision shall be designed by a licensed engineer and constructed in accordance with the City of Whitefish's design and construction standards and the Whitefish Subdivision Regulations. Prior to any construction, the City of Whitefish Public Works Department shall approve the design and construction of the improvements.
3. All roads and road right-of-ways within the subdivision, and including 30' along the west edge of the property, shall be dedicated to the City and open to public use.
4. The applicant shall pave the temporary cul-de-sac.
5. The following notes shall be placed on the face of the plat stating:
 - At the time of the building permit, Lot 10 shall provide a paved driveway through the road right-of-way to the temporary cul-de-sac.
 - The City reserves the right at any time to allow for and/or construct a street within the right-of-ways dedicated on this plat.
 - All lots except lots 9A and 9B shall be single-family lots.
6. The developer shall waive protest to the future creation to an SID for curb and gutter on Dakota Avenue.
7. The applicant shall provide cash-in-lieu of sidewalk for the Dakota Avenue frontage. The cash amount will approximate that amount need to construct sidewalks along the Dakota Avenue frontage and will be estimated by the Public Works Director.
8. That a Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the water and sewage treatment facilities for the subdivision.
9. Parkland cash-in-lieu dedication is \$11,450.00
10. The applicant shall submit a site specific drainage plan that shows where runoff water from the developed site(s) will flow, i.e. to which drainage areas and to which detention ponds. The applicant will also submit a site specific erosion and sediment control plan for construction activities which is to be approved by the Whitefish Public Works Department and implemented prior to any earth moving.
11. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds.

12. The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation.
13. That a note shall be placed on the face of the final plat requiring house numbers be posted on the house in a clearly visible location. This note shall appear on the face of the plat.
14. A note shall be placed on the face of the plat stating, "All garbage containers be stored in a bear proof storage area, such as a closed garage, until the day of pick-up."
15. The applicant shall provide written approval for mail delivery from the USPS in Whitefish.
16. That the preliminary plat is valid for a period of three years from the date of approval.
17. The boundaries of the properties shall be addressed to ascertain their true location.
18. An appraisal of the vacant land is required to determine cash-in-lieu for parkland.
19. The duplex on lot 7 shall be converted to a single-family house.
20. The applicant is required to consult with the Department of Fish, Wildlife and Parks to find a solution to mitigate the pheasant nesting area and provide follow up.

June 9, 2020

City Council, City of Whitefish
PO Box 158
Whitefish, MT 59937

RE: Kelly and Courtney Laabs

Dear Council:

I represent Kelly and Courtney Laabs. My clients own 777 Dakota Avenue (Lot 1 of Subdivision No. 195) and four lots in the adjacent Dakota Meadows subdivision. My clients applied for approval of a boundary line adjustment but the Planning Department, by its letter of May 15, 2020, denied their submittal because “the proposed method of disposition is adopted for the purpose of evading subdivision review and requirements.” The Department’s conclusion was based on the following factors:

1. The lot lines being adjusted are between two platted subdivisions, which neither § 76-3-207, MCA, nor WCC § 12-7-3 provide an explicit exemption for.
2. The proposed amended plat includes more than a common boundary line adjustment under § 12-7-5-B-2 by creating new lots within an adjoining subdivision and expands the small residential lots within a platted subdivision to create larger tracts that could be further subdivided without respect to future infrastructure requirements.
3. The resulting lots are inconsistent with the approved subdivision of Dakota Meadows and the uses in it, as well as the protective covenants adopted with that subdivision.
4. My clients previously brought a major subdivision proposal to the City.

Invalid Determination

The Whitefish City Code sets forth a clear procedure for determining if a claimed exemption is an attempt to evade subdivision review, yet the City did not follow its own procedure. Per section 17-2-7-4-A, the Planning Department can review the survey only for

compliance with zoning regulations and applicable development standards – it cannot make a determination on whether the claimed exemption is an attempt to evade subdivision review as the Planning Director did in this case. If, as here, there are no zoning or survey discrepancies, the affidavit shall be signed by the Planning Director and submitted to the Flathead County clerk and recorder for this review and determination. (WCC § 12-2-7-4-B) If the county clerk makes no determination on evasion, the survey is eligible for recording. (WCC § 12-2-7-4-D) If the county clerk determines that the claimed exemption may constitute an evasion, s/he must state “the reasons leading to such a determination” and then – and only then – may the Planning Department assess the exemption application for evasion. (WCC § 12-2-7-4-C)

Here, despite the fact that the Planning Director determined no zoning or survey issues existed with my client’s application, he denied it on improper grounds, citing only to an evasion analysis that he was not authorized to conduct at that time. This improperly prevented the affidavit from being signed and submitted to the county clerk for the proper determination per the city code.

The City exceeded its jurisdiction by conducting an evasion analysis *before* the county even considered my clients’ application. The county then made no findings of the reasons leading to the determination and therefore there is nothing for the Planning Department to review. The county stated that its determination of evasion was based on the findings of the Planning Director’s letter of May 22, 2020, however, since the Planning Department was not authorized to make that determination, it remains an unlawful basis for the county’s denial and thus an invalid determination.

In sum, it’s our position that the Planning Department’s position as set forth in its letter of May 22, 2020, is unlawful and an invalid basis upon which to find that my clients are attempting to evade subdivision review.

Evasion Criteria

WCC § 12-7-5 provides criteria for the City to consider in determining whether a claimed exemption is made for the purpose of evading subdivision review:

- A. **Determination Of Exemption:** In determining whether an exemption is claimed for the purpose of evading subdivision review under these regulations, the council shall take into consideration all of the surrounding circumstances which may include, but are not limited to, the prior history of the particular property proposed for the exemption, the proposed configuration of the parcels to determine if the proposed exempt transactions display any pattern of development by use of exempt land divisions or any other circumstances which would result in the apparent creation of a subdivision without review.
 1. **Pattern Of Development:** In considering the proposed land exemption for the creation of a division of land or multiple

divisions of land by use of or proposed use of an exemption for a pattern of development, the following circumstances shall be considered:

- a. Original Tract Less Than Twenty Acres: It may be concluded a pattern of development may occur whenever more than three (3) parcels which includes two (2) exempt parcels and a remaining parcel are divided from the original tract of less than twenty (20) acres, regardless of ownership, by use of an exemption from subdivision review;
- b. Original Tract Twenty Acres Or More: It may be concluded that a pattern of development may occur whenever more than four (4) parcels under twenty (20) acres which includes three (3) exempt parcels and a remaining parcel are divided from the original tract of twenty (20) acres or more, regardless of ownership, by use of an exemption from subdivision review;
- c. Pattern Of Development Evidenced: It may be concluded a pattern of development is evidenced when the use of an exemption(s) contiguous to platted lots where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.

The Planning Department provided no analysis under this criteria. If it had, it would find that the criteria for evasion is not met. The prior history of Lot 1 of Subdivision No. 195 provides no evidence that my client is attempting to evade subdivision review. There is also no “pattern of development” as defined by the City Code because the proposed exemption is not a “creation of a division of land or multiple divisions of land” and the specific circumstances set forth in § 12-7-5-A-1(a) – (c) are not present.

The Planning Department further analyzed the wrong criteria in its second bullet point which referenced § 12-7-5-B-2. That section, which is different than the exemption language under § 12-7-3-A-4, is vaguely entitled “Relocation of Common Boundary Lines” but is specifically limited to “boundary lines between adjoining properties outside of a platted subdivision,” which is not the circumstances presented by my client’s application. (WCC § 12-7-5-B) Also, the Planning Department expressed concern over further subdivisions but Lot 1 of Subdivision No. 195 has a deed restriction prohibiting any further subdivisions.

Instead, the proper section is 12-7-5-E which is entitled “Relocation of Common Boundaries Involving Platted Subdivisions” and involves “the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision.” The term “adjoining land” is undefined and therefore would include both platted and un-platted land. Unlike the similar language in the exemption in § 12-7-3-A-5 to the subdivision review,

the criteria under 12-7-5-E is not limited to “divisions” of land. Under § 12-7-5-E, “the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision are permitted without review and is exempt from subdivision review.” Only if the adjustment redesigns six or more lots will it be subject to review, which is not the case here. (WCC § 12-7-5-E-1) Therefore, my client’s application is not subject to review. Also, an application may be presumed to have been submitted for the purpose of evading the MSPA if the proposed use is inconsistent with the approved subdivision or does not comply with existing covenants. (*Id.*, § 12-7-5-E-2, 3) The proposed use is residential, which is consistent between both subdivisions, and the Planning Department failed to identify any inconsistency in use. Dakota Meadows does not have restrictive covenants and the Planning Department incorrectly stated there would be an inconsistency with the protective covenants adopted by Dakota Meadows. Even if Dakota Meadows had restrictive covenants, § 76-3-207(1)(e), MCA, provides that those would control so there could be no inconsistency of use as a matter of law.

Based on the evaluation criteria set forth in the Whitefish City Code, my client’s application is exempt from subdivision review and is permitted. Even under the City’s evasion criteria, the City has failed to identify any evidence that would suggest that my client is attempting to evade subdivision review.

The Planning Department’s denial letter further lists its interpretation of § 76-3-207, MCA as a “factor” considered in its decision to find my client was evading subdivision review. Whether a particular statute applies to a set of circumstances is a question of law. Either my client has a right to proceed under the statute or not. However, the Planning Department’s interpretation of the Montana Code is not evidence of my client’s intentions, nor is the City’s interpretation a lawful factor to consider because it is not part of the evasion criteria adopted in the city code. (WCC § 12-7-5-A)

Moreover, the Planning Department’s interpretation of § 76-3-207, MCA and § 12-7-3, WCC is incorrect. My client’s proposal fits squarely within the exemption for the “relocation of common boundaries of five or fewer lots within a platted subdivision” because it proposes to relocate the common boundaries of four lots in the Dakota Meadows subdivision, or alternatively it seeks to relocate one boundary in Subdivision No. 195. The Department’s interpretation that the exemptions must explicitly state “within two platted subdivisions” is improper because it would require a court to insert language which does not exist. Statutory interpretation has to be reasonable and give effect to the entire Act, which provides exemptions for relocations of boundary lines outside of platted subdivisions (subsection 1), within platted subdivisions (subsection 4), and both inside and outside of a platted subdivision (subsection 5). The proposal fits under subsection 4 because it seeks to adjust the common boundary of the lines within Dakota Meadows and falls under subsection 5 because Lot 1 of Subdivision 195 is outside of Dakota Meadows and vice versa. It would be unreasonable to exempt a boundary line adjustment in every conceivable scenario but then not exempt an adjustment between two platted residential subdivisions.

The Planning Department’s interpretation is also inconsistent with the City’s Code which interprets the exemption under § 12-7-3-A-5 as the relocation of a common boundary between a

lot in a platted subdivision and adjoining land outside a platted subdivision, without any limitation that the land outside of the platted subdivision has to be unplatted. It's also inconsistent with how the City and Flathead County has been treating similar situations. For years, Flathead County has been approving boundary line adjustments between two platted subdivisions. *See, e.g.*, Plat File #9-2-25 (Rec. 8834112010), 20140022 (Rec. 201400010048), and 9-3-30 (Rec. 9620811510). In fact, some of those have occurred in the City of Whitefish and received approval from the Planning Department. *See, e.g.*, Plat File #1-9-49 (Rec. 201300018543). The City's prior approval of similarly situated applicants but denial of my clients' application results in a denial of equal protection.

For the reasons stated above, my clients request that the Council reverse the Planning Department's finding of evasion and approve its application for a boundary line adjustment as exempt from subdivision review.

Very truly yours,



Sean S. Frampton
Frampton Purdy Law Firm

c: City Attorney
SSF/kks

June 5th, 2020

WHITEFISH CITY COUNCIL
418 East Second Street, PO Box 158
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409

Dear Council,

My Husband, Kelly, and I, own 777 Dakota Avenue (Lot 1 of Subdivision No. 195) and four lots in the adjacent Dakota Meadows subdivision. We would like to take this opportunity to discuss our plan and present additional evidence to show that we are not trying to evade subdivision review.

Our desire is and has always been to create a permanent home in Whitefish for us to enjoy and to share with my sister and her family. My husband and I have two daughters, Parker (3) and Quinn (1). Kelly is a native Montanan and I moved to Whitefish over 10 years ago. We support many Whitefish and surrounding Flathead organizations and we both work full-time here in the Valley. From 2012 to 2016, we have lived at 429 Marina Crest Lane and fell in love with this neighborhood. Since that time, we built and sold a house elsewhere in Whitefish but always desired to be back in a neighborhood family environment after having our two children. When Kelly heard that there was an opportunity to purchase 777 Dakota Avenue, we became very excited about building our forever home on this lot. Furthermore, my sister and her family are moving to Montana in the spring next year and will be a great addition to the community. My lifelong dream of building a house next to my sister was in our sights, and we thought it would be a great piece of property to do so. We are not developers and are not looking to profit off the extensive parceling of this land. We are simply trying to appropriately share this parcel with family so our children (who are obviously cousins) can grow up as neighbors and enjoy the many joys this neighborhood and area can provide.

Throughout this whole process, we have consulted with local professionals such as Bruce Boody, TD&H Engineering, and Montana Land Surveying. All have been resoundingly in favor of what we were doing and expressed no concern. Our first step was to meet with the Planning Department to discuss possibility of a boundary line adjustment. The Planning Department told us we *had* to apply for subdivision approval. We are not developers and we did not wish to enter the subdivision process. We submitted for subdivision approval because the City indicated we had to, but when we attended the site review meeting, we realized that we were *not* obligated to do a subdivision application because we met the BLA exemption. All of our consultants, including attorneys, as well as our investigation with the plat room personnel indicated that it was a “no brainer” that our proposal was exempt from subdivision review. It’s simply unfair that the Planning Department is using our subdivision application as evidence of evasion when our intent was to apply for an exemption and then were told we had to apply for subdivision approval. We took the Planning Department’s remarks as gospel and then, only *after* we looked into it further did we discover the BLA propriety, which is why we then moved to that stage. And, as sign of good faith, when City raised a BLA issue, we re-submitted addressing it.

We appreciate your consideration and attention to this matter.

Kind Regards,

Courtney Laabs
156 Wild Rose Lane
Whitefish, MT 59937

June 5th, 2020

PLANNING & BUILDING DEPARTMENT
418 East Second Street, PO Box 158
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409

Dear Mr. Taylor,

We would formally like to request a City Council hearing to determine whether or not our boundary line adjustment (“BLA”) proposal, entitled “Second Submittal of Boundary Line Adjustment Request for 777 Dakota Avenue”, submitted via Rick Swan, is exempt from subdivision review. We received the denial letter from David Taylor on May 15th. Enclosed with this letter is the required \$200 Fee.

We would like this added to the Council agenda on June 15th for the following reason: Thirty (30) days after the date of this request falls on July 4th, and if it were to be pushed out the July 6th City Council meeting, that would be 32 days after today (June 5th, 2020). If it were to be pushed out to the Council meeting on July 6th, this would fall outside of the required 30 days to approve or deny our request per section 12-7-4-E of Whitefish City Code.

We appreciate your consideration and attention to this matter. Please confirm receipt.

Kind Regards,



Courtney Laabs
406.890.8194

PLANNING & BUILDING DEPARTMENT
418 East Second Street, PO Box 158
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



May 15, 2020

Richard Swan
TD&H Engineering
450 Corporate Drive, Suite 101
Kalispell, MT 59901

Re: Second Submittal of Boundary Line Adjustment Request for 777 Dakota Avenue

Dear Mr. Swan:

This letter is in response to your revised request for a boundary line adjustment exemption for Lots 7,8,9 and 10 of Dakota Meadows and Lot 1 of Subdivision No. 195 in Section 25, T31N, R22W, P.M.M., Flathead County, Montana. Pursuant to MCA 76-3-207, the requested boundary line adjustment is **denied** due to the fact that the proposed method of disposition is adopted for the purpose of evading subdivision review and requirements. Items that factor in the decision for denial include:

- The lot lines being adjusted are between two platted subdivisions, which neither MCA 76-3-207 nor section 12-7-3 of the Whitefish City Code provide an explicit exemption for.
- The proposed amended plat includes more than a 'common boundary line' adjustment. Per 12-7-5-B-2, the proper use of the exemption for relocating common boundary lines is to 'establish a new boundary between adjoining parcels of land...' This does more than establish a new boundary between two adjoining parcels, it also removes common boundary lines within one platted subdivision to create new lots within a lot in an adjoining subdivision. It also expands small residential lots within a platted subdivision to create larger tracts that go outside that subdivision that could be further subdivided without respect for future infrastructure requirements.
- The resulting lots are inconsistent with the approved subdivision of Dakota Meadows and the uses in it, as well as the protective covenants adopted with that subdivision.
- Prior to this Boundary Line Adjustment request, a major subdivision proposal for this property was brought to the City Site Review Committee, and the proponents appeared put off by the subdivision requirements of road and sidewalk improvements and the affordable housing requirements of the City's Legacy Homes Program for

deed restrictions or cash-in-lieu. This Boundary Line Adjustment application was then later submitted with a similar layout, indicating this application is an attempt to evade the subdivision requirements.

Per 12-7-3-B of the Whitefish City Code, you can request a hearing before the City Council to determine whether or not your proposal is exempt from subdivision review and requirements for a \$200 fee. If you wish to pursue that route, let us know in writing within 30 days of the date of this letter and remit the required fee and we will schedule it for a future City Council meeting per the provisions of 12-7-4-E of the Whitefish City Code.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Taylor".

David Taylor, AICP
Director of Planning & Building

CC: Flathead County Clerk and Recorder's Office

Flathead County Clerk and Recorder's Office

800 S. Main St ♦ Room 114 ♦ Kalispell MT 59901 ♦ (406) 758-5526

Memorandum

To: TD&H Engineering Attention: Douglas Peppmeier; Richard Swan
CC: City of Whitefish Attention: David Taylor
Clerk and Recorder Debbie Pierson
From: Sheena Sterling, Plat Room/Recording Supervisor
Date: 05/29/2020
Re: Amended Plat of Lots 7, 8, 9, & 10, Dakota Meadows and Lot 1,
Subdivision No. 195

Dears Sirs:

The Flathead County Plat Room has reviewed the plat of: Amended Plat of Lots 7, 8, 9, & 10, Dakota Meadows and Lot 1, Subdivision No. 195 and determined it to be an evasion of subdivision review based upon the findings of The City of Whitefish provided on May 22, 2020.

The City of Whitefish provided the attached letter denying the approval of: Amended Plat of Lots 7, 8, 9, & 10, Dakota Meadows and Lot 1, Subdivision No. 195 submitted by TD&H Engineering. The Flathead County Plat Room upholds this denial and will consider re-review if approval from the Whitefish City Council is obtained.

Sincerely,

Sheena Sterling
Sheena Sterling



City of Whitefish
Planning & Building Department

PO Box 158
418 E 2nd Street
Whitefish, MT 59937
Phone: 406-863-2410 Fax: 406-863-2409

File #: _____
Date: _____
Intake Staff: _____
Check # _____
Amount _____
Date Complete: _____

SUBDIVISION EXEMPTION APPLICATION

FEE ATTACHED \$ \$50.00
(See current fee schedule)

INSTRUCTIONS:

- Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department.
- Once approved, Planning staff will forward the original letter to the Surveyor on the application unless directed otherwise.

A. LEGAL DESCRIPTION OF PROPERTY: Street Address 777 Dakota Avenue
 Assessor's Tract No.(s) 0836500, 0502799, 0502802, 050803, 0502804 Lot No(s) 7, 8, 9 & 10 and Lot 1
 Block # _____ Subdivision Name Dakota Meadows / Subdivision No. 195
 1/4 Sec NW Section 25 Township 31 N Range 22 W

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish staff to be present on the property for routine monitoring and inspection during the approval and development process.

Joseph R. Gregory
 Owner's Signature
Majestic Hills, LLC
 Print Name

5/11/2020
Date

Richard J. Swan
 Applicant's Signature
Richard J. Swan - TD&H Engineering
 Print Name

05/11/2020
Date

 Representative's Signature

 Print Name

Date

¹ May be signed by the applicant or representative, authorization letter from owner must be attached. If there are multiple owners, a letter authorizing one owner to be the authorized representative for all must be included

APPLICATION CONTENTS:

Attached

- Certificate of Survey (showing as-built information for any existing structures, eaves and access; clearly showing the old and new boundaries)
- Vicinity Map
- Municipal Facilities Exclusion, if within the city's service area
- Signed Affidavit (attached)

B. OWNER(S) OF RECORD:

Name: _____ Phone: (423) 793-0120

Mailing Address: 620 Shelby Street

City, State, Zip: Bristol, TN 37620

Email: jgregory@jrgregory.com

TECHNICAL/PROFESSIONAL:

Name: Richard J. Swan - TD&H Engineering Phone: 406.751.5246

Mailing Address: 450 Corporate Drive, Suite 101

City, State, Zip: Kalispell, MT 59901

Email: rick.swan@tdhengineering.com

C. TYPE OF EXEMPTION SOUGHT:

- Gift or Sale to a Member of the Immediate Family [76-3-207(1)(b)]: Complete Section D.
- Relocation of Common Boundary [76-3-207(1)(a), (1)(d)]: Complete Section E.
- Agricultural Purposes [76-3-207(1)(c)]: Complete Section F.
- Other: _____: Complete Section G.

D. FAMILY TRANSFER SUBMITTAL REQUIREMENTS:

- Zoning Classification: _____
- Name of Grantee: _____
- Relationship to Grantor: _____
- Parcel to be Conveyed Under this Exemption: _____
- Has the Grantor Used a Family Transfer in Flathead County? (Yes/No): _____
 - If Yes, include date, name, exemption used and Certificate of Survey: _____
- How will access be provided to the parcel being created: _____
- How will utilities be provided: _____

E. BOUNDARY LINE ADJUSTMENT SUBMITTAL REQUIREMENTS:

- Zoning Classification: WR-2
- Minimum Lot Size Required in Zone: 6,000 square feet
- Number of Lots Affected: 5
- Gross Area of Lots Before and After the Lot Line Relocation:
10.444 ACRES
- Will access to the lots change? If so, describe:
NO
- How will utilities be provided:
CITY OF WHITEFISH - UTILITIES ARE IN PLACE

F. AGRICULTURAL PURPOSES SUBMITTAL REQUIREMENTS:

- Zoning Classification: _____
- Will this Parcel or any Remainder be Transferred to Someone Else? _____
 - If Yes, describe: _____
- Parcel to be Conveyed Under this Exemption: _____
- Copy of signed covenant, revocable only by mutual consent of the governing body and the property owner, indicating land will only be used for agricultural purposes. Such covenant shall be signed by property owner, buyer (if there is a purchaser) and governing body and recorded by the Certificate of Survey.
- How will access be provided to the parcel being created:

G. OTHER EXEMPTION REQUESTS:

- Identify the applicable MCA: _____
- Describe the purpose of the exemption:

- Are any required notes on the face of the COS? _____
 - If Yes, describe: _____



City of Whitefish
 Planning & Building Department
 PO Box 158
 Whitefish, MT 59937

Subdivision Exemption Affidavit

Date: _____

Flathead County Plat Room
 800 South Main Street
 Kalispell, MT 59901

The City of Whitefish has checked the survey described below and has found it to be in compliance with applicable zoning and subdivision regulations.

Surveyor: Richard J. Swan - TD&H Engineering
 Owner: Majestic Hills, LLC
 Survey: Section 25 Township 31 N Range 22 W
 Purpose: Boundary Line Adjustment

The City is also requesting your review of this survey for compliance with established subdivision evasion criteria. Please notify our office if there are any issues related to this survey – including any changes or if you have any questions.

Sincerely,

City of Whitefish
 Planning Department

It is hereby understood that this Affidavit seeks approval of the use of an exemption to subdivision review. It is also understood that approval of the use of the exemption is not approval under zoning, health, floodplain or other applicable regulations.

Under penalties of perjury, I / We declare that we have examined this form, including the accompanying Certificate of Survey, and to the best of our knowledge and belief, it is true, correct and complete and is in compliance with all Montana State laws and City of Whitefish ordinances and resolutions and the purpose of the survey for that which is stated.

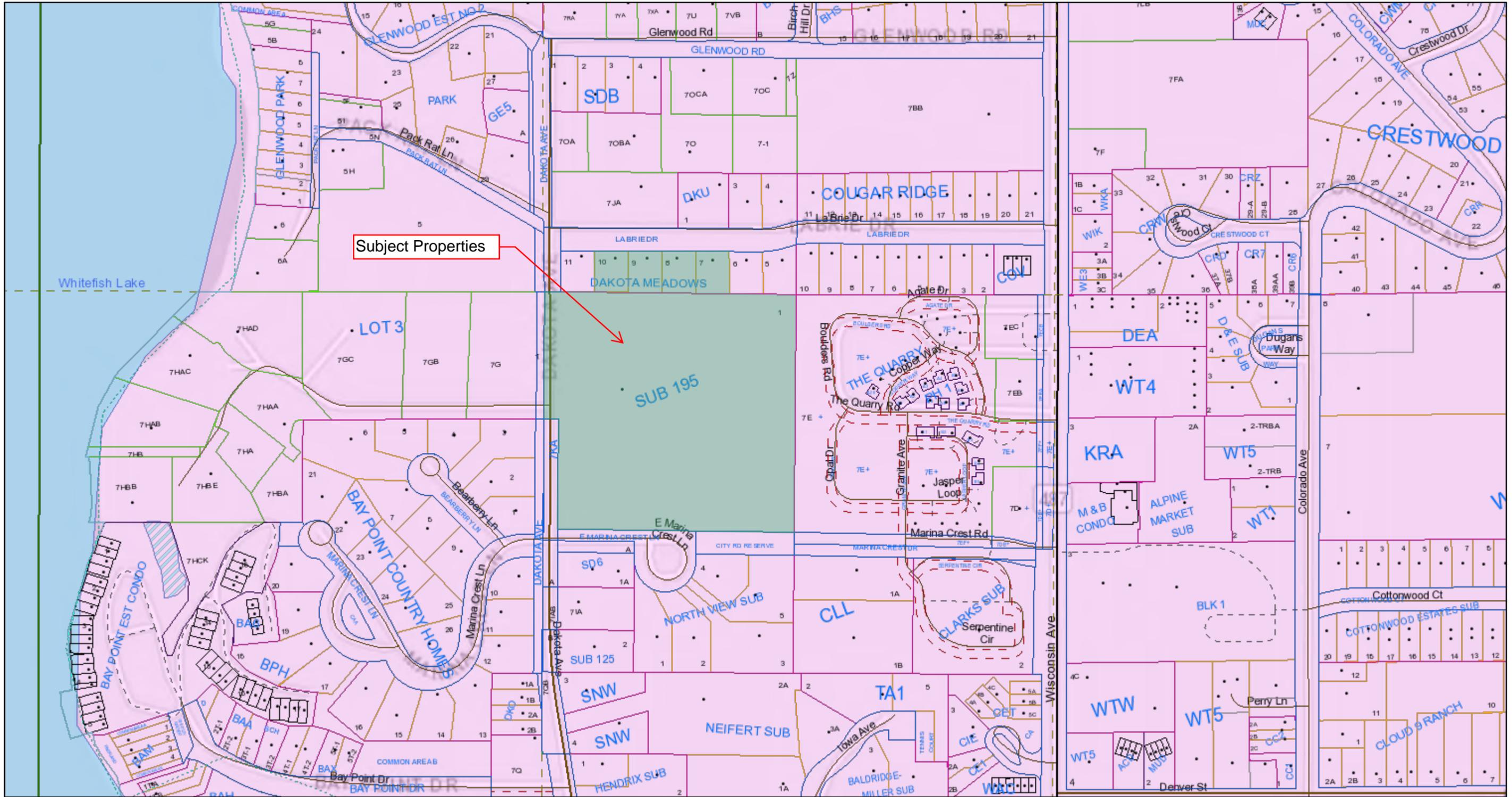
Joseph R. Gregory
 Owner(s) – all must sign the application
 Majestic Hills, LLC
 Please Print Name

5/11/2020
 (Date)

 Owner(s) – all must sign the application
 Please Print Name

 (Date)

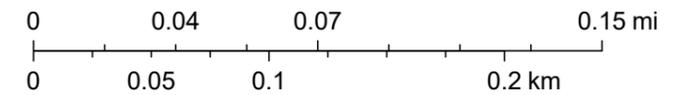
Flathead County Map



4/24/2020, 9:32:44 AM

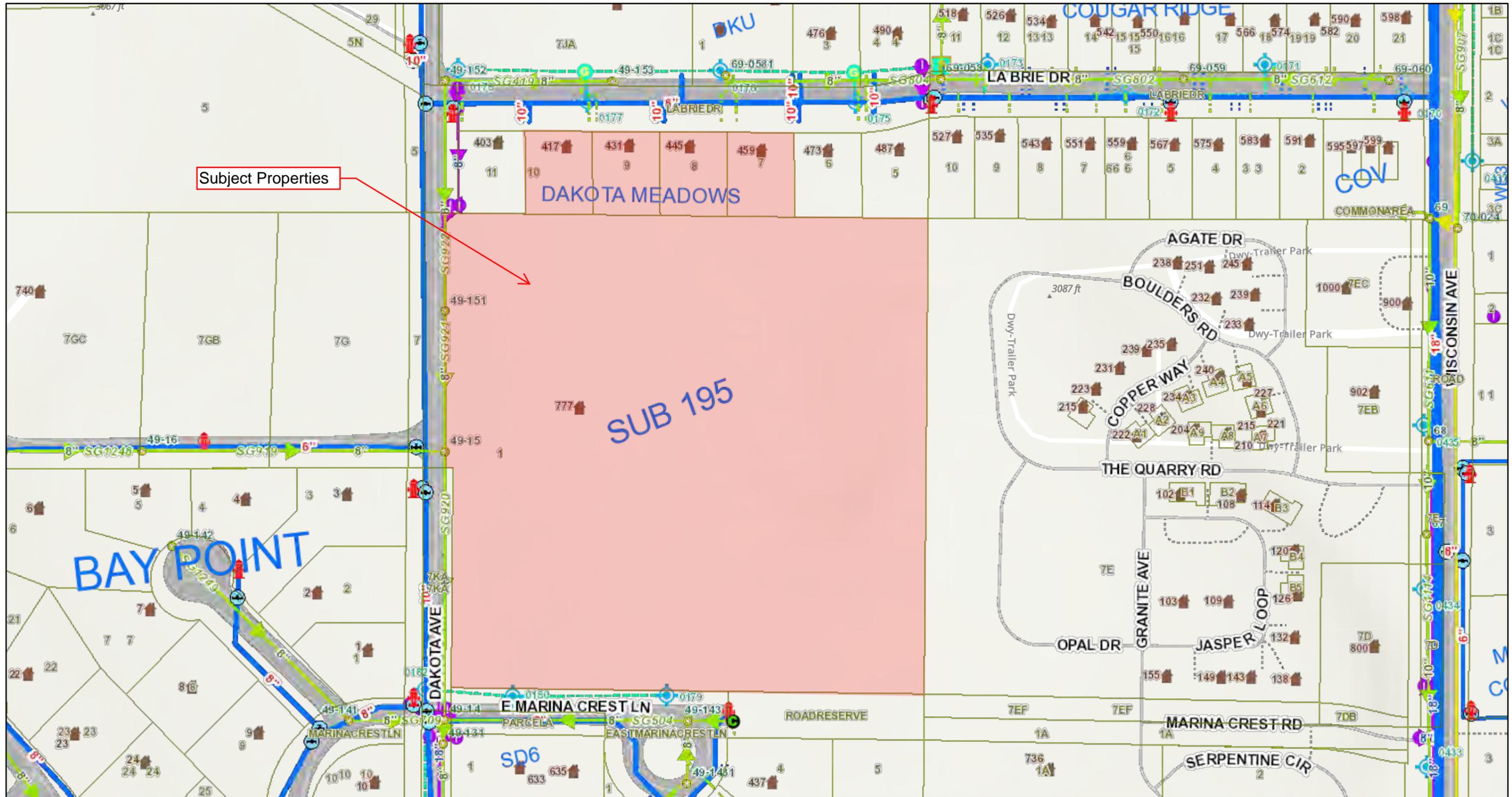
1:4,514

- | | | | | | | | |
|------------|-------------------|---------------|---------------------------|------------------|----------------------------|--------------------------|----------------------|
| Parcels | Imp | ALLEY; ROAD | Hydro_Outline_Assrno | ABRDXXR | PLACER SURVEY | SLOUGH | All Roads |
| Misc | Bbook_Lines | RAILROAD | Hydro_Outline_NoAssrno | EASEMENT | QSECTION | UNREC_SUB_LOT | Driveways or Alleys |
| Tract Land | CondoBdy | ROW_No_Assrno | BPA Transmission Line | IRRIGATION_DITCH | RESERVATIONBDRY | Property Address | Forest Service Roads |
| Condo | Subdivbdy | HIGHWAY | Section | LEASEDLOT | RIVER | Adjacent County Highways | Unnamed Roads |
| Lot | Roads_With_Assrno | ALLEY; ROAD | Administrative Tract Line | MEANDER | RUNWAY | US Highway | Road Classifications |
| | HIGHWAY | RAILROAD | ABRDR | | State or Secondary Highway | Arterial Road | |



Flathead County, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

City of Whitefish Utilities

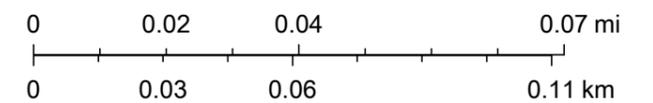


Subject Properties

4/24/2020, 9:40:18 AM

1:2,257

- | | | | | | | |
|-----------------|------------------------|---------------------------|------------------------|-----------------------------|---------------------|--------------------------|
| City Limits | Public Streets | Ground Box | Storm Open Drains | Storm Manholes | Water Mains Private | Water Network Structures |
| Parcel Polygons | ALLEY; DWY | Pedestal | Storm Gravity Main | Storm Inlets | Water Mains | Well |
| Address | Electrical Connections | Streetlights | Storm Culverts | Storm Network Structures | Water Mains | Meter Well |
| Street Pavement | Electrical Points | Signals | Storm Discharge Points | Discharge Structure | Water Mains | Water Casings |
| Bridge Deck | Service | Storm Detention Areas | Stormwater Weirs | Stormwater Treatment Device | Water Mains | Raw Water |
| UNPAVED | Antenna | Stormwater Pressure Mains | Storm Clean Outs | Water Structures | Water Mains | |
| | | | | Water Lateral Lines | | |



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Flathead County GIS, City of Whitefish, Sources: Esri, HERE, Garmin, FAO,

OWNER: MAJESTIC HILLS, LLC

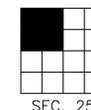
BY: TD&H ENGINEERING
450 CORPORATE DRIVE - SUITE #101
KALISPELL, MT. 59901
PHONE: (406) 751-5246

DATE: APRIL, 2020

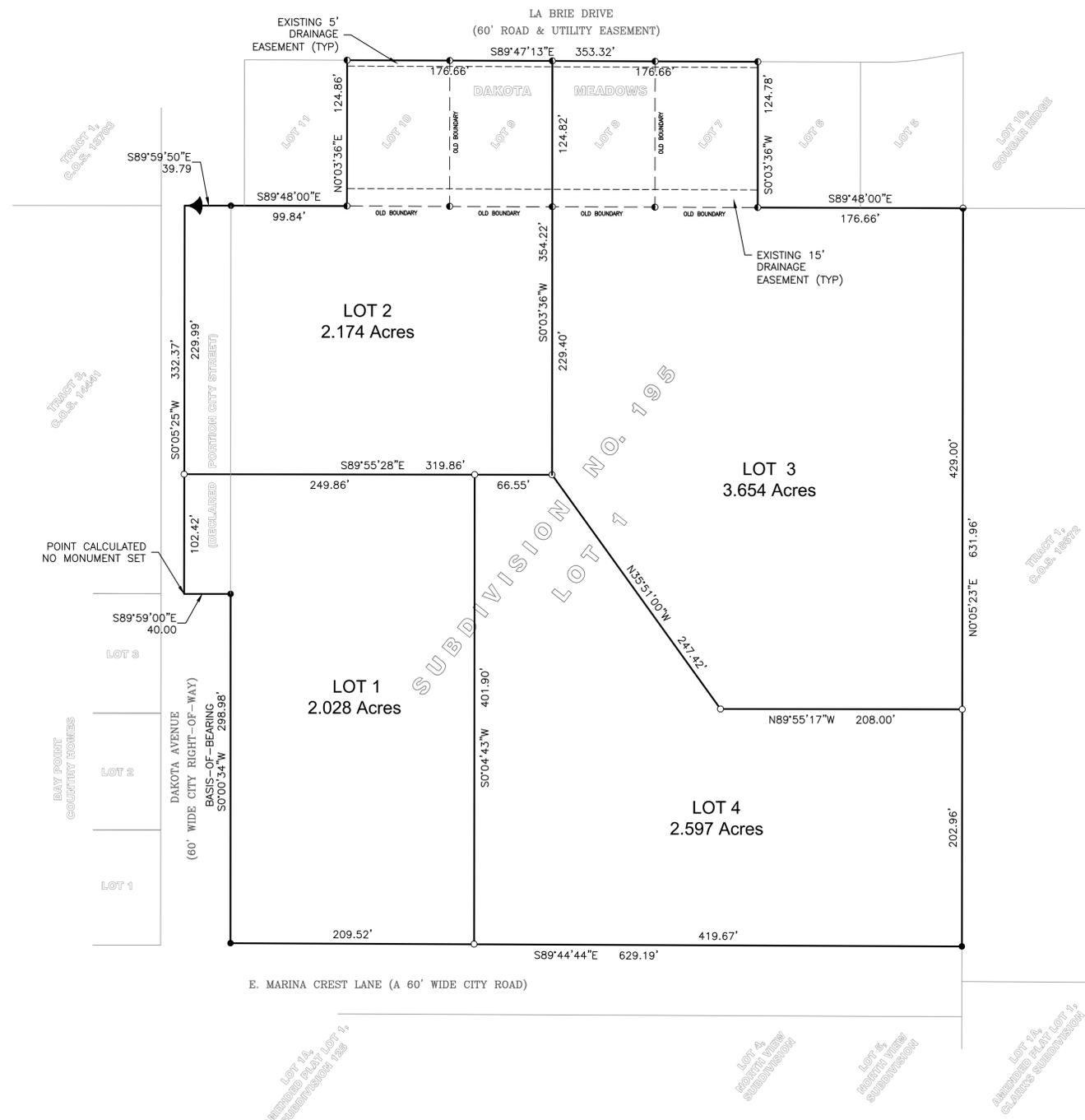
PURPOSE: RELOCATION OF COMMON BOUNDARIES
ROAD & UTILITY DEDICATION

AMENDED PLAT OF LOTS 7, 8, 9, & 10, DAKOTA MEADOWS AND LOT 1, SUBDIVISION No. 195

LOCATED IN THE NW 1/4 OF SECTION 25, TOWNSHIP 31
NORTH, RANGE 22 WEST, P.M.M., CITY OF WHITEFISH,
FLATHEAD COUNTY, MONTANA.



SEC. 25



CERTIFICATE OF DEDICATION

I(We), the undersigned property owner(s), do hereby certify that I(we) have caused to be surveyed and platted into lots as shown by the plat and certificate of survey hereunto the following described tract of land, to wit:

A tract of land located in the Northwest quarter of Section 25, Township 31 North, Range 22 West, P.M.M., City of Whitefish, Flathead County, Montana, being more particularly described as follows:

Lots 7, 8, 9, & 10, Dakota Meadows, and Lot 1, Subdivision No. 195 according to the maps or plats thereof on file at the Office of the Clerk and Recorder of Flathead County, Montana.

The above described tract of land is to be known and designated as AMENDED PLAT OF LOTS 7, 8, 9, & 10, DAKOTA MEADOWS AND LOT 1, SUBDIVISION No. 195, and containing 10.446 acres.

I(We), the undersigned property owner(s), hereby certify that the purpose for this division of land is the relocation of common boundaries for five or fewer lots within a platted subdivision and no additional lots were created; therefore, this division of land is exempt from review as a subdivision pursuant to Section 76-3-207(1)(d), MCA.

I(We) further certify that this division of land is exempt from sanitary review pursuant to Section 76-4-125 (1)(d) MCA. (Municipal Facilities Exclusion).

MAJESTIC HILLS, LLC

By: _____

State of _____

County of _____ ss.

On this _____ day of _____, 202__ before me, the undersigned, a Notary for the State of _____ personally appeared _____ known to me to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged to me that they executed the same.

My commission expires _____

Notary Public for the State of _____

Residing at _____

LEGEND

- FOUND 1/16TH CORNER, DAMAGED REBAR
-



CERTIFICATE OF SURVEYOR

REGISTRATION NO. 9525 LS

APPROVED _____, 20__

EXAMINING LAND SURVEYOR REG. NO. _____

STATE OF MONTANA SS
COUNTY OF FLATHEAD

FILED ON THE _____ DAY OF _____, 20__

TIME: _____

CLERK AND RECORDER

BY: _____
DEPUTY

RECEPTION NO. _____

(This page left blank intentionally to separate printed sections)

ORDINANCE NO. 20-__

An Ordinance of the City Council of the City of Whitefish, Montana, adding a new Chapter to Title 7 of the Whitefish City Code prohibiting the storage, placement, and maintenance of personal property in a manner that interferes with the use of public property.

WHEREAS, the City of Whitefish's property such as parks, streets, sidewalks, benches, and public gathering spaces are valuable amenities that are used and enjoyed by residents and visitors alike; and

WHEREAS, in recent years, individuals have used the City's property to store personal items such as duffle bags, suitcases, and garbage thus interfering with other's rights to access and use such public property; and

WHEREAS, the City has received numerous complaints from businesses, residents, and visitors about individuals storing personal items on public property; and

WHEREAS, given the current COVID-19 pandemic, it is in the best interests of the City, its residents, and its visitors to ensure that public property and spaces are kept sanitary and free from items that may spread the virus; and

WHEREAS, it is in the best interests of the City of Whitefish and its inhabitants to prohibit the storage, placement, and maintenance of personal property in a manner that interferes with the use of public property.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: A new Chapter is hereby added to Title 7 of the Whitefish City Code as set forth in Exhibit A attached hereto.

Section 2: If any section, subsection, sentence, clause, phrase, or word in this section is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this section.

Section 3: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____ 2020.

John M. Muhlfield, Mayor

ATTEST:

Michelle Howke, City Clerk

EXHIBIT A

Whitefish City Code Title 7 – Public Ways and Property Chapter 7 - Excessive Personal Property Interfering with the Use of Public Property

7-7-1: **PURPOSE:** Public areas should be accessible and available to residents and the public at large for their intended uses. The unauthorized use of public property for the storage of excessive personal property interferes with the rights of other members of the public to use public areas for their intended purposes, including those with accessibility issues, and can create a public health or safety hazard that adversely affects residential and commercial areas. The purpose of this chapter is to maintain public areas in a clean, sanitary, and accessible condition to prevent the misappropriation of public areas for personal use, and to promote the public health and safety by ensuring that public areas remain readily accessible for their intended uses.

7-7-2: **DEFINITIONS:** As used in this chapter, the terms are defined as follows:

- EXCESSIVE:** More than what a reasonable person would carry with them for the enjoyment or use of the public property or an amount of property that will interfere with another's use of public property.
- PERSON:** Any natural person or individual, group, business, business trust, company, corporation, partnership, entity, association, club, or organization composed of two or more individuals.
- PERSONAL PROPERTY:** Any and all tangible things or property, including, without limitation, goods, materials, products, and merchandise or food of any kind.
- PUBLIC PROPERTY:** That portion of any public area or public areas within the City that are owned, managed, controlled, or maintained by the City, including, without limitation, any park, parking lot, street, median strip, space, ground, building, structure, sidewalk, avenue, highway, curb, bikeway, or any right-of-way or other public way in the City, improved or unimproved.
- STORE:** To put aside or accumulate for use when needed, or to put for safekeeping, and/or to place or leave or lay away in a location for preservation or later use or disposal, separate and apart from being carried, kept, or stored upon one's person.

7-7-2: **PROHIBITED CONDUCT:** It is unlawful for a person or persons to place, store, or maintain more personal property than is reasonable for the use of the public property and in a manner that:

- A. Deprives another the use of the same property;
- B. Creates a health or sanitation issue;
- C. Creates an obstruction; or
- D. Causes a public area to be uninviting to others.

7-7-3: **VIOLATION – PENALTY.** Any violation of the restrictions set forth in this section may be punished as a misdemeanor as provided in section 1-4-1 of this code. Any such violation may also be treated as a municipal infraction, and the person violating the restrictions set forth in this section may be assessed a civil penalty as provided in section 1-4-4 of this code. For each separate incident, the City will elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

MEMORANDUM

To: Mayor John Muhlfeld

City Councilors

From: Bill Dial, Chief of Police

Re: Excessive Personal Property Ordinance

Date: June 30,2020

Introduction/History

Whitefish is a tourist destination and an extremely welcoming community. Our streets, sidewalks, public gathering areas and parks are to be used and enjoyed by all without interference from those who attempt to place their personal property in these areas. For years, benches along Central Avenue, City Beach, and various other areas which allow people to sit and enjoy Whitefish have been utilized by citizens and visitors. More recently the newly constructed pavilion in Depot Park has become a popular gathering area used to enjoy the park, picnic and relax. Unfortunately, there are those individuals who do not respect the rights of others and gather in those areas and deposit duffle bags, backpacks, suitcases, garbage, and other items which clutter the area making it inaccessible to others. These types of gatherings misappropriate public areas for personal use and affect businesses and residences. With the current pandemic and the uncertainty of how the Covid-19 virus spreads, it is in the best interest of everyone to assure that public areas are kept sanitary and free of items that could further spread the disease.

The City regularly receives complaints from merchants, businesses, citizens and visitors regarding the aforementioned issue.

Current Report

Currently there are no ordinances or state statute that specifically address the unauthorized use of public venues and makes enforcement challenging. The purpose of this ordinance is to ensure no one is deprived of the use of public property, that public health concerns are addressed, that no areas are obstructed, and to ensure that no one causes a public area to be uninviting to others.

Financial Requirements

None

Page 2

Recommendation

Staff recommends adoption of this ordinance for the reasons stated in this report.

Respectfully,

Bill Dial

Chief of Police

(This page left blank intentionally to separate printed sections)

RESOLUTION NO. 20-__

A Resolution of the City Council of the City of Whitefish, Montana, requesting distribution of Bridge and Road Safety and Accountability Program Funds.

WHEREAS, the Bridge and Road Safety and Accountability Account created by HB 473 requires the Montana Department of Transportation to allocate accrued funds to cities, towns, counties, and consolidated city-county governments for construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, bridges, or roads and streets that the city, town, county, or consolidated city-county government has the responsibility to maintain; and

WHEREAS, a city, town, county, or consolidated city-county government that requests funds under the Bridge and Road Safety and Accountability Account must match each \$20 requested with \$1 of local government matching funds; and

WHEREAS, a city, town, county, or consolidated city-county government requesting distribution of allocated funds may make such a request to the Department of Transportation between March 1 and November 1 of the year the funds were allocated; and

WHEREAS, a description of the project to be funded is detailed in Appendix A; and

WHEREAS, the local match of 5% for the allocated funds has been budgeted from the Street Maintenance District Assessments.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: The City of Whitefish requests distribution of its share of the allocated Bridge and Road Safety and Accountability funds totaling \$180,886.04 to be used for the projects identified in Appendix A.

Section 2: Dana Smith, the City Manager of the City of Whitefish, is hereby empowered and authorized to execute such further documents as may be necessary to facilitate the distribution of said funds.

Section 3. This resolution shall take effect immediately upon its adoption by the City Council and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____ 2020.

John M. Muhlfeld, Mayor

ATTEST:

Michelle Howke, City Clerk

APPENDIX A

Project Description

The City of Whitefish will be dedicating FY20 BaRSAA funds to the Monegan Road Reconstruction Project which includes the reconstruction of Monegan Road between Voerman Road and JP Road. The road surface within the project limits was improved from gravel to paved. The project will consist of engineering design, basecourse preparation, asphalt pavement installation, pavement marking, and drainage system improvements.

Staff Report



To: Mayor Muhlfeld and City Council
From: Benjamin Dahlman, Finance Director
Date: June 30, 2020
Re: BaRSAA Distribution Resolution

Introduction/History

House Bill 473 was signed into law creating the Bridge and Road Safety and Accountability Act, or BaRSAA. The law provides for a graduated increase in the motor fuel tax, with a portion of collections (approximately \$21 million by FY21) allocated to local governments. Local governments must contribute to all distributions from the BaRSAA account with a minimum 5% match.

BaRSAA funds can be used to pay for the construction, reconstruction, maintenance, and repair of roads, alleys, and bridges that cities or towns are responsible for maintaining. BaRSAA funds can be used to pay project costs incurred before an allocation is made, so long as the costs were incurred during the same fiscal year in which they are distributed. BaRSAA funds cannot be used for capital equipment purchases.

Once a local government is ready to begin a BaRSAA project, they may request distribution of the funds along with any eligible reserved funds from prior years. The City may place the funds into a restricted account to be used within five years of distribution.

A request for the distribution of funds must include:

- a. the amount of funding sought (up to; but not exceeding, the amount allocated for that year and any prior years' reservations);
- b. copy of an adopted resolution to request and accept the funding by the governing body, identifying the source of the matching funds for the distribution; and,
- c. a description of the project or projects to be funded.

Current Report

The Public Works Department is using the BaRSAA funds for the reconstruction of Monegan Road. The project began in FY20, and City staff now needs to request another draw of the BaRSAA funds. Each draw requires a resolution to be approved prior to submittal. The attached resolution was created to accomplish this task. The overall project was budgeted to be funded with money from the Trailview Subdivision project, the City's Stormwater Fund, Streets Fund, Impact Fees Fund and the BaRSAA Fund.

Financial Requirement

The Monegan Road project has been completed.

For FY20, the BaRSAA gas tax allocation for the City of Whitefish is \$180,886.04. In order to achieve the 5% match this year, a transfer of \$9,044.30 will be required from the Streets Fund.

The City also contributed over \$100,000 of City funds from the Stormwater Fund and \$38,218.75 from the Impact Fees Fund for the project.

In addition; as a condition of approval for the Trailview Subdivision, the developer needs to contribute 21% or \$80,259.38 of the Monegan Road Project due to its adjacency to the subdivision. The entire amount due has collected as of the date of this narrative.

A budget amendment for FY20 will be needed to cover the final costs of the project in the BaRSAA Fund. The budget amendment will include the additional support from the Streets Fund for the 5% match since only \$7,350 was budgeted and to appropriate the higher expenditure costs of the project for the Trailview portion that was not completely budgeted.

Recommendation

Staff respectfully requests that the City Council approves the accompanying resolution requesting distribution of Bridge and Road Safety and Accountability Act Program funds.

(This page left blank intentionally to separate printed sections)

CITY MANAGER'S REPORT

July 1, 2020



COVID-19 PANDEMIC UPDATE

As of the date of this report and after having gone two months with no new cases, Flathead County has reported over 20 new cases of COVID-19 since June 13th. Furthermore, Flathead County has confirmed community spread within the Valley. We must continue to be vigilant in our efforts to prevent the spread in our community by washing and sanitizing frequently, practicing physical distancing of 6 feet, and wearing a mask in public, especially when social distancing of 6 feet cannot be maintained.

The Flathead Community Health Center is operating a COVID-19 testing site on Thursdays from 12:30 p.m. - 6:30 p.m. and Fridays from 7:00 a.m. - 12:00 p.m. in the Whitefish High School parking lot. This site is setup to test individuals who do not have symptoms of a respiratory illness and it is completely free! While it is designed for workers who interact with customers regularly, anyone who wants to be tested may do so. Availability is on a first come, first serve basis.

While many event organizers are canceling events throughout Montana, the City anticipates certain special events to continue this summer. As directed by the Governor, the City is requiring all special event organizers to work with the Flathead City-County Health Department to ensure their event has put into place all safety measures to meet the Governor's guidelines for Phase Two prior to the City's approval. The Health Department has noted that the turn-around for event reviews is about three days.

WWTP UPDATE FROM PUBLIC WORKS DIRECTOR WORKMAN

Swank is making excellent progress on the wastewater treatment plant. To date they have completed the mass excavation for the project including all of the grading for the reactor basins, Grit Building, Main Process Building and the Biosolids Treatment Basin. The Effluent Diffuser has been installed in the Whitefish River and was done so in compliance with the permits issued by Montana Fish, Wildlife, and Parks and the US Army Corps of Engineers. The Majority of the yard piping has been completed for the project including the new effluent line from the plant to the river and the 1,600 feet of non-potable water line from the plant to the screening building. This new non-potable line is one of the ways we will be recycling treated wastewater at the plant and will eliminate the use of more than four million gallons of potable water per month. The Retaining wall has been built along the Rocksund trail and the shared use path has been restored. Vertical construction is now well underway at the plant and reactor floor as well as several of the 25' tall reactor walls have been constructed.

The only significant change order encountered was due to unexpected soil conditions at the site. The foundation plan was designed based on several geotechnical borings which were advanced at the site. The borings revealed a suitable bearing sand layer approximately 26' – 30' below ground. A rammed aggregate pier foundation system was designed to reach this bearing sand layer. Unfortunately, during the early stages of the foundation work it was discovered that this bearing sand layer dives down significantly on the southern portion of the treatment plant pad. The RAP system could not be constructed to this depth and changes were required to obtain sufficient structural capacity for the reactor basins and part of the main process building. The solution involved a combination of poured concrete rigid inclusions and structural geofoam and resulted in \$304,860 in additional cost.

To date, Swank has billed us for \$4,847,147 with \$15,362,668 remaining for a total contract amount of \$20,209,816.



Photos courtesy of Randy Reynolds

DEPOT PARK PROJECT UPDATE FROM PUBLIC WORKS DIRECTOR WORKMAN

The City issued a Certificate of Substantial Completion to Knife River for the Depot Park Phase III Project on Thursday 6/25/2020. Central Avenue has been reopened and the first Farmers Market was held on the reconstructed roadway on 6/30/2020. This phase of the project included a plaza area with a planter and raised seating wall at the southwest corner of Depot Park, a variety of landscape features, improved lighting, bicycle and pedestrian amenities, and a completely reconstructed Central Avenue from Railway Street to Depot Street. The design also incorporated removable bollards to safely close Central Avenue for events. Although a few punch list items remain, such as the installation of a bus shelter, parking signage, and some minor landscape finishes, this milestone marks the completion of the Depot Park Masterplan, which was drafted in 2012 and updated in 2017. Residents, business owners, and visitors alike will enjoy the benefits of this successfully completed plan for generations to come.





WHITEFISH FIRE SERVICE AREA

On June 29, 2020, the Whitefish Fire Service Area, Fire Chief Page, and I mutually agreed to terminate the agreement for fire protection service as of June 30, 2021 and negotiate a new contract with a minimum of a two-year term. All parties agreed that the contract should not automatically renew for an additional one-year term beginning July 1, 2021, as written. The City is seeking an increase in the payment for service more than the 1.9% currently in the agreement. We will hold our next negotiating session in mid-July and hope to have a contract settled by the end of September.

OTHER ITEMS

City staff have been working diligently to update the current website. The updated website will allow increased accessibility and make notifications; alerts; reporting issues and paying bills easier. We are looking forward to enhanced community engagement and communication through this new web portal to the city.



City staff has also prepared the attached brochure to assist downtown employees with finding all day parking places as re-parking will be prohibited starting July 1, 2020.

NEXT COUNCIL MEETING

The next City Council meeting will be held on Monday, July 20th, in the City Council Chambers. A work session is tentatively schedule for the review of the draft Sustainable Tourism Master Plan.

Respectfully submitted,



Dana M. Smith, CPA
City Manager



DOWNTOWN PARKING Q&A



Q. I work downtown, where can I park?

A. There are many unrestricted parking options within walking distance of downtown.

Q. Does Whitefish Provide lease parking?

A. Whitefish provides leased parking in the Parking Facility located at the corner of East 1st Street and Baker Avenue. The Parking Facility provides 62 covered spaces on the 2nd Level, 75 uncovered spaces on the 3rd Level; leased by the month or year.



Parking Facility

Q. Can I re-park my vehicle?

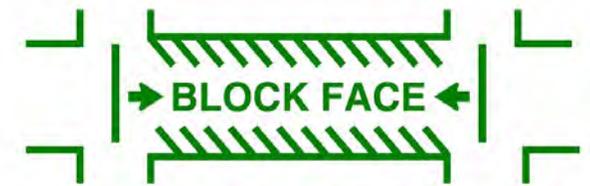
A. Effective July 1, 2020, re-parking is prohibited.

NO REPARKING

Vehicle must move from this block or lot and not return for a minimum of **TWO HOURS** following the expiration of the initial time period

Q. What is re-parking?

A. Re-parking is minimally shuffling the parking location of your vehicle to comply with time restrictions. As of July 1, 2020 you must move your parked vehicle at least “out of the block face” or parking lot before a posted time limit expires.



A BLOCK FACE includes parking spaces on both sides of the street.

Q. When can a vehicle return to the initial block face?

A. Vehicles cannot return to the initial block face or parking lot sooner than two hours following expiration of the initial time period.

Q. Why is re-parking prohibited?

A. To ensure customers of downtown businesses can find convenient parking; encourage turnover of high-demand parking spaces; and discourage employees from shuffling their vehicles.

Q. Where does it apply?

A. The no re-parking applies to any public parking space with a time restriction.

Q. How do I comply with no re-parking?

A. Park in one of the many locations within a short walk of the downtown core where all-day parking is allowed.

Q. Why would I want to park so far from my workplace?

A. If you use an all-day parking space you can expect

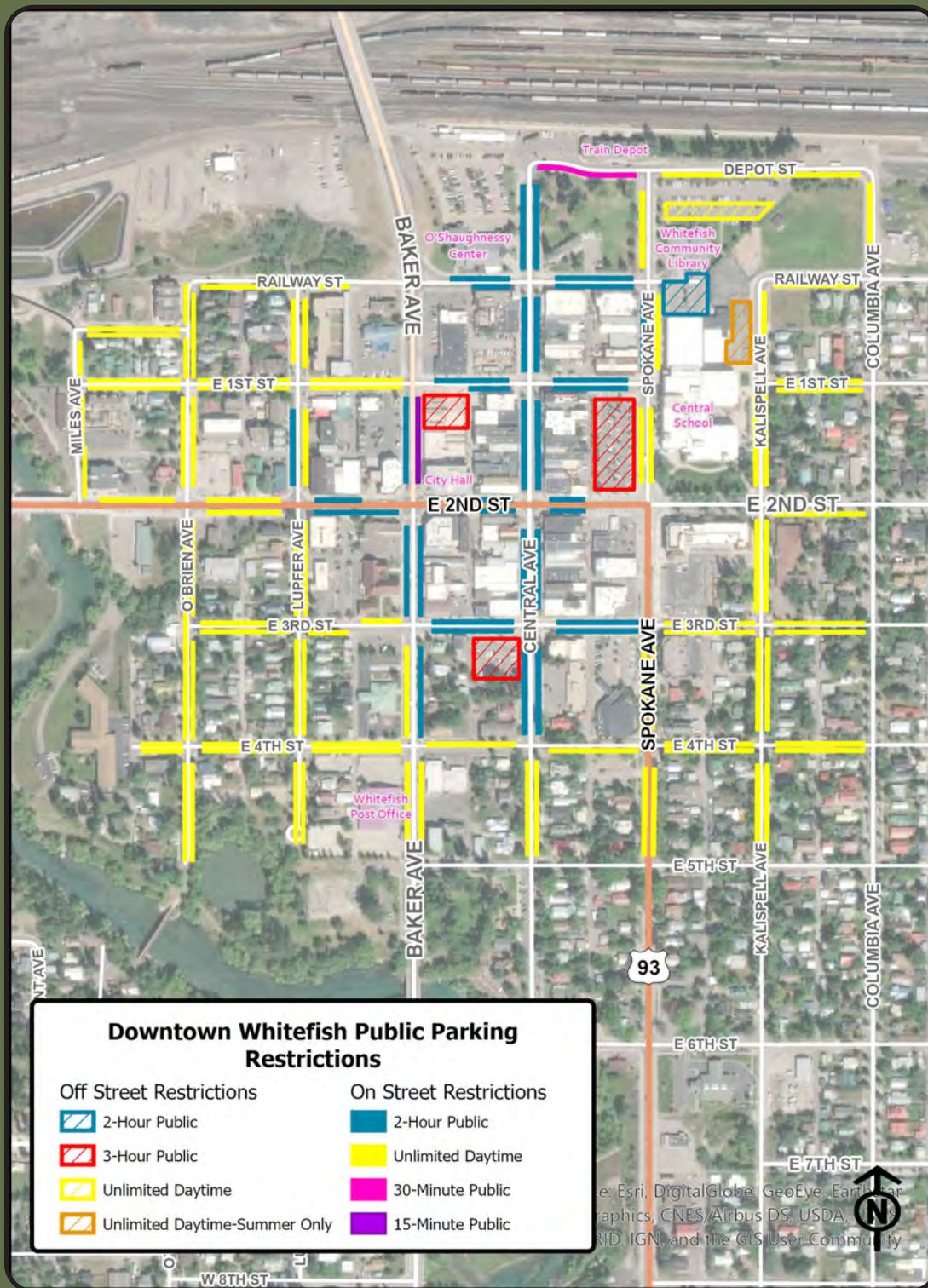
- Less stress about enforcement
- No need to move your vehicle every 2-3 hours
- Better experience for our customers by improving parking availability.

Q. Why does Whitefish not provide better parking for downtown employees?

A. The city is working towards creating an employee parking permit program with input from a Parking Permit Implementation Committee. The permit program will debut in 2021.



City of Whitefish
418 East Second Street
Whitefish, MT 59937
406.863.2400
www.cityofwhitefish.org



(This page left blank intentionally to separate printed sections)

Possible Ideas/Solutions from Petitioners

June 16, 2020

Dear Whitefish City Council Members,

We are writing to petition for 3 removable speed bumps to be placed on Lion Mountain Loop Road evenly spaced with the third bump placed where the pavement ends and joins the county gravel road. We would like the bumps during spring, summer, and fall. We would also like an officer present periodically to give tickets to speeders.

With the advent of the Whitefish Trails System, Lion Mountain Loop Road has seen a significant increase in traffic, speeding, and dust. In our opinion, people driving to the Trail should access the Trailhead off Hwy. 93 at the top since it requires a right-hand turn. Since it is not safe to enter Hwy. 93 at the top because it requires a left-hand turn, people using the Trail should come down Lion Mountain Loop Road to enter Hwy. 93 where it is safer. This would cut down on the traffic on Lion Mountain Loop Road. New signage would be required to indicate this.

Based on observation from people living on or close to and users of the Lion Mountain Loop Road it is safe to say that people do not observe the 25 mile an hour speed limit. In our opinion, 25 miles an hour may be too fast if there are bicyclists, pedestrians, dog-walkers, and children on the road. This is especially true if the cars are kicking up dust. Many drivers show little regard for others using the road even when asked to slow down. In fact, many speed up or flip you off.

In response to the dust, some residents participate in the Dust Program and pay for what the Program doesn't cover. While we appreciate the Dust Program we would like more help with the speeders. Thank you for your attention to this matter.

Sincerely,

Residents and Users of Lion Mountain Loop Road

Copies sent to: Flathead County Commissioners
Whitefish Police Chief Dial

Possible Ideas/Solutions from Petitioners

1. Speed Indicator
2. Safety Issue-lots of children in the area
3. 3-way permanent stop sign at Mountain Park Drive and Lion Mountain Loop Road
4. Signage for drivers to access the Trail off Hwy. 93 at the top near the Trailhead
5. Signage on Lion Mountain Loop Road to indicate access to Trailhead for bicyclists.

June 17, 2020

Dear Whitefish City Council Members,

This letter is in regards to the June 16, 2020 letter about putting in 3 removable speed bumps on Lion Mountain Road.

It has come to my attention that there is a difference of opinion about what could be done about the speeding on this road. The noise from the speed bumps affects people's sleep, so the placement and or number of bumps needs to be discussed. The bumps could also be dangerous for bicycle riders coming down the road if they weren't ready for them. Signage could help them with that.

I wanted to let you know we are open to discussing all ideas for solutions to this problem of speeding. A possible solution might be a 3-way stop sign at Mountain Park Drive and Lion Mountain Loop Road and put the removable speed bumps on the county gravel road.

We would be more than happy to sit down with you to see what could be done.

Sincerely,



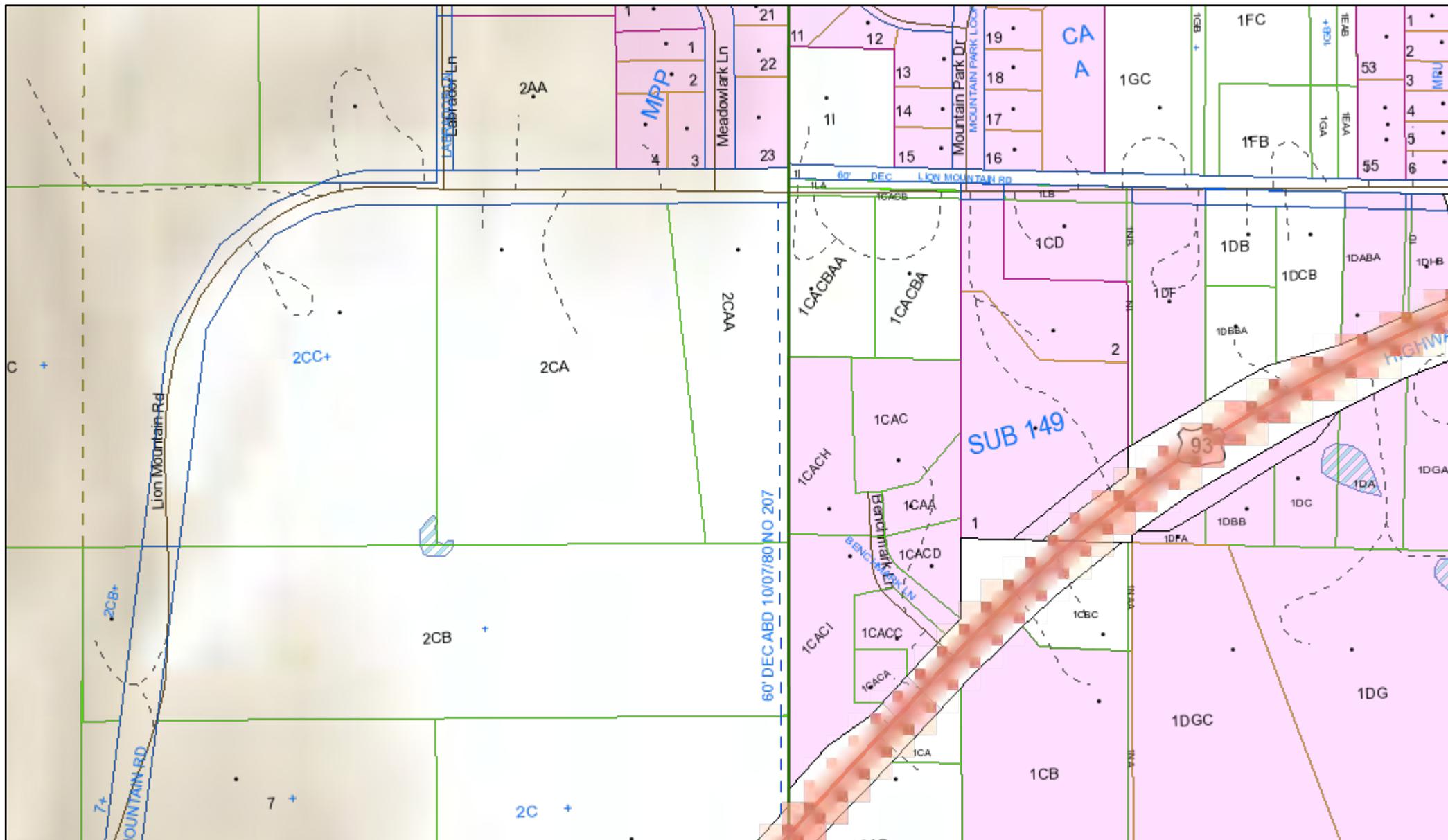
Suzanne Hitesman

2120 Lion Mountain Loop Road

Whitefish, MT 59937

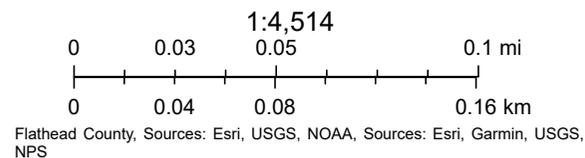
862-5959

Flathead County Map



6/30/2020, 9:44:27 AM

- | | | | | | |
|------------|-------|-------------|-------------------|---------------|----------------------|
| Parcels | Condo | Bbook_Lines | Roads_With_Assrno | RAILROAD | ALLEY; ROAD |
| Misc | Lot | CondoBdy | HIGHWAY | ROW_No_Assrno | RAILROAD |
| Tract Land | Imp | Subdivbdy | ALLEY; ROAD | HIGHWAY | Hydro_Outline_Assrno |



received
10/29/2020

To: Mayor John Muhlfeld and the Whitefish City Council

June 24, 2020

From: Solberg Family Glenwood Trust

Re: Safety Buoys for Whitefish Lake sandbar area

We write today to ask the city to provide funding (roughly \$3500) for new buoys, similar to the ones by City Beach and The Lodge. These are not for personal use, but for overall safety of boaters and swimmers on the eastern shore of Whitefish Lake. It is a very busy area for boating due to the nature of the location between City Beach and The Lodge. MANY boaters have had their day (and boat) ruined by not knowing about the dangerously shallow and extensive area of the sandbar.

25 years ago, Dick and Jane Solberg, who still reside on the property, applied for and received some much needed financial assistance by securing funding for 10 large safety buoys to go around the perimeter of the sandbar. Most people on the lake are familiar with this sandbar as it extends out well over 100 yards and gets to about 2 feet deep. Our family has been diligent in placing the buoys out each Spring and retrieving them in the Fall. Currently, we are down to 3 buoys and they are old and broken. Over the years, these buoys have earned their keep, but some have been lost to wind or damage, not to mention their age. Without these markers it makes this part of the lake very dangerous. Every summer countless boats hit the rocks or the lake bottom and ruin the props, impellers, and hulls.

In addition, kayakers, canoers, and SUP users frequent this shallow area to swim and take a break and they enjoy being able to do so without fear of a boat coming through the sandbar.

With your financial assistance to purchase these buoys, our family will continue to place them around the sandbar in the Spring, pull them out in the Fall, and store them all Winter as we have done for decades.

Buoys cost approximately \$350 each and having 10 would be most ideal.

Please consider our critical request to continue to keep this area of the lake safe for everyone.

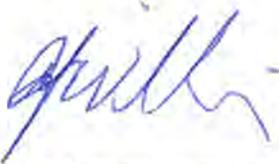
Thank you for your time.

Sincerely,

The Seely, Solberg, Corwin, and Willis Families –

Please contact:

Austin Willis (4th generation)
145 Battle Ridge Dr.
Kalispell, MT 59901
406-861-6838 or afwillis79@gmail.com for any correspondence



From: Anna Peterson

Sent: Monday, June 29, 2020 11:54 AM

Subject: Template for Town Specific Letters of Support to Representatives - Great American Outdoors Act Vote in Late July

Hello!

Quick update on this - the Great American Outdoors Act will now be voted on at the end of **JULY** in the House of Representatives, so we have a bit more time on local letters, op-eds, etc. to show support and help get this over the finish line.

If interested and able, please consider doing a letter from your mayor/full council/commission addressed to your House of Representatives member by July 15. See attached for a template.

Please let me know if you are able to do this and send me a copy of the letter once you have it!

Thanks so much and more to come individually,
Anna

July 6, 2020

Dear Representative Fern,

In this time of public health emergency, the below listed local elected officials hope you will invest in our parks, public lands, and outdoor recreation in recognition of their importance to our economy, and to our communities' wellbeing through full funding of the Land and Water Conservation Fund (LWCF) and voting for the Great American Outdoors Act.

In the weeks and months to come, our nation's parks, trails, and outdoor spaces will be integral to our nation's coping and recovery. Great parks and green spaces make stronger, healthier communities. Everyone deserves access to the outdoors and the countless benefits parks provide. America's public lands bring us peace of mind and generate economic revenue - both will be critically needed to recover from the impact of the COVID-19 outbreak.

Our national, state and local parks, trails and public lands are a critical economic driver for communities big and small, urban and rural, across the nation. Across the nation, the travel and tourism industries have been taking a hit in the current crisis. **Investing now in full funding for LWCF will help with a strong long-term recovery for gateway communities and states that rely on visitors to public lands.** Specifically:

- America's outdoor recreation economy supports over 7.6 million jobs, contributes over [\\$887 billion](#) in annual economic output, and serves as the lifeblood for countless communities across the country.
- Every dollar spent on LWCF [returns \\$4 in economic value](#) from natural resource goods and services alone - over and above the economic benefit of the outdoor recreation economy and tourism.

Broadly-supported, the Great American Outdoors Act is directly relevant, ready to go, and makes sense for Congress to move forward with and pass.

Investing in our public lands, and providing full, permanent funding for LWCF is a low-cost economic stimulus that will pay big dividends for communities across America. **Please vote for the Great American Outdoors Act.**

Sincerely,

John M. Muhlfeld
Mayor

RESOLUTION NO. 20-__

A Resolution of the City Council of the City of Whitefish, Montana, strongly encouraging the use of masks or cloth face coverings in public settings to help prevent the spread of COVID-19.

WHEREAS, coronaviruses are a large family of virus that cause illness ranging from the common cold to more serious issues, including death; and

WHEREAS, in late 2019, an outbreak of a new strain of coronavirus began in Wuhan, China; and

WHEREAS, on February 11, 2020, the World Health Organization named the new strain of coronavirus causing illness in China "COVID-19;" and

WHEREAS, according to the Center for Disease Control: "COVID-19 is thought to spread mainly through close contact from person-to-person in respiratory droplets from someone who is infected. People who are infected often have symptoms of illness. Some people without symptoms may be able to spread the virus."; and

WHEREAS, the Center for Disease Control has warned: "The virus that causes COVID-19 is spreading very easily and sustainably between people."; and

WHEREAS, on March 11, 2020, the World Health Organization declared a global pandemic due to the spread of COVID-19; and

WHEREAS, President Donald Trump, Governor Steve Bullock, the Flathead County Board of Commissioners, and Mayor John Muhlfeld have all declared states of emergency related to COVID-19; and

WHEREAS, on March 16 and April 5, 2020, the City adopted emergency Ordinance Nos. 20-04 and 20-05, enacting measures to reduce the spread of COVID-19; and

WHEREAS, on March 27, 2020, Governor Bullock issued a "stay at home" Directive; and

WHEREAS, on March 30, 2020, Governor Bullock issued a Directive requiring that individuals traveling to Montana from another state or country self-quarantine for 14 days; and

WHEREAS, on or about April 3, 2020, the Center for Disease Control recommended that individuals wear masks or cloth face coverings in public settings especially when other social distancing measures are difficult to maintain to prevent the spread of COVID-19; and

WHEREAS, the City has been strongly committed to following all recommendations from the federal, state, and county levels and instituted measures such as requiring sheltering-in-place, supporting the closure of schools, closing City Hall to the public, closing some City parks and recreational facilities, allowing or requiring City employees to work from home, closing lodging facilities, developing methods for extensive public outreach, and discouraging travel to the region; and

WHEREAS, the efforts of the State and City were successful in helping limit the spread of COVID-19 within our community; and

WHEREAS, on April 22, 2020, Governor Bullock issued a Directive for "Reopening the Big Sky" that provided for a phased re-opening of Montana and addressed the guidelines for Phase One; and

WHEREAS, Governor Bullock's April 22, 2020, Directive set forth the following guidelines for every Phase of the re-opening:

- Individuals should continue to practice good hygiene by adhering to the following guidelines:
 - Wash your hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
 - Avoid touching your face.
 - Sneeze or cough into a tissue, or the inside of your elbow.
 - Disinfect frequently used items and surfaces as much as possible.
 - Strongly consider using non-medical face coverings while in public, especially in circumstances that do not readily allow for appropriate physical distancing (e.g., grocery/retail stores, pharmacies, public transportation).
- People who feel sick should stay at home.
 - Do not go to work or school.
 - Contact and follow the advice of your medical provider.
 - Follow local health department guidance on isolation and quarantine.
- Employers should:
 - Develop and implement appropriate policies, in accordance with federal, state, and local regulations and guidance, and informed by industry best practices, regarding:
 - Social distancing and protective equipment.
 - Temperature checks and/or symptom screening.
 - Testing, isolating, and contact tracing, in collaboration with public health authorities.
 - Sanitation.
 - Use and disinfection of common and high-traffic areas.
 - Monitor workforce for indicative symptoms. Do not allow people with symptoms of COVID-19 to work.
 - Collaborate with public health officials when implementing policies and procedures for workforce contact tracing following an employee's COVID-19 positive test result.

WHEREAS, on May 19, 2020, Governor Bullock issued a Directive moving the State into Phase Two of the re-opening which:

- Increased permissible group size to 50 individuals, provided social distancing can be accomplished.

- Allowed all businesses to operate, provided they adhere to physical distancing, the Phase Two Guidelines, all other Directives and guidance remaining in effect, and CDC sanitation protocols.
- Allowed restaurants, bars, breweries, distilleries and casinos to remain in the same operational status as Phase One, but with an increase to 75 percent capacity.
- Allowed gyms, indoor group fitness classes, pools, and hot tubs to operate at 75 percent capacity if they adhere to strict physical distancing and exercise frequent sanitation protocols.
- Allowed concert halls, bowling alleys, and other places of assembly to operate with reduced capacity provided they adhere to physical distancing guidelines and follow CDC sanitation protocols.
- Allowed childcare facilities to increase capacity consistent with the guidelines contained in the Governor's previous Directive on childcare if physical distancing guidelines can be implemented and removed the 24-person cap per facility effective June 1.
- Directed employers to continue to permit telework as much as possible and where feasible.
- Directed senior living or assisted living facilities and outdoor recreation to continue to follow the guidelines of Phase One.

WHEREAS, Governor Bullock's May 19, 2020 Directive also lifted the 14-day quarantine requirement for travelers from other states and countries effective June 1, 2020; and

WHEREAS, it is estimated that in 2018 alone, the City welcomed between 500,000 and 1,250,000 visitors; and

WHEREAS, since Governor Bullock lifted the 14-day quarantine requirement for visitors from other states and countries, the City has experienced a significant influx of visitors, many of whom have traveled from areas with a high rate of COVID-19 infection; and

WHEREAS, since Phase Two of the re-opening, the State has experienced a marked increase in COVID-19 cases, with the highest number ever being reported on June 28, 2020; and

WHEREAS, since Phase Two of the re-opening, Flathead County has experienced a marked increase in COVID-19 cases, with 20 new cases reported after four weeks of no new cases; and

WHEREAS, on or about June 5, 2020, the World Health Organization advised governments to encourage the general public to wear masks or cloth face coverings to help prevent the spread of COVID-19; and

WHEREAS, strongly encouraging the use of masks or face coverings in public settings in accordance with federal and state guidance will help ensure the health and safety of the City's residents and visitors, will reduce the likelihood that the State will reinstate Directives closing businesses, and will limit the cascading impacts on critical services by limiting spread of COVID-19; and

WHEREAS, it is in the best interests of the City of Whitefish and its inhabitants to strongly encourage residents and visitors to use masks or cloth face coverings in public to help reduce the spread of COVID-19.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitefish, Montana, and its inhabitants, as follows:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The following guidelines must be followed within the City of Whitefish:

- All individuals should wear masks or cloth face coverings over their noses and mouths when indoors in public settings or communal spaces outside the home.
- All individuals present in a City park or on a City sidewalk, shared-use path, or right-of-way should wear masks or cloth face coverings.
- Employers should provide access to masks or cloth face coverings to employees present in the workplace and require employees to utilize them while at work.
- Businesses should recommend that patrons wear masks or cloth face coverings and clearly post signs stating such recommendation.
- These guidelines do not apply to the following:
 - Children under the age of six
 - Individuals for whom a mask or cloth face covering would cause impairment due to an existing physical or mental condition.
 - Individuals working in a profession in which the use of a mask or face covering will not be compatible with the duties of the profession.
 - Individuals who do not have contact with the public and can maintain social distancing with other employees at all times.
 - Individuals exercising if a mask for face covering would interfere with their breathing.
 - Individuals who are seated at a restaurant or bar while eating or drinking.

Section 3: If the City of Whitefish determines the above guidelines are not being adhered to, the City will consider passing an ordinance which will require that such guidelines be adhered to and provide penalties for non-compliance.

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS _____ DAY OF _____ 2020.

John M. Muhlfeld, Mayor

ATTEST:

Michelle Howke, City Clerk

Michelle Howke

From: Rachel Kahn [REDACTED]
Sent: Monday, June 29, 2020 8:29 PM
To: John Muhlfeld
Subject: Masks in Whitefish

To Whom It May Concern,

I was emailing to ask if there are considerations to make masks mandatory for Whitefish? As cases rise, it seems to be a good course of action to help with the spread of the disease, at the very least in the downtown area. I saw that Jackson Hole passed a resolution today requiring masks and I was hopeful that we would be able to follow suit.

While I'm sure I am not the first person to email about this, I wanted to know what courses of action are being taken when you have the time.

I know this is a challenging time for everyone and thank you for working to continue to keep the community safe.

Rachel Kahn
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Andy Gmail [REDACTED]
Sent: Tuesday, June 30, 2020 1:45 PM
To: Michelle Howke
Subject: Mask policy

I am in total agreement about a mask requirement in whitefish. I feel like every time I go out, there are tourists from all over who do not have a mask. Furthermore, wearing a mask in public is literally awkward because I always feel like the one weirdo who is wearing a mask. To add to this, I am a physician and should be comfortable with this.

Sent from my iPhone
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: armstrong [REDACTED]
Sent: Monday, June 29, 2020 5:42 PM
To: John Muhlfeld
Subject: Masks

With the growing number of cases in the valley and tourist season just beginning, will the City of Whitefish implement a mask requirement?

Sent via the Samsung Galaxy Note10+, an AT&T 5G Evolution capable smartphone

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: JoBeth Blair [REDACTED]
Sent: Tuesday, June 30, 2020 1:38 PM
To: Michelle Howke
Subject: City Of Whitefish Mask Requirement

Dear Whitefish City Counselors-

Let's stay ahead of COVID19. Our community needs to lead on this. Please, implement a mask requirement for Whitefish businesses. Doing so will allow us to stop the spread of COVID19 and allow our business to remain open. Masks are an easy and simple way to prevent the spread of disease within our community. Town is packed and more people are on their way from all over the country. We need to model responsible behavior now.....not later.

Thank you-
JoBeth

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 11:11 AM
To: Michelle Howke
Subject: FW: Masks in Whitefish

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

-----Original Message-----

From: Laura Brazan [REDACTED]
Sent: Monday, June 29, 2020 11:08 AM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: Masks in Whitefish

Please make them mandatory.

Sent from my iPhone
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 11:11 AM
To: Michelle Howke
Subject: FW: Covid

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

-----Original Message-----

From: Sue Carpenter [REDACTED]
Sent: Sunday, June 28, 2020 7:31 AM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: Covid

John,
I am disturbed by the very lax regulations for covid in Whitefish. We are inundated with tourists, who seem happy to go everywhere in Whitefish, and very rarely have I seen masks being worn. As Flathead valley covid numbers rise, nothing I am aware of, is being done to address the issue. I gather the economy is the primary concern. I don't understand why we shut everything down initially, but when our numbers are climbing now, nothing is being done.

Susan Carpenter
EXTERNAL SENDER verified by City of Whitefish IT

Jennifer, David and Trajan Elden

[REDACTED]
Whitefish, MT 59937

June 27, 2020

TO: Flathead County Commissioners, City Councils of Whitefish, Columbia Falls, Kalispell

Dear Flathead County and City Leaders,

I am writing to you with deep concern for the spread of **COVID19** in our communities and to urge you to **immediately and concertedly, mandate a mask ordinance to prevent the spread of this mysterious and potentially fatal disease.**

Thanks to mandates by Governor Bullock, we as a State did a great job keeping people safe by taking pause this Spring. We sacrificed our ability to work as usual and sheltered in place with our child taking on the challenge of keeping the boat afloat while homeschooling our 1st grader.

However, now that the summer has arrived, as have the tourists, and restrictions have lifted, our communities are faced with increasing case numbers and risk community wide spread of this highly contagious virus, making us vulnerable again not just to our health but also to prospects of returning to the academic year with some in person attendance..

Science shows that wearing a mask significantly decreases the potential **of viral transmission. As stated in a recent study by Texas A & M University, "this inexpensive practice, in conjunction with social distancing and other procedures, is the most likely opportunity to stop the COVID-19 pandemic.** Our work also highlights that sound science is essential in decision-making for the current and future public health pandemics."

<https://www.sciencedaily.com/releases/2020/06/200612172200.htm>

While more testing is showing more numbers, it is also showing us how many asymptomatic people are positive carriers. Millions of people traveled through Glacier National Park last summer from all over the Country and the world. We have out of state travelers enriching our local economies right now. Our communities are a bustle with people happy to be out and about enjoying the beauty of our home. Some are acting wisely and wearing masks, but many are not.

The US is #1 in COVID19 cases in the world. PLEASE take head NOW, and require masks for everyone in public and let's get a handle on this situation before it's out of control. We can see that if left to the individual, people are going to opt out, putting the greater population at risk.

Our family is committed to keeping ourselves and our communities safe by wearing masks in public, social distancing and continuing to limit unnecessary exposure. It is our hope that everyone else will too. With your leadership, you can show the way and be remembered for doing the right thing.

On behalf of our family with sincere thanks,

Jennifer Elden

Owner, Whitefish Massage Therapy and Amalgamated Sope Company

Whitefish, Montana

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 2:10 PM
To: Michelle Howke
Subject: FW: Masks in Whitefish

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

-----Original Message-----

From: Debra Funk [REDACTED]
Sent: Monday, June 29, 2020 12:18 PM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: Masks in Whitefish

Hello John,

I appreciate the great job you've done on keeping us informed during Covid19. As our town has opened up to tourists, I hate to see all of our "hard work" be lost. In order to keep from a future shut down, it seems as if mandatory mask wearing makes a lot of sense. Studies have shown that mask wearing can greatly cut down Covid19 transmission. So many communities are making mask wearing mandatory. It seems like a simple, sensible, and compassionate step to take for our citizens.

Thank you,
Debra Funk

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 11:12 AM
To: Michelle Howke
Subject: FW: Travel from Texas

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

From: Griffith Family [REDACTED]
Sent: Saturday, June 27, 2020 9:09 AM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: Travel from Texas

Mayor Muhfeld,

I reside in Austin, TX and we are currently experiencing a massive outbreak of Covid-19. This recent surge came fast and furious. Governor Abbott has paused and even rolled back reopening measures that will certainly hit many already struggling businesses hard (many more won't recover).

Meanwhile, our family has decided to cancel our travel plans to Whitefish, to do our part to mitigate the spread of Covid-19. I'm a business owner myself and the last 90 days have been the most stressful in my life. We certainly don't want to bring Covid to Montana.

The only problem...our Airbnb host (Stumptown Vacation Rentals) will absolutely not refund our payment, nor offer a credit for a future visit. Why she would encourage us to come to Whitefish from a hotspot, I cannot understand. This is not only bad business, but it potentially puts your local economy at risk should we, or any other tourists, unknowingly bring the virus with us.

If you believe that you can advise me on this matter, or direct my concern more appropriately, please let me know. We love visiting Whitefish, but this latest issue is really troubling. We all need to work together.

Regards and stay safe,

Shaun Griffith
[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Hermina Jean Harold [REDACTED]
Sent: Monday, June 29, 2020 8:00 PM
To: Andy Feury; Frank Sweeney; John Muhlfeld; Ryan Hennen; Rebecca Norton; Steve Qunell
Subject: We need a mask mandate

Dear Mayor and Councilmembers,

Unfortunately, individual people have proven they are not capable of making decisions that will benefit and protect others. We have too many people in Montana as a whole that are not wearing masks even though the research says it works to slow the spread of Covid. Please be the leadership we need and mandate mask wearing. The local workers need you to protect them from those who just can't be bothered.

Thank you,
Hermina Harold, relative of a local Whitefish worker

--
Hermina Jean Harold
Executive Director / Trust Montana
Community Organizer / North-Missoula Community Development Corporation
[REDACTED]

[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Jennifer Harrell [REDACTED]
Sent: Tuesday, June 30, 2020 3:38 PM
To: Michelle Howke
Subject: Wearing of Masks in Whitefish

To whom it may concern,

I am writing to ask you to make it a law that people wear masks in the City of Whitefish for the safety of all the Citizens in Whitefish.

We have an extremely large amount of tourists in Whitefish who have come here from states with very high outbreak of Covid-19. I have never seen the amount of cars from far away states as I have seen this spring.

It is our local governments job to ensure the safety of its citizens. Please make wearing a mask Mandatory in all Public Places in Whitefish, including the Farmers Market.

Thank you for your attention in this important matter.

Sincerely,

Jennifer Harrell
[REDACTED]
Whitefish MT 59937
[REDACTED]

Get [Outlook for iOS](#)
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Imagination Station Whitefish [REDACTED]
Sent: Tuesday, June 30, 2020 4:57 PM
To: Michelle Howke; John Muhlfeld
Subject: required face masks in Whitefish

Hello,

Now, more than ever, our community needs to come together and require that everyone wear face masks in our town. It is very difficult to keep my staff comfortable with all of the tourist and other locals that do not wear face masks. We are on the front line and we compliment the people that come into the store wearing masks and using my hand sanitizer provided at the door. Customers also thank me for providing hand sanitizer and use it regularly, coming and going. It is difficult to enforce customers to wear masks if we do not all come together and make it happen.

Have a great day!
Denise Magstadt
Imagination Station
Whitefish, MT 59937

[REDACTED]
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Jean Weiskotten [REDACTED]
Sent: Monday, June 29, 2020 9:38 PM
To: Michelle Howke
Subject: Mandatory masking

Dear City of Whitefish,

I am writing to ask that you implement mandatory masking in Whitefish. As a local, I have been masking and isolating for months. When I go into town to shop now, I see a lot of out of state plates and so few people wearing masks. And now cases are rising. It seems unfair to those who have sacrificed to keep our community safe. People are coming here to escape the virus but are not taking precautions. The easiest way to protect ourselves and others is by simply wearing a mask. There will come a time when the state of Montana will issue a mandatory masking. Oregon and other states have this now because they are in a crisis mode. We can get ahead of this. It's not that hard. I feel threatened by people in public who are careless. Mandatory masking will level the field for all of us.

Thank you for your consideration,

Jean Weiskotten
[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Jessica [REDACTED]
Sent: Tuesday, June 30, 2020 1:47 PM
To: Michelle Howke
Subject: Masks

Hi,

I live in whitefish and I think a mask requirement would be incredibly helpful to stopping the spread of Covid-19 with the new influx of tourists into our town. I doubt Montana will go on lockdown again and the summer is only going to get busier. I would like to make sure we do what we can to protect our residents and our healthcare professionals.

Thanks,
J

Sent from my iPhone
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 3:39 PM
To: Lisa Jones; dylan@explorewitefish.com; Michelle Howke
Subject: FW: face masks

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

From: Stumptown Snowboards [REDACTED]
Sent: Monday, June 29, 2020 3:38 PM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: face masks

Mayor Muhlfeld,

I am writing to out of great concern for the influx of visitors to our town and many not wearing face masks as they visit downtown retail. My husband and I own Stumptown Snowboards and it has been shocking to see the number of people coming through our door. While it is nice to have the business, the lack of face masks is not good. We are now requiring them in our store and are providing free disposable masks at the door but that is quickly getting expensive! We feel if there was a city wide requirement for face masks to be worn in public indoor places we could put up a unified front as a town and people would adapt to wearing them as routine. It is frightening to watch the number of Covid cases climb again after 2 months of 0 cases in the valley. We feel Whitefish should be actively committed to "preventing the spread" besides just recommending face masks.

Thank you,
Kristin

Kristin Tabor | Stumptown Snowboards
[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 11:12 AM
To: Michelle Howke
Subject: FW: An address to the city regarding COVID-19

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

From: Todd Lengacher [REDACTED]
Sent: Friday, June 26, 2020 4:48 PM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: An address to the city regarding COVID-19

John,

I appreciate your recent address regarding the intersection of our town, recent incidents in our town, and racism.

Given this week's changes at the local, state, national, and international level, we would all benefit from a sense of how the City of Whitefish sees itself managing the influx of visitors from the set of states that are seeing their highest COVID-19 case counts ever. Anecdotally, the number of visitors from Texas and California alone are rising. In one drive between Whitefish and Kalispell this week I noted 10 Texas plates. That is with me keeping my eyes mostly on one road over a span of 20 minutes.

I understand the economic implications of protecting the public health of all and I am not suggesting we close our doors, but I do think we should consider some reasonable responses that respond to current situations. For instance, counties and states are now calibrating their responses to out-of-state visitors by the percentage positive rates in that state. Mostly, John, I want to hear from you about how you anticipate responding should our current trajectory continue or worsen.

I have written to Governor Bullock urging him to reconsider his decision to let decisions be made at the local level. That said, it is where we are and as such I hope we can create and share an action plan that addresses the needs of our businesses while protecting our citizens.

Thank you in advance for your thoughts.

Todd
EXTERNAL SENDER verified by City of Whitefish IT

June 26, 2020

Dear Mayor Mulhfeld and Whitefish City Council members,

I urge you to require face masks be worn in Whitefish when six feet social distancing outdoors cannot be maintained and when people are inside places of business. Please also require seating in eating establishments to be placed at least six feet apart.

We don't yet have a spike in the number of Covid-19 cases in our city. However, Montana's Phase Two of reopening, visitors to our area and a general lack of wearing face masks increases our risk of infection.

Wearing face masks is scientifically proven to reduce the risk of Covid-19 infection. Now is the time for Whitefish to require everyone to wear masks to protect all citizens and visitors.

Sincerely,
Gail Shay Linne



Whitefish

Michelle Howke

From: Paul McCann [REDACTED]
Sent: Sunday, June 28, 2020 6:43 PM
To: Michelle Howke
Subject: C-19

Dear Council Members,

Please require face masks to be worn when someone is inside of a public place. Naturally, there should be some reasonable exceptions.

This will cause some some burdens for businesses and enforcement officers, however the health and safety of our citizens needs to be protected during this time of rapidly increasing infections.

Thank you for your considerations.

Paul McCann

[REDACTED]

Whitefish

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Katie Morgan [REDACTED]
Sent: Monday, June 29, 2020 1:14 PM
To: Michelle Howke
Subject: Mandatory masks

Hi,

I'm an Airbnb short-term rental property co-owner in downtown Whitefish.
I also have my high health risk mother living with us on our property on Hodgson Road, Whitefish.

I am doing everything I can to ensure our rental property is sterilized after each stay and I wear a mask to the grocery store, post office, and anywhere else I need to go inside. I am shopping for my mother as well as our household and our condos.

I would appreciate your attempting to require masks in our community at this time. The uptick in cases has me very nervous about the safety for our community and ourselves.

If you felt it necessary to recommend no further short term stays, we're willing to cancel our existing summer guest reservations to keep people safe. I hope that is the case with many others in our tourist-driven economy.

Please keep yourself safe and consider addressing the possibility, once again, of locking things down. Lives are at stake.

Thank you for your time.

Katie Morgan
[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Kerry Nagel [REDACTED]
Sent: Sunday, June 28, 2020 2:26 PM
To: Michelle Howke
Subject: mandatory masks

To the Mayor and City Council of Whitefish

I was recently in Missoula for a quick trip, and was BLOWN AWAY by the city-wide concerted effort to have all patrons wear masks. Every shop downtown had the exact same sign in their window. A simple statement of unity. This is the way we're doing things. No apologies. No exceptions. I felt safer than I thought I would, going to the "big city".

The display of a uniform sign does two things:

- 1) it sends the same message...again and again...wear a mask...wear a mask..wear a mask...
- 2) it sends a united message. Each business owner is not being asked to decide on their own messaging or artwork.
- 3) it helps the employees. They are not being asked to regulate their customers...the sign says it all for them.
- 4) it says something loud and clear about Missoula, and the way they work through problems..together.

I said it quite a few times: "why isn't Whitefish doing this?" We have a small, educated populace. Let's let that stand front and center. Thank you for your consideration.

Kerry Nagel
ATTEND, LLC
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Marilyn Nelson [REDACTED]
Sent: Monday, June 29, 2020 3:22 PM
To: Michelle Howke
Subject: Request for Mandatory Masks

Dear Honorable Mayor Muhlfeld and Council Members,

I am writing to request that the City immediately institute a mandatory cloth face covering (mask) order for all residents and visitors entering any indoor public venue and any outdoor public space where physical distancing is not practical or possible. With the increasing presence of COVID-19 and the potential for transmission from travelers into our community, it is imperative that we take protective measures to safeguard our community from the economic, social and personal devastation a widespread outbreak would bring. While reliable information about this disease and its transmission has lagged, making good community decision-making challenging, it is now widely accepted that mandatory masks are one of the simplest and most effective measures a society can take to protect its population and control and reduce the transmission of COVID-19. Recent scientific studies confirm this:

<https://www.sciencedaily.com/releases/2020/06/200612172200.htm>

<http://med.stanford.edu/news/all-news/2020/06/stanford-scientists-contribute-to-who-mask-guidelines.html>

Whitefish in particular, and Montana as a whole, has been on the leading edge of bold and decisive action in response to the pandemic, which is why our state has one of the lowest per capita rates of infection in the country. This is changing with the reopening of our economy. On June 1st, with the transition into Phase 2 reopening, our business instituted mandatory mask-wearing for customer-facing staff, as well as requesting that all visitors wear face coverings, While the response from our customers has been largely supportive, a mandatory mask order would provide cover for our business and other essential and non-essential businesses who are working hard to keep our employees and customers safe from this invisible enemy. We don't want to let our guard down and have to resume lock-down. It is incumbent for our City to continue to be proactive and follow the science that demonstrates that lives will be saved if everyone wears masks. So let's make it happen.

Thank you for your leadership and consideration of this vital issue.

--
Marilyn R Nelson, Retired Owner
Nelson Hardware, Inc.
Glacier Country Enterprises, LLC (dba Nelson's Ace Hardware)
Nelson Real Estate Holdings, LLC

[REDACTED]
Whitefish, MT 59937
[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Jodi Petlin [REDACTED]
Sent: Tuesday, June 30, 2020 1:25 AM
To: Michelle Howke
Subject: Why wouldn't we mandate masks?

June 29, 2020

TO: Flathead County Commissioners, City Councils of Whitefish, Columbia Falls, Kalispell

Dear Flathead County and City Leaders,

I am writing to you with deep concern for the spread of COVID19 in our communities and to urge you to immediately and concertedly, mandate a mask ordinance to prevent the spread of potentially deadly virus.

This article in Time Magazine says it all.

We Have a Cheap, Effective Way to Keep Ourselves Safer From COVID-19. Why Are We Fighting About It?

At long last, we have made a truly game-changing scientific breakthrough in preventing the spread of COVID-19. The impact of this breakthrough seems almost too good to be true. We have found a disease control tool that, when used properly, can dramatically reduce the person-to-person transmission of SARS-CoV-2, the virus that causes COVID-19. Studies have shown that this tool could reduce transmission by somewhere between 50% and 85%. The tool is cheap and remarkably low-tech. You can even make

Read in TIME: <https://apple.news/AaQ0eO7mzT3e6fwaHTqGDRA>

Our studio is committed to keeping ourselves and our communities safe by wearing masks in public, social distancing and continuing to limit unnecessary exposure. It is our hope that everyone else will too. With your leadership, you can show the way and be remembered for doing the right and life-affirming thing.

Many thanks,

Jodi Petlin
Shanti Yoga

Sent from my iPhone
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Adam Pitman [REDACTED]
Sent: Tuesday, June 30, 2020 12:30 AM
To: Michelle Howke
Subject: Mandate masks

I love our community. It's up to all of us to be vigilant and protect it during these unprecedented times. Covid is spiking in Montana and the Flathead at an alarming rate. Thousands of Tourists are pouring into the Valley. Almost none of them are wearing masks.

We are in trouble here. Other places have flattened the curve — our curve is just beginning. Please mandate masks for all businesses in Whitefish. Every interior location. No exceptions. I believe that, without this common-sense ordinance, our town will be forced into another lockdown again which will be devastating for our economy.

This isn't political — all our medical professionals and scientists agree this is one of the best steps to preventing Covid spread at this time. It is the right choice — it is the smart choice. Please make a mask mandate a priority. It will save the lives of our neighbors, friends and family.

Thank you,
Adam Pitman

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Sarah [REDACTED]
Sent: Tuesday, June 30, 2020 1:00 PM
To: Michelle Howke
Subject: Mask requirement

To Whitefish City Council,

I am writing to express my approval of a mask requirement in the city of Whitefish. We need to do this to keep the community safe and give the kids the best chance to return to school this fall. I had a terrible experience in early June while shopping in the downtown area. My mother and I went to only a couple of stores. We were the only ones wearing masks. No employees or tourists were wearing masks. No one was maintaining a 6 foot social distance from each other. Not one small business was enforcing this! We then walked out of a shop and a couple of women followed us out. I hear one of them coughing right behind us, not wearing masks. Both my mother and I turned around to see them looking at each other and laughing. I asked why they thought this was funny. And the one remarked, if you have a problem with this then maybe you should just stay home! I was so enraged I was speechless. I can't believe this is the town I consider home. My mother was appalled. I have not been downtown to support the small businesses since then. My life and health, and my family's are too important. Please please keep the folks in this community safe and require mask use in Whitefish.

Thank you for your time and consideration, Sarah Marbarger

Sent from my iPhone

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Alethea Schaus [REDACTED]
Sent: Tuesday, June 30, 2020 10:18 AM
To: Michelle Howke
Subject: Mandatory Masks ~ Common Sense

Dear Michelle Howke;

Please support the implementation of mandatory masks in Whitefish, in addition to other ongoing social distancing protocols and requirements -

I realize that our valley economy is for all intents and purposes at this time in history nearly singularly dependent upon tourism... which is something to explore as well...

However, at this point we are immensely vulnerable with the massive influx of visitors from all across the nation, and will continue to be going forward, if folks continue to be careless ~ we simply do not know enough about this virus to behave any other way than with great care for one another.

In my work I visit with folks from all around the nation on the phone all day long ~ this is not a virus to take lightly or to allow to spread within our communities.

Common sense precautions and prevention ~ easy.

Thank You ~

Alethea

--

Alethea Schaus
[REDACTED]

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Ralph Simpson [REDACTED]
Sent: Tuesday, June 30, 2020 5:47 AM
To: Michelle Howke
Subject: masks

City Council,

I, for one, am in favor of the City of Whitefish instituting an ordinance making mandatory the wearing of a mask in stores or businesses and in places outdoors where physical distancing is not possible.

Thank you,

Ralph Simpson

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 11:11 AM
To: Michelle Howke
Subject: FW: Masks mandatory in Whitefish . Why have you not done this. What are you waiting for ? Get it together dude.

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

-----Original Message-----

From: Lorinda Smith [REDACTED]
Sent: Monday, June 29, 2020 11:09 AM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: Masks mandatory in Whitefish . Why have you not done this. What are you waiting for ? Get it together dude.

Sent from my iPhone
EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 3:32 PM
To: Michelle Howke
Subject: FW: Please Require Masks in WF

FYI

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

-----Original Message-----

From: Marlene Snyder [REDACTED]
Sent: Monday, June 29, 2020 3:28 PM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: Please Require Masks in WF

We have watched the numbers of mask wearing citizens for down. Numbers of Covid-19 cases are up. We have great concern about tourists. Please set the standard for the state and keep Whitefish citizens as safe as possible. We want your leadership to help protect us.

This is not over blown as I have been hearing science deniers claim. We need to have our leaders educate the citizenry.

Thank you for your consideration.

Lee and Marlene Snyder

[REDACTED]
Sent from my iPhone
EXTERNAL SENDER verified by City of Whitefish IT

received
10/29/2020

To: Mayor John Muhlfeld and the Whitefish City Council

June 24, 2020

From: Solberg Family Glenwood Trust

Re: Safety Buoys for Whitefish Lake sandbar area

We write today to ask the city to provide funding (roughly \$3500) for new buoys, similar to the ones by City Beach and The Lodge. These are not for personal use, but for overall safety of boaters and swimmers on the eastern shore of Whitefish Lake. It is a very busy area for boating due to the nature of the location between City Beach and The Lodge. MANY boaters have had their day (and boat) ruined by not knowing about the dangerously shallow and extensive area of the sandbar.

25 years ago, Dick and Jane Solberg, who still reside on the property, applied for and received some much needed financial assistance by securing funding for 10 large safety buoys to go around the perimeter of the sandbar. Most people on the lake are familiar with this sandbar as it extends out well over 100 yards and gets to about 2 feet deep. Our family has been diligent in placing the buoys out each Spring and retrieving them in the Fall. Currently, we are down to 3 buoys and they are old and broken. Over the years, these buoys have earned their keep, but some have been lost to wind or damage, not to mention their age. Without these markers it makes this part of the lake very dangerous. Every summer countless boats hit the rocks or the lake bottom and ruin the props, impellers, and hulls.

In addition, kayakers, canoers, and SUP users frequent this shallow area to swim and take a break and they enjoy being able to do so without fear of a boat coming through the sandbar.

With your financial assistance to purchase these buoys, our family will continue to place them around the sandbar in the Spring, pull them out in the Fall, and store them all Winter as we have done for decades.

Buoys cost approximately \$350 each and having 10 would be most ideal.

Please consider our critical request to continue to keep this area of the lake safe for everyone.

Thank you for your time.

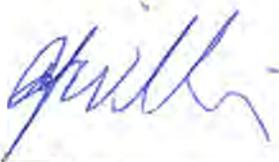
Sincerely,

The Seely, Solberg, Corwin, and Willis Families –

Please contact:

Austin Willis (4th generation)

[REDACTED]
Kalispell, MT 59901



[REDACTED] for any correspondence

Michelle Howke

From: John Muhlfeld
Sent: Monday, June 29, 2020 10:42 AM
To: Michelle Howke; Dana Smith; Frank Sweeney; Angela Jacobs; Andy Feury; Ryan Hennen; Rebecca Norton; Steve Qunell; Ben Davis
Subject: FW: Masks

One of numerous emails I am receiving encouraging us to “do something”.

JOHN M. MUHLFELD | MAYOR, CITY OF WHITEFISH
418 East Second Street | 406.249.2779 mobile

From: trieweilerc@bresnan.net [REDACTED]
Sent: Sunday, June 28, 2020 7:59 PM
To: John Muhlfeld <jmuhlfeld@cityofwhitefish.org>
Subject: FW: Masks

Dear Counselors,

We’ve watched with alarm as the State and Whitefish, in particular, descend into summer chaos in the midst of a global pandemic and Covid-19 cases follow the predictable trajectory that comes with lack of leadership and irresponsible behavior.

The most frustrating part is that this didn’t have to happen. The State’s and this town’s initial pro-active responses stopped the virus in its tracks. By the end of May, Montana had the lowest infection rate in the country and Flathead County had no known active cases. We hadn’t experienced a death from the virus in weeks. But at the first sign of blowback from so-called “freedom lovers” who apparently rely on [political leaders and agenda driven](#) media for their misinformation, both the Governor and local leaders wilted and have since ignored CDC guidelines for re-opening non-essential businesses.

As a result we’ve now gone from 0 to 52 known active cases in Western Montana—10 of those in Flathead Co. as of 6/28. This does not include out of state visitors even after they’ve been tested and found to be positive. Statewide we’ve gone from 14 to 237 active cases. Hospitalizations have increased from 0 to 11 and we’ve had 6 additional deaths.

We understand that re-opening is important to people’s livelihoods since, unlike most other western democracies, we lack the social safety net to provide for people while they shelter in place to avoid a deadly pandemic. However, there are common sense measures that can be taken to reduce the risk of re-opening that are simply being ignored by the Governor and by this Council, for reasons we don’t entirely understand.

Even people who, [for the most part, ignore science in favor of partisanship](#), have some basic understanding that social distancing is safer than crowds of people. That’s why many are flocking to Western Montana. Where there seems to be disagreement, based on where you get your information, is the value of wearing facial covering. Scientifically, however, there is no disagreement. European studies prove that infection rates are reduced fivefold by widespread use of masks. And the latest study from the University of Washington estimates that if 95% of people wore masks when in public places, 33,000 lives could be saved in the U.S. just between now and October 1. It’s not rocket science. Masks limit the spread of germs and save lives. Masks, together with distancing when possible, are the only safe way to re-open businesses.

So why doesn't Whitefish make masks mandatory? We've heard various excuses. None of them have merit. We've heard it may not be popular. But you didn't get elected to be popular. You were elected to lead. Leadership has never been more important. And our experience elsewhere is that it is popular among the majority of people.

We've heard that it can't be enforced as a practical matter. But that's not true. You don't have to have 500 police on the street arresting people who refuse to respect others by wearing a mask. All you have to do is condition re-opening of businesses on a mask requirement while visitors are on that property. Every business in town has to be licensed by the City. Licenses can be conditioned on following health laws. Masks during a pandemic caused by spread of a virus from one respiratory system to another are essential to good health. One of us has been in San Diego Co. and San Francisco in California, and the states of Utah and Washington in the past two weeks. Every location required masks to enter a business. No one was complaining. Enforcement was not an issue. People seemed to feel good about being socially responsible. When it is required, the public complies or goes somewhere else where they can continue to cavalierly infect each other. Good riddance. At least those who choose to be safe can be.

If you can shut down hotels and restaurants completely, as you did in the Spring, you can surely attach conditions to their re-opening.

Even if your only concerns are for the economy and not public health, the economy can't thrive for long if this disease continues to spread and kill people. Please do your part with a mandatory mask law. If businesses don't comply then require that they close again. Whitefish is better than you give it credit for being.

Terry and Carol Trieweiler



Virus-free. www.avg.com

EXTERNAL SENDER verified by City of Whitefish IT

Michelle Howke

From: Ingrid Wick [REDACTED]
Sent: Tuesday, June 30, 2020 1:19 PM
To: Michelle Howke; John Muhlfeld
Subject: I support masks and (re)adopting protections to curb spread of COVID-19

Dear Councilors,

I am writing to you with deep concern for the spread of COVID19 in our community.

I support an immediate mask ordinance.

This article in Time Magazine says it all.

We Have a Cheap, Effective Way to Keep Ourselves Safer From COVID-19. Why Are We Fighting About It?

At long last, we have made a truly game-changing scientific breakthrough in preventing the spread of COVID-19. The impact of this breakthrough seems almost too good to be true. We have found a disease control tool that, when used properly, can dramatically reduce the person-to-person transmission of SARS-CoV-2, the virus that causes COVID-19. Studies have shown that this tool could reduce transmission by somewhere between 50% and 85%. The tool is cheap and remarkably low-tech. You can even make

Read in TIME: <https://apple.news/AaQ0eO7mzT3e6fwaHTqGDRA>

I support reinstating 2 week quarantine for out of state visitors and other safeguarding precautions.

I will also contact Bullock's office with these requests.

Thank you!
Ingrid

--

Ingrid Wick
Whitefish, MT

[REDACTED]
EXTERNAL SENDER verified by City of Whitefish IT

Richard Hildner
104 5th St.
Whitefish, MT 59937

Dear Mayor, Council, and Staff:

I respectfully request that the Mayor, Councilors, and staff attending work sessions and Council meetings wear appropriate face coverings. Doing so will serve two purposes; first, to give some measure of protection for yourselves and the public with whom you are in contact. It has been well established that proper masking and distancing, especially in confined spaces, is the best defense against the spread of Covid-19. Second, by properly masking and distancing you set a good example and expectation for public behavior.

I am well aware of the inconvenience posed by masking, but that should not be a deterrent. Masking is a public health and safety issue, not a political statement. There are those of us in the community who are uncomfortable or unwilling to participate in the public process if our safety is willfully compromised.

Please consider using the disposable masks provided by the City and encourage the public to do the same. Masking at Costco, for example, is near 100% when they have someone at the door actually handing out masks. There is no reason why this couldn't be done at work sessions and Council meetings.

I wish to complement you on setting the appropriate seating distance in Council chambers. It was disconcerting to watch members of the public rearrange the chairs to suit their preference. Perhaps someone on the dais could remind people that the chairs are placed six feet apart for a reason.

Sincerely,
Richard Hildner

Michelle Howke

From: melissa hartman [REDACTED]
Sent: Wednesday, July 1, 2020 1:48 PM
To: Michelle Howke
Subject: Support for a mask ordinance

I am in support of a Whitefish mask wearing ordinance, especially for indoor establishments: grocery stores, hardware, post offices, shops, etc... but also for large outdoor gatherings like farmers' market for the duration of the Covid pandemic.

Respectfully,

Melissa Hartman
[REDACTED]
Whitefish, MT

Sent from my iPad
EXTERNAL SENDER verified by City of Whitefish IT