CITY COUNCIL WORK SESSION
CITY COUNCIL CONFERENCE ROOM
418 EAST SECOND STREET
MONDAY, JULY 20, 2020
6:15 PM

1. Call to Order

2. Climate Action Plan 2020 Update

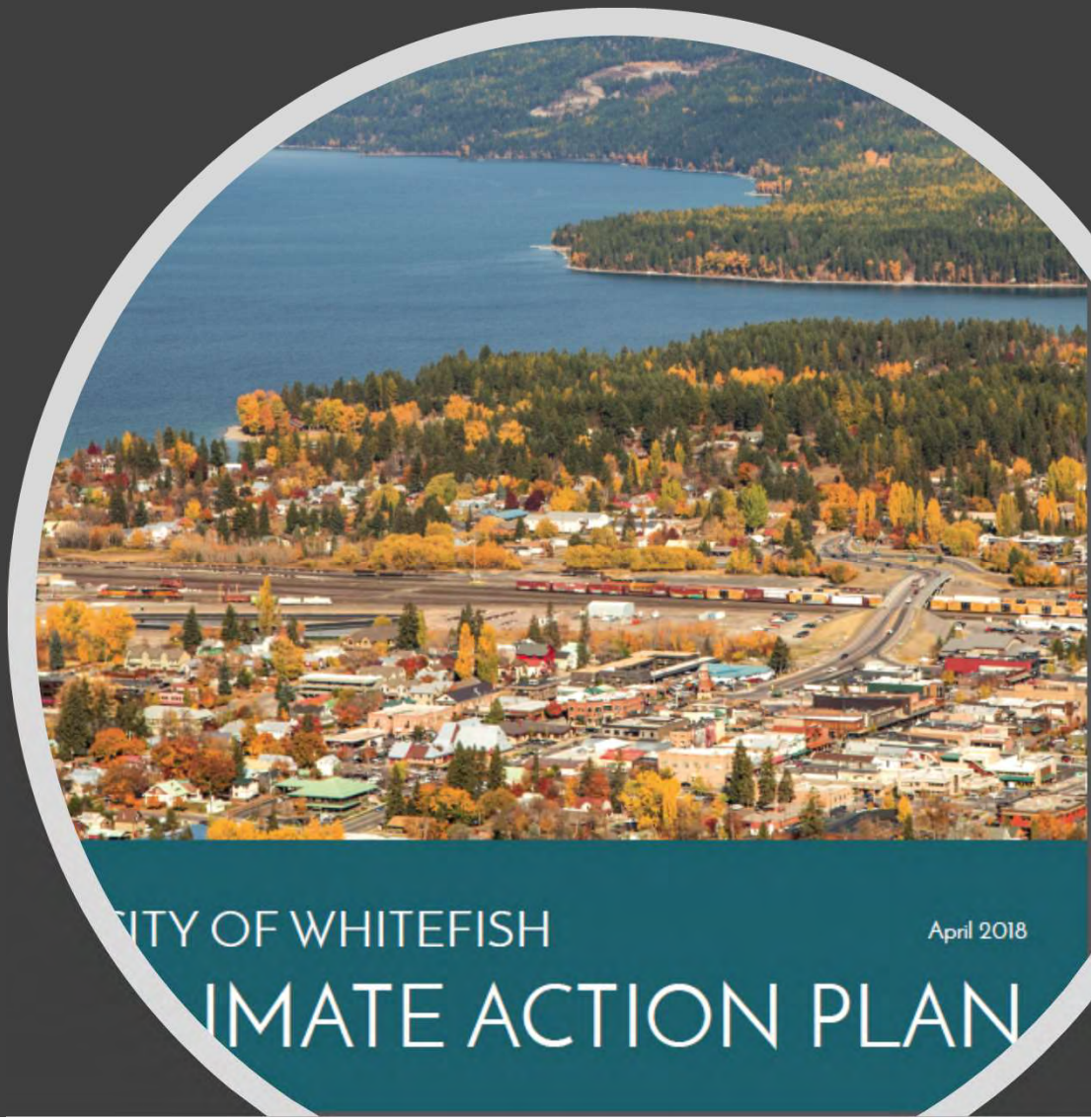
3. Public Comment

4. Direction to City Manager

5. Adjourn

Climate Action Plan 2020 Update

Council Work Session July 20, 2020



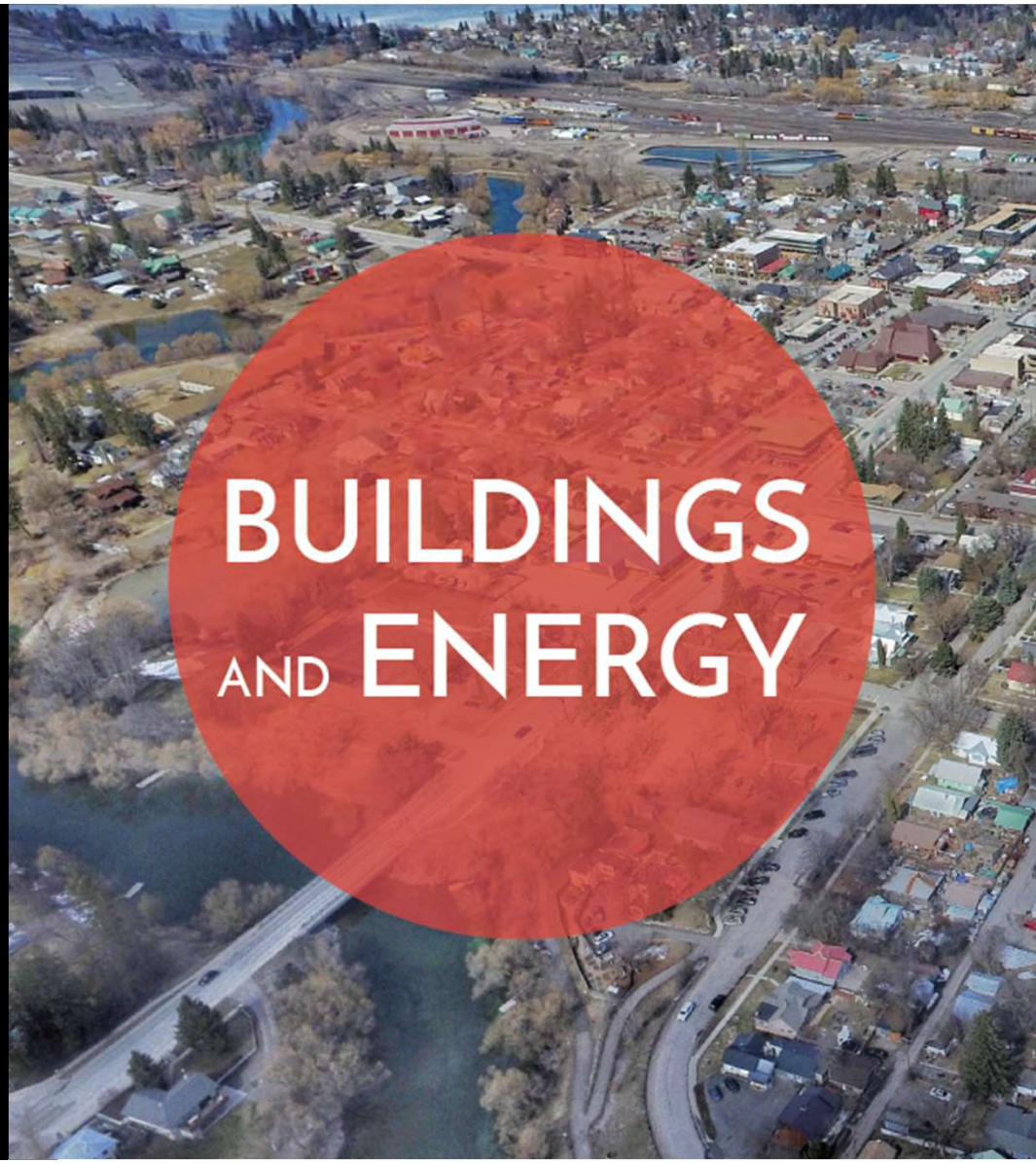
Climate Action Committee

The Climate Action Committee was created to assist in:

- establishing a working timeline for implementation
- recommending actions and budget priorities to the City Council
- tracking progress towards the Plan's goals
- updating the greenhouse gas inventory

- City Council Member: Ben Davis
- City Staff Members: Jen Sybrant, Joe Page, Karin Hilding, Hilary Lindh (Chair)
- Members at large: Casey Lewis, Ryder Delaloye, Sierra McCartney, Kate McMahon (Vice-Chair)

Action	Status
Use LED bulbs & occupancy sensors for all building lighting	Ongoing
Convert decorative Streetlights to LED bulbs	Done
Obtain & maintain SolSmart designation	Done
Construct solar array at the new waste water treatment plant	Not in the budget for FY21
Hire an energy efficiency & sustainability coordinator	Not in the budget for FY21
Improve recycling programs	Ongoing



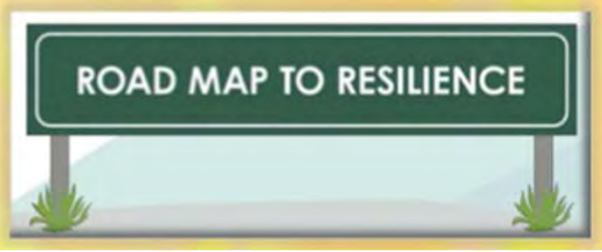
Whitefish Solar Feasibility Study

December 2, 2019 Whitefish City Council Meeting

Wastewater Plant Schedule	
Final Design	Complete
Bidding	Complete
Construction Start	Early 2020
Construction Completion	Summer 2021
Permit Compliance	Fall 2021

PRELIMINARY PROJECT SPECS

- 500kW DC (360 kW AC) Total Capacity
- Annual Production = 636,500 kWh
- Estimated Annual Plant Offset: **32%**
  (based on 2,000 MWh annual plant consumption)
- Interconnection Method: **Non-Export**
- Fixed Tilt Ground Mount @ 30°
- Area Required for Solar Array: **1.9 Ac**
- Preliminary Solar Estimate: **$882,000**



WWTP Solar Project

- **Estimated Capital Investment: $881,647**
- **Estimated ROI: 27 Years**

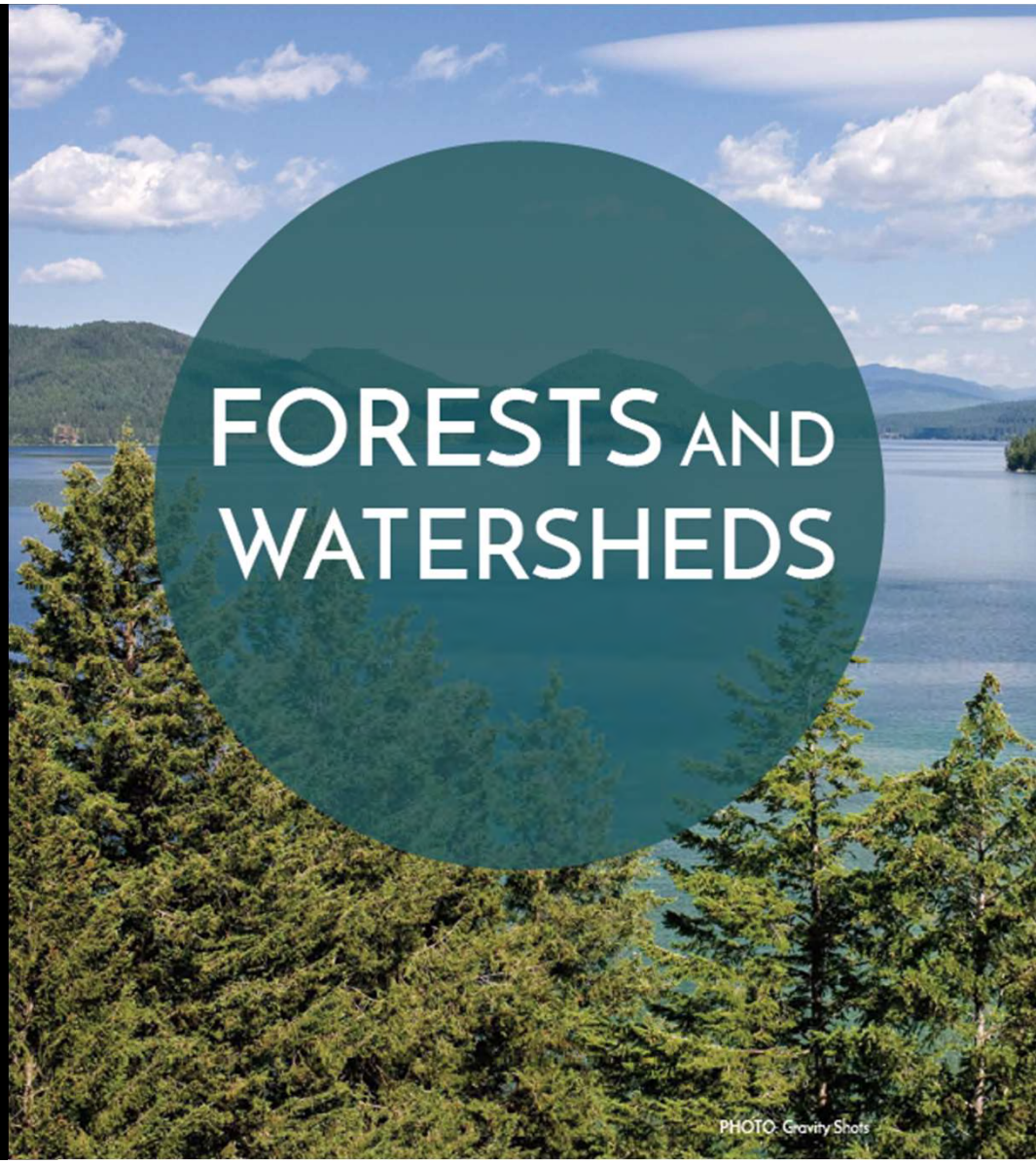
LED Street Light Conversions

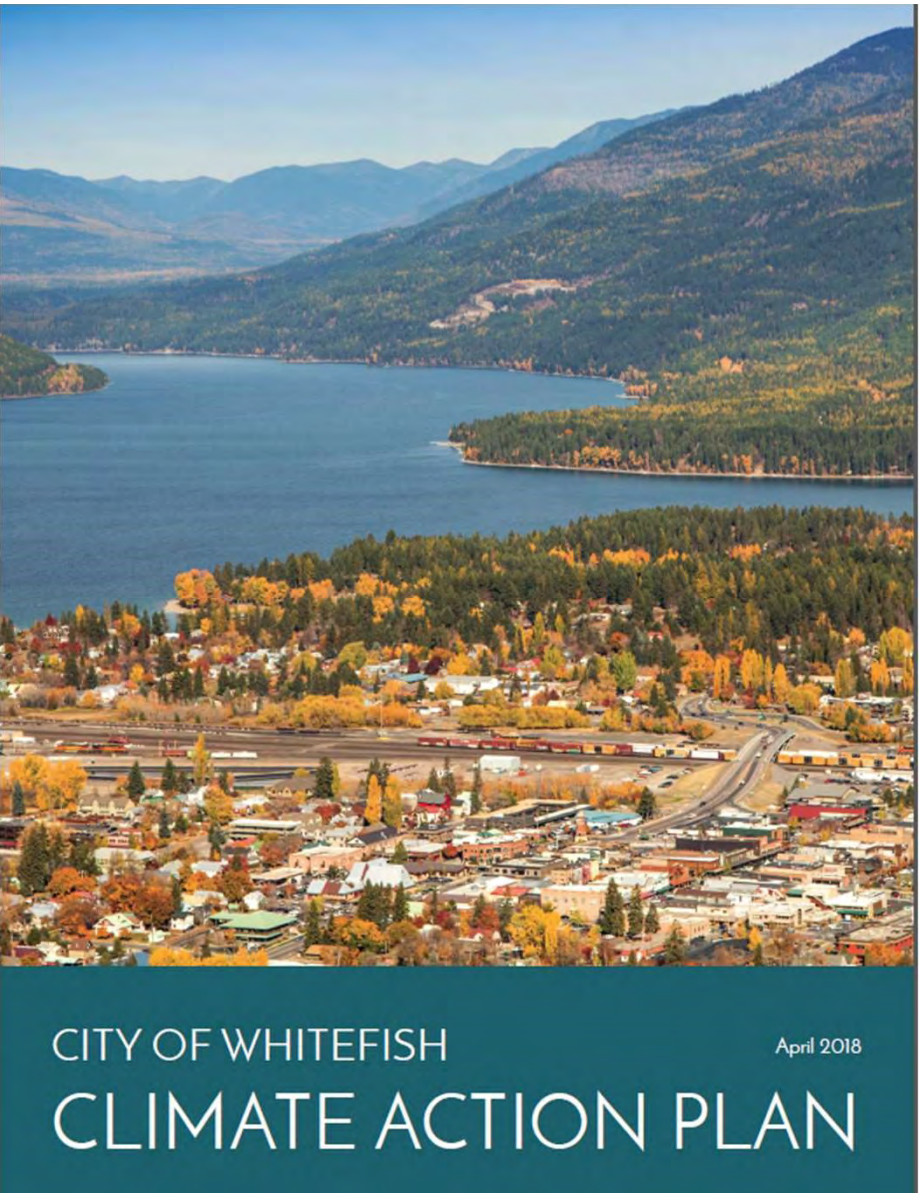
- 982 Street lights converted to LED
- Estimated savings over 10 years: $185,120
- Estimated emissions reductions per year: 80 metric tons of CO2

Action	Status
Install electric charging stations & encourage them for new development	Ongoing
Increase fleet efficiency to 30 MPG	Ongoing
Implement actions in the City's bike & pedestrian master plan	Ongoing
Implement a regular crosswalk & bike lane striping schedule	Ongoing
Increase the inventory of workforce housing to reduce local commutes	Ongoing
Support better public transit	Ongoing

Action	Status
Optimize irrigation practices in City operations	Ongoing
Provide education & outreach on water conservation	Ongoing
Use energy-efficient technologies at the new WWTP	Ongoing
Increase resilience & optimization of the Whitefish drinking water supply	Ongoing
Minimize groundwater inflow from residential sump pumps tied into the sanitary sewer system	Ongoing

Action	Status
Promote land management practices that minimize negative impacts to water sources	Ongoing
Maintain a strong water quality monitoring program	Ongoing
Continue to protect against aquatic invasive species & develop rapid response plan	Ongoing
Minimize wildfire risk to community, residents, infrastructure, & amenities	Ongoing





Overarching Goals

Reduce Emissions by 26% by 2025

Status	Action	Estimated emissions reductions in 2025 (Metric tons of CO2)
✓	Change all streetlights to LED bulbs	80
—	Emergency Services Center upgrades	121
—	Improve average mpg of the City's vehicle fleet	50
✗	Solar farm at the new wastewater treatment plant	765
	Total Reductions	1,016

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 20, 2020, at **7:10 p.m.** at City Hall, 418 E. 2nd Street, 2nd Floor.

Ordinance numbers start with 20-12. Resolution numbers start with 20-20.

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 July 6, 2020 Regular Session (p.16)
   b) Ordinance No. 20-10; 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 (Second Reading) (p.33)
   c) Consideration of a revised Subdivision Improvement Agreement (SIA) with JLC 1 & JLC 2 in order to construct the sidewalk along Aspen Grove Street that is not completed due to the scheduling challenges associated with the weather (WFP 19-12 & WPP 19-13) (p.36)

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 Pamela Secrease for a Conditional Use Permit to construct an accessory apartment located at 909 Kalispell Avenue, zoned WR-2 (Two-Family Residential) (WCUP 20-10) (p.49)
   b) Consideration of a request from Sweet Peaks Ice Cream Inc. for a Conditional Use Permit to operate a light manufacturing facility in an existing commercial building located at 6588 Highway 93 S, zoned WB-2 (Secondary Business District) (WCUP 20-09) (p.83)

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
   a) Consideration to award the Water Treatment Plant Construction Contract to Swank Enterprises in the amount of $9,327,000 (p.124)

8) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor or Council? (p.131)
   b) Other items arising between July 15th through July 20th

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Updated 7/17/2020

a) Resolution No. 20-__; A Resolution establishing annual goals for the City (p.134)
b) Consideration of a request from Alta Views, LLC to a one-year extension of time for the second payment ($249,000) of the cash-in-lieu for affordable housing (p.137)
c) Letter from Jef and Suzy Elliot regarding Alpine Theatre Project Production of Moana located in the neighborhood of 10th Street and Park Avenue (p.139)

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

Updated 7/17/2020

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

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July 15, 2020

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

Mayor Muhlfeld and City Councilors:

Monday, July 20, 2020 City Council Agenda Report

There will be a work session at 6:15 pm to review the Climate Action Plan 2020 Update. Food will be provided.

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

CONSENT AGENDA

a) Minutes from July 6, 2020 Regular Session (p.16)
b) Ordinance No. 20-10; 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 (Second Reading) (p.33)
c) Consideration of a revised Subdivision Improvement Agreement (SIA) with JLC 1 & JLC 2 in order to construct the sidewalk along Aspen Grove Street that is not completed due to the scheduling challenges associated with the weather (WFP 19-12 & WPP 19-13) (p.36)

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

Item "a" is an administrative matter; Item "b" is a legislative matter; Item "c" is a quasi-judicial 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 Pamela Secrease for a Conditional Use Permit to construct an accessory apartment located at 909 Kalispell Avenue, zoned WR-2 (Two-Family Residential) (WCUP 20-10) (p.49)

From Long Range Planner Hilary Lindh's transmittal report.

Summary of Requested Action: Eric Holden on behalf of Pamela Secrease is requesting a Conditional Use Permit to construct an accessory apartment at 909 Kalispell Avenue. The site is developed with a single-family home. 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 eight 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 20-10 with Findings of Fact and recommended Conditions of Approval.

RECOMMENDATION: Staff respectfully recommends the City Council approve, after considering testimony at the Public Hearing and the recommendations from Planning Staff and the Planning Board WCUP 20-10, the Findings of Fact in the staff report and the eight conditions of approval.

This matter is a quasi-judicial matter.

b) Consideration of a request from Sweet Peaks Ice Cream Inc. for a Conditional Use Permit to operate a light manufacturing facility in an existing commercial building located at 6588 Highway 93 S, zoned WB-2 (Secondary Business District) (WCUP 20-09) (p.83)

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

Summary of Requested Action: Sweet Peaks Ice Cream Inc. is requesting a Conditional Use Permit to operate a light manufacturing facility in an existing commercial building at 6588 Highway 93 South. The property is zoned WB-2 (Secondary Business District) and the Whitefish Growth Policy designation on the property is General Commercial.

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

Public Hearing: No members of the public spoke at the June 18, 2020 public hearing. 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 recommended approval of the application. In making their decision, the Planning Board adopted staff report WCUP 20-09 with Findings of Fact and recommended Conditions of Approval.

RECOMMENDATION: Staff respectfully recommends the City Council approve, after considering testimony at the Public Hearing and the recommendations from Planning Staff and the Planning Board WCUP 20-09, the Findings of Fact in the staff report and the eight conditions of approval.

This item is a quasi-judicial matter.

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

a) Consideration to award the Water Treatment Plant Construction Contract to Swank Enterprises in the amount of $9,327,000 (p.124)

From Public Works Director Craig Workman's staff report.

Introduction/History

The City of Whitefish currently operates a Water Treatment Plant (WTP) that treats water from Haskill Creek and Whitefish Lake. While there are 4 – 1 MGD filters in the plant, the firm capacity is rated by the Montana Department of Environmental Quality (DEQ) at 3.0 MGD, which requires that one filter be taken out of service. Although this may only be a concern for a few days a year during peak demand season, DEQ has required the city to apply for a deviation to operate above our firm capacity in order to allow any water main extension, subdivision, or future growth. This deviation is only a temporary solution, and the final solution will require an increase in the treatment capacity of the water plant.

Current Report

The City selected Morrison-Maierle, Inc. (MMI) to design and oversee construction for the planned water source and treatment capacity expansion project. In addition to the actual expansion of our water treatment plant, there are several other elements that will need to be accomplished to expand capacity. These projects include:

- Expansion of the Whitefish Lake Intake Pump Station
- Installation of a Parallel Water Main to the Water Treatment Plant
- Extension of the City's Sanitary Sewer to the Water Plant

Plans were finalized for the project in March and council authorized bidding of the project. In addition, council approved resolution 20-13 to allow the purchase two Trident filters under a "sole source" method.

The project was advertised in the Daily Inter Lake on June 7, June 21, and July 5, 2020. Also, the
project was advertised on MMI's webpage via the QuestCDN online construction data network and plans exchange.

The bidding period allowed almost five weeks for Contractors to prepare their bids and there were no formal requests from any of the prime bidders to extend the bid period. A pre-bid meeting was held onsite at the water treatment plant approximately two weeks after the date of the first advertisement. This meeting was used to discuss the project plans, specifications, project specific requirements, tour the water treatment plant site, and answer questions from the bidders.

Bids were received and read aloud at 2:00 PM on July 9, 2020. Three bids were turned in for the project from: Swank Enterprises, RSCI, and Yukon Construction Group. There were no errors or irregularities discovered in the bid packages

Financial Requirement

The original estimated cost for the group of projects necessary to increase the source and Treatment Capacity was $10-$12M. Upon completion of the design work, a detailed construction cost estimate was completed by MMI, which came to $9,683,000.

Bids were received and read aloud at 2:00 PM on July 9, 2020. Three bids were submitted for the project from: Swank Enterprises, RSCI, and Yukon Construction Group. There were no errors or irregularities discovered in the bid packages. The apparent low bidder was Swank

Enterprises. Their bid of $9,327,000 was approximately 7% below the engineer's estimate, 2% below RSCI's bid of $9,515,300, and 21% below Yukon's bid of $11,875,000.

RECOMMENDATION: Staff respectfully recommends the City Council award the Water Treatment Plant Project to Swank Enterprises in the amount of $9,327,000.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p131.)
b) Other items arising between July 15th through July 20th

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Resolution No. 20-__; A Resolution establishing annual goals for the City (p.)
b) Consideration of reappointing Hilary Lindh and Joe Page to the Whitefish Climate Action Plan Standing Committee (p.124)
c) Letter from Jef and Suzy Elliot regarding Alpine Theatre Project Production of Moana located in the neighborhood of 10th Street and Park Avenue (p.131)

ADJOURNMENT

Sincerely,

Dana

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.

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WHITEFISH CITY COUNCIL
July 6, 2020
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Feury, Hennen, Davis, Sweeney, and Norton. Councilor Qunell was absent. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Public Works Director Workman, Police Chief Dial and Fire Chief Page. Approximately 33 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Heidi Desch 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)

Jeff Elliott, 1009 Park Avenue, is disappointed in the inaction he received from the city concerning the play Moana that was staged, a Alpine Theatre Production, in his backyard. They experienced increased traffic, the access to the property was rained out and destroyed, an entire load of gravel was dumped at his gate. He requested somebody from the city to come and no one came.

Clyde Dick, 1001 Mountain Park Drive, spoke toward agenda item 11a, a petition was circulated by Mrs. Hitesman, who was not able to attend the meeting. Her initial letter was asking for speed bumps on Lion Mountain Loop Road but has since sent another letter asking for three stop signs to be placed instead.

Sonja Smith, 265 Colorado Avenue, does not like fireworks, and she resents that our town is being turned into a party mecca. She would appreciate it if fireworks were only allowed by the professionals.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

None

5) CONSENT AGENDA
   a) Minutes from June 15, 2020 Special Session and Regular Session (p.17)

Councilor Norton had a correction on page 6 of the minutes, 'One of the best parts of …'. **Councilor Norton made a motion, seconded by Councilor Hennen to approve the minutes as corrected. The motion passed unanimously.**

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) Resolution No. 20-18; A Resolution strongly encouraging the use of masks or cloth face coverings in public settings to help prevent the spread of COVID-19 (p.282)

Mayor Muhlfeld stated 528 written comments were received between July 1st and July 6th at 4:00 pm. Of those 528 comments 350 (67%) were in favor of the resolution, 200 (30%) were against the resolution, and about 15 (3%) comments were in the middle. Mayor Muhlfeld read aloud the resolution in its entirety. He also stated a forum of about 20 businesses met on Tuesday, June 30th, all but one business strongly supported the City Council enacting an emergency ordinance. The decision to consider a

resolution was made because staff and Council believe the citizens of Whitefish will do the right thing voluntarily.

Mayor Muhlfeld opened the Public Hearing.

All written comments received between July 1st and July 6th at 4:00 p.m. are appended to the packet on the website. A list of the names and a count of the votes are appended to the minutes and included in the record for the Public Hearing.

Dave Von Kleist, 436B West Third Street, is against the resolution.

Lyn Bennett, 750 Northwoods Drive, is against the resolution, it should be a choice.

Nicole Hale, 422 Icehouse Terrace, is against the resolution. It should be a choice and businesses should have the right to deny service.

Constance See, PO Box 331, is against the resolution. She believes this decision needs to be tabled so the Council can read all 528 responses along with any scientific articles that were provided.

Stacey McGough, 255 Vista Drive, is against the resolution. As a business owner has not been given enough time to review and study the resolution.

Katherine Owens, 329 Shady River Lane, is against the resolution. Data does not support masks, it will hurt businesses, and it will destroy this community.

Gerlinda Waters, 755 Texas Avenue, is against the resolution. Scientific data does not support mask, some people have problems wearing masks, and is the Council prepared to enforce the resolution?

Kevin Reed, 2130 9th Street West #202, Columbia Falls, is against the resolution.

Carolanne Wright, 810 Patton Lane, is against the resolution. She thinks this should be tabled until Council can meet with a majority of the businesses.

Bonnie Closson, 1105 O'Brien Avenue, is against the resolution. She stated she wants to live by our own faith.

Julie Perchy, 350 Missy Lane, is against the resolution. She read her letter aloud that is appended to the packet. This resolution is not in the best interest of this community and society.

Alonso Conrad, 121 W. View Drive, is in favor of the resolution. By passing this resolution, Council is demonstrating leadership and guidance during a time of crisis.

Ted Valentiner, 305 Buckhorn Road, is against the resolution. The resolution is open-ended.

Dr. Vita Wright is in favor of the resolution. A lot of the out of state plates that are visiting are from hot spots. If the resolution is not adopted, it is important to educate businesses that are choosing to wear masks the proper way to handle them.

Cassie McNaught, 420 Colorado Avenue, is in favor of the resolution. She agrees, wearing a mask sucks, and is frustrating, but she has started to view it as a way to help protect other people.

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

Councilor Hennen made a motion, seconded by Councilor Norton to approve Resolution No. 20-18; A Resolution strongly encouraging the use of masks or cloth face coverings in public settings

to hep prevent the spread of COVID-19. Councilor Sweeney made a friendly amendment to change "must" to "should" in Section 2, and add to Section 4, " shall expire within two months of the date of its enactment unless extended by Council" Councilor Hennen agreed along with Councilor Norton.

Discussion followed between Councilors, this is not a mandate, this is a small sacrifice, a sign of compassion to those that immunocompromised, masks are uncomfortable. Like the 3% of the comments received, are in the middle like a lot of us. We have all lost the ability to compromise, this resolution is serving all of the constituents. Not everybody is right and not everybody is wrong, we need to look out for each other as a community. Council does not want to shut down businesses again.

Councilor Davis made a motion seconded by Councilor Hennen to change the second bullet point under Section 2, to "outdoor gatherings of 20 people or more or where social distancing is not possible". Discussion followed when people are trying to distance when there is unintended exposure risk and the crowded sidewalks in the downtown area. **The motion carried 4-2, Councilors Sweeney and Norton voting in opposition.**

The original motion to approve Resolution No. 20-18 as amended passed.

Mayor Muhlfeld called a recess at 9:10 and reconvened at 9:20.

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

Senior Planner Wendy Compton-Ring gave her staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Sierra McCartney, 301 E. 2nd Street, Bruce Booty Landscape Architect, reviewed the project. The applicant agrees to all conditions of approval and the Findings of Fact. They spent time to make sure they were able to fit the affordable units on site versus paying the cash-in-lieu.

David Radatti, 118 W 2nd, Mindful Designs, touched base on the building efficiency; build it tight and ventilate it right; upgrade electric car charging in the carports; and material honest expression.

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

Councilor Norton made a motion, seconded by Councilor Hennen to approve the request from Big Mountain River LLC for an eight lot (20 sublot) subdivision, located at 244, 314 & 322 West Second Street (WPP 20-01). The motion carried.

Councilor Feury made a motion, seconded by Councilor Norton to approve the two attached variances. The motion carried.

c) Consideration of a request from Big Mountain River LLC for an eight lot (20 sublot) subdivision, located at 244, 314 & 322 West Second Street, zoned WR-3 (Low-Density Multi-Family Residential District) (WPP 20-01) (p.184)

Senior Planner Wendy Compton-Ring gave her staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

John Shigo, 725 Somers Avenue, applicant, appreciated the opportunity tonight. This is an existing structure that was built years ago and now is the time they would like to add a bathroom and be able to take advantage of it.

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

Councilor Hennen made a motion, seconded by Councilor Sweeney to approve the request from Big Mountain River LLC for an eight lot (20 sublot) subdivision, located at 244, 314 & 322 West Second Street (WPP 20-01). The motion carried.

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)

Discussion followed between Council, staff, and the applicant regarding the deed restriction to be no more than four lots, and only single-family homes constructed.

Councilor Norton made a motion to uphold the Planning Directors determination. The motion failed for a lack of a second.

Councilor Hennen made a motion, seconded by Councilor Feury to overturn the Planning Directors determination.

Councilor Sweeney made a motion, seconded by Councilor Hennen to include in the agreement, no more than four – lots and no more than four single family homes. The applicant agreed. The motion carried 4-1, Councilor Norton voting in opposition.

The original motion to overturn the Planning Directors determination carried 3-2, Councilors Norton and Davis voted in opposition.

8) COMMUNICATIONS FROM POLICE CHIEF
   a) Ordinance No. 20-10: 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)

Police Chief Dial gave his staff report that is provided in the packet on the website.

Councilor Norton made a motion, seconded by Councilor Sweeney to adopt Ordinance No. 20-10: 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). The motion carried.

9) COMMUNICATIONS FROM FINANCE DIRECTOR
   a) Resolution No. 20-19; A Resolution requesting distribution of Bridge and Road Safety and Accountability Program Funds (p.261)

Finance Director Ben Dahlman gave his staff report that is provided in the packet on the website.

Councilor Norton made a motion, seconded by Councilor Hennen to approve Resolution No. 20-19; A Resolution requesting distribution of Bridge and Road Safety and Accountability Program Funds. The motion carried.

10) COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p.266)

None

b) Other items arising between July 1st through July 6th

None

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)

Council discussed and recommended placing a speed radar sign for the Police Department to collect data and directed staff to contact the Whitefish Legacy Partners to address their cooperation in the increased traffic due to the Lion Mountain Trailhead use.

b) Letter from Solberg Family Glenwood Trust for Safety Buoys for Whitefish Lake sandbar area (p.279)

Council discussed and recommended staff to reach out to the Solberg family to forward their letter to the Fish Wildlife and Parks to request a permit and funding.

c) Consideration of a letter of support for the Great American Outdoors Act (p.280)

Council agreed to the letter to be sent to Representative Gianforte.

d) ~~Resolution No. 20-__; A Resolution encouraging the use of masks while in public to prevent the spread of COVID-19 (p.282~~)MOVED TO ITEM 6a) PUBLIC HEARINGS

Councilor Comments

Councilor Sweeney empathizes with our community, vast majority of the comments received regarding Resolution No. 20-18 were asking Council to do more. This is a public health issue. Councilor Norton appreciates the diverse opinions, this is a surreal situation and reminded to give everybody space.

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 10:43 p.m.

_____
Mayor Muhlfeld

Attest:

_____
Michelle Howke, Whitefish City Clerk

Letters recived July 1st - 6th by 4:00 pm

355	183	13	551
64%	33%	3%	

Name	For	Against	Other
Adam and Aleta Hannigan	1		
Adam Pitman	1		
Alan Beougher	1		
Alan Satterlee	1		
Alanna Strong	1		
Alex Neill	1		
Alice Padgham	1		
Allison Magnuson	1		
Alonso Conrad	1		
Amelia Urbanski	1		
Amy Johannes	1		
Andrea Brew	1		
Andrew Shors	1		
Ann Adams	1		
Ann Jermiassen	1		
Ann Marie Couser	1		
Ann Minnett Coleman	1		
Anne Heslop	1		
Anne Klein	1		
Anne Shaw Moran	1		
Anonymous	1		
Ashley Dunigan	1		
Barbara Gallagher	1		
Barbara Palmer	1		
Barbara Worth	1		
Barry Anspach	1		
Becky Smith-Powell	1		
Belinda Mitchell	1		
Bernadette Tarnow	1		
Betty Kuffel	1		
Bill and Necia DeGroot	1		
Billie Bartlett	1		
Bob Horne and Kate McMahon	1		
Bob Stromberg	1		
Bonnie Baker & Ron Breese	1		
Brenda Buckner	1		
Brenda Moen	1		
Brian Joos	1		
Brian Wood	1		
Cari Elden	1		
Carol Cunningham	1		

Carole Erickson	1
Carole Peschel	1
Carrie Hanson	1
Charlie Webster	1
Charlotte Heldstab	1
Charmalee Drew	1
Cheri Aronsson	1
Chis Merriman	1
Chris Crumal	1
Chris Jolly	1
Chris Prew	1
Christina Larsen	1
Christine Lazorishak	1
Christine Russell	1
Christine Shea	1
Chuck Haney	1
Chuck Martin	1
Cindy Dyson	1
Clare Baine	1
Connie Johnson	1
Corrie Colbert	1
Courtney Lyle	1
Craig Drew	1
Cris Coughlin	1
Criswell Abel	1
Cynthia Benkelman	1
Dani Harmon	1
Darryl Slattengren	1
Daryl MacCarter	1
Dave & Sue Wilmer	1
Dave Nellie	1
David Ackroyd	1
David Bibb	1
David Blair	1
David Karmilovich	1
David Trousdale	1
David Tseng	1
David Williams	1
Davide Perry	1
Dawn Oehlerich	1
Dean Karlan	1
Deborah Sheldahl	1
Debra Bond	1
Della Littfin	1
Derek Vandeberg	1
Devon Blades	1
Diane Carter	1

Diane Kane	1
Donna & John Homstul	1
Donna Maddux	1
Donna Rhoads	1
Dorothea LeDonne	1
Doug and Linda Johnson	1
Doug Rommerreim	1
Ed Lieser	1
Elizabeth Pitman	1
Elizabeth Shores	1
Elizabeth White	1
Erin Rankin	1
Francine Bottinelli	1
Gail Goodwin	1
Gail Goodwin	1
Gail Melvin	1
Gail Shay Linne	1
George and Jane Shryock	1
George Losleben	1
Glen and Eva Nel Kowalski	1
Glo Caudillo	1
Greg Smith	1
Heather Satovick	1
Hikmat Maaliki	1
Hope Noyes	1
Hope Noyes	1
Hugh Fenwick	1
Ina Albert	1
Isaac Cohen	1
Jack and Mary Dykstra	1
James Cannava	1
Jan Metzmaker	1
Jan Richards	1
Jana Todd	1
Jane Peranteau	1
Jane Solberg	1
Janice Maddux	1
Janice McCann	1
Jay and Mary Ann Moon	1
Jay Erickson	1
JeanAnne Swope	1
Jeanne Spring	1
Jeanne Thorson	1
Jeannine Trousdale	1
Jen Kuropat	1
Jenny Kelley	1
Jerri and Curt Mortenson	1

Jerry and Rhonda Meislik	1
Jesse Kuntz	1
Jessica Schwaderer	1
Jessie Farnes	1
Jill Nelson	1
Jillian Lawrance	1
Jim MacKenzie	1
Jim Stroud	1
Jo Ann Murillo	1
Joanie Bechtle	1
Joann and Don Fleming	1
Joe Basirico	1
Joe Mushel	1
Joey Kositzky	1
John Latchaw	1
John Stevens	1
Joni Foster	1
Jordan Scotti	1
Joy Hawley	1
Judith Wade	1
Judy Olsen	1
Judy Williams	1
Kara Bauer	1
Karen & Bill Whitby	1
Karen Beckley	1
Karen Giesy	1
Karen Jacobson	1
Karen MacCarter	1
Karen Thorley	1
Karen Voermans	1
Kari Greenberg	1
Karin Usach Franck	1
Katelyn Jones	1
Kathleen Givan	1
Kathleen Scott	1
Kathy McCabe	1
Katja Schalbetter	1
Katrina Larsen	1
Katy Krezoswki	1
Kellie Cahill	1
Kelly Davidson	1
Kelly Sellers	1
Kelly Shaeffer	1
Ken McFadden	1
Ken Stein	1
Kenje A. Fehlberg	1
Kenneth Cordoza	1

Kerrie Cardon	1
Kevin Bauman	1
Kevin Gartland on behalf of Chamber members	1
Kristen Hebert	1
Kristen VanDenburgh	1
Kristin and Joe Tabor	1
Kristin McNally	1
Lacy Eccles	1
Lana Scott	1
Laura Peschel	1
Lee and Gena Fischer	1
Leo Tracy	1
Leora Muraoka	1
Leslie Galloway	1
Leslie Hunt	1
Lilly Ettinger	1
Linda and Eric Young	1
Linda Cornutt	1
Linda Hunt	1
Lindsey Gardner	1
Linh Barinowski	1
Lisa Follett	1
Liz Boucher	1
Lois Linn	1
Lorinda Smith	1
Lorraine Measure	1
LuAnn Basirico	1
Madeline Axtell	1
Maggie Schwenker	1
Margaret Fischer	1
Marguerite Amstadt	1
Mariah Joos	1
Marie Meckel	1
Marjorie Wilson	1
Mark Panicek	1
Mark Voelker	1
Mark Wagner	1
Martha Olson	1
Marvin Parker	1
Mary Armstrong	1
Mary Corrao	1
Mary Jane Barrett	1
Mary Kuennen	1
Marylou and Tony Patterson	1
Melanie Meeks	1
Melanie Toelcke	1

Melinda Johnson	1
Melissa Genovese	1
Merry Lynn Southers	1
Michael Basta	1
Michael Meador	1
Michelle Scott	1
Michelle Spring	1
Mickey Winn	1
Mike and Virginia Baldwin	1
Mike Carpenter	1
Mindi Gawe	1
Miranda Simpson	1
Mitchell Brown	1
Molly and Bill Hobgood	1
Montana Coffee Traders	1
Monte Madarino	1
Morgan Cawdrey	1
Ms. Rusty Wire	1
Nadine Ordway	1
Nancy Cohn	1
Nancy Ellis	1
Nancy Kaumeyer	1
Nancy Persons	1
Nancy Robinson	1
Nicci Schellinger Daniher	1
Nichole Perisho	1
Nicole James	1
Nigel Pickhardt	1
Niles Bauer	1
Noelle Bailly	1
Norbert Reis	1
Olivia Diamond	1
Paige Rappleye	1
Pat Carloss	1
Pat Hierl	1
Pat McGrath	1
Patti Harmon	1
Patty Scruggs	1
Paul and Jane Holland	1
Pete Thomas	1
Peter and Michelle Edland	1
Phyllis Quatman	1
R. Hauf	1
Rachel Burke	1
Rachel Phillips	1
Ragnar Stoelzle	1
Randy Beach	1

Ray Boksich	1
Rebecca and Todd Ulizio	1
Red	1
Rhonda Fitzgerald	1
Richard and Susan Williams	1
Richard Dugan	1
Richard Hildner	1
Richard Smith	1
Rita Braun	1
Robert Merriott	1
Robert Tedrow	1
Rock Henderson	1
Roger Sherman	1
Ron & Linda Olson	1
Rory Galloway	1
Ruth Ackroyd	1
Ryan Nelson	1
Sally & Nels Broste	1
Sam Watson and Carson Ramsden	1
Samantha Dittman	1
Samantha Stewart	1
Sandi Carpenter	1
Sara Cabe	1
Sara Mushel	1
Sarah Fitzgerald	1
Sarah Jones	1
Sarah Lundstrum	1
Scarlett Schindler	1
Scott Bates	1
Scott Foster	1
Scott Thomas	1
Shannon Hoge	1
Shawn Brennan	1
Shelley Lentz	1
Shelly Arbuckle	1
Sherri Sadino	1
Stacy Dolan	1
Stephani Kuhl	1
Stephanie Gordon	1
Stephanie Seguin	1
Stephanie Thompson	1
Stephanie Walls	1
Steve Barrett	1
Sue Basta	1
Susan Fletcher	1
Susan Robison	1
Susan Schnee	1

Susie Ruffatto	1		
Suzann Hildner	1		
Suzi Stagg	1		
Tami Yunck	1		
Terri Muraoka	1		
Terri Smith	1		
Terry Chute	1		
Tessa Pitman	1		
Theresa Cornut	1		
Thomas and Christina McClure	1		
Thomas Shea	1		
Tim Salt	1		
Todd Lengacher	1		
Tom and Carrie Bowman	1		
Tom and Mary Kennelly	1		
Tom Britz	1		
Tom Kuffel	1		
Tony Sadino	1		
Tracy and Christi Smith	1		
Trek Stephens	1		
Trini and Gwen Carreon	1		
Val Urban	1		
Vera Smith	1		
Veronica Karns	1		
Vicki Bernstein	1		
Vicki Forristal	1		
Victoria Reich	1		
Ward and Kristen MacIntryre	1		
Wayne Robinson	1		
Wendy McFadden	1		
William and Judith Bruzek	1		
William Jones	1		
Yvonne Nanasi	1		
	710.64	183.33	13.03
4C's Wildlife Control		1	
Aaron McPherson		1	
Alane Powell and household		1	
Alena Hillukka		1	
Alice Infelise		1	
Amber Golliday		1	
Andrea Vissotzky		1	
Ann Carriveau		1	
Anonymous		1	
Anonymous		1	
Anonymous		1	
Aspen Degenhardt		1	
B.J. Howell		1	

Belinda Kreitman	1
Bettejo Dyck	1
Bonnie Closson	1
Brandi Peerman	1
Brandon Hirt	1
Brenda Roskos	1
Brian Frank	1
Brian Szady	1
Brian Wiersma	1
Britta	1
Brittany Brennan	1
Caleb	1
Candy Wells	1
Carolanne Wright	1
Carolanne Wright	1
Carrey Hirt	1
Cassandra Bermel	1
Catherine Kahle	1
Catherine Owens	1
Chad Arterbury	1
Chelsie Schnetter	1
Cheryl Rice	1
Chris Kelley	1
Christine Samuels	1
Christopher Bickford	1
Cindi Howe Hale	1
Cindy Radosevich	1
Clint Franklin	1
Collette Stroia	1
Constance Cee	1
Corey Olofson	1
Cy Appel	1
Cynthia Granmo	1
Dan Chapman	1
Dan Manson	1
Dana and Leigh Nunn	1
Danny Jones	1
David Brandt	1
David MacLean	1
David Payiva	1
David Perry	1
David VonKleist	1
Debbie Maue	1
Deborah Wilson	1
Dee Benbrook	1
Derek Good	1
Desirai Van Ekelenburg	1

Diane Joy	1
Doug Adams	1
Dustin Hartong	1
Ebru Erdini	1
Gary Stephens	1
Gladys Klundt	1
Greg Shaffer	1
Gregory Logan	1
Jacklyn McDonald	1
Jamie Wells	1
Janice Lamparelli	1
Jay	1
Jayla Schultes	1
Jeanne Tallman	1
Jeannine Brite	1
Jeff Plum	1
Jennie Holtz	1
Jessica Brown	1
Jill	1
Jim Farley	1
Jim Farley	1
John Sanman	1
Katherine Sivanish	1
Kathy Lundgren	1
Katie Christensen	1
Kaydance Boyd	1
Kelli Bowden	1
Kevin Bowlby	1
Kevin Chapman	1
Kevin Reed	1
Kevin Richardson	1
Kevin Wilmot	1
Kim Hanson	1
Kristin Hetzer	1
Leah Gruns	1
Lee Schipmen	1
Linda Bailey	1
Linda Hersom	1
Lindsay Truempy	1
Lisa and Ron Lenoch	1
Lisa Danielle	1
Lisa Vanzant	1
Lori Chapman	1
Lyn Bennett	1
Lyn Kuhr	1
Lynn Noble	1
Lynnelle Mellinger	1

Lynsi DeWaard	1
Marilyn McBurney	1
Mark Ainslie	1
Mark Heil	1
Mary	1
Mary Lepper	1
Mary Liberatore	1
Mary Sheehan	1
Mary Vail	1
Matthew Relles	1
Michael DeYoung	1
Michael Parratore	1
Michelle Boyd	1
Michelle Daum	1
Michelle Macalister	1
Mikayla Jost	1
Mitch Drachman	1
Monica Garrett	1
Mwiersmamt	1
Nancy Beougher	1
Natalie Barnett	1
Nathan Closson	1
Neaomie	1
Nicole Hale	1
Niki MacLean	1
Norman Palin	1
Novalee Hutchens	1
Pam Schipman	1
Patricia Murphy	1
Patrick Hudson	1
Patrick Nagle	1
Patrick Staunton	1
Patti Moffatt	1
Patty Jo Klundt	1
Paul Arends	1
Paul Johnson	1
Paul Siddall	1
Perry Moore	1
Ray Garth	1
Rich Ruther	1
Richard Closson	1
Richard Jonston	1
Rob Farrington	1
Robert Baker	1
Robert Keesee	1
Robin Brooks	1
Rodney Ackerman	1

Russel Olofson	1		
Ryan	1		
Ryan KirackSt	1		
Ryan Storey	1		
Samara Martin	1		
Sarah Etzler	1		
Sarah Farley	1		
Sarah Scott	1		
Shea Fast	1		
Sherry McIntyre	1		
Sherry Runk	1		
Shirley Olsen	1		
Stacey McGough	1		
Stefanie Cavalea	1		
Steffany Earll	1		
Steve Pleasants	1		
Stuart Berg	1		
Ted Valentiner	1		
TJ John	1		
Tom and Jan	1		
Tory Brandt	1		
Tricia Wilmot	1		
Tyler Furry	1		
Veronica Hutcheson	1		
Vicki Walborn	1		
Walt Landi	1		
Wendy	1		
William Smith	1		
William Vazquez	1		
	183		
Anthony McGillivray		1	
Brent Appelgren		1	
Chris Miller		1	
David Powers		1	
Dawn Rush		1	
Jane Blackaby		1	
Marshall Friedman		1	
Mike Barrett		1	
Nancy Antczak		1	
Nancy Streibich		1	
Paz Chentnik		1	
Peaches99206		1	
Sharon Morrison		1	
			0
		13	

ORDINANCE NO. 20-10

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. Muhlfeld, 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.

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

July 14, 2020

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

Re: 2nd Amendment of Subdivision Improvement Agreement for JLC 1 & 2 (WFP 19-12 & WFP 19-13)

Honorable Mayor and Council:

This office is in receipt of an updated Subdivision Improvement Agreement for JLC 1 & 2 from Jamee Cole. JLC 1 & 2 received final plat approval from the Council on September 3, 2019. JLC 1 & 2 each contain 2-lots subdivision on and are located on Aspen Grove Street. Along with the final plat, the Council agreed to a Subdivision Improvements Agreement (SIA) in the amount of $16,543.75 for construction of the sidewalk along Aspen Grove Street expiring on November 30, 2019. On November 5, 2020, the City Council granted an extension for this Subdivision Improvement Agreement until July 30, 2020.

No work has been completed due to scheduling challenges associated with the weather. As such, the application is requesting an amendment to the SIA to extend the Subdivision Improvement Agreement to November 30, 2020. The City is holding a cashier's check for the amount.

Staff recommends Council **approve** this request.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

Att: Subdivision Improvement Agreement with Request, 7-2-20
Contract to Complete Work, 7-9-20
Final plat maps, recorded 9-5-19

C: w/ att: Michelle Howke, City Clerk

C: w/o att: Jamee L. Cole, via email

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

City of Whitefish
Planning & Building Department
PO Box 158
418 E 2nd Street
Whitefish, MT 59937
Phone: 406-863-2410 Fax: 406-863-2409

SUBDIVISION IMPROVEMENT AGREEMENT: REQUEST FOR EXTENSION

Subdivision Name: JLC No. 1 and No.2

APPLICANT:

Name: Jamee Cole Phone: 270-3031

Mailing Address: 434 Texas Ave

City, State, Zip: Whitefish, MT 59937

Email: coleacoustics@yahoo.com

DATE SUBDIVISION IMPROVEMENT AGREEMENT EXPIRES: July 31 2020

DESCRIPTION OF IMPROVEMENTS COMPLETED TO DATE:

none

REQUESTED NEW SUBDIVISION IMPROVEMENT AGREEMENT EXPIRATION DATE: Sept 30 2021

REASON FOR REQUEST:

More than normal wet weather has pushed back contractors schedules, and problem with electrical and cable lines under proposed side walk.

Application Contents:
The following items shall be included in order to process the request:

Attached

____ Subdivision Improvement Agreement: Request for Extension Application
____ Updated and signed original Subdivision Improvement Agreement
____ Updated and signed original Guarantee
____ Updated and signed original Engineer's Estimate

When all application materials are submitted to the Planning & Building Department, and the staff finds the application is complete, the staff will schedule the request for a public meeting before the City Council.

I hereby certify under penalty of perjury and the laws of the State of Montana the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. The signing of this application signifies approval for the Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.

Jamee Cole
Applicant

6-2-20
Date

Revised 8-14-17

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, made and entered into this _8th day of _July__, 2020, by and between (Jamee L Cole), hereinafter called the Subdivider, and the City of Whitefish, State of Montana:

WHEREAS, subdivisions are subject to the provisions of Title 76, Chapter 3, Parts 1 through 6, M,C.A., said provisions being known as the "Montana Subdivision and Platting Act," hereinafter referred to as the Act: and,

WHEREAS, the Act requires that Governing Bodies adopt and provide for the enforcement of Subdivision Regulations; and,

WHEREAS, the Governing Body of Whitefish, being the Whitefish City Council, has adopted a body of ordinances entitled "Whitefish Subdivision Regulations" hereinafter referred to as the Regulations; and,

WHEREAS, the regulations provide that:

A. One of the conditions which must precede approval of the final plat of a subdivision by the Governing Body is an approved guarantee of completion of public improvements which are described and provided for in the subdivision plat.

B. The Regulations authorize various alternative methods of effecting the necessary and prerequisite guarantees and one such method is a written agreement between the Subdivider and the Governing Body; and,

WHEREAS, it is the intent and purpose of both Subdivider and Whitefish City Council to hereby enter into an agreement which will guarantee the full and satisfactory completion of all public improvements within the subdivision hereinafter described and by this agreement to satisfy the public improvement guarantee conditions for final plat approval.

THEREFORE, it is covenanted and agreed as follows:

This agreement pertains to and includes that proposed subdivision which is designated and identified as the JLC No.1 and JLC No.2 Subdivision.

This agreement specifically includes those improvements described on Exhibit "A" attached hereto and incorporated herein by reference, their projected construction completion date and estimated construction costs. All such improvements shall be done in a workman-like manner and shall be completed by November 30th, 2020. a date at least sixty (60) days prior to the expiration of the collateral held by the City of Whitefish. Exhibit A includes a certification by an engineer licensed in the state of Montana to the effect that it represents a comprehensive and detailed list of all incomplete items and their actual cost, and that all information contained on it is true and accurate.

Jamee Cole

(Signature Subdivider / Developer

Jamee cole

State of MT--------)

County of flathead)ss

On this 7 day of july, 2020, before me, a Notary Public for the State of Montana, personally appeared (Subdivider's Name), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same. Jamee cole personally appeared. cu

Notary Public for the State of Montana

(Seal) Residing at Whitefish, Montana

My commission expires 10/01/2021

CAMBRIA ULRICH NOTARIAL SEAL STATE OF MONTANA

CAMBRIA ULRICH
NOTARY PUBLIC for the State of Montana
Residing at Bigfork, Montana
My Commission Expires October 01, 2021

This agreement is hereby approved and accepted by the City Council, City of Whitefish, Montana, this _____ day of _____, 20_____.

MAYOR,
City of Whitefish, Montana

ATTEST:

CITY CLERK, Whitefish, Montana
(Seal)

Hodges Concrete Service, LLC

2298 KM Ranch Rd.
Whitefish, MT 59937

Estimate

Date	Estimate #
5/14/2019	945

Name / Address
Cole Acoustics-Arbor Grove

Project

Item	Description	Qty	Total
sidewalk	approximately 480x5 ft of walk @ 5/sq (prep work not included)	/ 2,400	12,000.00

approaches and walks in driveway is 6.5/sq. prepwork not included	**Total**	$12,000.00

GOLDEN KEY CONTRACTING, LLC.

Concrete, Foundations, Masonry, Brick, Tile, Block

St. Paul/Minneapolis ~~Area~~ / KALISPELL / WHITEFISH

(952) 715-2973 -(406) 250-3696

Job#: _____ Date: 7-9-20

Name: Jamee Cole Phone: _____

Address: 434 Texas Ave City: Whitefish, MT Zip: 59937

Job Site Address: Aspen Grove Street sec. ILC-1 & ILC-2

Golden Key Contracting, LLC., hereinafter called the Company, proposes to furnish all materials and labor necessary to install, construct, and place the improvement described herein on or in the building located at:

Aspen Grove Street sec. ILC-1 + ILC-2.

Specifications:

1. see attached estimate #1151
2.
3.
4.
5.
6.
7.
8.
9.
10.

For the sum of: Eleven Thousand Seven Hundred Sixty-Two and 50/100

Total	$ 11,762.50
Initial Payment	$ 5,881.25
Balance Due	$ 5,881.25

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PAYMENT TERMS

A. X The balance due shall be paid in full to job foreman at time of completion and acceptance.

B. ___ The balance due shall be paid according to the terms of an interest-bearing promissory note to bank be executed simultaneously with this agreement. If this method of payment shall be selected, this agreement shall not be binding until approved by lender.

C. X The Company's Satisfaction and Performance Warranty and the Terms and Conditions set forth in the pages following are made part of this agreement.

D. X In agreement hereto, the parties have executed this agreement on the day written above.

PRE-LIEN NOTICE

(a) Any person or company supplying labor or materials for this improvement to your property may file a lien against your property if that person or company is not paid for the contributions.

(b) Under ~~Minnesota~~ MONTANA law, you have the right to pay persons who supplied labor or materials for this improvement directly and deduct this amount from our contract price, or withhold the amounts due them from us until 120 days after completion of the improvement unless we give you a lien waiver signed by persons who supplied any labor or material for the improvement and who gave you timely notice.

Your signature below denotes that you have read and that you agree to all the terms listed above and on the following pages.

Authorization James S Cole

Co-Authorization _____

Golden Key Contracting, LLC.

by Shane A Laughlin - President

Approved on 7/1, 2020

Sales Manager/Officer

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GENERAL PROVISIONS

Any alteration or deviation from the above specifications including, but not limited to, any such alteration or deviation involving additional material and/or labor costs will be executed only upon a written order for same, signed by owner and the Company, and if there is any charge for such alteration or deviation, the additional charge will be added to the contract price of this agreement.

If payment is not made when due, the Company may suspend work on the job until such time as all payments due have been made. Failure to make payment for a period in excess of ten (10) days from the due date of the payment shall be deemed a material breach of this agreement.

In addition, the following general provisions apply:

A. All work shall be completed in a workman-like manner and in compliance with all building codes and other applicable laws.

B. The Company shall provide a description of the work to be done, description of the materials to be used and the equipment to be used or installed, and the agreed consideration for the work.

C. To the extent required by law, all work shall be performed by individuals duly licensed and authorized by law to perform said work.

D. The Company may, at its discretion, engage subcontractors to perform work hereunder, provided the Company shall fully pay said subcontractor and in all instances remain responsible for the proper completion of this agreement.

E. The Company shall furnish owner with appropriate releases or waivers of lien for all work performed or materials provided at the time the next periodic payment shall be due.

F. All change orders shall be in writing and signed both by owner and the Company and shall be incorporated in and become a part of this agreement.

G. The Company shall obtain all permits necessary for the work to be performed, and reimbursed for such fees above and beyond the contract price.

H. The Company agrees to remove all debris and leave the premises in broom-clean condition.

I. In the event owner shall fail to pay any periodic or installment payment due hereunder, the Company may cease work without breach pending payment or resolution of any dispute.

J. All disputes hereunder shall be resolved in accordance with Minnesota statutes.

K. The Company shall not be liable for any delay due to circumstances beyond its control including strikes, casualty or general unavailability of materials.

L. The Company warrants all work for a period of 12 months following completion.

Scanned with CamSc

GOLDEN KEY
CONTRACTING, LLC.
PO BOX 77
ST PAUL PARK, MN 55071
(952) 715-2973
goldenkey.shane@gmail.com

Estimate 1151

ADDRESS
Jamee Cole
Aspen Grove Development
434 Texas Ave
Whitefish, MT 59937

DATE	TOTAL
10/08/2019	$11,762.50

P.O. NUMBER
Aspen Grove Street Developement

SALES REP
Shane

ACTIVITY	QTY	RATE	AMOUNT
04 Concrete Install new 4" concrete as per plan with sealer. JLC NO 2 with easment driveway. 5' x 260' = 1300	1,300	5.00	6,500.00
04 Concrete Install new 4" concrete as per plan with sealer. JLC NO 1 from easment driveway. 5' x 210.5 = 1052.5 To be done next year 2020.	1,052.50	5.00	5,262.50

50% down to start with signed contract and balance upon completion.

Our goal is to be of service.

TOTAL $11,762.50

THANK YOU.

Accepted By Jamee L Cole

Accepted Date 7-9-20

Lot 2 (Ptn) Blk 5 = 0833100 9/5/2019 CW

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

JOB NO: 492001
DATE: March 25, 2019
COMPLETED: 7/31/2019
FOR/OWNER: Jamee Cole

Plat Of
JLC No. 1
A Subdivision Located In
NE1/4SE1/4 SEC. 25, T.31N., R.22W., P.M.,M.,
City of Whitefish, FLATHEAD COUNTY, MONTANA

Sec. 25

Total Area:	0.334 Ac.
Lots (2) Net:	0.314 Ac.
Driveway Easement:	0.020 Ac.

SCALE : 1" = 10'

10' 5' 0 10' 20'

CERTIFICATE OF DEDICATION:

I, THE UNDERSIGNED PROPERTY OWNER, DO HEREBY CERTIFY THAT I 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 NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

Parcel B of Deed Exhibit Book 521, Page 87 (records of Flathead County, Montana) and containing 0.334 ACRES; Subject to and together with a 25 foot driveway 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:
JLC No. 1

Lots 1 & 2 are excluded from sanitation review by the Department of Environmental Quality pursuant to M.C.A. 76-4-125(1)(d) as the division is located within jurisdictional areas that have adopted growth policies pursuant to Title 76, Chapter 1 M.C.A. or is within a first-class or second class municipalities for which the governing body certifies, pursuant to 76-4-127 M.C.A., that adequate storm water drainage and adequate municipal facilities will be provided.

NOTE: "Buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing." Pursuant to ARM 24.183.1107(2)(e)(xxiii)(B).

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.

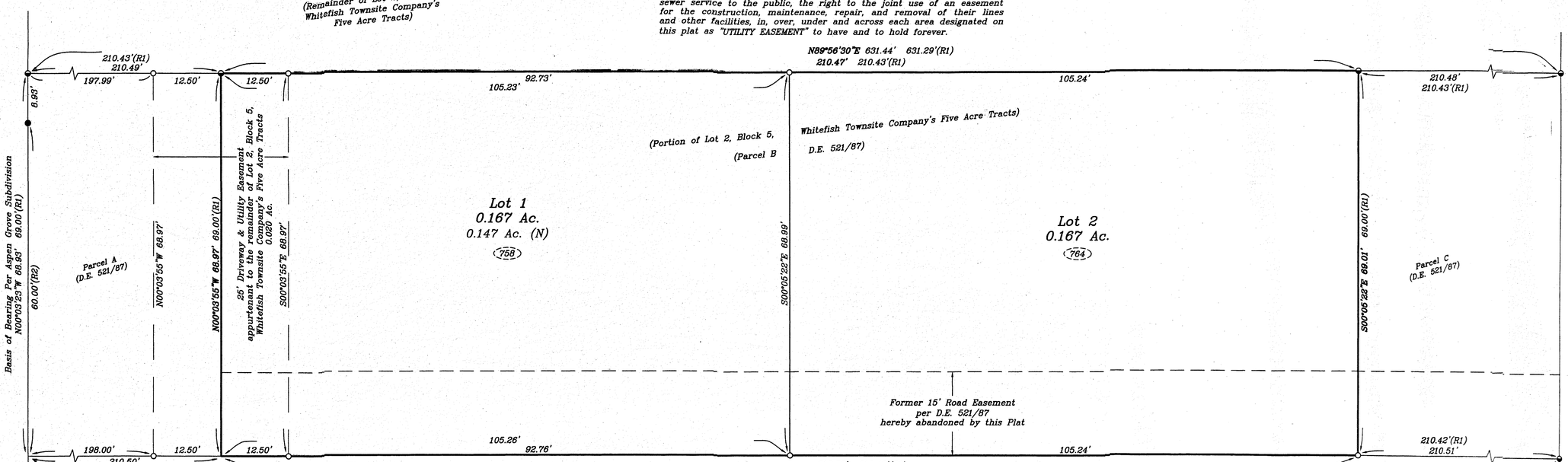
Jamee Cole
JAMEE COLE

STATE OF MONTANA)
SS
COUNTY OF FLATHEAD)

On this 10th day of July, 2019, before me a Notary Public for the State of Montana, personally appeared JAMEE COLE, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

Hannah
Notary Public for the State of Montana

HANNAH HEAD NOTARY PUBLIC for the State of Montana Residing at Kila, Montana My Commission Expires December 18, 2021



CERTIFICATE OF CITY COUNCIL:

We, John Muhlfeld, Mayor of the City of Whitefish, and Michelle Howke, 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 3rd day of September, 2019.

John Muhlfeld — Mayor of Whitefish, Montana
Michelle Howke — City Clerk of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY:

I, Angela Jacobs, 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 JLC No. 1, and find that JAMEE COLE is the owner in fee simple of the land so platted. Dated this 29th day of August, 2019.

Angela Jacobs
City Attorney for the City of Whitefish

CITY OF WHITEFISH CORPORATE SEAL MONTANA

ASPEN GROVE STREET
(60' City Street)

CONDITIONS OF APPROVAL PER WHITEFISH CITY COUNCIL:

a. All building addresses must be visible from the road and must conform to the current Fire Code, as adopted by the City Council.

b. All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner.

LEGEND:

- ○ Set 1/2"x24" Rebar & Cap (7975S)
- ● Found 1/2" Rebar & Cap (7975S)
- ◒ Found 3/4" Pipe & Disc (2989ES)
- (R1) Record Information Per Deed Exhibit 521/87
- (R2) Record Information Per Plat of Aspen Grove Subdivision
- (F) Found Information
- ( ) Street Address

CERTIFICATE OF SURVEYOR

7-31-2019
THOMAS E. SANDS 7975S

APPROVED: 7-15, 2019

EXAMINING LAND SURVEYOR
REG. No. 7328S

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS
FILED ON THE 5 DAY OF Sept, 2019
AT 2:43 PAID FEE 42 -
Debbie Pierson
CLERK & RECORDER
BY Debbie
DEPUTY
INSTRUMENT REC. No. 201900021464

Plat # 20190068 Abstract# 2709
201900021464 Fees: $42.00 by: DD
by SANDS SURV
Date 9/5/2019 Time 2:43 PM
Debbie Pierson, Flathead County Montana

LOT 7	LOT	6	(BIRCH	LOT	5	GLADES)	LOT	4	LOT 3
(B)	(A)	(B)	(A)		(B)	(A)		(B)	(A)

SHEET 1 OF 1 SHEETS

FILE No. 20190068 Abst 2709

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

JOB NO: 492001
DATE: March 25, 2019
COMPLETED: / /
FOR/OWNER: Jamee Cole

Plat Of
JLC No. 2
A Subdivision Located In
NE1/4SE1/4 SEC. 25, T.31N., R.22W., P.M.,M.,
City of Whitefish, FLATHEAD COUNTY, MONTANA

Sec. 25

Total Area:	0.333 Ac.
Lots (2) Net:	0.290 Ac.
Driveway Easement:	0.020 Ac.
City Street:	0.023 Ac.

SCALE : 1" = 10'
10' 5' 0 10' 20'

N

SANDS SURVEYING INC.

CERTIFICATE OF DEDICATION:

I, THE UNDERSIGNED PROPERTY OWNER, DO HEREBY CERTIFY THAT I HAVE CAUSED TO BE SURVEYED AND PLATTED INTO LOTS AND STREET 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 NORTHEAST QUARTER OF THE SOUTHEAST 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 Parcel A of Deed Exhibit Book 521, Pages 87 & 88 (records of Flathead County, Montana) which is a found iron pipe; Thence N89°56'30"E 210.49 feet to a found iron pipe; Thence S00°03'55"E 68.97 feet to the northerly R/W of a 60 foot city street known as Aspen Grove Street; Thence along said R/W S89°57'06"W 210.50 feet; Thence N00°03'23"W 68.93 feet to the point of beginning and containing 0.333 ACRES; said tract of land also referred to as said Parcel A of said Deed Exhibit Book 521, Pages 87 & 88; Subject to and together with a 25 foot driveway 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:
JLC No. 2

City Street "A" as shown hereon is hereby dedicated to the City of Whitefish forever.

Lots 1 & 2 are excluded from sanitation review by the Department of Environmental Quality pursuant to M.C.A. 76-4-125(1)(d) as the division is located within jurisdictional areas that have adopted growth policies pursuant to Title 76, Chapter 1 M.C.A. or is within a first-class or second class municipalities for which the governing body certifies, pursuant to 76-4-127 M.C.A., that adequate storm water drainage and adequate municipal facilities will be provided.

NOTE: "Buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing." Pursuant to ARM 24.183.1107(2)(e)(xxiii)(B).

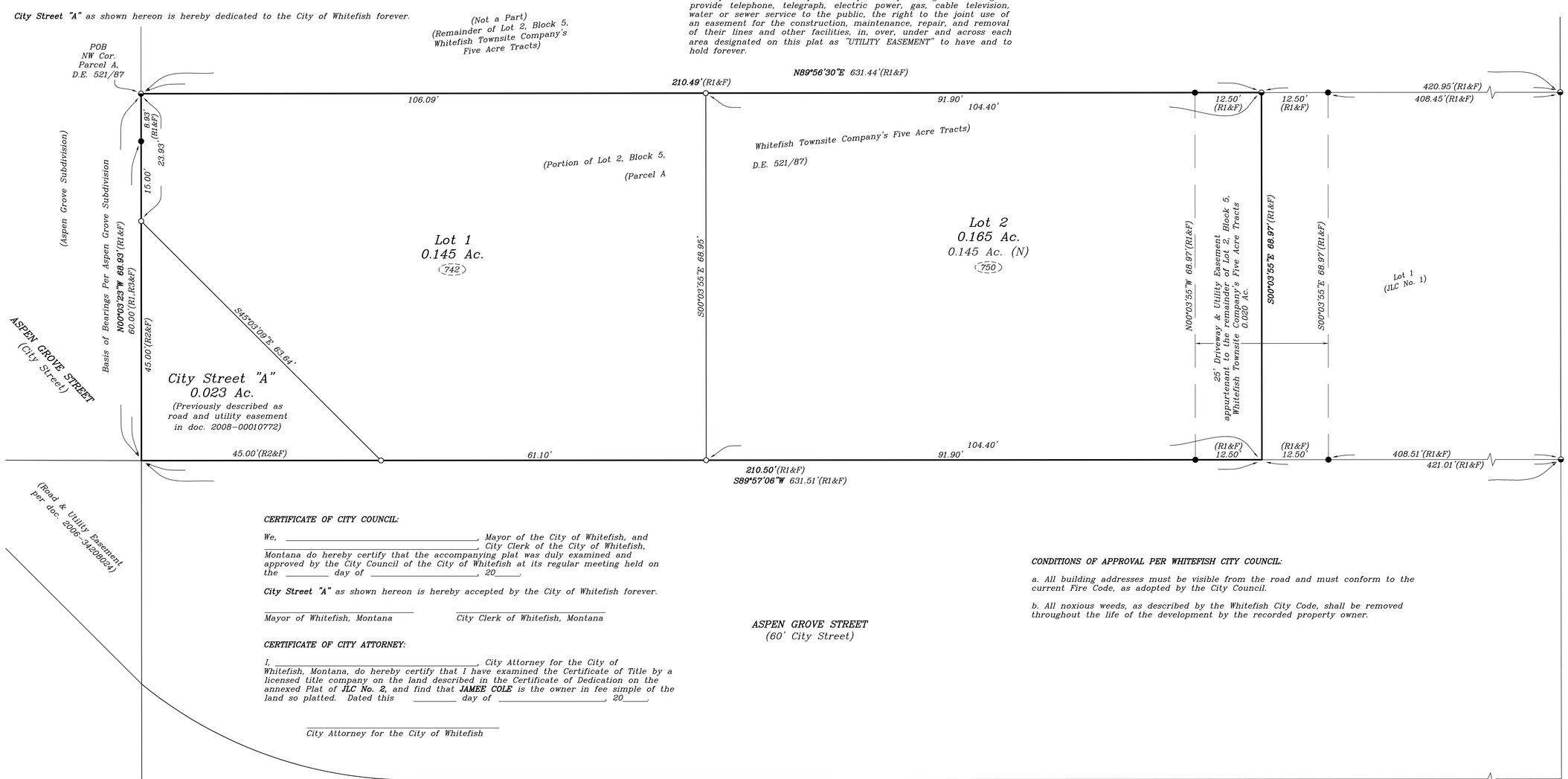
UTILITY EASEMENT CERTIFICATE:
The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an 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.

_____
JAMEE COLE

STATE OF MONTANA)
SS
COUNTY OF FLATHEAD)

On this _____, day of _____, 20_____, before me a Notary Public for the State of Montana, personally appeared **JAMEE COLE,** known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

_____
Notary Public for the State of Montana



LEGEND:

- ○ Set 1/2"x24" Rebar & Cap (7975S)
- ● Found 1/2" Rebar & Cap (7975S)
- ◒ Found 3/4" Pipe & Disc (2989ES)
- (R1) Record Information Per Plat of JLC No. 1
- (R2) Record Information Doc. 2008-00010772
- (R3) Record Information Plat of Aspen Grove Subdivision
- (F) Found Information
- POB Point of Beginning
- (742) Street Address

CERTIFICATE OF CITY COUNCIL:

We, _____, Mayor of the City of Whitefish, and _____, 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 _____ day of _____, 20_____.

City Street "A" as shown hereon is hereby accepted by the City of Whitefish forever.

_____ _____
Mayor of Whitefish, Montana City Clerk of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY:

I, _____, 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 **JLC No. 2,** and find that **JAMEE COLE** is the owner in fee simple of the land so platted. Dated this _____ day of _____, 20_____.

_____
City Attorney for the City of Whitefish

CONDITIONS OF APPROVAL PER WHITEFISH CITY COUNCIL:

a. All building addresses must be visible from the road and must conform to the current Fire Code, as adopted by the City Council.

b. All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner.

CERTIFICATE OF SURVEYOR

_____
THOMAS E. SANDS 7975S

APPROVED _____, 201 __

_____
EXAMINING LAND SURVEYOR
REG. No. 7328S

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS
FILED ON THE ___ DAY OF _____, 201 __
AT _____, PAID FEE _____

_____
CLERK & RECORDER

BY _____
DEPUTY

INSTRUMENT REC. No. _____

PRELIMINARY

SHEET 1 OF 1 SHEETS

FILE No. _____

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

July 14, 2020

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

RE: Secrease Accessory Apartment at 909 Kalispell Avenue (WCUP 20-10)

Honorable Mayor and Council:

Summary of Requested Action: Eric Holden on behalf of Pamela Secrease is requesting a Conditional Use Permit to construct an accessory apartment at 909 Kalispell Avenue. The site is developed with a single-family home. 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 eight 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 20-10 with Findings of Fact and recommended Conditions of Approval.

Proposed Motion:

- I move to approve WCUP 20-10, the Findings of Fact in the staff report and the eight 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 20, 2020. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

/s/ Hilary Lindh

Hilary Lindh
Long Range 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 20-10, 6-11-20
2. Adjacent Landowner Notice, 5-29-20
3. Advisory Agency Notice, 5-29-20
4. Comment Letter - Roehrdanz and Heydorff, 6-7-20

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 Pamela Secrease, 909 Kalispell Ave Whitefish, MT 59937

Exhibit A
Secrease
Conditional Use Permit WCUP 20-10
Whitefish Planning Board
Recommended Conditions of Approval
June 18, 2020

1. The project must be constructed in compliance with the plans submitted May 14 and June 1, 2020, except as amended by these conditions. Minor deviations from the plans will require review pursuant to §11-7-8(E)(8) and major deviations from the plans will require review pursuant to §11-7-8. The applicant must maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. Because the footprint of the building exceeds 600 square feet, primary building setbacks must be met. (§11-2G-4)

3. One off-street parking space must be designated for the accessory apartment and two off-street parking spaces must be designated for the primary residence. (§11-3-1(D))

4. The applicant must pave the driveway as required in §11-6-3-1(D)(2).

5. All stormwater generated by the proposal must be retained on-site. (§11-3-2(C))

6. 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. (§11-3-1(C))

7. Short term rentals for less than 30 days are not permitted.

8. The conditional use permit is valid for 18 months and will terminate unless commencement of the authorized activity has begun. (§11-7-8)

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	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. 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.
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 *6:05 pm*	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)	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.

DRAFT

	Staff recommended adoption of the findings of fact within staff report WCUP 20-10 and for **approval** of the conditional use permit to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	Chair Qunell asked why there is a stormwater condition (Condition No. 5) in this staff report when there was not one in the last one; was it because this application is for new construction. Compton-Ring clarified the condition in her staff report was that when the applicants paved their driveway they have to manage their stormwater. The requirement from Public Works is if you have 10,000 square feet or more of impervious area, and the lot on Somers is not even 10,000 square feet. Lindh added this lot is also not 10,000 square feet. Chair Qunell asked if we need the stormwater condition or if it will cross up the owner at some point. Compton-Ring said they just need to make sure that when they pave their driveway they do not cause a problem for their neighbor. An engineered stormwater plan is not a requirement because the whole lot does not exceed 10,000 square feet. Chair Qunell asked and Compton-Ring and Lindh said the wording in Condition No. 5 is correct. Ellis asked about the requirement that stormwater be retained onsite and how that figures in with the lot on Somers Avenue where there is a new stormwater system where pipes may be run into. The water is not being retained onsite; it is being put in the stormwater system. Public Works Director Workman said the City installed a sump pump collection system on Somers Avenue which is intended to allow property owners to connect their sump pumps to. The way the Zoning Code reads is that all stormwater needs to be managed onsite but the Engineered Stormwater Management Plan is not triggered in the Engineering Standards until you hit that threshold of 10,000 square feet of total impervious surface. So managing the stormwater would include using the sump pump collection system if available. Ellis asked if there is a difference between a driveway and a parking pad. Compton-Ring said all parking must be paved and the driveway is the first 80-feet, so when you have a little spot like this, it is essentially the same; it all has to be paved. Chair Qunell asked and Lindh said you can park in the driveway.
APPLICANT / AGENCIES	Pam Secrease, 909 Kalispell Avenue, said she has been a resident of Whitefish for over 30 years and has had this property since 2013. She used to run the Colorado Village Apartments where she was required to live onsite. She no longer has that job and is currently living in her

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	RV behind the house as her children occupy the house. The accessory apartment is for her for the next six or seven years while her children live in the house; she will not be renting it out.
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	Beckham moved and Freudenberger seconded to adopt the findings of fact within staff report WCUP 20-10, with the eight (8) conditions of approval, as proposed by City Staff.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on July 20, 2020.
PUBLIC HEARING 3: SWEET PEAKS ICE CREAM, INC., CONDITIONAL USE PERMIT REQUEST *6:17 pm*	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.
STAFF REPORT WCUP 20-09 (Taylor)	Director Taylor reviewed his staff report and findings. No public comments have been received regarding to this project. Staff recommended adoption of the findings of fact within staff report WCUP 20-09 and for **approval** of the conditional use permit to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	None.
APPLICANT / AGENCIES	Marissa Keenan, 525 Dakota Avenue, with EMAC Investments, said she and her partner started Sweet Peaks in Whitefish in 2010 and they consider themselves to be a Whitefish grown business. They have five locations and are adding a sixth one at City Beach this summer. They are very committed to this community and this community has been very committed to them; they feel it will be an honor to be at the entrance to Whitefish. They know it would be a welcoming thing to see as a small business that has grown here and plans on staying here and continuing to contribute.

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SECREASE
CONDITIONAL USE PERMIT
WCUP 20-10
June 11, 2020

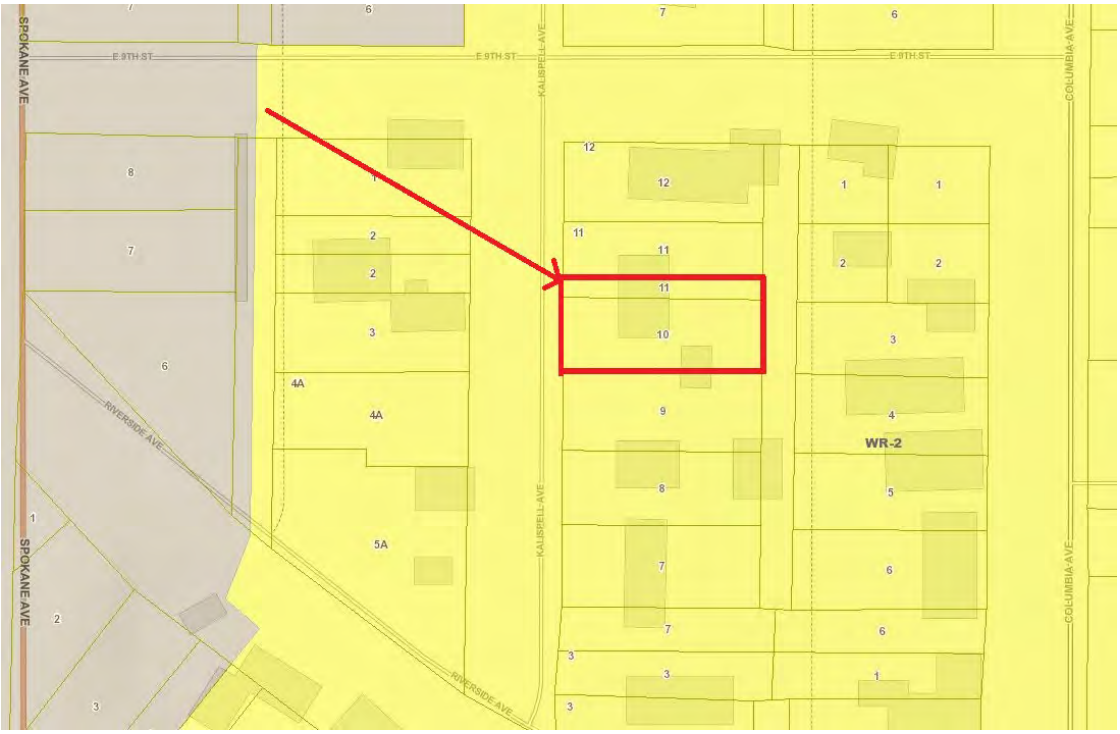
This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request for a conditional use permit to allow an accessory apartment in a WR-2 zone at 909 Kalispell Avenue. This application has been scheduled before the Whitefish Planning Board for a public hearing on Thursday, June 18, 2020. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, July 20, 2020.

PROJECT SCOPE

The applicant is requesting a conditional use permit to construct an accessory apartment behind the existing single-family residence. The accessory apartment will be located above a garage towards the middle/rear of the subject property. The garage is intended to be larger than the footprint of the accessory apartment and will include space for two cars and an RV. The garage will be accessed from an existing alley along the rear property line.

A. **OWNER:**
Pamela Secrease
909 Kalispell Avenue
Whitefish, MT 59937

B. **SIZE AND LOCATION OF PROPERTY:**
The subject property is approximately 8,407 square feet. It is located at 909 Kalispell Avenue and can be described as Lots 10 and 11 S15', Block 17 Riverside ADD W in S36, T31N, R22W, P.M.M., Flathead County, Montana.



C. **EXISTING LAND USE:**

The subject property is currently developed with a single- family residence.

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 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:

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 29, 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 has been received regarding the disputed location of the north property line.

REVIEW AND FINDINGS OF FACT

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per Section 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:
The setback requirements for an accessory structure with a footprint of greater than 600 square feet is 10-feet from the side property line and 20-feet from the rear property line. The project appears to meet these criteria and will be confirmed at the time of building permit.

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 and within the garage. The parking off the alley is not paved currently, as required by §11-6-3-1D(2). Staff will recommend this as a condition of approval.

Height:
The maximum height for an accessory building is 24-feet and it will be confirmed at the time of building permit.

Lot Coverage:
Lot coverage in the WR-2 is 40% and it appears this standard is being met. It will be confirmed at the time of building permit.

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 8,407 square feet in size. The maximum permitted lot coverage in this zoning district is 40%. All setbacks and lot coverage requirements can be met, and these will be confirmed at the time of building permit.

Access that meets the standards set forth in these regulations, including emergency access: The accessory apartment and garage will access from the existing public alley at the rear 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: §11-6-2(A) of the Whitefish Zoning Regulations requires two (2) parking spaces per single family dwelling unit and Section 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 spaces located inside the proposed garage and on the driveway accessing the garage.

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 are 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 along Kalispell 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 Kalispell 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 Kalispell 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 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 will meet or exceed the primary structure setbacks, and will be confirmed at the time of building permit. This will allow 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 20-10 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project must be constructed in compliance with the plans submitted May 14 and June 1, 2020, except as amended by these conditions. Minor deviations from the plans will require review pursuant to §11-7-8(E)(8) and major deviations from the plans will require review pursuant to §11-7-8. The applicant must maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. Because the footprint of the building exceeds 600 square feet, primary building setbacks must be met. (§11-2G-4)

3. One off-street parking space must be designated for the accessory apartment and two off-street parking spaces must be designated for the primary residence. (§11-3-1(D))

4. The applicant must pave the driveway as required in §11-6-3-1(D)(2).

5. All stormwater generated by the proposal must be retained on-site. (§11-3-2(C))

6. 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. (§11-3-1(C))

7. Short term rentals for less than 30 days are not permitted.

8. The conditional use permit is valid for 18 months and will terminate unless commencement of the authorized activity has begun. (§11-7-8)

Planning & Building Department
PO Box 158
418 E 2nd Street
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409

Public Notice of Proposed Land Use Action

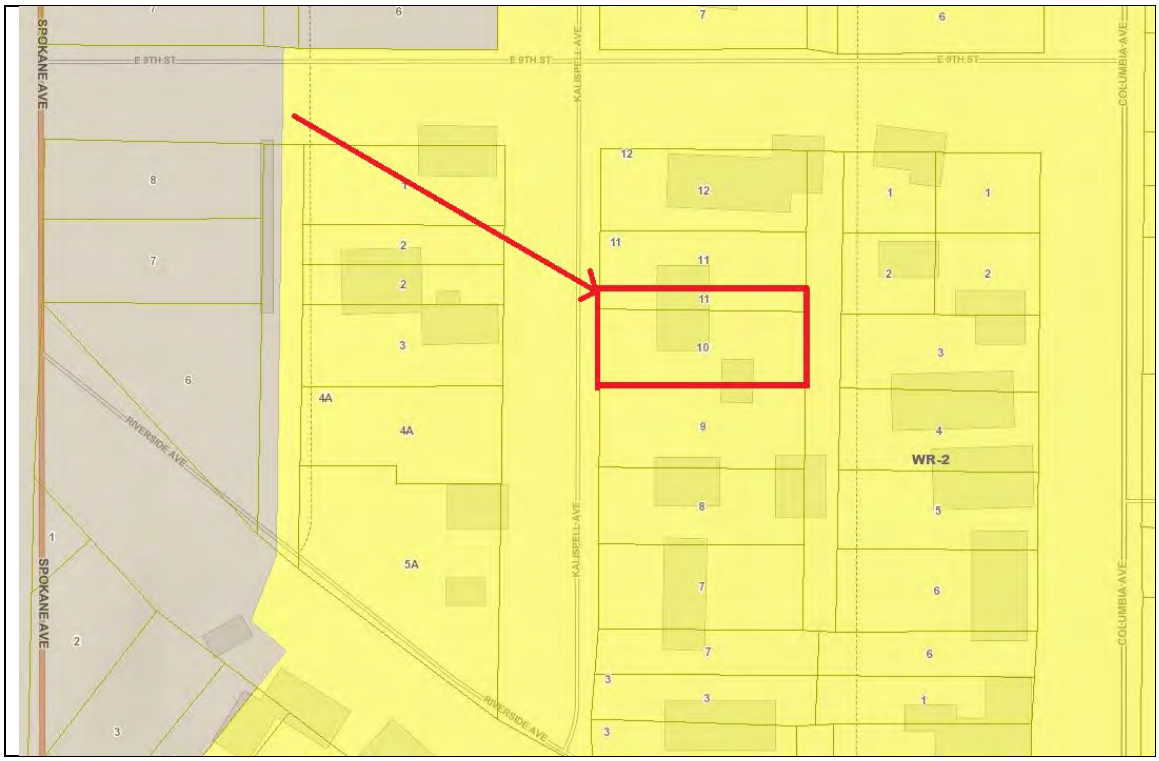
The City of Whitefish would like to inform you that Eric Holden on behalf of Pamela Secrease is requesting a Conditional Use Permit to construct an accessory apartment. The property is currently developed with a single-family home and is zoned WR-2 (Two-Family Residential District). The property is located at 909 Kalispell Avenue 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.

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 20, 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 located at 418 E 2nd Street. The public is encouraged to comment on the above proposal and attend the hearing. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *hlindh@cityofwhitefish.org*. 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.



Secrease property at 909 Kalispell Avenue

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 sublot) 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.

June 7, 2020

Whitefish Planning & Building Department
PO Box 158
418 E 2nd Street
Whitefish, MT 59937

Re: Conditional Use Permit – Located at 909 Kalispell Avenue
Lots 10 & 11 S15, T31N, R22W,P.M.M Flathead County

We Scott Roehrdanz and Renee Heydorff are the owners of 901 Kalispell Avenue. The property directly to the north of 909 Kalispell Avenue. We share the property line with 909 Kalispell Avenue. Ever since we owned the property Pamela Secrease has made numerous verbal claims that the fence line that separates our two properties is two feet encroaching into her property. When we purchased the home in 2016 the previous owner warned us that the owner at 909 Kalispell Avenue has issues with the property line. Previous owner had a surveyor out at her expense to confirm and mark the property line but in Pamela's opinion the surveyor report was wrong. She continued to make verbal claims about the fence line.

Therefore we request that the planning and building department postpones any and all building permits and approvals for 909 Kalispell Avenue until she has a licensed Civil/Survey Engineer located the east and west corner pins and stake them for review. The financial burden of this she be hers alone. We request to be there the day the survey is performed so all parties can review and agree to the actual property line and put closure to all of these erroneous claims.

The fence along the property line is old, we have made numerous efforts to renew portions of this fence from our side. However she continues to lean heavy items, against it causing it to collapse into our property. Time after time we fix and repair the fence due to her negligence. Fence is old, it's obvious, why would you continue to lean and prop discarded materials up against it, then break it and not repair?

Sincerely,

Scott Roehrdanz and Renee Heydorff

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 #: WCUP 20-10
Date: MAY 01 2020
Intake Staff:
Check #: 3728
Amount: $1,065
Date Complete:

CONDITIONAL USE PERMIT

FEE ATTACHED $ 1,065.00
(see current fee schedule)

INSTRUCTIONS:

- [ ] A Site Review Meeting with city staff is required. Date of Site Review Meeting: _____
- [x] 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.
- [x] 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.
- [x] 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: Pam Secrease Garage/apt.
Street Address: 909 Kalispell Ave Whitefish
Assessor's Tract No.(s) 36 31 22 Riverside add W Lot No(s) 10, 11 & 15 & Blk 17
Block # 17 Subdivision Name _____
Section _____ Township _____ Range _____

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.

Owner's Signature** — Date: 4/30/20
Print Name: Pamela J Secrease
Applicant's Signature — Date: 4/30/20
Print Name: Pamela J Secrease
Representative's Signature — Date: 4/30/20
Print Name: Eric Holden

**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
☑	only need 1 now 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 Requesting modifications to plans to be max height 24' & apt to be 1600 sq feet -

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: Pamela J Secrease Phone: 406-212-7434
Mailing Address: P.O. Box 7442
City, State, Zip: Kalispell Mt. 59904
Email: pjsecrease.1951@gmail.com

APPLICANT (if different than above):

Name: _____ Phone: _____
Mailing Address: _____
City, State, Zip: _____
Email: _____

OTHER TECHNICAL/PROFESSIONAL:

Name: Holden Custom Homes "Eric Holden" Phone: 406-314-0512
Mailing Address: 115 Westview Circle
City, State, Zip: Kalispell, MT, 59901
Email: eric.hch@yahoo.com

D. DESCRIBE PROPOSED USE:

Garage with Small apt. 600SqFt & Storage.
I'm Semi Retired now So I go South Jan, Feb, March, Come back in april. need my own place for my motorhome & Furniture to get rid of the 2 Storage units.

ZONING DISTRICT: WR2

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.

b.5.2 size height & Mass of Garage/RV $ accessory apt. is so I Can Travel once I'm Full Retrieved My Son & Wife with 3 Kids live in my house: I need to have space of my own not in the house:

2. Describe how the proposal is consistent with the purpose, intent and applicable provisions of the regulations.

I will meet all regulations for my Neighborhood. there are Several 2 Story Buildings in my Neighborhood. also Several Garages being built or recently Built in my area on Smaller lots than mine. I have the room to put this on my back area.

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?

all of this is adequate for my Property!

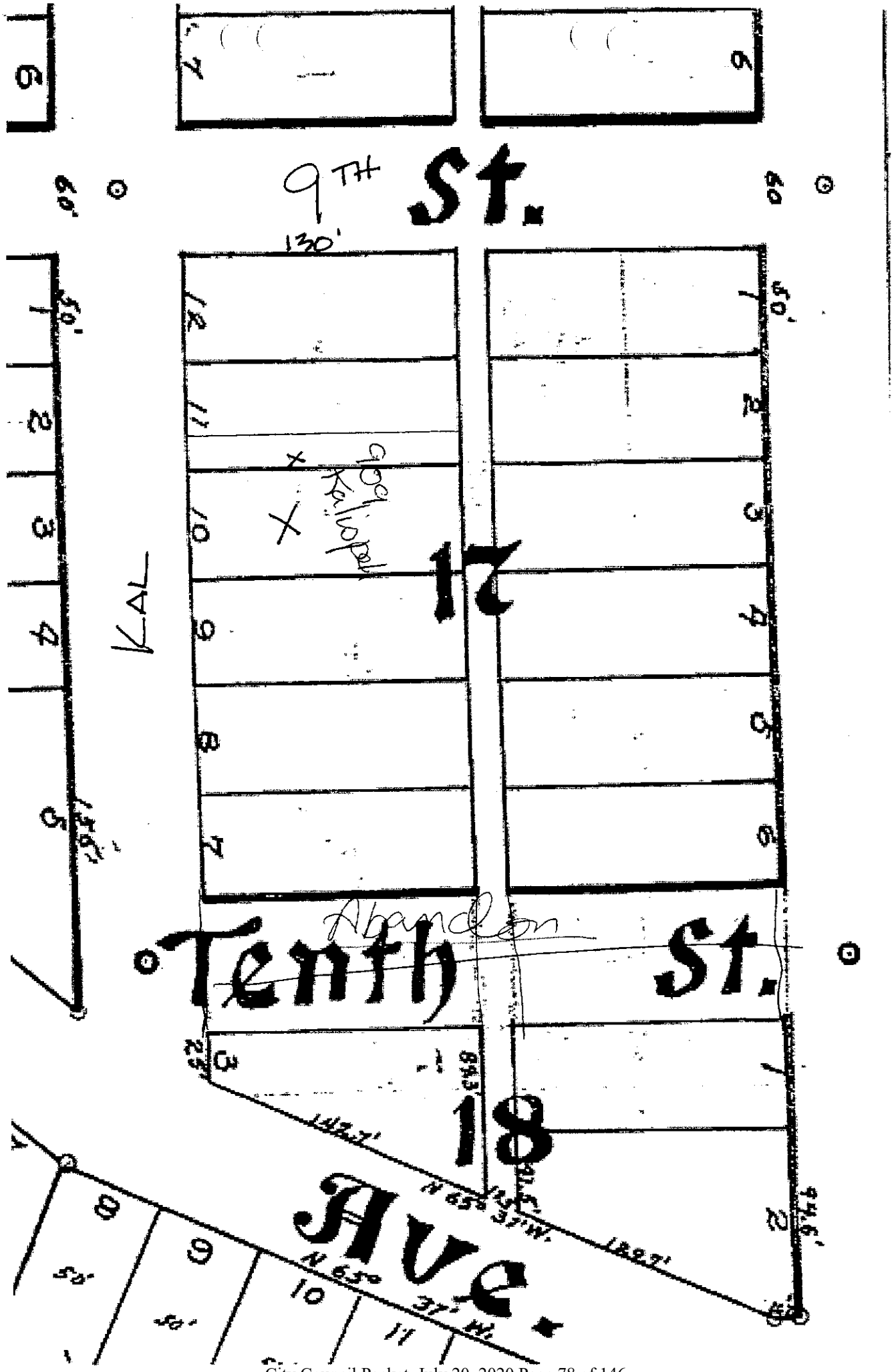
4. How are the following design issues addressed on the site plan?
   a. Parking locations and layout yes. have garage & Still Parking behind Garage.
   b. Traffic circulation no problem off alley
   c. Open space yes Front Sides & Back yard Space.
   d. Fencing/screening yes already in Place
   e. Landscaping yes.
   f. Signage no Signage
   g. Undergrounding of new utilities May 14th Flathead electric will Do work Order.
   h. Undergrounding of existing utilities Doesn't have

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
   a. Sewer yes, ~~bright~~ by getting 2nd meter will talk to water dept.
   b. Water yes
   c. Stormwater good.
   d. Fire Protection yes.
   e. Police Protection yes.
   f. Street (public or private) yes.
   g. Parks (residential only) none.
   h. Sidewalks none.
   i. Bike/pedestrian ways – including connectivity to existing and proposed developments Everyone. uses. alley or. Street out Front.

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 none already Park in Back.
   b. Noise, vibration, dust, glare, heat, smoke, fumes, odors none. have alot of Remodeling & Building in neighborhood,

7. What are the proposed hours of operation? 8am - 5pm.

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:
   a. Structural bulk and massing Comparable to other houses on block.
   b. Scale to Whitefish's guidelines
   c. Context of existing neighborhood good
   d. Density no more than what is here now
   e. Community Character improvement to a few houses in neighborhood


9TH St.
130'
60'
KAL
17
18
Tenth St.
Abandon
Ave.
N 65° 37' W.
142.7'
189.7'
N 65° 37' W.
50'
50'

Faxed 4/23/20

Family Home Plans ReDesign Request

We work quickly! A no obligation quote is usually ready within 1 business day of receiving your request. Let us modify a pre-drawn plan that you already love into one that is as unique as you are. *indicates required fields

Name*
First Name: Pamela

Last Name: Secrease

Address: P.O. Box 7442

City: Kalispell mt Zip Code: 59904

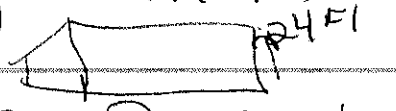
Phone*: 406-212-7434

Email*: pjsecrease1951@gmail.com

Plan Number*: 95827

Please provide a detailed explanation of the modifications you'd like to see*:

I Live where the Max Ride Height Can only be 24'
Can you Modifi to be 24 instead of 25'



also Sq Foot of Living Can only be 600 Sq Feet
Can these be adjusted?

Note: A sketch of the changes or the website floor plan marked up to reflect changes are a great way to convey the modifications in addition to the written list.

ReDesign HP
Designing for tomorrow

Send to:
E: shawnnasteele@redesignhp.com
P: 913.938.8097
F: 800.675.4916
http://www.redesignhp.com

Customer Contact:	Pamela Secrease
Customer Email	pjsecrease1951@gmail.com
Project Manager	Shawnna Steele, shawnnasteele@redesignhp.com
Date:	4/27/2020

Project Summary

The customer would like to engage ReDesign HP to modify **PLAN 95827.** The scope of work as it is understood by ReDesign HP is as follows:

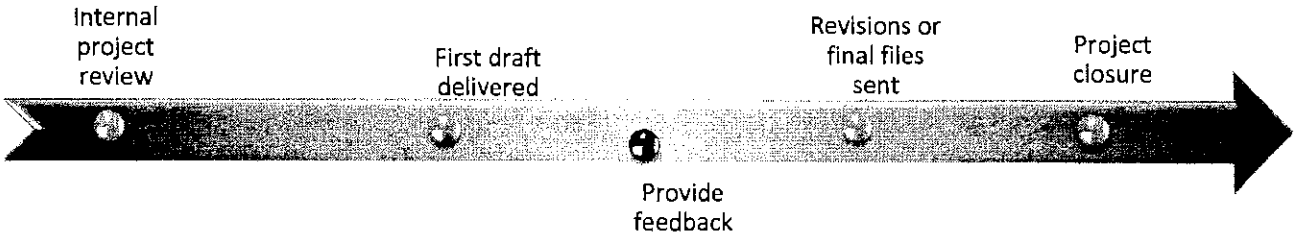
- **Maximum ridge height of 24' instead of 25', adjust pitch as needed**

Project Activities & Deliverables

The Modification process includes:

Up to (4) drafts of the plans as needed... *Additional design revisions after the fourth draft will be quoted at an hourly rate of $65 per hour. You will receive the first draft within 2-3 weeks depending on workload at the time of placement of the order. Subsequent drafts will be delivered in an accelerated manner.

Upon approval of the plan, you will receive a reproducible PDF of the redesign. Additionally, CAD files will also be provided if one was included in your original plan purchase.

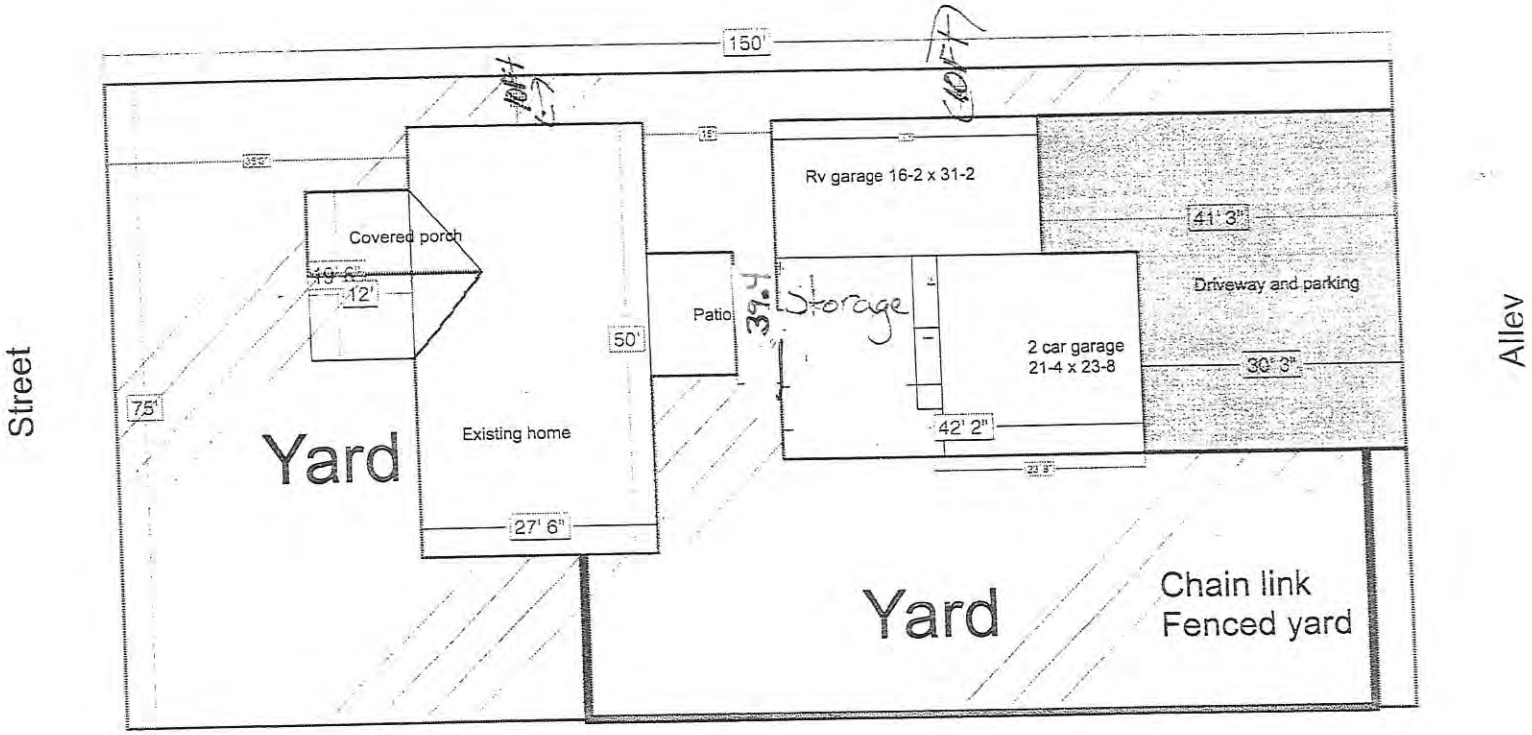


- **Finalized construction plans will include-**
  - Floor Plans: Each floor plan showing the dimensioned locations of walls, doors, and windows
  - Foundation plan
  - Electrical Plans: schematic electrical layout per new floor plan- custom electrical to be addressed with builder per local codes (if provided as part of the original design)
  - All 4 Elevations: the exterior elevations (front, rear, right and left) that show and describe the finished materials of the house.
  - Cross Section (if provided as part of the original design)
  - Typical Details (per original design)

Rec'd 5/14/20

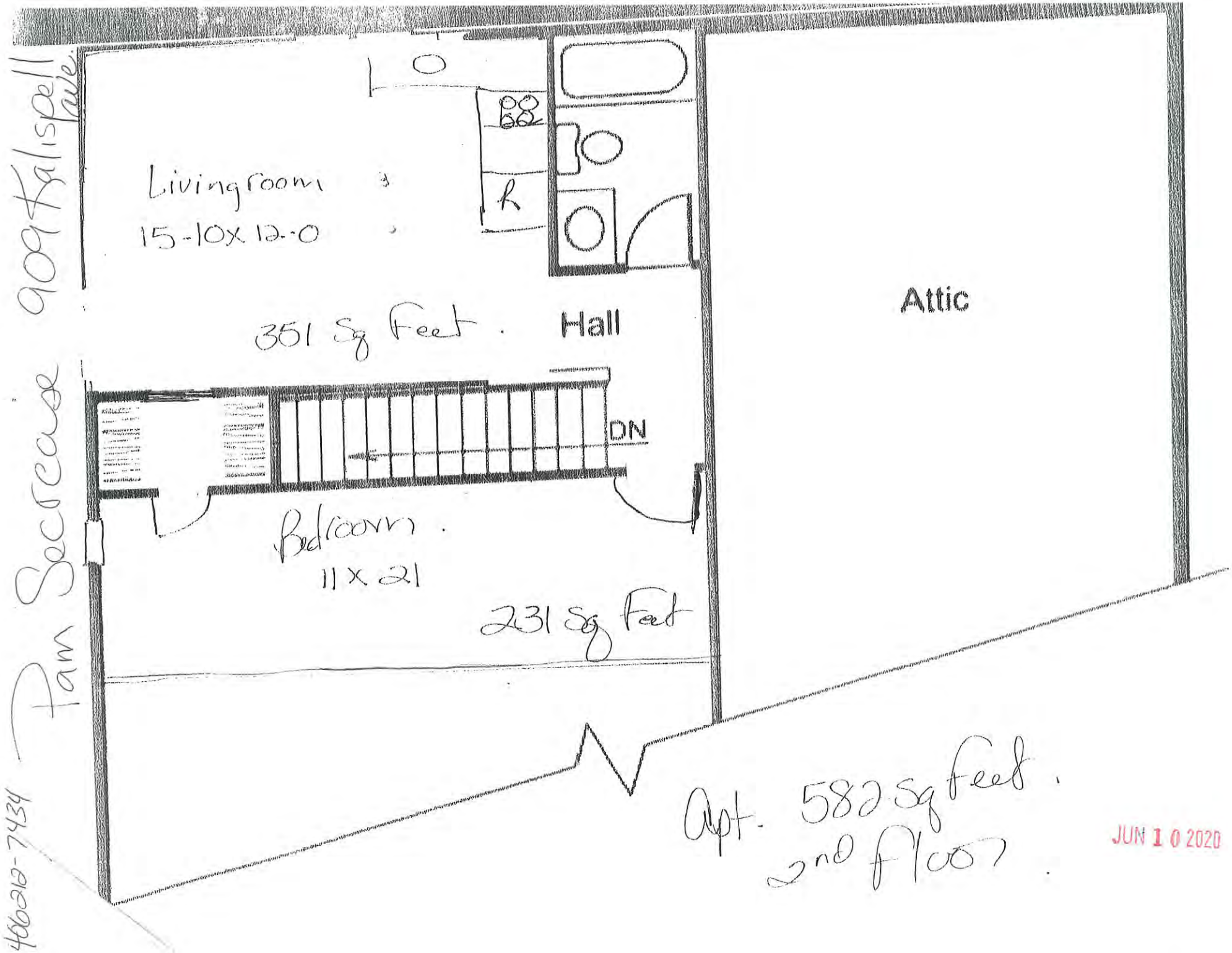
Revised apt.

Pam Secrease
909 Kalispell Ave
Whitefish Mt.

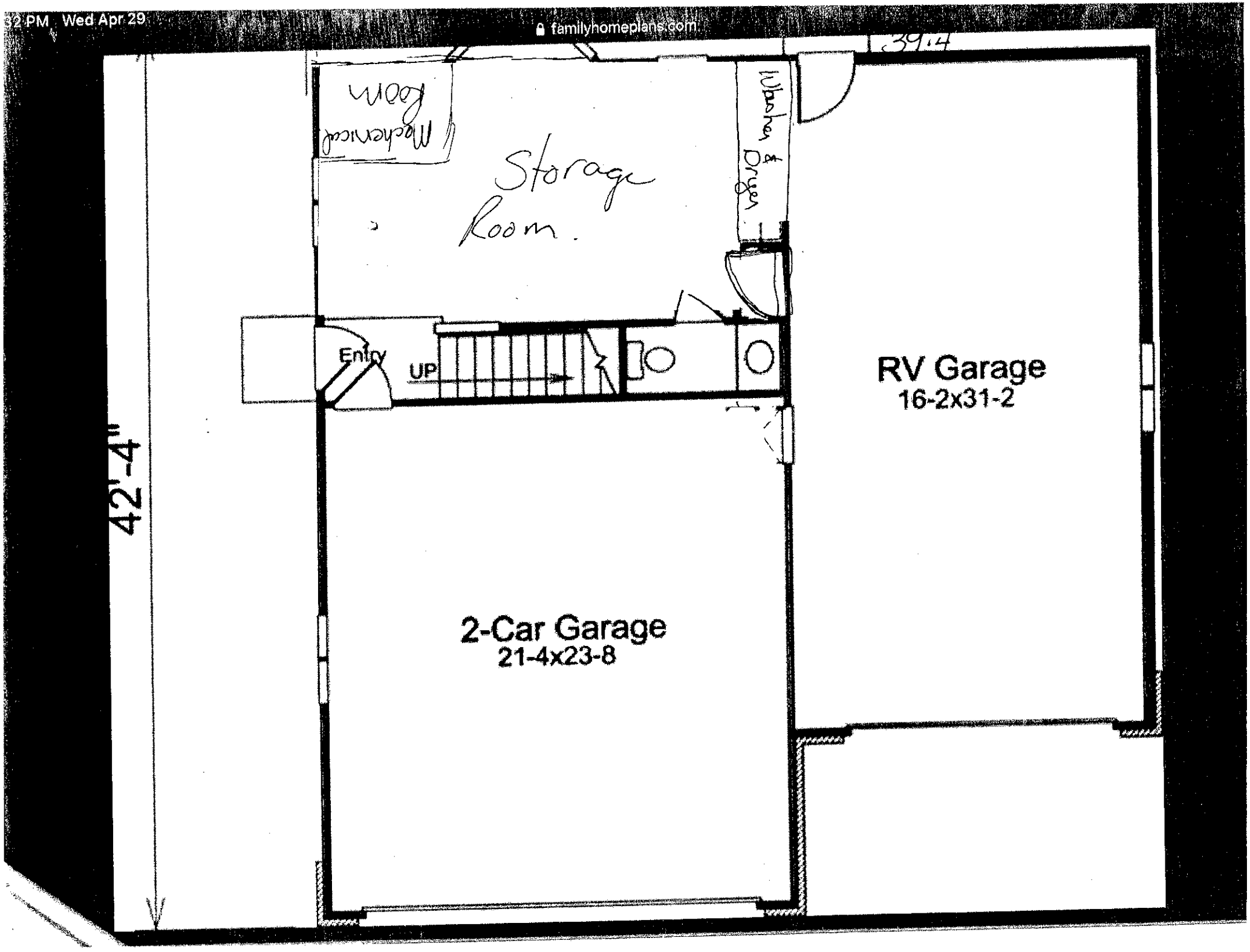


40% = 4500 Sq Ft.

house & Garage w/ = 2988 Sq Ft.


909 Kalispell Pave.
Pam Secrcase
406010-7434
Livingroom
15-10x 12-0
351 Sq Feet.
Hall
Attic
DN
Bedroom.
11 x 21
231 Sq Feet
Apt. 582 Sq feet.
2nd floor.

JUN 10 2020


39'-4"
Mechanical Room
Storage Room
Washer & Dryer
Entry
UP
RV Garage
16-2x31-2
42'-4"
2-Car Garage
21-4x23-8

31 PM Wed Apr 29 familyhomeplans.com 100%

Yard Side view

:31 PM Wed Apr 29
familyhomeplans.com
100%
? Ask A Question

Back view.

:31 PM Wed Apr 29 100%

familyhomeplans.com

evel Two $ Cost to Build

North Side View

(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

July 20, 2020

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

RE: Sweet Peaks Ice Cream Inc. (WCUP 20-09)

Honorable Mayor and Council:

Summary of Requested Action: Sweet Peaks Ice Cream Inc. is requesting a Conditional Use Permit to operate a light manufacturing facility in an existing commercial building at 6588 Highway 93 South. The property is zoned WB-2 (Secondary Business District) and the Whitefish Growth Policy designation on the property is General Commercial.

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

Public Hearing: No members of the public spoke at the June 18, 2020 public hearing. 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 recommended approval of the application. In making their decision, the Planning Board adopted staff report WCUP 20-09 with Findings of Fact and recommended Conditions of Approval.

Proposed Motion:

- I move to approve WCUP 20-09, the Findings of Fact in the staff report and the nine 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 20, 2020. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

David Taylor, AICP

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 20-09, 6-18-20
2. Adjacent Landowner Notice, 5-26-20

The following was submitted by the applicant:

3. Application for Conditional Use Permit, 5-4-20

c: w/att Michelle Howke, City Clerk

c: w/o att Eric Payne
Sweet Peaks Ice Cream

Exhibit A
Sweet Peaks Ice Cream Inc
WCUP 20-09
Whitefish Planning Board
Recommended Conditions of Approval
May 18, 2020

1. The project must be in compliance with the site plan submitted on May 4, 2020, except as amended by these conditions. Minor deviations from the plans require review pursuant to §11-7-8E(8), WCC, and major deviations from the plans require review pursuant to §11-7-8, WCC. The applicant must maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. The Whitefish Fire Department requires the applicant to comply with all fire codes for this classification of occupancy. Emergency vehicle access, hydrants, and any extended fire suppression system will be reviewed by the Fire Department as part of the building permit. (IFC)

3. An engineered stormwater plan must be submitted for review and approval to the Public Works Department at the time of a building permit application if the cumulative amount of impervious surface is greater than 10,000 square feet. (City Engineering Standards, 2019)

4. The applicant must provide bicycle racks to accommodate up to five bicycles as close to the existing building as possible. (11-3-43(E)(8), 11-3-43(G)(4), WCC)

5. All on-site lighting must be dark sky compliant. (§11-3-25, WCC)

6. Changes to the refuse location must be reviewed and approved by the Public Works Department and Republic Services. (§4-2, WCC)

7. Compliance with the Landscaping Chapter will be confirmed at the time of building permit. (Chapter 4, WCC)

8. Approval from the Architectural Review Committee shall be obtained prior to submitting an application for a building permit. (§11-3-3B, WCC)

9. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8, WCC)

PUBLIC HEARING 3: SWEET PEAKS ICE CREAM, INC., CONDITIONAL USE PERMIT REQUEST *6:17 pm*	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.
STAFF REPORT WCUP 2009 (Taylor)	Director Taylor reviewed his staff report and findings. No public comments have been received regarding to this project. Staff recommended adoption of the findings of fact within staff report WCUP 2009 and for **approval** of the conditional use permit to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	None.
APPLICANT / AGENCIES	Marissa Keenan, 525 Dakota Avenue, with EMAC Investments, said she and her partner started Sweet Peaks in Whitefish in 2010 and they consider themselves to be a Whitefish grown business. They have five locations and are adding a sixth one at City Beach this summer. They are very committed to this community and this community has been very committed to them; they feel it will be an honor to be at the entrance to Whitefish. They know it would be a welcoming thing to see as a small business that has grown here and plans on staying here and continuing to contribute. 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. 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.
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	Scott moved and Middleton seconded to adopt the findings of fact within staff report WCUP 2009, with the nine (9) conditions of approval, as proposed by City Staff. 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. Scott asked and Ms. Keenan said the Sweet Peaks location in town on 3rd Street will be maintained.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on July 20, 2020.

SWEET PEAKS ICE CREAM, INC.
CONDITIONAL USE PERMIT WCUP 20-09
EXHIBIT LIST
JUNE 18, 2020

1. Staff Report – WCUP 20-05, 6-18-20
2. Adjacent Landowner Notice, 5-21-20

The following was submitted by the applicant:

3. Application for Conditional Use Permit, revised 5-4-20
4. Agreement and Grant of Possession with City of Whitefish 10-6-98

SWEET PEAKS ICE CREAM, INC.
CONDITIONAL USE PERMIT
WCUP 20-09
APRIL 9, 2020

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request by Sweet Peaks Ice Cream, Inc., for a conditional use permit to operate an ice cream manufacturing facility in the WB-2 (Secondary Business District) at 6588 Highway 93 South. 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 20, 2020.

PROJECT SCOPE

The applicant is requesting a Conditional Use Permit to operate an ice cream manufacturing facility and retail store in an existing commercial building at 6588 US Highway 93 South. The building was previously the Best Bet Casino and Dos Amigos restaurant, but currently is vacant. Light assembly and light manufacturing are a conditional use in the WB-2 zoning district.

Figure 1- Rendering of proposed remodel

The applicant will remodel the building and façade, add landscaping and provide indoor and outdoor seating for ice cream patrons. There is also additional room for manufacturing expansion as well as an additional commercial tenant space within the building.

A.

OWNER:
EMAC Investments LLC
PO Box 4218
Whitefish, MT 59937

TECHNICAL/PROFESSIONAL:
nuWest Builders, Eric Payne
100 Central Avenue
Whitefish, MT 59937

APPLICANT:
Sweet Peaks Ice Cream, Inc.
PO Box 4479
Whitefish, MT 59937

Figure 2 - Location of Project

B. SIZE AND LOCATION OF PROPERTY:
The property is located at 6588 Highway 93 S and is approximately 0.85 acres. The project can be legally described as Lot A in the Best Bet Subdivision, S36, T31N, R22W P.M.M., Flathead County.

C. EXISTING LAND USE:
The subject property is developed with an existing vacant commercial building.

D. ADJACENT LAND USES AND ZONING:

North:	Commercial	WB-2
West:	Commercial	WB-2
South:	Commercial	WB-2
East:	Commercial	WB-2

E. ZONING DISTRICT:
The property is zoned WB-2 (Secondary Business District). The purpose of the WB-2 District is 'intended to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to highways or arterial streets and may be located in business corridors or islands.'

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Growth Policy designation is General Commercial which corresponds to the WB-2 zoning district.

> Generally applied to the Hwy 93 corridor north of the Highway 40 intersection, this designation is defined by auto-oriented commercial and service uses. Specific land uses include retail, restaurants of all types and quality ranges (including those with drive-up facilities), professional offices, auto sales and services, hotels/motels, supermarkets, shopping centers or clusters, and convenience shopping, including the dispensing of motor fuels. Primary access is by automobile with ample parking provided on site. Development sites are properly landscaped to screen parking and drive areas and to provide a high-quality visual image. Zoning is generally WB-2, but higher density residential with WR-3 zoning, and mixed-use development may also be appropriate in this area.

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

G. PUBLIC COMMENTS:

A notice was mailed to adjacent landowners within 300-feet of the subject parcel on May 21, 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. A sign was posted on the subject property on May 29, 2020. As of the writing of this report, no comments have been received.

Figure 3 - Existing building rear

REVIEW AND FINDINGS OF FACT

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per Section 11-7-8(J) of the Whitefish Zoning Regulations.

1. **Growth Policy Compliance:** The property is has a general commercial Growth Policy designation, and is zoned WB-2. The proposed use is consistent with the Growth Policy.

   Finding 1: The proposed use complies with the Growth Policy designation of General Commercial because the property has been developed commercially in accordance with the existing WB-2 (Secondary Business District) zoning and the proposed uses are consistent with that.

2. **Compliance with regulations. The proposal is consistent with the purpose, intent, and applicable provisions of these regulations.**

   The property is zoned WB-2, Secondary Business District. The development proposal is consistent with the purpose and intent of the applicable regulations.

   Setbacks:
   The setbacks in the WB-2 are: 20-feet in the front, 20-feet when abutting a residential district or right-of-way, otherwise none in the side yard and 20-feet when abutting a residential district, otherwise, none in the rear yard. The remodeled building will comply with the setback off of West 13th street, but also has an existing variance that was granted when that street was constructed in 1998 and 10th street was abandoned.

   Height:
   The maximum height allowed in the WB-2 zoning is 35-feet. The existing building complies with the height requirements and any modifications to the building will be reviewed at the time of building permit application.

Figure 4 - Existing building frontage on 93

Lot Coverage:
There is no maximum lot coverage required in the WB-2 zoning.

Non-Residential Development Standards:
Since the proposed use will be located within an existing building that is not being modified with this application, many of the non-residential development standards do not apply at this time. However, the applicant is proposing to encourage pedestrian and bicycle access to the property by connecting the existing sidewalk along Highway 93 to the interior of the subject property and installing bike racks adjacent to the entrance of the building. The applicant must install a minimum of five bicycle parking spaces based on the required number of parking spaces for the proposed use.

Finding 2: The project complies with the zoning regulations because all the zoning standards are being met or will be met with conditions of approval, and this will be reviewed at the time of building permit.

3. Site Suitability. The site must be suitable for the proposed use or development, including:
Adequate usable land area: The subject parcel is adequate to serve the proposed use.

Access that meets the standards set forth in these regulations, including emergency access: Access to the site is off Highway 93 South and 13th Street. All access requirements are being met with the existing approach. The Fire Marshal will review the building plan to ensure all emergency standards are being met.

Figure 5- Existing building from 13th

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 and there are no other environmental constraints on-site.

Finding 3: Project is suitable for the site because there is adequate usable land area, the proposed access will meet emergency standards and there are no environmental constraints.

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: The proposed site plan shows 48 parking spaces, including 3 handicap spaces. Based on the uses proposed (and potential future use of the vacant commercial tenant space as potentially retail), only 23 spaces are required: 11 for the restaurant; 6 for the manufacturing and storage areas; and 6 for the future commercial tenant space.

Traffic Circulation: The traffic circulation will remain unchanged as the property is currently paved for access and no changes are proposed to the existing approach. Traffic will access the site off Highway 93 S and 13th Street and can circulate around the entire building. Since it was formerly a restaurant, it is not considered a change in use.

Open space: Open space is not required for the proposed use. The WB-2 zoning does not include a maximum permitted lot coverage, which can allow the full build-out of the subject property.

Fencing/Screening: No fencing or screening is being proposed.

Landscaping: As the proposed use is commercial, the property must come into compliance with the current landscaping regulations. The proposed site plan identifies areas for substantial improved landscaping around the building and the perimeter of the property, however compliance with the required amount of landscaped areas will be confirmed at the time of building permit.

Signage: The attached architectural renderings show some new signage on the building. All new signage is required to obtain a permit from the Planning & Building office and will be reviewed at that time. The property has a perpetual variance to allow up to 100 square feet of signage, cumulatively, on the west and south sides of the building, no more than three signs, and no more than one sign on the south side of the building. Sign quality and construction must adhere to the sign ordinance.

Undergrounding of new and existing utilities: New utilities will be underground.

Finding 4: The quality and functionality of the proposed development has effectively dealt with the site design issues because the applicant is providing more than the required amount of parking spaces, traffic circulation will remain unchanged, the property must comply with current landscaping requirements, and future signage will be reviewed with a sign permit.

5. Availability and Adequacy of Public Services and Facilities.

Sewer and Water: The property is served by both municipal water and sewer. It is adequate to serve the project.

Storm Water Drainage: The updated Engineering Standards for stormwater requires professionally designed stormwater plans when the cumulative amount of impervious area exceeds 10,000 square feet. The majority of the property is currently paved or used by the building. Prior to the issuance of a building permit, the applicant must provide calculations to the Public Works Department to determine if a stormwater plan is required.

Fire Protection: The Whitefish Fire Department serves the site and response times and access are good. The proposed use is not expected to have significant impacts upon fire services.

Police: The City of Whitefish serves the site; response times and access are adequate. The proposed use is not expected to have significant impacts upon police services.

Streets: Traffic will access the site off Highway 93 South and 13th Street. No frontage improvements are required or proposed.

Finding 5: Public services and facilities are adequate and available because municipal water and sewer serve the project, response times for police and fire are not anticipated to be affected due to the proposed development and the property will have adequate access off public roads.

6. Neighborhood/Community Impact:

Traffic Generation: No Traffic Impact Study is required at this time for the proposed use. Depending on the future build-out of the property, the Public Works Department could request a TIS prior to building permit approval. It is anticipated that the existing highway system will be able to handle the additional traffic.

Noise or Vibration: While the manufacturing process will necessitate shipping and receiving of supplies and products, impacts to adjacent property are projected to be minimal. No impacts are anticipated from the proposed restaurant (ice cream) use.

Dust, Smoke, Glare, or Heat: No impact from dust, smoke, glare, or heat is anticipated from ice cream production. All outdoor lighting is required to be dark sky compliant.

Smoke, Fumes, Gas, and Odor: No impact is anticipated with regards to smoke, fumes, odor, or gas.

Hours of Operation: The hours of operation are proposed for typical work and retail hours.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact because noise, dust, smoke, odor or other environmental

nuisances are not expected, all outdoor lighting is required to meet city standards, and existing roads are anticipated to handle any additional traffic.

7. Neighborhood/Community Compatibility:

Structural Bulk, Massing, and Scale: *Mass* is defined as a building's bulk, size and magnitude – the overall volume. *Scale* correlates to the spatial relationship with neighboring buildings. The proposed use will be located within an existing building. All changes to the exterior of the building require approval by the Architectural Review Committee. The proposed renderings show a much improved façade over the existing building.

Context of Existing Neighborhood: The existing neighborhood is commercial uses. This will be located next door to an existing grocery store and gas station, and across the street from Walgreens. The scale of this building is much smaller and it will be a nice addition to the neighborhood.

Density: This project will not change the density of the neighborhood.

Finding 7: The project is compatible with the neighborhood and community because the existing building façade will be vastly improved, all exterior changes require approval by the Architectural Review Committee, the existing neighborhood is commercial uses, including a grocery store and gas station, and the project will be compatible with the surrounding community character.

Figure 6 - Proposed rear building façade

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact from staff report WCUP 20-09 and recommend **approval** of this conditional use permit to the Whitefish City Council subject to the following conditions:

1. The project must be in compliance with the site plan submitted on May 4, 2020, except as amended by these conditions. Minor deviations from the plans require review pursuant to §11-7-8E(8), WCC, and major deviations from the plans require review pursuant to §11-7-8, WCC. The applicant must maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. The Whitefish Fire Department requires the applicant to comply with all fire codes for this classification of occupancy. Emergency vehicle access, hydrants, and any extended fire suppression system will be reviewed by the Fire Department as part of the building permit. (IFC)

3. An engineered stormwater plan must be submitted for review and approval to the Public Works Department at the time of a building permit application if the cumulative amount of impervious surface is greater than 10,000 square feet. (City Engineering Standards, 2019)

4. The applicant must provide bicycle racks to accommodate up to five bicycles as close to the existing building as possible. (11-3-43(E)(8), 11-3-43(G)(4), WCC)

5. All on-site lighting must be dark sky compliant. (§11-3-25, WCC)

6. Changes to the refuse location must be reviewed and approved by the Public Works Department and Republic Services. (§4-2, WCC)

7. Compliance with the Landscaping Chapter will be confirmed at the time of building permit. (Chapter 4, WCC)

8. Approval from the Architectural Review Committee shall be obtained prior to submitting an application for a building permit. (§11-3-3B, WCC)

9. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8, WCC)

The City of Whitefish would like to inform you that Sweet Peaks Ice Cream, Inc., with technical assistance by Eric Payne of NuWest Builders, is requesting a Conditional Use Permit to allow an ice cream manufacturing facility in a currently vacant building 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) 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:

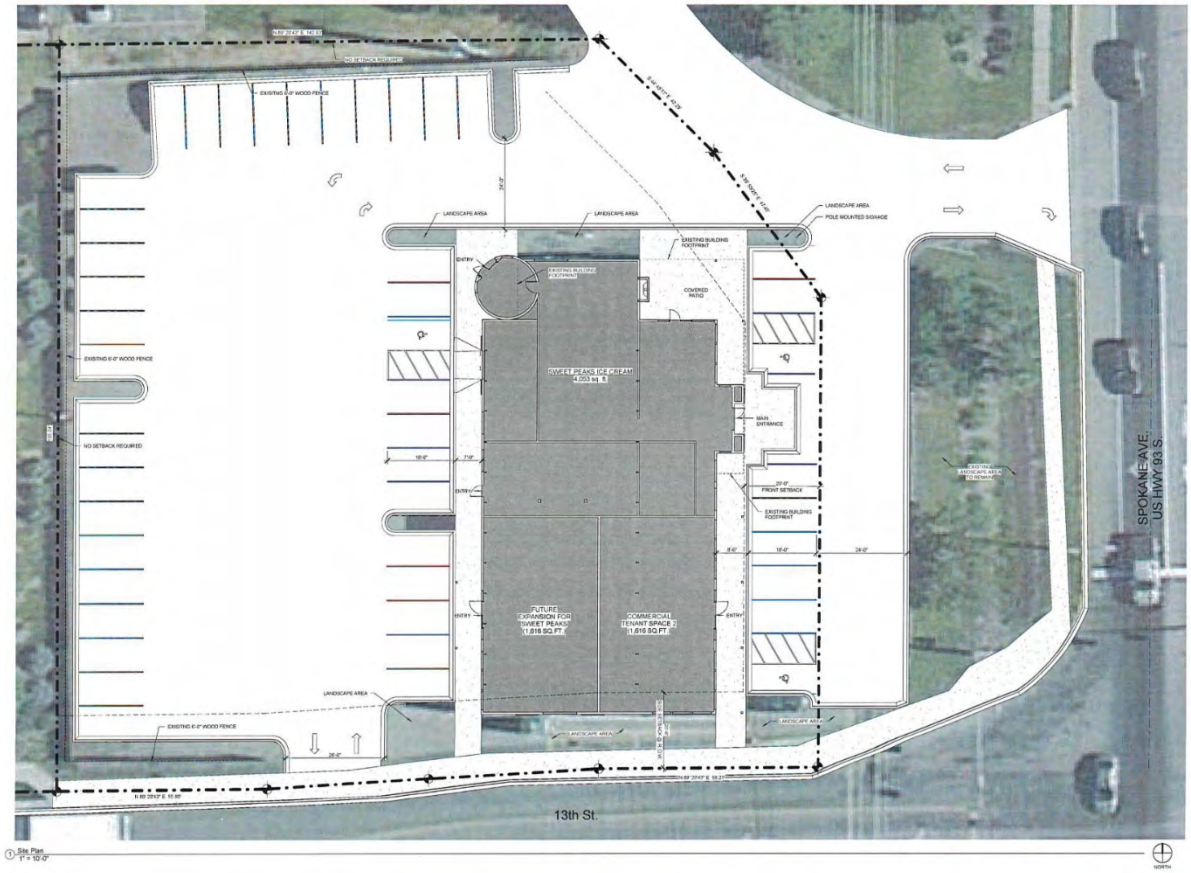
Thursday, June 18, 2020
6:00 p.m.
Whitefish City Council Chambers, City Hall
418 E 2nd Street, Whitefish MT 59937

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 20, 2020** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a proposed 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 *dtaylor@cityofwhitefish.org*. Comments received by the close of business on Wednesday, June 10, 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

Please share this notice with your neighbors


NO SETBACK REQUIRED
EXISTING 6'-0" WOOD FENCE
LANDSCAPE AREA
EXISTING BUILDING FOOTPRINT
COVERED PATIO
POLE MOUNTED SIGNAGE
SWEET PEAKS ICE CREAM
4,203 sq. ft.
MAIN ENTRANCE
ENTRY
20'-0" FRONT SETBACK
EXISTING BUILDING FOOTPRINT
FUTURE EXPANSION FOR SWEET PEAKS 1,818 SQ.FT.
COMMERCIAL TENANT SPACE 2 1,818 SQ.FT.
SPOKANE AVE. US HWY 93 S.
13th St.
Site Plan
1" = 10'-0"
NORTH

SWEET PEAKS
ICE CREAM
SWEET PEAKS

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 $ 2055.00
(see current fee schedule)

INSTRUCTIONS:

- [ ] A Site Review Meeting with city staff is required. Date of Site Review Meeting: _____
- [ ] 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: Sweet Peaks

Street Address: 6588 US HWY 93 S

Assessor's Tract No.(s) 0242535 Lot No(s) A

Block # _____ Subdivision Name Best Bet Sub

Section S36 Township T31N Range R22W

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.

See attached letter
Owner's Signature** Date

Ken Sapp
Print Name

Applicant's Signature Date

Sweet Peaks Ice Cream
Print Name

Representative's Signature Date

Eric Payne nuWest Builders
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.

I Ken Sapp, owner of 6588 Hwy 93 S, Whitefish, MT, do hereby authorize Sweet Peeks Inc, to apply for a Conditional Use Permit for said property, to allow for light manufacturing in line with their business needs regarding future use of this property.

Ken Sapp

Ken Sapp

B. APPLICATION CONTENTS:

Attached	ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED
x	Eight (8) copies of the Conditional Use Permit Application
x	Eight (8) copies of the written description of how the project meets the criteria in Section E
x	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)
x	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**
x	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: EMAC Investments LLC Phone:

Mailing Address: PO Box 4218

City, State, Zip: Whitefish, MT 59912

Email:

APPLICANT (if different than above):

Name: Sweet Peaks Ice Cream, Inc. Phone: 406-471-0982

Mailing Address: PO Box 4479

City, State, Zip: Whitefish, MT 59937

Email: info@sweetpeaksicecream.com

OTHER TECHNICAL/PROFESSIONAL:

Name: nuWest Builders, Eric Payne Phone: 406-270-8789

Mailing Address: 100 Central Ave, Suite 204

City, State, Zip: Whitefish, MT 59937

Email: eric@nuwestbuilders.com

D. DESCRIBE PROPOSED USE:

ZONING DISTRICT: 07-033455-74 - A

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.

   Proposed use of property meets all criteria of WB-2 Zoning, aside from light manufacturing, which is only a portion of the function of the tenant's intended use. The Growth Policy promotes retail, "small town feel", minimizes sprawl on a subject property, and promotes jobs for local, year round employment, all of which this application conforms to.

2. Describe how the proposal is consistent with the purpose, intent and applicable provisions of the regulations.

   This applicant epitomizes what the policy was intended to promote. Small, locally grown businesses that find the need to expand inside the city limits, utilizing an existing structure to fit their needs. This can be done without adding to sprawl, mass of structure, or adding to burdens of public parking.

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 has no environmentally sensitive areas, fully adequate for tenants needs of light manufacturing of ice cream for it's various stores. It will also offer a retail ice cream store front with both indoor and outdoor seating. Application is for an existing structure that will be re-purposed for applicant's specific needs.

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

   a. Shown
   b. Shown
   c. Shown
   d. Shown
   e. Existing landscaped boulevard to remain. Substantial landscaping added shown on renderings and site plan.
   f. Shown
   g. Existing structure to be re-purposed with utilities.
   h. Same as A-G.

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

   This is an existing structure to be re-purposed to fit the applicants needs. We do not foresee utility upgrades or extensive changes from existing to facilitate this project at this time.

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

   Average traffic, minimal in comparison to neighboring property uses. This property is located in a commercial zone and much larger brand stores border this property. Applicant will have minimal impact, will add to "small town feel" to an otherwise box store theme in this shopping district.

7. What are the proposed hours of operation?

Proposed hours of operation will be 11:00 am to 7:00 pm 7 days a week.

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

a. Will utilize existing structure and will be vastly smaller than neighboring properties.

b. Scale will again make use of existing structure, adding minimal square footage to keep scale in line with business theme and needs.

c. Shopping district is clear in this zone. Large scale retailers dominate the area. This will be a pleasant compliment, smaller in comparison, yet just as recognizable of a brand.

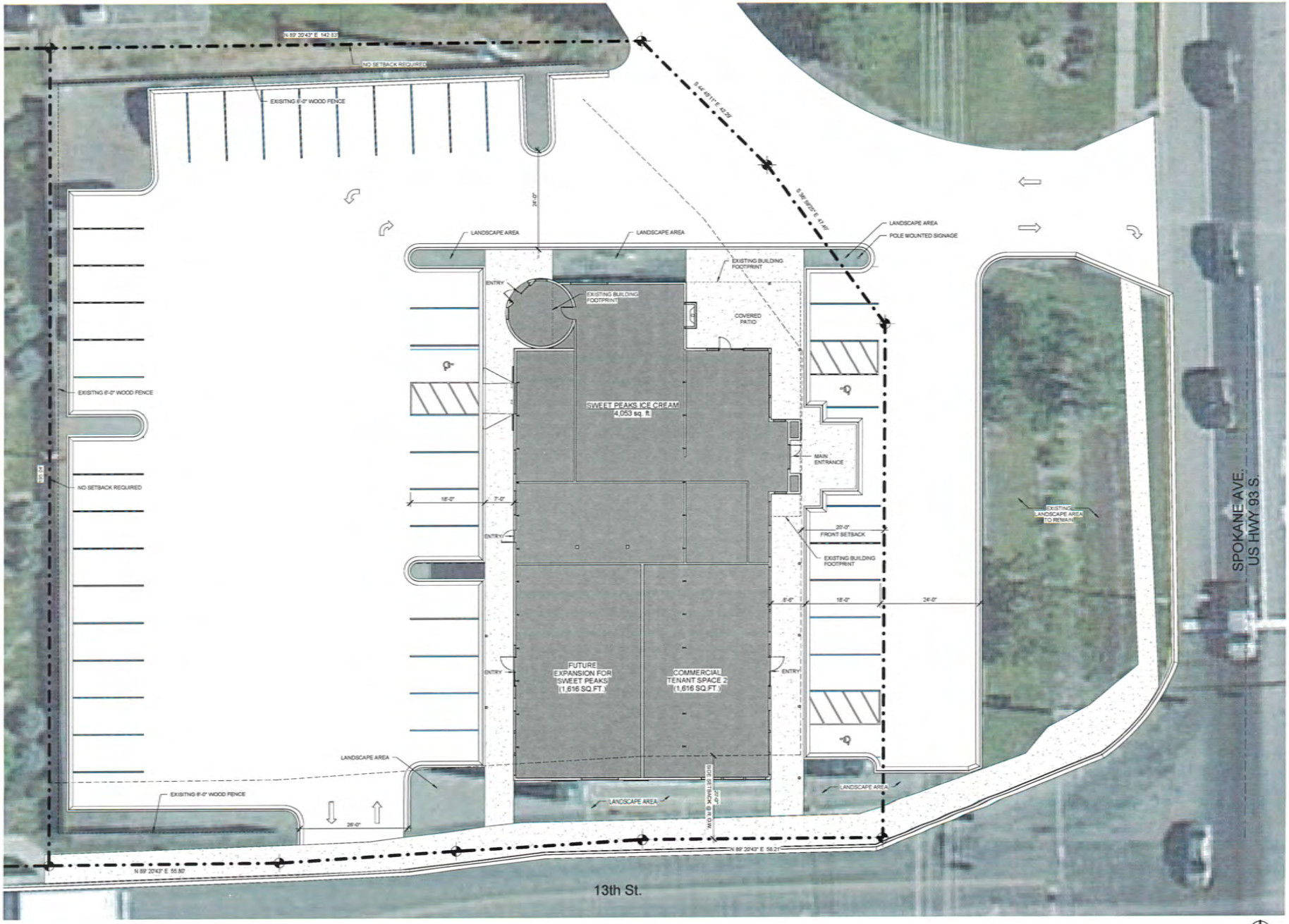
d. Minimal. This is a single existing structure.

e. Without a doubt, Sweet Peaks Ice Cream will feel like downtown Whitefish, added to an otherwise box store theme shopping district. This is much needed at the true "entrance" to downtown, and this will set the precedent that small local businesses can also thrive outside of downtown.

DESIGN STUDIO
ARCHITECTS
SWEET PEAKS
ICE CREAM
SWEET PEAKS
ICE CREAM

DESIGN STUDIO
ARCHITECTS
SWEET PEAKS
MOUNTAIN MADE ICE CREAM
– WHITEFISH MONTANA –

DESIGN STUDIO
ARCHITECTS



1 Site Plan
1" = 10'-0"

C.U.P. APPROVAL

nc DESIGN STUDIO ARCHITECTS

235 N. 1ST ST. W. SUITE B
Missoula, MT 59802
Phone: (406)207-9206
ncdesignstudio.com

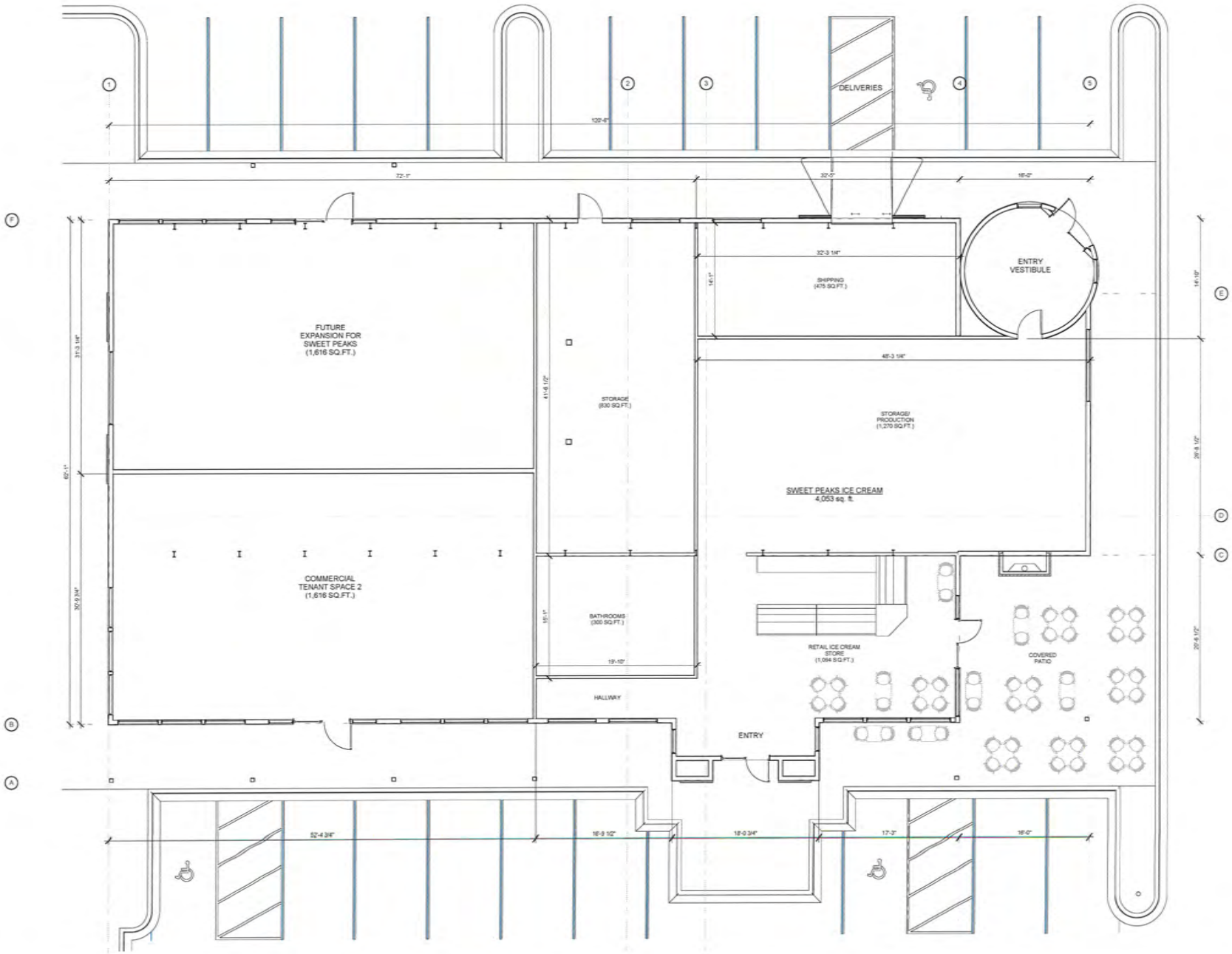
Commercial Building Renovation
6588 US Highway 93 South
Whitefish, MT 59937

Revision Number	Revision Date

JOB # 20.008
DATE: 5/4/2020 12:25:49 PM

Site Plan

A1.1



1 Main Floor Plan
3/16" = 1'-0" Floor Area: 7,361 sf

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235 N. 1ST ST. W. SUITE B
Missoula, MT 59802
Phone: (406)207-9204
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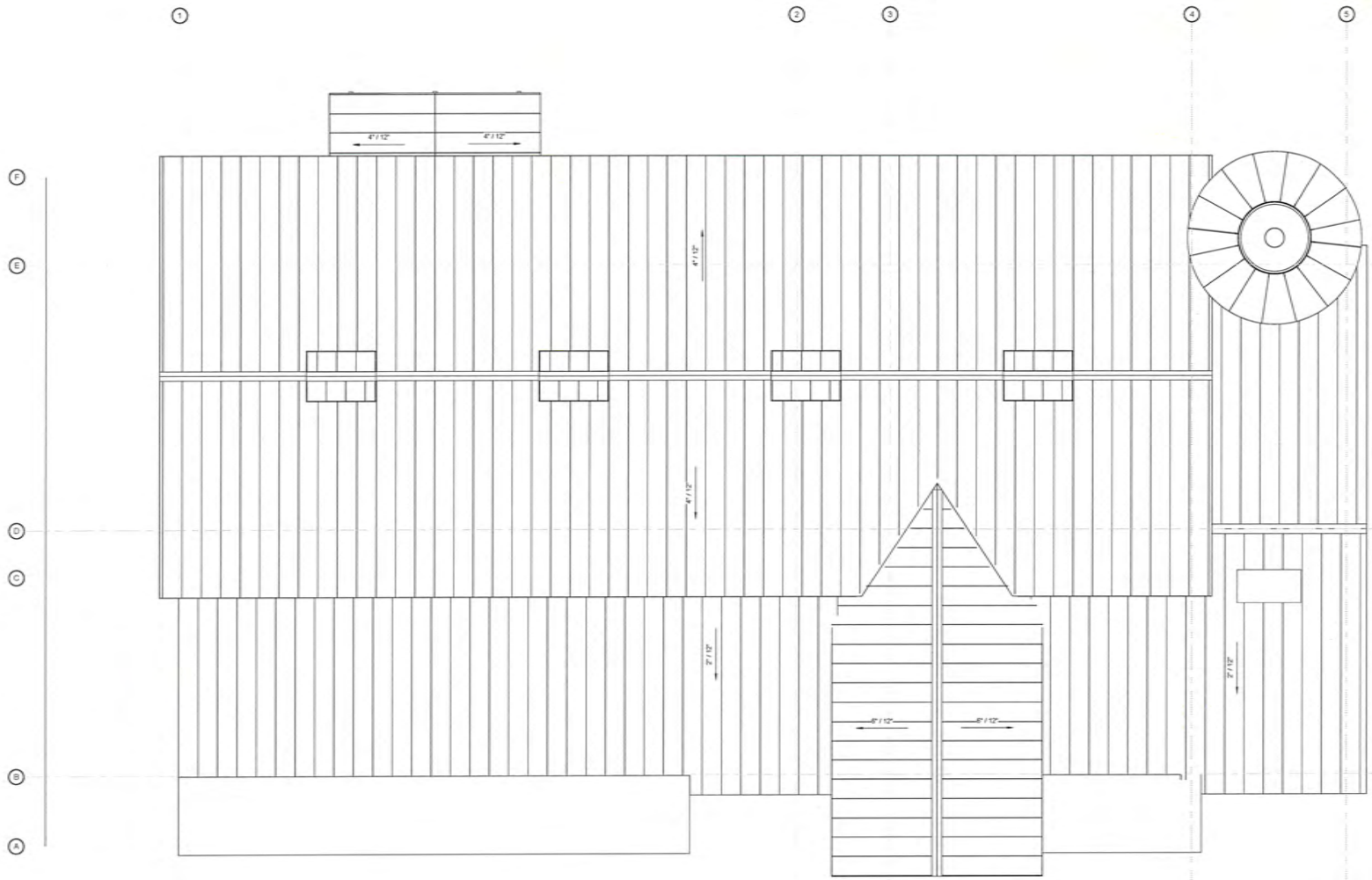
Commercial Building Renovation
6588 US Highway 93 South
Whitefish, MT 59937

Revision Number	Revision Date

JOB # 20.009
DATE: 5/4/2020 12:26:05 PM

Main Floor Plan

A2.1



1 Roof Plan
3/16" = 1'-0"

C.U.P. APPROVAL

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235 N. 1ST ST. W. SUITE B
Missoula, MT 59802
Phone: (406)207-9206
ncdesignstudio.com

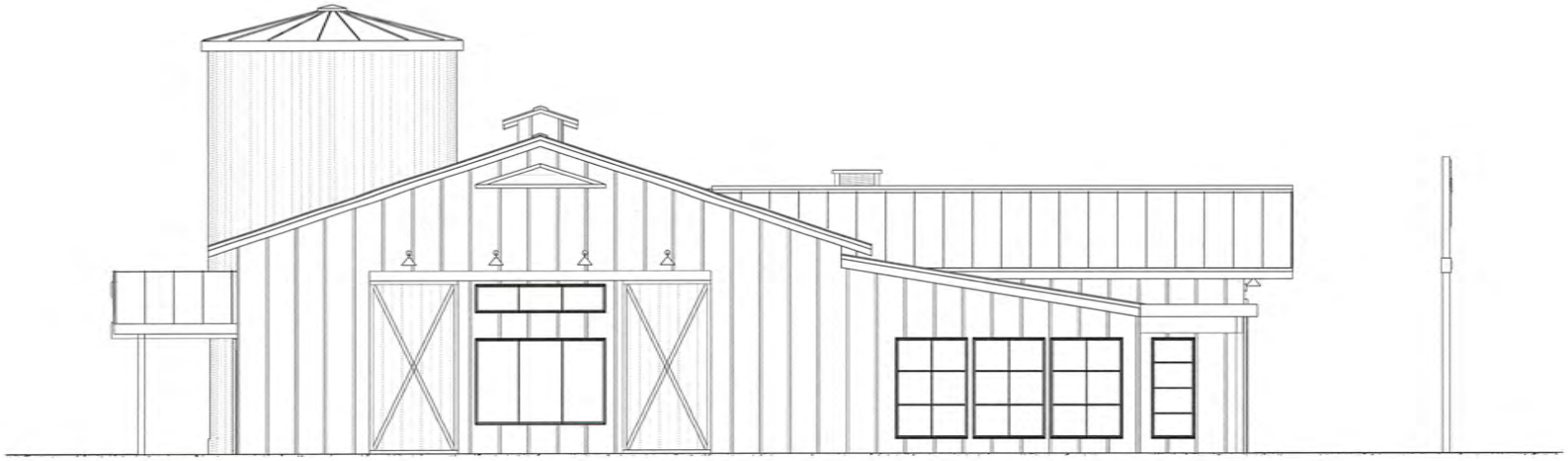
Commercial Building Renovation
6588 US Highway 93 South
Whitefish, MT 59937

Revision Number	Revision Date

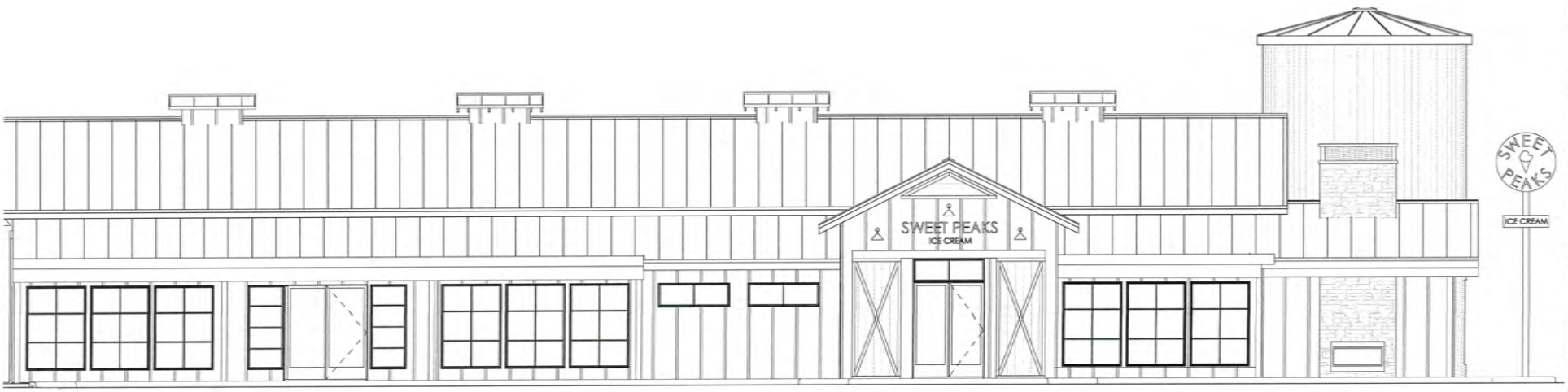
JOB # 20-009
DATE: 5/4/2020 12:26:06 PM

Roof Plan

A2.3



1 South Elevation
1/4" = 1'-0"



2 East Elevation
1/4" = 1'-0"

C.U.P. APPROVAL

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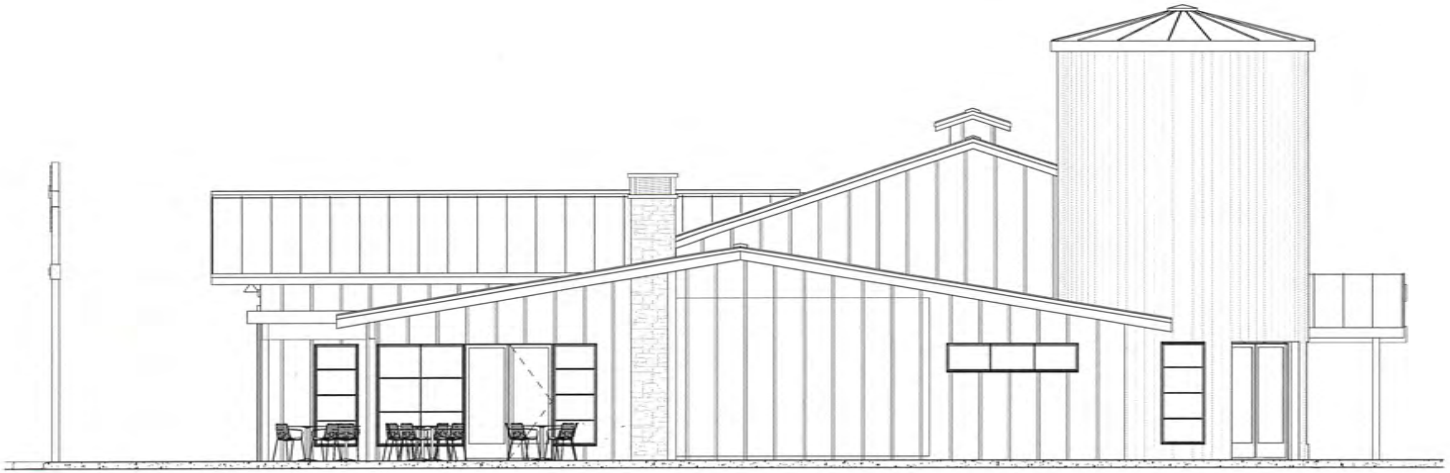
Commercial Building Renovation
6588 US Highway 93 South
Whitefish, MT 59937

Revision Number	Revision Date

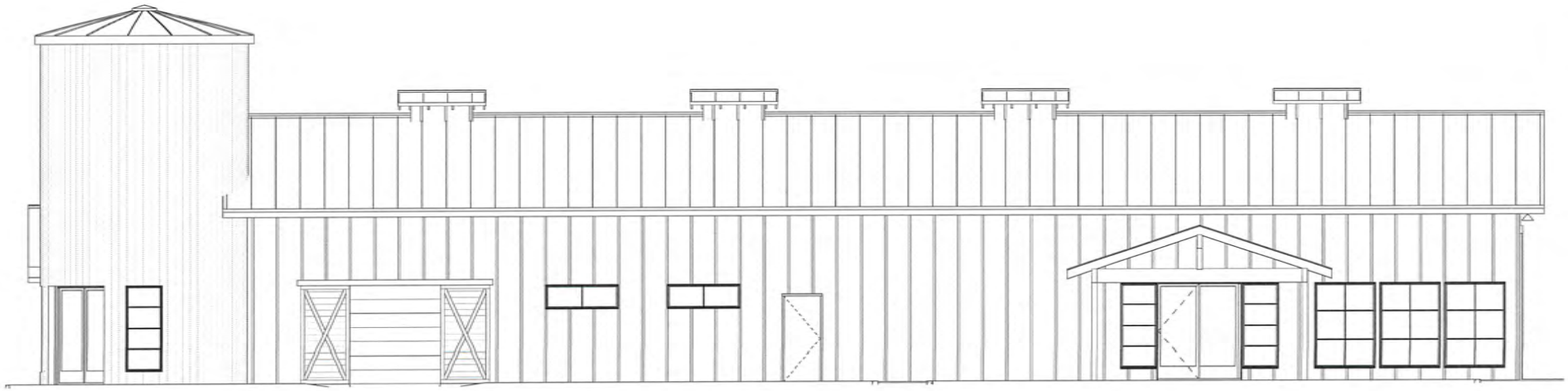
JOB # 20-009
DATE 5/4/2020 12:28:08 PM

Exterior Elevations

A3.1



① North Elevation
1/4" = 1'-0"



② West Elevation
1/4" = 1'-0"

C.U.P. APPROVAL

DESIGN STUDIO
ARCHITECTS

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Missoula, MT 59802
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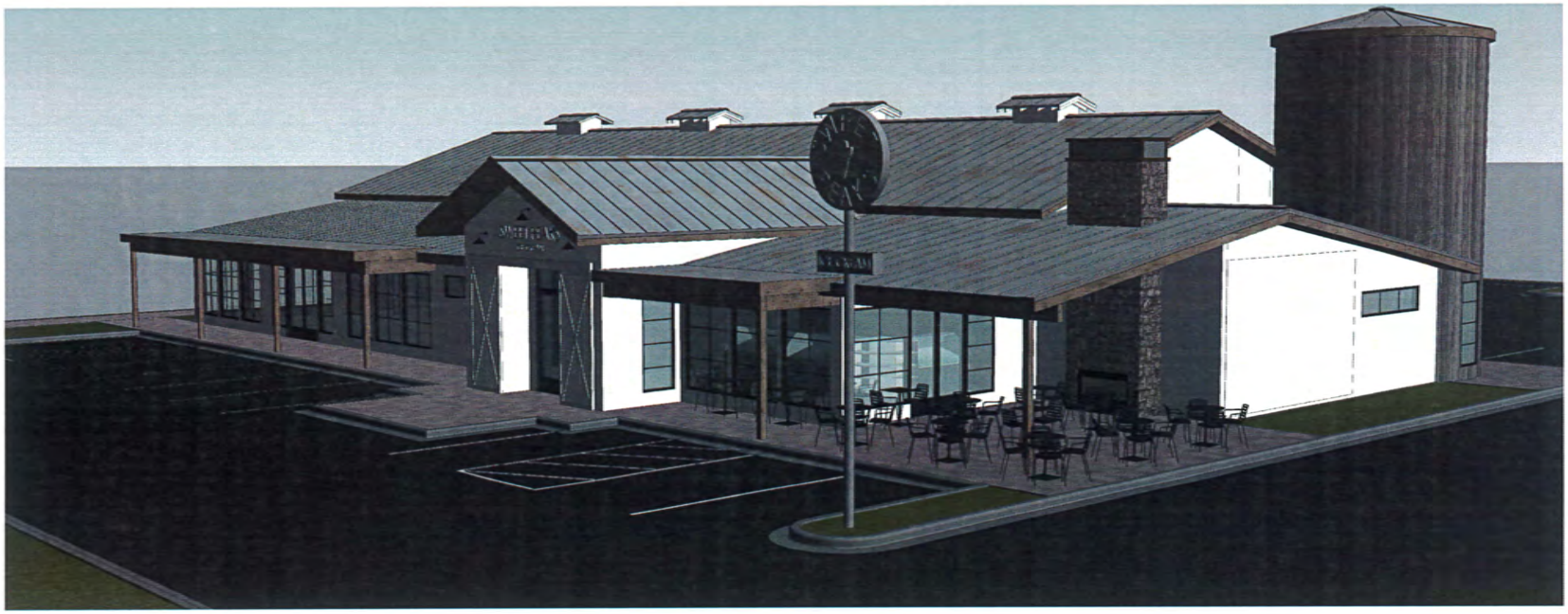
6588 US Highway 93 South
Whitefish, MT 59937

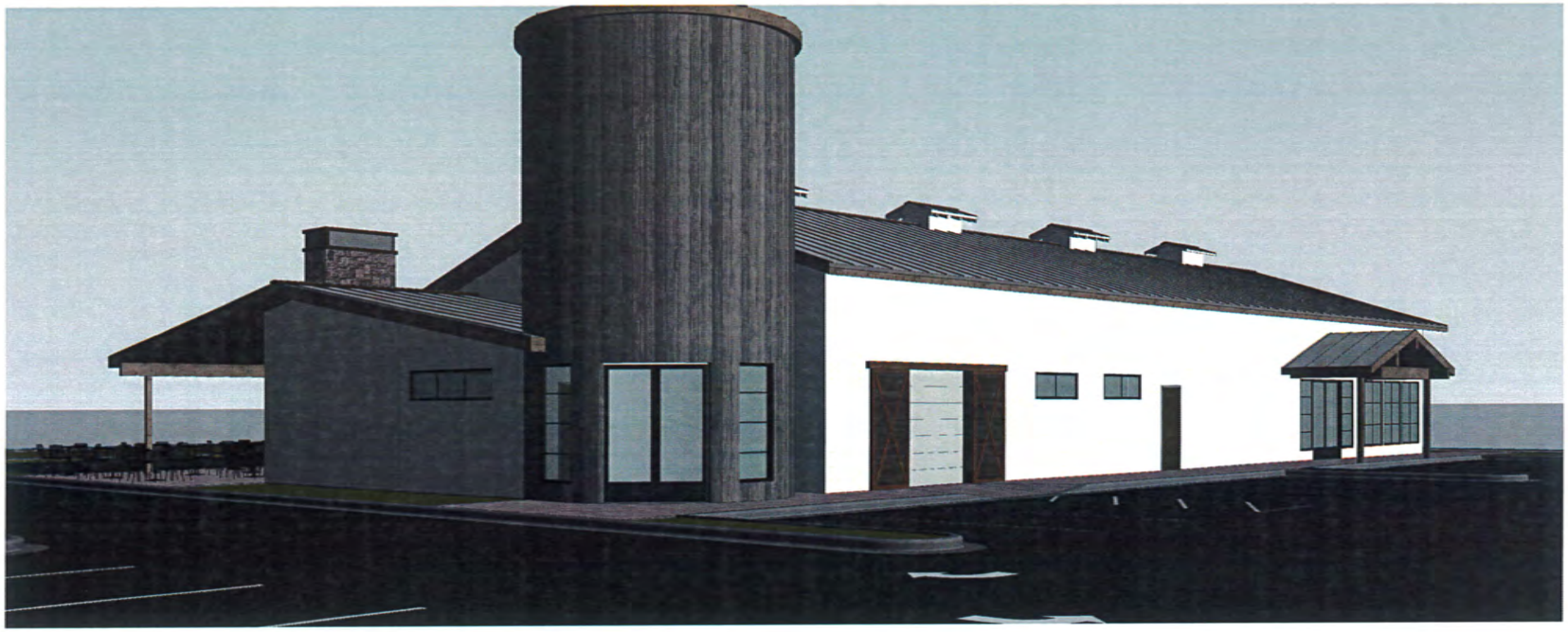
Revision Number	Revision Date

JOB # 20.009
DATE: 5/4/2020 12:28:16 PM

Exterior Elevations

A3.2





SITE APPROVAL

nc DESIGN STUDIO ARCHITECTS

235 N. 1ST ST. W. SUITE B
Missoula, MT 59802
Phone: (406)207-9206
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Commercial Building Renovation
6588 US Highway 93 South
Whitefish, MT 59937

Revision Number	Revision Date

JOB # 20-009
DATE: 5/4/2020 12:27:01 PM

Exterior Perspectives

X1

C.U.P. APPROVAL

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Commercial Building Renovation
6588 US Highway 93 South
Whitefish, MT 59937

Revision Number	Revision Date

JOB # 20.009
DATE: 5/4/2020 12:27:48 PM

Exterior Perspectives

X2

AGREEMENT AND GRANT OF POSSESSION COPY

THIS AGREEMENT AND GRANT OF POSSESSION made and entered into this 6th day of October, 1998, by and between the **CITY OF WHITEFISH** (hereinafter called the "City"), and **K & R PARTNERSHIP**, 390 Hidden Valley Drive, Whitefish, MT 59937 (hereinafter called the "Landowner").

WITNESSETH:

That, WHEREAS, the City is constructing a certain street in the City of Whitefish, Flathead County, Montana, said construction being known as the 13th Street Extension, and

WHEREAS, the Landowner owns certain real property or an interest therein in the said City of Whitefish, which is required and necessary for said street construction (hereinafter described as the "Condemned Property"), and

WHEREAS, the parties hereto are, in good faith, unable to agree on the valuation of the Condemned Property, the severance damages to the remainder of Landowner's property, and the value of the property the City is agreeing to convey to the Landowner in partial consideration of the City's taking of Landowner's property for public use, and

WHEREAS, it appears that it may be necessary to resort to litigation to determine such valuations, and

WHEREAS, the Landowner has agreed that it will no longer contest the necessity of such property to the City, and the only remaining controversy relates to the amount of compensation the City must pay the Landowner for the for such property is not controverted by the Landowner but only the compensation of such property.

NOW, THEREFORE, for and in consideration of the premises and of the covenants herein contained and in further consideration of the sum of One and No/100 Dollars ($1.00), in hand paid by the City to the Landowner, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. That the City shall have upon the execution hereof, the exclusive right to and use of certain herein described property ("Condemned Property"), including the soil, gravel and other materials, in the same manner and respect and to the same extent as if there had been a duly issued order finding public necessity for such property and an Order Putting Plaintiffs in Possession. The Landowner, upon execution hereof, shall not remove soil, gravel or other materials from, or in any manner alter said property without the consent of the City; and

2. That the City shall convey to the Landowner, and Landowner shall have, upon the execution hereof, the exclusive right and use of certain herein described property ("City Property"), including the soil, gravel and other materials, for its use for parking, a parking lot, or any other lawful use. The City, upon the execution hereof, shall not remove soil, gravel or other

materials from, or in any manner alter said property without the consent of the Landowner. The parties agree that the City Property conveyed to the Landowner is in the nature of severance damages and is similar in use to that of the Condemned Property, although the parties retain the right to negotiate and litigate the relative values of the City Property and the Condemned Property; and

3. That the City agrees that the road shall be constructed in the form and configuration as illustrated in the Billmayer Engineering drawings dated June 19, 1998, attached to this Agreement as Appendix A; and

4. That the City grants K & R Partnership and its successors all parking and setback variances necessary to comply with existing zoning requirements; and

5. That the City shall resolve any drainage problems on the City Property and any drainage problems and the remainder of the City lot, not conveyed to K & R, may cause to the K & R property and/or the City Property; and

6. That the City shall construct the 13th Street Extension such that neither K & R property nor the intersection of 13th and Highway 93 are improperly or insufficiently drained;

7. That the City shall remove several large rocks situated on the west side of the Best Bet Casino parking lot; and

8. That the City shall cut, fill and compact the City Property and pave the City Property to the engineering and construction standards for City-owned paved parking lots in Whitefish, Montana. The work contemplated in this paragraph shall be completed before any construction, including the closing of the existing parking lot, commences on the Condemned Property, unless the Landowner has consented in advance in writing to the commencement of such work; and

9. That the City agrees, as to K & R Partnership and only during the 13th Street Extension construction phase, to waive any and all fees otherwise chargeable to Landowner for connection to the City water and sewer system; and

10. That the City agrees to waive all Special Improvement District ("SID") charges and assessments that otherwise might be attributable to the Landowner or the Landowner's property (described below) adjoining the Condemned Property for lights, sidewalks, curbs, gutters, drainage systems, roads, traffic control devices and landscaping that arise out of improvements done during construction of the 13th Street Extension or within two years following completion of such construction; and

11. That the City shall leave intact the zoning designation of the K & R lot and the City Property as WB2 or its equivalent; and

12. That the City grants K & R Partnership and its successors a variance with respect to the area restrictions in the City of Whitefish sign ordinance, specifically permitting K & R Partnership and its successors the right to have up to 100 square feet of signage, cumulatively, on the west side and south side of buildings now or hereafter constructed on the following-described real property situated in Flathead County, Montana:

> Lot 12 and a portion of Lot 13 of Riverside Improvement Company's acreage in the records of Flathead County, located in the SW¼, SE¼ and SE¼, SE¼, Section 36, T31N, Range 22 West, Flathead County, Montana.

Hereinafter the ("Landowner's Remaining Property.") Of the 100 square foot of signage identifying various businesses on the Landowner's Remaining Property, there shall be no more than a total of three signs, and no more than one sign on the south side of any such buildings. Furthermore, such variance applies only to sign area, and the quality and construction of additional signs shall comply with City of Whitefish signage ordinances with respect to quality and construction in effect at the time of the initial deployment of such sign or signs.

13. That except as to items 2, 8 and 9 above, and 18 below, the City agrees not to seek compensation, credit or setoff against the compensation which may be due the Landowner for the Condemned Property; and

14. That the parties shall have sixty (60) days from the date of execution of this Agreement to negotiate the value of the compensation for the taking of the properties described herein and all impacts of the construction of the 13th Street Extension upon the remaining property of the Landowner and the Landowner's businesses. All compensation paid or payable to the Landowner other than that specifically allocated in the final compensation agreement or judgment as compensation for the Condemned Property shall be deemed severance damages, compensating Landowner for the decrease in the value of the property it retains that results from construction of the 13th Street connector and the corresponding taking of the Condemned Property.

15. That the Landowner shall, in the event of the filing of an action of Eminent Domain, enter into a Stipulation consenting to a finding of public use and necessity; and

16. That permission is hereby granted to permit the City, its contractors or assigns to perform the construction in accordance with the plans which have been exhibited to the Landowner, and the City, its contractors or assigns are hereby expressly granted permission to work outside the herein described Condemned Property, when performance of the construction, as set forth in the above-mentioned plans, requires the same to be done; and

17. That it is hereby agreed that the City will pay to the Landowner interest at the rate of 10% per annum upon the final determination of value. Should any money be paid at this time as another condition of this Agreement, the 10% will not apply on the amount so paid; and

18. That within ten (10) business days of the date of this Agreement, the City shall pay to Landowner the sum of One Hundred Thirty Thousand and No/100 Dollars ($130,000.00) cash. The City asserts this, when combined with other consideration passing, to be the full value of both the Condemned Property and all severance damages. Any additional compensation either negotiated or ordered paid to the Landowner by the City shall bear interest at the rate of Ten Percent (10%) per annum.

19. The "Condemned Property" governed by this instrument and which will be the subject of the aforesaid Stipulation is described as follows:

> That portion of a .775 acre parcel, more particularly described as Lot 12 and a portion of Lot 13 of Riverside Improvement Company's Acreage in the Records of Flathead County, located in the SW¼, SE¼, and SE¼, SE¼, Section 36, T31N, R22W, Flathead County, Montana, described as follows:
>
> Commencing at the South ¼ Corner of Section 36, T31N, R22W; thence N89°43'00"E along the south boundary of said Section 36 a distance of 1207.20 feet to the Southwest corner of the above-referenced Lot 12 & portion of Lot 13 and the True Point of Beginning of the tract being conveyed; thence
>
> N 00°15'20" W along the West property line of the parent parcel a distance of 51.88 feet to a point on a circular curve concave northerly with a radius of 506.00 feet and a radial bearing of N 00°48'03"W; thence
>
> Along said circular curve and new northerly Right-of-Way line for 13th Street, through a central angle of 04°34'32" and an arc length of 40.46 feet to the beginning of a reverse curve to the right with a radius of 506.60 feet and having a radial bearing of S 05°22'34" E; thence
>
> Along said curve through a central angle of 05°05'34" and an arc length of 45.03 feet to a point on the adjacent radial bearing of said curve; thence
>
> N 89°43'00" E a distance of 58.21 feet to a point on a circular curve, concave westerly with a radius of 11,360.00 feet and having a radial bearing of N 89°10'14" W, said curve being the westerly Right-of-Way line of U.S. Highway 93; thence
>
> Along said curve through a central angle of 00°16'22" and an arc length of 54.07 feet to a point on the south section line of said Section 36, said point being the Southwest property corner of the parent parcel, thence
>
> Along said section line S 89°43'00" W a distance of 129.02 feet to the Point of Beginning. Said Right-of-Way parcel containing 7234.2 square

feet (0.166 ac.) more or less.

That the City Property governed by this instrument is described as follows:

> A parcel of land described as the easterly 10,175 square feet of Lot 1, including the panhandle portion, as shown in the McBurney Real Estate Service appraisal dated November 19, 1997. The metes and bounds description of said City Property shall be provided to the parties by July 21, 1998 and shall be incorporated herein by this reference as Appendix B.

That it is understood and agreed by the parties hereto that nothing contained herein shall be interpreted to in any way affect or jeopardize any right or rights that either party may have under the statutes and the laws of Montana governing the process or procedure of Eminent Domain proceedings insofar as the determination of compensation for the above-described properties are concerned; it being the intent of this instrument to grant only the right to possession of said Landowner Property unto the City and the right of possession of the City Property to Landowner and to evidence the Agreement of the parties hereto to enter into a stipulation of public use and necessity in the event of the instigation of Eminent Domain proceedings and until the final disposition of such proceedings. Provided further, that nothing herein contained shall be interpreted to, in any way, affect the possibilities of further negotiations as to compensation.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals on the day and year first hereinabove written.

CITY OF WHITEFISH

By _____
Mike Jensen, Mayor

K & R PARTNERSHIP

By _____

AGREEMENT BETWEEN
THE CITY OF WHITEFISH AND K & R PARTNERSHIP

As provided by the possession agreement proposed by K & R Partnership, this agreement provides for and allows the City of Whitefish to commence construction of the 13th Street Extension on K & R Partnership property prior to paving of the Exchange Property.

The City of Whitefish agrees that in consideration for allowing the City to begin construction on K & R Partnership property prior to the paving the Exchange Property, the City agrees to coordinate with the K & R Partnership, the construction and temporary closure of the entrance[s] to the K & R Partnership property at various times during the 13th Street Extension construction period. Said coordination shall be in mutual consideration and recognition of the City's construction schedule and the desire of K & R Partnership to allow and provide adequate access to its businesses during the construction period.

Signed this date Sept 2 1998 1998.

By:

K & R Partnership Managing Partner

Post-it® Fax Note 7671	Date 9-2-98	# of pages ▸ 1
To Mike Jensen	From Jim Lippert	
Co./Dept.	Co.	
Phone # (406) 862-5120	Phone #	
Fax #	Fax #	

(This page left blank intentionally to separate printed sections)

City of Whitefish

Department of Public Works

418 E. 2nd Street | PO Box 158
Whitefish, MT 59937
(406) 863-2460 | Fax (406) 863-2419

July 14, 2020

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Award of Water Treatment Plant Construction Contract to Swank Enterprises

Introduction/History

The City of Whitefish currently operates a Water Treatment Plant (WTP) that treats water from Haskill Creek and Whitefish Lake. While there are 4 – 1 MGD filters in the plant, the firm capacity is rated by the Montana Department of Environmental Quality (DEQ) at 3.0 MGD, which requires that one filter be taken out of service. Although this may only be a concern for a few days a year during peak demand season, DEQ has required the city to apply for a deviation to operate above our firm capacity in order to allow any water main extension, subdivision, or future growth. This deviation is only a temporary solution, and the final solution will require an increase in the treatment capacity of the water plant.

Current Report

The City selected Morrison-Maierle, Inc. (MMI) to design and oversee construction for the planned water source and treatment capacity expansion project. In addition to the actual expansion of our water treatment plant, there are several other elements that will need to be accomplished to expand capacity. These projects include:

- Expansion of the Whitefish Lake Intake Pump Station
- Installation of a Parallel Water Main to the Water Treatment Plant
- Extension of the City's Sanitary Sewer to the Water Plant

Plans were finalized for the project in March and council authorized bidding of the project. In addition, council approved resolution 20-13 to allow the purchase two Trident filters under a "sole source" method.

The project was advertised in the Daily Inter Lake on June 7, June 21, and July 5, 2020. Also, the project was advertised on MMI's webpage via the QuestCDN online construction data network and plans exchange.

The bidding period allowed almost five weeks for Contractors to prepare their bids and there were no formal requests from any of the prime bidders to extend the bid period. A pre-bid meeting was held onsite at the water treatment plant approximately two weeks after the date of the first advertisement. This meeting was used to discuss the project plans, specifications, project specific requirements, tour the water treatment plant site, and answer questions from the bidders.

Bids were received and read aloud at 2:00 PM on July 9, 2020. Three bids were turned in for the project from: Swank Enterprises, RSCI, and Yukon Construction Group. There were no errors or irregularities discovered in the bid packages

Financial Requirement

The original estimated cost for the group of projects necessary to increase the source and Treatment Capacity was $10-$12M. Upon completion of the design work, a detailed construction cost estimate was completed by MMI, which came to $9,683,000.

Bids were received and read aloud at 2:00 PM on July 9, 2020. Three bids were submitted for the project from: Swank Enterprises, RSCI, and Yukon Construction Group. There were no errors or irregularities discovered in the bid packages. The apparent low bidder was Swank Enterprises. Their bid of $9,327,000 was approximately 7% below the engineer's estimate, 2% below RSCI's bid of $9,515,300, and 21% below Yukon's bid of $11,875,000.

Recommendation

Based on the bids received it is staff's recommendation to award the project to Swank Enterprises in the amount of $9,327,000.

Sincerely,

Craig Workman, P.E.
Director of Public Works

Morrison Maierle
engineers • surveyors • planners • scientists

1 ENGINEERING PLACE • P.O. BOX 6147 • HELENA, MT 59604
406.442.3050 • www.m-m.net

BID SUMMARY AND AWARD RECOMMENDATION
July 14, 2020

WATER SOURCE AND TREATMENT CAPACITY EXPANSION PROJECT
CITY OF WHITEFISH, MONTANA
PROJECT #0719.037

Bids were received by the City of Whitefish for the Water Source and Treatment Capacity Expansion Project until 2:00 PM on July 9, 2020. This memorandum summarizes information pertaining to bidding, the bids received, and makes a recommendation on a course of action.

ADVERTISEMENT / BIDDING PERIOD

The project was advertised on three separate occasions in the Daily Inter Lake. Also the project was advertised on Morrison-Maierle's webpage via the QuestCDN online construction data network and plans exchange.

The bidding period allowed almost five weeks for Contractors to prepare their bids. There were no formal requests from any of the prime bidders to extend the bid period. A pre-bid meeting was held onsite at the water treatment plant approximately two weeks after the date of the first advertisement. This meeting was used to discuss the project plans, specifications, project specific requirements, tour the water treatment plant site, and answer questions from the bidders.

Three (3) addenda were issued during the bidding period. Addendum No. 1 was issued on June 29th. Revisions to several specification sections, three revised drawings sheets, and several responses/clarifications based on questions asked by Contractors during the pre-bid meeting and bidding period we addressed in this addendum. Also included in this addendum was information on several of the construction permits obtained by the City as well as a revised completion timeframe for Bid Schedule 2 for the utility work along Reservoir Road.

Addendum No. 2 was issued on July 2nd. This addendum included minor specification revisions, one revised drawing sheet, and also relaxed the requirements on the bid form to allow the bidders up to 3 days after the date of the bid opening to turn in their detailed bid breakdowns.

Addendum No.3 was issued on July 6th. This addendum included a clean set of instrumentation details that were originally provided in the first addendum but needed to be re-issued due to issues with the pdf file conversion process.

BID ANALYSIS

Three bids were turned in for the project from: Swank Enterprises, RSCI, and Yukon Construction Group. There were no errors or irregularities discovered in the bid packages

received from Swank and RSCI. Yukon Construction Company submitted a bid bond with their bid however the document was a scanned copy of the bid bond and not an original bond document. All of the bids were received on the bid date of July 9th and were received prior to the bid closing deadline. Attached to this memorandum is a certified bid tabulation that provides an item-by-item comparison between the bids received and the engineer's estimate of probable costs.

The apparent low bidder was Swank Enterprises. Their bid of $9,327,000 was approximately 7% below the engineer's estimate and 2% below the next low bidder's price. Bidders were allowed 3 days to turn in a full bid breakdown. Both Swank and RSCI provided the bid breakdown within this period. No bid breakdown was received from Yukon Construction.

EVALUATION OF LOW BIDDER

Swank Enterprises is a local contractor that has a proven record within the Montana municipal construction industry that includes many successful water and wastewater treatment plant projects. Swank is currently completing the City of Whitefish's wastewater treatment plant improvements project. In addition, Morrison-Maierle has completed several water and wastewater projects with Swank Enterprises in recent years and has no concerns regarding their capacity to complete the Water Source and Treatment Capacity Expansion Project.

Swank's bid proposal identified several key subcontractors that will be used in the completion of the project. The major subcontractors identified include the following:

- LHC (Kalispell, MT) – Sitework and Utilities
- 4G's Plumbing & Heating (Missoula, MT) – Plumbing and Mechanical
- Neely Electric (Missoula, MT) – Electrical and Instrumentation

Morrison-Maierle has previous work experience completing several successful projects where these trade subcontractors were included on the project team. Based on that previous experience, Morrison-Maierle has no concerns with regards to these subcontractors or their abilities to complete the work on the project.

RECOMMENDATION

Based on the bids received it is our recommendation to award the project to Swank Enterprises. Their bid remains subject to acceptance for a period of sixty (60) calendar days after the Bid opening; however, to capitalize on as much of the remaining construction season this year, we recommended making the award as soon as possible.

Prepared by Morrison-Maierle

Neal Levang, P.E.
Design Engineer

WATER SOURCE AND TREATMENT CAPACITY EXPANSION PROJECT
WHITEFISH, MT

BID TABULATIONS
Thursday July 9, 2020

Morrison Maierle
engineers · surveyors · planners · scientists

				Engineer's Estimate		**Swank Enterprises** Kalispell, MT		**RSCI** Boise, ID	
NO.	**DESCRIPTION**	**QTY**	**UNIT**	**UNIT PRICE**	**TOTAL PRICE**	**UNIT PRICE**	**TOTAL PRICE**	**UNIT PRICE**	**TOTAL PRICE**
BID SCHEDULE I - INTAKE PUMP STATION AND WATER TREATMENT PLANT IMPROVEMENTS									
101	Mobilization – Demobilization (Less than 5% of Bid)	1	LS		$ 120,000		$ 168,200		$ 125,000
102	Taxes, Bonds, and Insurance (Less than 4% of Bid)	1	LS		$ 200,000		$ 246,400		$ 100,000
103	General Requirements (Less than 10% of Bid)	1	LS		$ 535,000		$ 622,400		$ 950,000
104	Demolition and Salvage	1	LS		$ 175,000		$ 125,700		$ 110,000
105	Cast-in-Place Concrete	1	LS		$ 430,000		$ 385,600		$ 350,000
106	Structural Precast Concrete	1	LS		$ 450,000		$ 440,000		$ 400,000
107	Structural Steel	1	LS		$ 10,000		$ 295,000		$ 35,000
108	Structural Aluminum	1	LS		$ 100,000		*included in 107*		$ 140,000
109	Steel Joists	1	LS		$ 75,000		*included in 107*		$ 40,000
110	Steel Decking	1	LS		$ 25,000		*included in 107*		$ 25,000
111	Miscellaneous Metals	1	LS		$ 50,000		*included in 107*		$ 25,000
112	Handrails and Railing	1	LS		$ 60,000		$ 33,000		$ 40,000
113	Fabricated Grating	1	LS		$ 150,000		*included in 107*		$ 60,000
114	Metal Framing and Rough Carpentry	1	LS		$ 15,000		$ 11,200		$ 25,000
115	Architectural Wood Casework	1	LS		$ 20,000		$ 14,500		$ 10,000
116	Bituminous Dampproofing	1	LS		$ 15,000		$ 7,900		$ 2,000
117	Cold Fluid Applied Waterproofing	1	LS		$ 10,000		*included in 116*		$ 3,000
118	Building Insulation	1	LS		$ 10,000		$ 3,400		$ 1,000
119	Flashing and Sheet Metal	1	LS		$ 3,500		*included in 120*		$ 12,000
120	Roofing	1	LS		$ 175,000		$ 180,800		$ 250,000
121	Caulking and Sealants	1	LS		$ 10,000		$ 13,000		$ 5,000
122	Standard Steel Doors and Frames	1	LS		$ 29,000		$ 12,800		$ 5,000
123	Sectional Overhead Doors	1	LS		$ 15,000		$ 10,400		$ 8,000
124	Aluminum Windows	1	LS		$ 14,000		$ 13,500		$ 9,000
125	Finish Hardware	1	LS		$ 5,000		*included in 122*		$ 5,000
126	Glass and Glazing	1	LS		$ 5,000		*included in 124*		$ 2,000
127	Resilient Flooring	1	LS		$ 4,000		$ 4,500		$ 7,000
128	Painting	1	LS		$ 150,000		$ 168,000		$ 120,000
129	Gypsum Board Assemblies	1	LS		$ 10,000		*included in 114*		$ 7,500
130	Identifying Devices	1	LS		$ 20,000		$ 2,300		$ 15,000
131	Portable Fire and Safety Equipment	1	LS		$ 10,000		$ 2,500		$ 2,000
132	Countertops	1	LS		$ 10,000		*included in 115*		$ 1,500
133	Disinfection and Cleaning	1	LS		$ 20,000		$ 11,800		$ 25,000
134	Corrosion Protection	1	LS		$ 5,000		$ 2,300		$ 20,000
135	Plumbing	1	LS		$ 75,000		$ 63,100		$ 100,000
136	HVAC Testing and Balancing	1	LS		$ 15,000		$ 1,300		$ 10,000
137	Facility Natural Gas Piping	1	LS		$ 10,000		$ 11,000		$ 30,000
138	HVAC Ductwork, Louvers, Grilles, and Registers	1	LS		$ 165,000		$ 164,700		$ 150,000
139	Power Ventilators	1	LS		$ 15,000		$ 5,400		$ 25,000
140	Gas Fired Unit Heaters	1	LS		$ 16,000		$ 23,000		$ 10,000
141	Gas Fired Radiant Heaters	1	LS		$ 7,000		$ 9,500		$ 10,000
142	Air to Air Recovery Equipment	1	LS		$ 125,000		$ 107,500		$ 15,000
143	Heaters	1	LS		$ 1,500		$ 800		$ 10,000
144	Raw Water Intake Electrical	1	LS		$ 15,000		$ 11,200		$ 40,000
145	Water Treatment Plant Electrical	1	LS		$ 425,000		$ 153,700		$ 200,000
146	Motor Control Centers	1	LS		$ 150,000		$ 145,600		$ 150,000
147	Trailer Mounted Mobile Diesel Engine Generator	1	LS		$ 175,000		$ 183,700		$ 160,000
~~148~~	~~Power System Studies~~ REMOVED IN ADDENDUM #2	~~1~~	~~LS~~		~~$~~		~~$~~		~~$~~
149	Lighting	1	LS		$ 25,000		$ 20,200		$ 35,000
150	Clearing and Grubbing	1	LS		$ 25,000		*included in 151*		$ 25,000
151	Earthwork	1	LS		$ 200,000		$ 244,800		$ 75,000
152	Reset Existing Chain Link Fence	1	LS		$ 7,500		$ 4,500		$ 10,000
153	Creek Bypass Outlet Structure, Manhole, and Piping	1	LS		$ 25,000		$ 42,600		$ 40,000
154	Riprap Erosion Protection	1	LS		$ 15,000		$ 6,200		$ 10,000
155	Soil Stabilization System	1	LS		$ 103,000		$ 321,500		$ 275,000
156	Concrete Retaining Wall	1	LS		$ 5,000		$ 13,200		$ 15,000
157	Sidewalk, Bollards, and Gravel Surfacing	1	LS		$ 25,000		$ 61,600		$ 10,000
158	Asphalt Concrete Pavement	1	LS		$ 90,000		$ 67,200		$ 125,000
159	Surface Restoration	1	LS		$ 25,000		$ 1,800		$ 5,000
160	Finish Grading, Topsoil, Seeding and Landscaping	1	LS		$ 15,000		$ 56,900		$ 15,000
161	Storm Drain Piping, Inlets, and Manholes	1	LS		$ 89,000		$ 29,500		$ 50,000
162	Foundation Drains	1	LS		$ 50,000		$ 64,100		$ 50,000
163	Existing Electrical Transformer Adjustment	1	LS		$ 15,000		$ 5,100		$ 7,500
164	Buried Yard Piping	1	LS		$ 75,000		$ 41,500		$ 35,000
165	Plant Piping	1	LS		$ 500,000		$ 635,000		$ 750,000
166	Manual Valves	1	LS		$ 100,000		$ 44,800		$ 75,000
167	Self-Contained Automatic Valves	1	LS		$ 25,000		*included*		$ 5,000
168	Power-Operated Valve Assemblies	1	LS		$ 150,000		*included*		$ 10,000
169	Process Instrumentation and Controls	1	LS		$ 400,000		$ 374,000		$ 250,000
170	Fire Alarm System	1	LS		$ 25,000		$ 15,500		$ 20,000
171	SCADA Hardware and Software	1	LS		$ 100,000		$ 69,000		$ 60,000
172	Hoist and Trolley Systems	1	LS		$ 15,000		$ 6,800		$ 15,000
173	Raw Water Intake Rehabilitation	1	LS		$ 10,000		$ 12,100		$ 25,000
174	Package Sump Pump Systems	1	LS		$ 15,000		$ 17,900		$ 15,000
175	Raw Water Intake Vertical Turbine Pump	1	LS		$ 40,000		$ 33,600		$ 100,000
176	Reservoir Transfer Vertical Turbine Pump	1	LS		$ 65,000		$ 61,600		$ 75,000
177	Existing Reservoir Transfer Pump Re-Orientation	1	LS		$ 30,000		$ 19,100		$ 2,500
178	Booster Pump Systems	1	LS		$ 20,000		$ 15,300		$ 15,000
179	Chlorine and Sulfur Dioxide Gas Feed Equipment	1	LS		$ 65,000		$ 39,600		$ 50,000
180	Pre-Selected Packaged Water Treatment System	1	LS		$ 725,533		$ 725,533		$ 725,533
181	Installation of Packaged Water Treatment System	1	LS		$ 110,000		$ 170,767		$ 100,167
	BID SCHEDULE 1 TOTAL				**$ 7,315,033**		**$ 6,877,000**		**$ 6,920,700**

				Engineer's Estimate		Swank Enterprises Kalispell, MT		RSCI Boise, ID	
NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
BID SCHEDULE 2 - WATER TRANSMISSION MAIN AND SANITARY SEWER MAIN									
201	Mobilization – Demobilization (Less than 5% of Bid)	1	LS	$ 125,000	$ 125,000	$ 54,700	$ 54,700	$ 95,030	$ 95,030
202	Taxes, Bonds, and Insurance (Less than 4% of Bid)	1	LS	$ 100,000	$ 100,000	$ 29,000	$ 29,000	$ 30,000	$ 30,000
203	General Requirements (Less than 10% of Bid)	1	LS	$ 75,000	$ 75,000	$ 116,800	$ 116,800	$ 100,000	$ 100,000
204	Clearing and Grubbing	1	LS	$ 25,000	$ 25,000	$ 50,400	$ 50,400	$ 60,000	$ 60,000
205	Traffic Control	1	LS	$ 108,000	$ 108,000	$ 161,500	$ 161,500	$ 50,000	$ 50,000
206	Temporary Water	1	LS	$ 16,000	$ 16,000	$ 47,300	$ 47,300	$ 25,000	$ 25,000
207	Site Dust Control, Erosion Control, and Cleanup	1	LS	$ 25,000	$ 25,000	$ 32,800	$ 32,800	$ 40,000	$ 40,000
208	Exploratory Excavation	50	HRS	$ 240	$ 12,000	$ 414	$ 20,700	$ 180	$ 9,000
209	Saw-Cut and Remove Existing Asphalt Pavement	6130	SY	$ 7	$ 42,910	$ 5	$ 27,700	$ 6	$ 36,780
210	Connect to Existing Water Main	4	EA	$ 2,300	$ 9,200	$ 4,625	$ 18,500	$ 5,000	$ 20,000
211	Remove Existing 18" Cast Iron Water Main	1850	LF	$ 30	$ 55,500	$ 13	$ 24,600	$ 30	$ 55,500
212	Plug Open End of Abandon 18" Water Main with Conc.	6	EA	$ 400	$ 2,400	$ 450	$ 2,700	$ 500	$ 3,000
213	24" C900, DR 18 PVC Water Main	2800	LF	$ 175	$ 490,000	$ 131	$ 366,500	$ 200	$ 560,000
214	24" Water Main Stream Crossing	1	LS	$ 25,000	$ 25,000	$ 17,200	$ 17,200	$ 15,000	$ 15,000
215	6" C900, DR 18 PVC Water Main	26	LF	$ 100	$ 2,600	$ 77	$ 2,000	$ 110	$ 2,860
216	Water Main Air Release Valve Vault	2	EA	$ 10,000	$ 20,000	$ 17,450	$ 34,900	$ 10,000	$ 20,000
217	Replace 1" Water Service and Connect to Ex. Service	7	EA	$ 2,600	$ 18,200	$ 2,100	$ 14,700	$ 2,000	$ 14,000
218	24" MJ Butterfly Valve and Box - Water	10	EA	$ 12,000	$ 120,000	$ 11,360	$ 113,600	$ 12,500	$ 125,000
219	18" MJ Butterfly Valve and Box - Water	1	EA	$ 6,000	$ 6,000	$ 11,400	$ 11,400	$ 11,000	$ 11,000
220	16" MJ Butterfly Valve and Box - Water	1	EA	$ 5,000	$ 5,000	$ 5,800	$ 5,800	$ 8,000	$ 8,000
221	6" MJ Gate Valve and Box - Water	2	EA	$ 1,500	$ 3,000	$ 3,200	$ 6,400	$ 3,500	$ 7,000
222	24" MJ Water Main Bend	10	EA	$ 2,500	$ 25,000	$ 4,150	$ 41,500	$ 5,000	$ 50,000
223	24" x 24" MJ Water Main Cross	1	EA	$ 6,500	$ 6,500	$ 11,100	$ 11,100	$ 10,000	$ 10,000
224	24" x 24" MJ Water Main Tee	1	EA	$ 4,400	$ 4,400	$ 7,600	$ 7,600	$ 6,000	$ 6,000
225	24" x 6" MJ Water Main Tee	2	EA	$ 4,000	$ 8,000	$ 4,500	$ 9,000	$ 5,000	$ 10,000
226	24" x 18" MJ Water Main Reducer	1	EA	$ 2,200	$ 2,200	$ 3,600	$ 3,600	$ 3,000	$ 3,000
227	24" x 16" MJ Water Main Reducer	1	EA	$ 2,000	$ 2,000	$ 3,600	$ 3,600	$ 3,000	$ 3,000
228	Fire Hydrant Assembly	2	EA	$ 7,500	$ 15,000	$ 3,600	$ 7,200	$ 5,000	$ 10,000
229	Connect to Existing Sanitary Sewer Manhole	1	EA	$ 2,600	$ 2,600	$ 2,000	$ 2,000	$ 2,000	$ 2,000
230	Remove Existing 2" Gas Main	2260	LF	$ 3	$ 6,780	$ 5	$ 11,200	$ 6	$ 13,560
231	Plug Open End of Abandon 2" Gas Main with Conc.	6	EA	$ 100	$ 600	$ 133	$ 800	$ 200	$ 1,200
232	6" DI Sewer Pipe	18	LF	$ 150	$ 2,700	$ 144	$ 2,600	$ 140	$ 2,520
233	8 " C900 PVC Sewer Main	40	LF	$ 150	$ 6,000	$ 70	$ 2,800	$ 100	$ 4,000
234	8" SDR 35 PVC Sewer Main	3010	LF	$ 85	$ 255,850	$ 45	$ 136,400	$ 60	$ 180,600
235	Deep 8" Sewer Main from Station 8+80 to 12+80	400	LF	$ 120	$ 48,000	$ 14	$ 5,700	$ 80	$ 32,000
236	6" MJ Plug Valve and Box – Sewer (Buried)	1	EA	$ 3,500	$ 3,500	$ 3,000	$ 3,000	$ 4,000	$ 4,000
237	6" Sewer Bends with Thrust Block	2	EA	$ 400	$ 800	$ 850	$ 1,700	$ 1,000	$ 2,000
238	48-inch Sanitary Sewer Manhole - 5' Sewer Main Depth	17	EA	$ 6,000	$ 102,000	$ 4,588	$ 78,000	$ 3,500	$ 59,500
239	48-inch Sanitary Sewer Manhole - Additional Depth	50	VLF	$ 150	$ 7,500	$ 380	$ 19,000	$ 400	$ 20,000
240	Sanitary Sewer Service Connection	1	EA	$ 2,300	$ 2,300	$ 2,500	$ 2,500	$ 2,500	$ 2,500
241	Flow Regulator Precast Vault, complete	1	EA	$ 40,000	$ 40,000	$ 31,900	$ 31,900	$ 35,000	$ 35,000
242	Tie-in 6" DI Sewer Pipe to Backwash Settling Tank	1	LS	$ 2,000	$ 2,000	$ 2,000	$ 2,000	$ 5,000	$ 5,000
243	Flow Regulator 2" Pipe Vent	2	EA	$ 1,500	$ 3,000	$ 1,000	$ 2,000	$ 1,000	$ 2,000
244	8" Sewer Drop Inlet Manhole Connection	1	EA	$ 1,400	$ 1,400	$ 1,300	$ 1,300	$ 1,500	$ 1,500
245	Culvert Crossing with Flowable Fill	2	EA	$ 1,500	$ 3,000	$ 3,200	$ 6,400	$ 3,000	$ 6,000
246	Existing Dry Utility Crossing	30	EA	$ 330	$ 9,900	$ 373	$ 11,200	$ 1,500	$ 45,000
247	Existing Water Main Crossing with Flowable Fill	3	EA	$ 350	$ 1,050	$ 467	$ 1,400	$ 2,000	$ 6,000
248	Trench Plug	32	EA	$ 450	$ 14,400	$ 1,895	$ 60,640	$ 1,500	$ 48,000
249	2" HDPE Fiber Optic Conduit	3050	LF	$ 20	$ 61,000	$ 13	$ 39,600	$ 25	$ 76,250
250	24" x 36" Fiber Optic Pullbox	9	EA	$ 2,000	$ 18,000	$ 1,400	$ 12,600	$ 1,200	$ 10,800
251	Connect 2" Fiber Conduit to Ex. Concr. Handhole	1	LS	$ 1,000	$ 1,000	$ 460	$ 460	$ 1,500	$ 1,500
252	4" Asphalt Pavement Section, Road Section #2	6130	SY	$ 60	$ 367,800	$ 61	$ 373,800	$ 50	$ 306,500
253	Reservoir Road Topsoil, Seed & Gravel Reclamation	1	LS	$ 15,000	$ 15,000	$ 46,700	$ 46,700	$ 50,000	$ 50,000
254	Water Main Topsoil, Seed & Gravel Reclamation	1	LS	$ 10,000	$ 10,000	$ 22,000	$ 22,000	$ 25,000	$ 25,000
255	Backwash Settling Tank Sewer Main Reclamation	1	LS	$ 2,000	$ 2,000	$ 2,000	$ 2,000	$ 4,000	$ 4,000
256	Riprap Ditch Reclamation	250	SY	$ 125	$ 31,250	$ 98	$ 24,600	$ 100	$ 25,000
257	Water Main Trench Import	1700	LF	$ 50	$ 85,000	$ 44	$ 74,300	$ 25	$ 42,500
258	Water Service Trench Import	140	LF	$ 50	$ 7,000	$ 34	$ 4,800	$ 35	$ 4,900
259	Sewer Main Trench Import – 8 Feet Bury Depth or Less	2990	LF	$ 50	$ 149,500	$ 52	$ 155,000	$ 40	$ 119,600
260	Sewer Main Trench Import – Additional 1' Bury Depth	1650	LF	$ 8	$ 13,200	$ 10	$ 16,400	$ 10	$ 16,500
261	Temporary Asphalt	2420	SY	$ 25.59	$ 61,927	$ 22	$ 52,400	$ 25	$ 60,500
			BID SCHEDULE 2 TOTAL		**$ 2,684,967**		**$ 2,450,000**		**$ 2,594,600**

	Engineer's Estimate	Swank Enterprises Kalispell, MT	RSCI Boise, ID
TOTAL OF ALL BID SCHEDULES	**10,000,000**	**9,327,000**	**9,515,300**

OTHER BIDS RECEIVED

Yukon Construction Kalispell, MT
11,875,000

Neal Levang, P.E.
Morrison-Maierle, Inc.

MONTANA NEAL DEAN LEVANG 18129PE LICENSED PROFESSIONAL ENGINEER

The Tabulation of Bids herein is believer to be a true representation of the Bids received on July 9, 2020. Any discrepancies in the indicated sum of any column of figures, as presented in the bids, and the correct sum thereof, have been resolved per Section 00 41 43, BID FORM and are so reflected in this tabulation.

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CITY MANAGER'S REPORT

July 15, 2020

COVID-19 PANDEMC UPDATE

At a special session on Tuesday, July 14th, the City Council adopted Ordinance 20-11 that requires face coverings in certain public settings. Thanks to the donation from the Montana Hospital Association and our partnership with the Whitefish Convention & Visitors Bureau, if there are individuals who do not have their own face covering, they can come to City Hall during our regular business hours to pick up a reusable face covering. We currently have 1,000 reusable masks on-hand and will procure additional masks as needed. The City issued a new community update from Mayor Muhlfeld about the new ordinance and a letter was prepared and drafted for businesses owners.

The City has developed a process for violations of the new face covering regulations by businesses. Anyone can submit a complaint at www.cityofwhitefish.org/covidcomplaint and staff will investigate the claims. We plan to first reach out the businesses, discuss the complaint and procedures of the business, prior to moving through any civil citation process.

On Wednesday, July 15th, Governor Steve Bullock issued a new directive requiring masks or face coverings in businesses in Montana. The City's ordinance remains in effect, except where the directive is more restrictive. The directive by the Governor requires masks or face coverings must be worn by individuals 5 year of age or older. For children between the ages of two and four mask and face coverings are recommended. There is also specific signage language provided in the directive that we are working to update you signs with today to make it available to our businesses. An update will be provided at the City Council after I discuss the directive in more detail with the Flathead City-County Health Department and their plans for enforcement.

The Flathead Community Health Center continues to operate 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 is it 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. Unfortunately, the time is takes for test results to be available is about two weeks.

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. With the new face covering requirements for organized gatherings of 20 or more people, that will be condition for approval of all special event permits as long as the ordinance is in effect.

MEETINGS

On July 9th, the Whitefish Strategic Housing Committee met and recommended an update to the cash in lieu of affordable housing fee based on new data. The recommended changes will be presented to the City Council in August. The snow low project and contract has been fully executed and the property is now

owned by the Whitefish Housing Authority. The next meeting is scheduled for September 10th to allow staff time to prepare an annual report and work on accessory dwelling units more in the coming months.

OTHER ITEMS

The new City website was rolled out on July 14th! We encourage everyone to sign up for notifications on our website and take some time to browse the new site.

NEXT COUNCIL MEETING

The next City Council meeting will be held on Monday, August 3rd, in the City Council Chambers. A work session is tentatively schedule for the review of the draft Sustainable Tourism Master Plan and a draft ordinance regarding shared mobility devices, golf carts, etc.

Respectfully submitted,

Dana

Dana M. Smith, CPA
City Manager

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RESOLUTION NO. 20-__

A Resolution of the City Council of the City of Whitefish, Montana, establishing annual goals for the City.

WHEREAS, the City Council of the City of Whitefish is committed to the continuing advancement and improvement of the community, City, and City services; and

WHEREAS, the City Council has adopted annual goals since 1999; and

WHEREAS, the Mayor and City Council met in a work session with the City Manager on July 6, 2020, to establish City Council goals; and

WHEREAS, Exhibit "A," attached hereto, is a list of the above referenced goals which the Mayor, City Council, and City Manager established.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: The Whitefish City Council hereby approves the list of goals as provided in Exhibit "A."

Section 2: 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

City of Whitefish

Mayor and Council Goals for FY21

Administration	**Estimated 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 2021**

Parks and Recreation	
1. Armory Park	**November 2021**
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	**October 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**
9. Growth Policy Update	**Long-Term/Ongoing**

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	**Estimated date of Completion**
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**

MOORE, COCKRELL, GOICOECHEA & JOHNSON, P.C.

Mikel L. Moore
[Also Admitted in Arizona]
Dale R. Cockrell
[Also Admitted in South Dakota and Colorado]
Sean P. Goicoechea
Jay T. Johnson
Christopher C. Di Lorenzo
[Also Admitted in Colorado and Nebraska]
Eric Brooks
[Also Admitted in Maryland]
Katrina L. Feller

145 Commons Loop, Ste. 200
Kalispell, MT 59901

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P.O. Box 7370
Kalispell, MT 59904-0370

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Office: (406) 751-6000
Fax: (406) 756-6522

June 22, 2020

Whitefish City Council
418 E. 2nd St.
Whitefish, MT 59937
Via email to: mhowke@cityofwhitefish.org

Re: Alta Views, LLC Affordable Housing Cash-In-Lieu Payment

Members of the Council:

I am writing on behalf of Alta Views, LLC to request a one (1) year extension of time for Alta Views, LLC to pay the second payment (in the amount of $249,000) of the cash-in-lieu affordable housing payment which was approved by the Whitefish City Council at its April 1, 2019 meeting. Pursuant to the Council's approval, Alta Views, LLC paid the first $249,000 in July 2019 and is to pay the second $249,000 payment in July 2020. However, due to the COVID-19 pandemic, both construction and sales in the Alta Views subdivision slowed dramatically in the first half of 2020. As a result, Alta Views, LLC does not currently have the funds to make the second $249,000 payment in July 2020 and respectfully requests a one (1) year extension to July 2021 to make the second $249,000 payment.

Thank you for your consideration of this request.

Sincerely,

MOORE, COCKRELL, GOICOECHEA
& JOHNSON, P.C.

Jay T. Johnson
Direct Line No. (406) 751-6012
jjohnson@mcgalaw.com

cc (via email): Angel Jacobs (ajacobs@cityofwhitefish.org)
Dana Smith (dsmith@cityofwhitefish.org)
Mark Panissidi
BJ Lepinski

received
7/2/2020

BAD ACT FROM ATP AMIDST THE RISING CASES OF COVID-19

For the past month, we've had to endure the constant noise and traffic created by the preparation of ATP's Production. All under the guise of COVID-19 and social distancing. From what we have witnessed, none of it compliant. There were no masks present for three weeks of practice with the exception of sound personnel but miraculously appeared for the performances. There were 15-18 kids under a 8' square canopy holding hands, sitting on each other. We know kids are not immune from Covid-19 and patrons put themselves out there at their own risk. With actions like this, nothing about the performance needed to happen in anyone's neighborhood.

There was no regard or consulting with neighbors as to the impact this would make. A phone message was left that ATP would be practicing in the meadow. There was no mention that it would be for four weeks and that performances were scheduled and posted on ATP's website prior to any knowledge of the neighbors. It was not until we complained of being blocked from our property that we found out about their intentions. By this time, no one had an opportunity to comment on the event. Would any of you like to hear the same performance 6 hours a day--7days a week--for a month, with your walls vibrating from the sound system that is directed at your house? We realize this was on private property but no one should be forced to endure this in their back yard. We find it to be terribly inconsiderate.

A DEAD END undeveloped city easement was used to access the event. It was in no condition to handle the impact of 60-70 trips per day totaling approximately 1200 trips for the four weeks. Subsequently it was destroyed. The road is clay. It rained. The road became too slippery to get out. Some vehicles had to be towed . There was an attempt to repair it prior to the event . Our understanding is that permits, filters for watershed and a licensed equipment operator were required to repair city right of ways. Many vehicles could not get out without taking a run at the hill because of the loose gravel along with pedestrian traffic. Gravel and dust flying.

There was no crowd or traffic control…a spectator's little girl climbed our 8' rock wall and into our yard which is not kid proof. Who is liable and responsible if there was an injury?

As one parent commented, this could have been set up easily in another location. ATP's response was that they tried others but were denied by the city of Whitefish. Why was it acceptable in a neighborhood and not at a public venue? This has put a negative and stressful impact on the entire neighborhood from noise, traffic, speed, blocked driveways, blocked fire hydrants, trespassing, attitudes, the list goes on.

We would like to express our disappointment in the negligence of city employees and anyone involved that has allowed an outdoor business production to operate in a residential neighborhood. Everyone passed the buck. Our only alternative given by all departments was call the police if you have issues.

Unfortunately, the whole event ended in a confrontation while neighbors we out discussing how a situation like this never happens again when a parent sped through us @ 30 mph. That was the breaking point of our tolerance. The situation escalated from there. The event ended with both our health and safety put at risk. All of this could have been prevented if someone stepped up to the plate.

In regards to the kids and their efforts and performance, KUDOS. This was just not the time or the place. The show did not have to go on. The first acknowledgement of our existence from anyone associated with ATP came from a little girl on the late Saturday night performance. She came over to our yard and thanked us for allowing her to be able to perform. She was awesome!

Maybe we can go outside and enjoy our yard in July since we have not been able to in June.

Jef & Suzy Elliott
1009 Park Ave
Whitefish, Montana 59937
Contact Cell 406-314-0136

10th Street and Park Ave Neighborhood

Hand delivered 7-2-2020

CC: Whitefish Mayor-John Muhlfeld & City Council
CC: Whitefish City Manager-Dana Smith
CC: Whitefish Public Works-Craig Workman CC: Whitefish Fire Chief-Joe Page
CC: Whitefish Code Compliance/Bldg Inspector Major Robinson
CC: Whitefish Planning & Bldg Director Dave Taylor
CC: Flathead County Health Dept
CC: ATP CC: Daily Interlake CC: Whitefish Pilot