

WHITEFISH CITY COUNCIL

May 4, 2015

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Feury and Sweeney. Councilors Anderson and Hildner were absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Finance Director Smith, Planning Director Taylor, Senior Planner Compton-Ring, Interim Public Works Director Hilding, Parks and Recreation Director Butts, Police Chief Dial, and Interim Fire Chief Page was seated shortly after the opening of the meeting. Approximately 40 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Nan Askew to lead the audience in the Pledge of Allegiance.

Councilor Frandsen said Councilor Anderson could not be here tonight, and has notified the Council the reason for his absences. **Councilor Frandsen made a motion, second by Councilor Sweeney, to approve his absences. The motion passed unanimously.**

3) PRESENTATION – FY14 Audit – Denning, Downey, and Associations (p. 46)

Auditor Bob Denning reported to the Council the City was again receiving an “Un-Modified” opinion for the year ending June 30, 2014, which is the best opinion. It means the City’s Financial Statement is fair and there are no modifications (exceptions), and recognized Finance Director Dana Smith for the good work. He said the city staff he worked with have such a great attitude. A Federal Audit was not required this year. He drew the Council’s attention to some of the pages for review, saying the City is handling their money appropriately. Page 47 in the report shows the City is correctly reporting Resort Tax revenue according to percentages restricted by Ordinance 95-15. Page 48 reports on General Fund loans to the Drug Forfeiture and Building Code funds; the Building Codes nearly has the loan paid back, but the repayment from Drug Forfeiture still shows a large deficit. There were no questions from the Council. From the audience, Rebecca Norton asked about the loans out of the General Fund. City Manager Stearns explained the Council approved that the General Fund loan the Building Codes money during the 2008-2009 recession to keep a minimum staff on board; some staff had to be laid off. Now that building has resumed, that loan is nearly paid off. Similarly, the Police Department received forfeiture funds that helped pay salaries and more funds were anticipated but were not received, so to prevent layoffs, the Council approved a loan from the General Fund. Staff will keep those loans on the books until they are paid off.

Councilor Frandsen made a motion, second by Councilor Feury, to approve the FY14 Audit. The motion was passed unanimously.

4) 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)

Joan Vetter Ehrenburg, 744 Hidden Valley Road, thanked all those who worked on the Haskill Basin Conservation Easement and said it was a proud time for Whitefish, she said it was a grass roots effort.

Mayre Flowers, Citizen's for a Better Flathead, 35 4th Street West in Kalispell, said the City still needs to have recycling bins re-signed; but Interim Public Works Director Hilding said they are now all re-signed. Mayre thanked Karin for her efforts following up on that.

5) COMMUNICATIONS FROM VOLUNTEER BOARDS – None.

- 6) CONSENT AGENDA** (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) Minutes from the April 20, 2015 City Council executive and regular sessions (p. 107)**
 - b) Consideration of approving application from Patti Beck on behalf of Lacy Lake Holdings LP for Whitefish Lake Lakeshore Permit (#WLP-15-W10) at 1840 Lacy Lane to install a shore station with no canopy subject to 10 conditions (p. 119)**
 - c) Consideration of approving application from White Cloud Design on behalf of Walecka 1992 Living Trust for Whitefish Lake Lakeshore Permit (#WLP-15-W11) at 2432 Carver Bay Road for placement of 9.38 cubic yards of beach gravel subject to 14 conditions (p. 131)**
 - d) Consideration of approving application from White Cloud Design on behalf of Duncan Family Trust for Whitefish Lake Lakeshore Permit (#WLP-15-W12) at 2434 Carver Bay Road for placement of 9.38 cubic yards of beach gravel subject to 14 conditions (p. 140)**
 - e) Consideration of approving application from Cory Izett on behalf of The 1998 Feeny Family LLC for Whitefish Lake Lakeshore Permit (#WLP-15-W14) at 1674 West Lakeshore Drive to move an adjacent 'I' dock to the subject property subject to 11 conditions (p. 149) (CD 20:23)**

Councilor Sweeney made a motion, second by Councilor Barberis, to approve the Consent Agenda as presented. The motion passed unanimously.

- 7) 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 the Iron Horse Homeowners Association for a modification to their subdivision to permit a reconfiguration of their guardhouse on the side of Iron Horse Drive to a welcome center in a median in the center of the road (p. 163) (CD 20:47)**

Senior Planner Compton-Ring said the applicant has requested this item be continued to October 5, 2015. The applicant is here to answer any questions. A public hearing was advertised so she recommended the Council take public comment if any, then continue the public hearing to October 5th.

Mayor Muhlfeld opened the public hearing. There being no public comment Mayor Muhlfeld turned the matter over to the Council for a motion. Council discussed options with Planner Compton-Ring.

Councilor Feury made a motion, second by Councilor Sweeney, to leave the public hearing open and continue this item to the October 5, 2015 Council Meeting. The motion passed unanimously.

- b) Resolution No. 15-08; A Resolution of Intention of the City Council of the City of Whitefish, Montana, indicating its intent to adopt the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy) (p. 246) (WGPA 15-02) (CD 23:43)**

Planning Director Taylor reviewed that the Council held a public hearing on this item at their last meeting on April 20, 2015; following the public hearing Council gave direction to staff on those issues for which there was consensus; but there are issues that need more consideration. He referred to page 251 in the packet for Appendix D: Proposed Zoning Districts; and read newly added language further explaining

the proposed new sample zoning districts, and reflecting changes made at the April 20th meeting. Language had also been amended where the Council had changed the boundary of Area B. The staff report that starts on packet page 248 includes example of square footage of current retail to give Council ideas relative to bulk and scale. He said his staff report also points out the Council could discuss if, upon adoption of the proposed plan, whether they prefer to move forward with zone changes as a whole initiated by the City, or would they prefer zone changes are driven by property owners? Director Taylor addressed an email from the Citizen's for a Better Flathead that said this area was being opened to an unlimited bars, taverns, commercial and retail strip. He clarified that Artisan Manufacturing would be a conditional use and extremely limited by the development requirements; and micro-breweries and micro-distilleries, also a conditional use, are reviewed by a case by case basis with restrictions both in State Law and City Code. Director Taylor introduced Nick Kaufman, Land Use Planner with the WGM Group in Missoula.

Nick Kaufman reviewed changes made as directed by Council at the April 20th meeting. Packet page 302 reflects that Area B now only refers to property on the north side of the highway. Pages 305 and 306, the existing zoning is WR-3 and WR-3 with a PUD, so WR-3/PUD was added to the existing zoning. Page 307 is the amended map of Area B, reflecting that all of Area B is on the north side of the highway. The table on page 309 should not have included WR-3/WPUD, so that was removed from that table. The map on page 330 again reflects the boundary changes of Areas A and B. On page 333 the word "Sample" was added as shown in red; and the boundary description was added to the WT-3 District as shown in red. Mayor Muhlfeld asked if transitional zoning was added to Area A, and Mr. Kaufman said the option was discussed at a worksession but nothing had been brought forward from the Council. Councilor Sweeney asked about alcohol production allowed with Artisan Manufacturing and Director Taylor said the Council could consider and determine that tonight.

Mayor Muhlfeld opened the public hearing.

Diane Taylor, 445 Gosney Crossroad, Columbia Falls, said she is an emeritus board member of Citizens for a Better Flathead (CFB), and making her comments on behalf of CFB whose address is 35 5th Street West in Kalispell. She handed a letter to the Council and read her letter into the record; addressing zoning for micro-alcohol production and that it is not appropriate in a residential area. She spoke to Artisan Manufacturing Districts are allowed in both Bozeman and Missoula but only in industrial zones or in business districts. She spoke against adoption of the proposed resolution; but to table it and allow time for more research, working with CBF and residents of the neighborhood. Her letter is appended at the end of these minutes.

Gail Linne, 106 Murray Avenue, read a letter into the record saying her comments are also on behalf of ten of her neighbors; John and Sandy Kuffel, Rik Smistad and Val Kinnear, Dave and Pam Supina, Kirk and JoAnn Jurgens, and Ken and Karen Thompson. She said more work needs to be done to preserve the character of the city and its neighborhoods. She and her neighbors are against breweries and distilleries in the corridor and have other concerns the proposed plan will have negative impacts to the city; they request the Council tables this agenda item and continue to have staff work with the residents to address their concerns. She submitted her letter to the Council and it is appended at the end of these minutes.

Ryan Zinke, 409 W. 2nd Street, said he was a member of the corridor study team which spanned two years with multiple meetings, multiple working groups, a hired consultant who worked with the committee and the neighborhoods, multiple public meetings and outreach including with downtown businesses and going to Farmer's Market. He spoke in support of the plan; he said it represents views of the property owners, a majority of the steering committee, and a wide range of Whitefish citizens. He said it is appropriate to have uses differ from the north side of the highway than that of the south side of the highway; and it is time to make a decision so property owners can move forward. He would like to continue his plans for a micro-brewery under the Conditional Use process, knowing it will be subject to regulations and codes in place; i.e. the Whitefish Noise Ordinance so that they are not a disturbance to neighbors. The Conditional Use process includes public scrutiny and all these issues will be revisited. He

said he knew of the same in Bozeman that is adjacent to residential. He thanked the Council for their time and consideration and reminded them that all things in politics are passionate.

Ken Stein, 44 Fairway View, thanked the Mayor and Council. He said he missed the first 6 months but was on the steering committee for 18 months; and spoke in favor of the proposed plan. He said the consultants did a great job, working with the neighborhoods in great detail, it is a lot to grasp; but it should be moved forward without further restriction.

Anne Moran, 432 W. 3rd Street, said she was a member of the steering committee and thanked the Mayor and Council. She said the plan has the impacts of a neighborhood plan but only two residents of the neighborhood served on the committee, the neighbors didn't get proper representation she said. She agreed the consultants did a great job; but disagreed with the conclusion and recommendations for zoning which came in late in the process, after the public outreach was over, she said. Those recommendations have not had proper or neighborhood vetting. She is a proponent of the current zoning; it provides predictability for current and future land owners and offers development as permitted and conditional uses. The proposed plan has a lot of new uses that might happen, it needs to be looked at in more detail. Yes it has been a long process, but the impact will be for decades and should be considered more with the "big picture" of the community in mind. She noted she visited the new brewery in the neighborhood on Wisconsin Avenue and found their patrons parking on neighbor's yards.

Joel Larsen, 25 W. 2nd Street, said her property which is on the south side of the highway and adjacent to the river, was included with Area B in the draft plan; but that was changed by Council at their last meeting and now it is Area A. She said her property has characteristics more like those properties north of the highway that are adjacent to the river; their properties are larger properties, adjacent to the river, and back up to a business (Power Sports West) and she feels more appropriately classified as Area B. In the four properties she is referring to there are 5 monthly rental units and one long-term home, and they are across the street from three commercial properties. The draft plan included her property in Area B saying in provided consistency to the gateway into the city and she agreed with that and would like them to be re-designated in Area B.

Billie Thomas, 240 Fox Farm Court, said she and her husband Kurt Craven are against transitional zoning; saying it would degrade and displace their neighborhood. She envisions their western gateway into town as esthetically pleasing, with the character of a historic ski town and a healthy environment. Not developed into large-scaled business, retail and/or industrial development, but with small businesses as allowed with residential uses keeping the forested land adjacent to a river corridor intact. She said the transitional zoning would draw business out of downtown.

Ian Collins, 898 Blue Herron Drive, said he served on the steering committee and he thanked the Mayor and Council for the continued public hearing. He said Anne Moran was the most diligent member of the committee and he appreciated her thoughtful and thorough comments throughout the process. He said he also visited the new brewery on Wisconsin Avenue because he recently invested in neighboring property on the corner of Denver Street and Colorado Avenue; and their vehicular traffic impacts and spills into that neighborhood. It has been said more affordable land for commercial development is needed, but through the good efforts of downtown planning with the community and the Councils (current and previous) there is more available and opportunities for potential development in the core and including Railway Street and Baker Avenue. He said the Bonsai Brewery on Wisconsin seems to be well received, but there is collateral.

Susan Prilliman, 334 W. 3rd Street, spoke to the Council's decision of either inclusion and/or exclusion of alcohol-related businesses in Area B, and requested the Council disallow alcohol-related businesses in Area B. She said she and a neighbor also recently visited the Bonsai Brewery on Wisconsin and said parking was chaotic, patrons choosing on-street parking instead of parking in the parking lot marked for patrons; and this is the shoulder season. She also expressed concern that there could be other ramifications of other Artisan Manufacturing businesses that would negate efforts in place to protect

neighborhood's character and corridors; she asked it be reviewed in depth. She also read letters from neighbors who could not be here tonight; Barbara Palmer, Chani Craig and Adam, all with concerns regarding alcohol and distilleries in their neighborhood. She submitted her letter and her neighbor's letters to the Council and they are appended at the end of these minutes.

Mayre Flowers, Citizens for a Better Flathead, 35 4th Street West in Kalispell, spoke to the Council requesting them to table and not approve this corridor plan because it "is a loosely written proposal for the Highway 93 Corridor (and) leaves the 'barn door' wide open for potential lot consolidations and for planned unit developments (PUDs) and other large-scale development.....lacks standards and other goals and policies that would limit a pattern of strip development.....and invites commercial build out which would degrade the neighborhood and conflict with character of existing residential uses along the corridor." Those were comments from her email she had sent to the Council over the weekend. She said in addition, CBF had additional comments for further review:

- The criteria for developing goals and policies this corridor plan should meet, which is required by the 2007 Whitefish Growth Policy, and why we feel this plan does not meet this criteria.
- The criteria for an amendment to the Whitefish Growth Policy and why we find this plan does not meet those criteria
- Specific text and elements of the plan that we ask you review and clarify before proceeding with further consideration of this corridor plan.

She said last week's process of modification to the plan did not take into consideration public comment heard during the public hearing; and she reviewed a handout with recommendations for a way they could proceed. She submitted her comments to the Council and they are appended at the end of these minutes.

Rhonda Fitzgerald, 412 Lupfer Avenue, said the Council should step back and take a couple more months to finish this process. Review Area B and new uses and zoning districts and consider sub-areas for Idaho Timber and the river bank. Consider the possibilities and the need for affordable housing; keep this area open for developing medium density housing that is close to town with improved infrastructure on this land that is affordable. If you zone it for uses of higher return, it will increase the cost of the land and you will lose those housing opportunities. She said one of Mayre's points was this plan covers 43 acres; and the downtown business including the Railroad district is only 38 acres; so it is a big chunk of land that is proposed for transitional zoning. She said she could not find transitional zoning on an internet search and recommends the city should stay with traditional zones. She said the plan describes types of businesses included in Artisan Manufacturing and she can see how many current downtown businesses would fit right into that category because so many of the Whitefish businesses have a hand in making their products. Other Montana cities have Artisan Manufacturing but allow it only in business and/or industrial zones. She feels by adopting transitional zoning in this plan, that is so open-ended and includes and lumps-together so many different uses, will be problematic to future corridor studies and planning.

Doug Reed, 520 Somers Avenue and works at 1200 Hwy 93 West at the Whitefish Lake Golf Club where he said he spends more of his time than at home, and served as chair of the Hwy 93W Corridor Plan Steering Committee. He said the bulk of this discussion is about Area B. He discussed Bonsai Brewery on Wisconsin, and said he was aware of concerns regarding impact to that neighborhood, and aware of concerns of similar activity in Area B; but he did not believe patrons of a similar business in Area B would be hopping fences and crossing private property to get to their cars that are parked on W. 3rd Street. He thinks that Wisconsin Avenue has a lot of great business and commerce; and Hwy 93 West could be similar. Infrastructure has been improved and can continue to be improved; 1st Street can be built out to open up more access and opportunities. He felt keeping the highway between town and the golf course for residential use only was close-minded; successful commerce exists starting at the bridge with the professional offices and going west is Frank's gas station and grocery store and the veterinary clinic; he said there is already a lot of traffic and the possibilities should be left open. Let the conditional use process accommodate the possibilities instead of closing it down to residential only. He requested the Council proceed with adoption of this plan as proposed; it gives us good options.

Hunter Homes, 216 Midway Drive, came onto the steering committee late in the process representing the new owner of Idaho Timber. Hunter said that Brian Wood, a community/land planner for 20 years, says that “this proposed plan is a Growth Policy amendment; it does not permit or allow anything, it is a template for moving forward. It is the basis for future discussion on zoning for the area. This action does not change any zoning designations in the corridor at this time.” Hunter said he does not see this section along the highway appropriate for new family homes; it is highway frontage, busy with auto and truck traffic. He said some of those current homes are older and need of repair and he doesn’t see those being improved. His client, the new owner of Idaho Timber, is ready to move forward to development; and his land is along the river where development will be regulated by the Critical Areas Ordinance and must also comply with the Pedestrian and Bicycle Path plans. He said if anything, their development should be an enhancement to the river. The Idaho Timber property has an existing large building on it that may be utilized, this plan will give them developmental guidelines. Nothing in the plan is set in stone, the public review and approval process is still in place. He said this is a great plan, he is happy to have had a part in bringing it forward for the community; to send it back to the drawing board would be a disservice to the community and he supported its adoption.

There being no further public comment Mayor Muhlfeld closed the public and declared a recess at 9:13 p.m. Following the recess the Mayor called the meeting to order and turned the matter over to the Council for their consideration.

Councilor Feury made a motion, second by Councilor Sweeney, to approve Resolution No. 15-08; A Resolution of Intention of the City Council of the City of Whitefish, Montana, indicating its intent to adopt the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy), including all the amendments noted in the plan as changed by the Council at their April 20, 2015 Council Meeting.

Councilor Feury followed with discussion and said he felt current zoning allowed more than what the new plan proposes and he feels neighborhood impact will actually be reduced with this new plan; it is a working plan in progress and feels it is better to move forward with a plan for the whole corridor than move forward without one. The plan does have a Mission Statement and the Goals and Objectives are listed, and as this is a working document those can be refined as needed as we move forward. Mayor Muhlfeld said in addition to the motion on the table, staff’s report to the Council also outlines some decisions that need to be made before final adoption which he listed, and he asked Council to include these in their consideration before their vote on Councilor Feury’s motion.

- Recommendation for development standards, meaning the bulk and scale of building footprints for WT-3. (Staff recommended a range of 3,000 to 5,000 square-foot threshold for when a CUP would be required).
- Recommendation for development standards, meaning the bulk and scale of building footprints for grocery stores and or markets for WI-T; and determine if it should be added as a conditional use.
- Percentage of lot coverage in the WT-3 – staff recommendation is 50%, as a compromise between the proposed 70% in the draft plan and the 40% in current standards.
- Should future re-zoning in Area B and at the Idaho Timber property be initiated by the City or by individual property owners.
- Should micro-breweries/artisan manufacturing be allowed in WT-3, or not.

Councilor Sweeney made an amendment, second by Councilor Frandsen, to establish a 3,500 square-foot footprint for all uses as the threshold in WT-3 for when a Conditional Use Permit (CUP) be required. Following discussion the vote on the amendment was tied with Councilors Sweeney and Frandsen voting for the amendment and Councilors Feury and Barberis voting against the amendment. Mayor Muhlfeld voted for the amendment and the amendment passed on a 3 to 2 vote.

Councilor Barberis made an amendment, second by Councilor Sweeney, to add grocery stores/markets as a Conditional Use in WI-T, and limit them to a footprint of 5,000 square feet. Following discussion the vote on the amendment was tied with Councilors Sweeney and Frandsen voting for the amendment and Councilors Feury and Barberis voting against the amendment. Mayor Muhlfeld voted for the amendment and the amendment passed on a 3 to 2 vote.

Mayor Muhlfeld reminded the Council and audience again that with adoption of this proposed Resolution of Intent to adopt this plan, the Council is not creating new zoning districts but identifying possibilities that may be appropriate and will be vetted through a public process, if and when brought forward by an applicant. He said part of Goal #3 of this plan is to "...address land use, scale, and urban design and identify potential land use opportunities for the Idaho Timber site...." He said the action by this Council helps meet this goal.

Councilor Feury made an amendment, second by Councilor Frandsen, to have 50% lot coverage in WT-3. The amendment passed unanimously.

Mayor Muhlfeld asked Director Taylor to address the options for potential re-zoning; whether by individuals or whether initiated by the City. Director Taylor said the Idaho Timber property, since it is one large property, is a little different than the rest in Area B, it will probably come in with one overall proposal perhaps with a master plan. The remainder of Area B is individual and/or multiple lots owned by many different owners, and could potentially develop at a different rate. If brought about by individual applications there could be a mixture of zones, old and new, within the area. If the City initiated the new zoning it would provide a basis for more consistent development. The Plan was drafted for the individual property owners to initiate the changes but Staff and the Steering Committee wanted to make sure the Council was aware of those issues and give it their consideration. It is addressed in Chapter III: VISIONING FOR THE FUTURE & DEVELOPMENT POLICY – AREA B, Recommended Guidelines at the bottom of page 45 and continuing onto page 46 of the Plan. "The vision for Area B is similar to Area A in that the potential land uses in this area must be sensitive to the existing residential character of the neighborhood. However, Area B has larger lots and frontage on both sides of the highway and along the Idaho Timber site. This sets up the area to gradually transition to new uses through the WT-3 zoning district. The transition will be initiated by the landowner at a suitable time to remain sensitive to existing uses....." It was discussed by Council. **Councilor Sweeney made an amendment, second by Councilor Frandsen, to have the City initiate the plan to rezone Area B to the new transitional zoning. Following more discussion, Councilor Sweeney and the second, withdrew the amendment.**

Councilor Feury made an amendment, second by Councilor Sweeney, that the City initiate the process of developing the two transitional zones and we will go ahead and then decide, once the transitional zones have been developed and gone through the process, then the decision will be made as to how those zones be applied to the areas; whether it be initiated either by the City or the individual property owners. The amendment was approved unanimously.

Councilor Barberis made an amendment to allow Artisan Manufacturing and Micro-Breweries in the WT-3 Zone. The amendment died for a lack of the second.

Discussion followed between Director Taylor and the Council regarding Council's action last week and going further with action tonight. And it was again pointed out that none of this action is a zone change, but it is laying the groundwork for future consideration of zone changes. Action tonight recognizes that it will be looked at again, with the public, with the opportunity to consider the specifics of a zone change.

Councilor Feury made an amendment, second by Councilor Frandsen, to remove alcohol manufacturing from the definition of artisan manufacturing and add it as a Conditional Use in WI-T. The vote on the amendment was a tie vote with Councilor Feury and Frandsen voting for the amendment and Councilors Barberis and Sweeney voting against the amendment. Mayor Muhlfeld voted for the amendment and it passed on a 3 to 2 vote.

Discussion followed between Council and Staff regarding the “Sample” Zoning Districts in the Plan, the timing and the process moving forward, and any future zone districts, uses, and zone changes will be a public process.

Vote on the original motion to adopt Resolution No 15-08; A Resolution of Intention of the City Council of the City of Whitefish, Montana, indicating its intent to adopt the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy), as amended herein, was approved on a three (3) to one (1) vote, with Councilor Frandsen voting in opposition.

- c) Ordinance No. 15-06; An Ordinance amending Whitefish City Code Section 7-3-9, to require vendor special permits to sell any goods, wares, merchandise, food or services within the waters two hundred feet (200’) from Whitefish City Beach, City designated swimming areas and City docks (First Reading) (p. 489) (CD 2:45)**

From Parks and Recreation Director Butts’ staff report this is brought forward from the Park Board to the Planning Board and now to the Council to address concerns of congestion and safety on and around City Beach, and commercial activity on and within 200’ of Whitefish City Beach and the roped swimming areas and docks. Director Butts said this year the Parks and Recreation Department advertised for proposals for annual permits for floatable rentals and the concession stand, and they will issue one permit annually for each of those two categories; other permits will be issued for special events like the Fourth of July. In answer of an inquiry from Mayor Muhlfeld; Montana Fish, Wildlife and Parks notified the Parks and Recreation Department that they are in agreement with the proposal.

Mayor Muhlfeld opened the public hearing.

Ed Doctor, Tamarack Ski Shop, asked questions about the bidding and award process to get one of those annual permits now being issued for City Beach; Mayor Muhlfeld asked Director Butts to contact Mr. Doctor.

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

Councilor Feury made a motion, second by Councilor Barberis, to approve Ordinance No. 15-06; An Ordinance amending Whitefish City Code Section 7-3-9, to require vendor special permits to sell any goods, wares, merchandise, food or services within the waters two hundred feet (200’) from Whitefish City Beach, City designated swimming areas and City docks (First Reading). The motion passed unanimously.

- d) Ordinance No. 15-07; An Ordinance amending Zoning Regulations in Whitefish City Code Section §11-2L-1 WB-3 General Business District, Intent and Purpose, clarifying the boundaries of the Old Town Central District and Old Town Railway District to make them consistent with the Old Town Central District and Old Town Railway District boundaries of the Architectural Review Standards (WZTA 15-02 (First Reading) (p. 494) (CD 2:52:27)**

From Director Taylor’s staff report; the proposed ordinance clarifies the boundaries of the Old Town Central District and Old Town Railway District to make them consistent with their boundaries within the Architectural Review Standards. The Staff and the Planning Board both recommend approval.

Mayor Muhlfeld opened the public hearing; there being no public comment the public hearing was closed and turned over to the Council for their consideration.

Councilor Frandsen made a motion, second by Councilor Feury, to approve Ordinance No. 15-07; An Ordinance amending Zoning Regulations in Whitefish City Code Section §11-2L-1 WB-3 General Business District, Intent and Purpose, clarifying the boundaries of the Old Town Central District and Old Town Railway District to make them consistent with the Old Town Central District

and Old Town Railway District boundaries of the Architectural Review Standards (WZTA 15-02) (First Reading). Immediately following, Councilor Frandsen amended her motion, second by Councilor Feury, to add the words “the east side of” to Exhibit “A” of the ordinance to read: “...and the Old Town railway district Railway Street to 3rd Street, and the east side of Miles Avenue to both sides of Lupfer Avenue.” The motion, as amended, was approved unanimously.

- e) **Resolution No. 15-09; A Resolution amending the 2009 Weed Management Plan and approving the 2015 Whitefish Weed Management Plan, Invasive Species Guide and Resource Manual (p. 506) (CD 3:01:38)**

Director Butts said Council had requested this update in September 2014, expanding on a recommendation from the Weed Advisory Committee and the Park Board to repeal the 2009 Plan as it contained out-of-date management practices. The changes in the 2015 Plan make it a living document that may be evaluated and updated regularly as needed by the Parks and Recreation as they oversee weed management.

Mayor Muhlfeld opened the public hearing; there being no public comment the public hearing was closed and turned over to the Council for their consideration.

Councilor Barberis made a motion, second by Councilor Sweeney, to approve Resolution No. 15-09; A Resolution amending the 2009 Weed Management Plan and approving the 2015 Whitefish Weed Management Plan, Invasive Species Guide and Resource Manual. The motion passed unanimously.

8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) **Central Avenue Water Line Replacement Project (3rd Street to 6th Street) – design options and authorization to bid (p. 555) (CD 3:03:42)**

Interim Public Works Director Hilding included in her staff report that this is a continuation of replacing old water mains on Central Avenue that was designed in August of 2014. In addition to water main replacement is the issue of the slump at the south end of Central Avenue that is being monitored by TD & H Engineering. The water line is designed to dead end at 6th on Central Avenue to eliminate the risk of a future water break in the slump area. In addition, the 2015 Downtown Business District Master Plan Update recommends reconstruction of the block of Central Avenue between 3rd and 4th Street, and it is listed as a priority project. Interim Director Hilding explained the options, including combining the water main replacements with the reconstruction project to prevent two separate construction projects; all as outlined in the staff report. The Council discussed options with Staff; including budget requirements from both the Water Fund and Tax Increment Financing.

Councilor Frandsen made a motion, second by Councilor Feury, authorizing redesign of the water main replacement project on Central Avenue between 3rd and 6th Streets, and design of street reconstruction of Central Avenue from 3rd to 4th Streets, and direction to staff to bring back a modified cost and funding plan for construction in 2016. The motion passed unanimously.

9) COMMUNICATIONS FROM CITY MANAGER (CD 3:26:44)

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 563) – None.
- b) Other items arising between April 29th and May 4th

City Manager Stearns asked and the Council set the time for the first budget meeting on May 26th for 5:30 p.m.

- c) **Ordinance No. 15-08; An Ordinance amending Ordinance No. 95-15 and Ordinance No. 11-13, the administrative ordinance governing the collection and reporting of Resort Tax revenues, providing for an increase in the Resort Tax from 2% to 3% pursuant to voter**

approval and revising the uses of the Resort Tax for the increased rate (First Reading) (p. 568) (CD 3:27:40)

Manager Stearns reported this is the administrative ordinance providing for an increase in the Resort Tax from 2% to 3% pursuant to voter approval in the April 28, 2015 Election and revising the uses of the Resort Tax for the increased rate. The increase goes into effect July 1, 2015.

Councilor Feury made a motion, second by Councilor Sweeney, to approve Ordinance No. 15-08; An Ordinance amending Ordinance No. 95-15 and Ordinance No. 11-13, the administrative ordinance governing the collection and reporting of Resort Tax revenues, providing for an increase in the Resort Tax from 2% to 3% pursuant to voter approval and revising the uses of the Resort Tax for the increased rate (First Reading). The motion passed unanimously.

Councilor Feury made a motion, second by Councilor Barberis, to extend the meeting beyond 11:00 p.m. The motion passed unanimously. Due to the lateness of the hour, Mayor Muhlfeld requested to adjust the agenda by moving forward Agenda Items 9f and 10a to the next meeting.

d) Resolution No. 15-10; A Resolution establishing annual goals for the City (p. 585) (CD 3:31:44)

Councilor Frandsen made a motion, second by Councilor Feury, to approve Resolution No. 15-10; A Resolution establishing annual goals for the City. The motion passed unanimously.

e) Consideration of approving a contract with AE2S Consulting Engineers for the Water and Wastewater rate study (p. 588) (CD 3:32:40)

Finance Director Smith reported along with planning for implementing upgrades as required by the Montana Department of Environment Quality, the City also wants to review current utility rates to make sure they are fair and equitable. Six firms responded to the City's request for proposals and, following review and interviews, the selection committee recommends AE2S Consulting Engineers, and recommends a contract and scope of services included in the packet for Council's consideration. Contract costs will be split evenly between the water and wastewater funds.

Councilor Feury made a motion, second by Councilor Frandsen, to authorize the City Manager to sign a contract with AE2S Consulting Engineers for the Water and Wastewater Financial Plan and Rate Study in an amount not to exceed \$69,000 for these services. The motion passed unanimously.

f) Quarterly Financial Report - 3rd Quarter FY15 (p. 596) – Moved to the next Council Meeting

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Discussion and consideration of making comments on the Tongue River Railroad project Draft Environmental Impact Statement (p. 609) - Moved to the next Council Meeting
- b) Appointments – consideration of any appointments not made during Special Session prior to tonight's Regular Meeting

Mayor Muhlfeld said interviews were earlier at the Council's Special Session at 6:00 p.m. this evening and made the following appointments.

Park Board – 2 year terms: Teresa Dunn, Jim DeHerrera and Doug Wise

Library Board of Trustees – 5-year term: Mary Vail

Whitefish Housing Authority Board of Commissioners, resident applicant, filling a vacancy of the

remainder of a 2-year term - Robert FitzGerald

Councilor Frandsen made a motion, second by Councilor Feury, to ratify those appointments. The motion passed unanimously.

Council Comments:

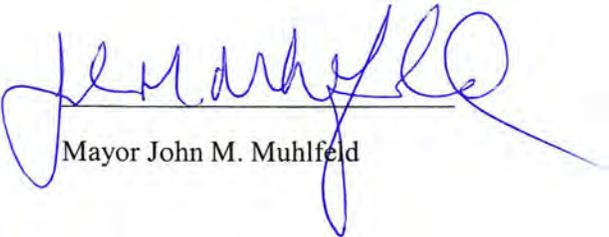
Councilor Frandsen thanked staff for the crosswalk sign on Edgewood, and asked about the noise at the traffic signal and Interim Director Hilding said she would check again with MDOT. Frandsen commented the cardboard recycling bins at City Beach are overflowing and suggested an extra pick-up. Frandsen asked if the Resort Tax Monitoring Committee was consulted about current contracts already made without consideration of the increase going into effect July 1, 2015. Manager Stearns said he heard from one member of the Committee about it, but there is not a choice, it was not addressed in the ballot and the law just passed says it goes into effect July 1st.

Councilor Feury said comments were made during the campaign for the resort tax increase about a community effort towards supporting local businesses, and he would like to have that on the next agenda. The rest of the Council agreed.

Mayor Muhlfield said amendments for Lakeshore Regulations and the related committee are coming forward and asked if then the ad for that new committee could be published and City Clerk Lorang said it could. Mayor Muhlfield said he would like to address the FY16 AIS Budget as requested by the Whitefish Lake Institute at the next meeting and the rest of the Council agreed. It was noted the City Hall Ad Hoc Steering Sub-Committee meets Thursday morning at 8:30 a.m.

11) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 3:44:11)

Mayor Muhlfield adjourned the meeting at 11:10 p.m.



Mayor John M. Muhlfield

Attest:



Necile Lorang, Whitefish City Clerk

Rec'd at meeting

May 4, 2015

Good Evening Mayor and Council Members.

My name is Diane Taylor. I am an emeritus board member of Citizens for a Better Flathead and I am making these comments on behalf of CFB whose address is 35 4th Street West in Kalispell. I would like to present for the hearing record some of the research that we ask you to consider in making a decision as to the Highway 93 West Corridor Plan. I am submitting with these

comments for the hearing record, a report from the American Planning Association, "Zoning for Micro-Alcohol Production" published in 2014. This report finds that to date, relatively few communities have defined and regulated low-volume alcohol production facilities as distinct uses in their zoning codes. The growing interest in craft brewing and distilling, as well as small-batch wine production, the APA report points out, is prompting communities, however, to update zoning regulations to address the appropriate location and impacts that these facilities can have.

"Without clear definitions and use permissions, planning staff or public officials are forced to make ad hoc use interpretations that can delay or even prevent otherwise desirable development. This regulatory silence creates uncertainty for business owners looking to make location decisions and secure financing, and it may have the effect of scaring away potential applicants. Finally, explicit definitions, use permissions, and use-specific standards allow communities to proactively address the potential negative effects of brewpubs and microproducers on surrounding areas, thereby minimizing future conflicts with neighbors."

I would respectfully suggest that it is time for the City of Whitefish to step back and look at a more comprehensive policy for where and where not microbreweries are appropriate within the city limits and what standards need to be in place to address impacts this use can create. Please do not adopt this use into the Hwy 93 Corridor Plan before you tonight for consideration.

I would emphasize that we do not find in the research that we have reviewed that such uses are not appropriate in a residential area. This is supported by this APA report I am providing you. You will find in sample regulations cited in this APA report that minimum setbacks of 300 to 400 feet are recommended from residential areas for microbreweries.

Your own city regulations have no definitions for microbreweries or distilleries or standards that define how to limit the potential impacts to adjoining properties. The only reference that we have found in the City of Whitefish regulations remove requirements found in state law as to the distance between bars and taverns if the use is within the WB-3 (a business not residential zone for Whitefish). That reference seems to provide yet another indication that such uses are more appropriate in a business district, and not in a residential area. I would encourage you to step back and review and revise that your current regulations before you even consider expanding brewery uses to other zones.

Here is an example of some of the standards for microbreweries that were included in the APA report that demonstrate the ability and need for the City of Whitefish to more carefully examine standards needed to avoid impacts to adjoining properties.

"13. Craft breweries, distilleries and wineries.

- a. No outdoor storage shall be permitted;
- b. All malt, vinous or distilled liquor production shall be within completely enclosed structures;
- c. Loading areas shall not be oriented toward a public street, nor shall loading docks be located on the side of any building facing an adjacent zone district primarily for residential or office uses. Where these districts or streets abut all sides of the property, the loading areas shall be screened by a solid wall or opaque fence with a minimum height of six (6) feet, in addition to any required landscape buffer.
- d. Service doors facing a public street or an adjacent zone district primarily for residential uses shall be screened by a solid wall or opaque fence with a minimum height of six (6) feet, in addition to any required landscape buffer.
- e. By-products or waste from the production of the malt, vinous or distilled liquor shall be properly disposed of off the property." APAReport p 43

Within the draft Whitefish Highway 93 West Corridor Plan a microbrewery would fall under the category of "Artisan Manufacturing"-a term which the consultant for this plan has noted that he adapted from the Bozeman zoning code. The implication is that since Bozeman has this kind of zone it is appropriate for Whitefish and in this case in a residential neighborhood corridor. But there are very important differences between how Bozeman (and Missoula who has a similar zone-attached at the end of my comments) has defined and applied this code and how it is being defined and applied in the Whitefish Highway 93 Corridor plan. Below is the Bozeman definition.

"Sec. 38.42.1865.- Manufacturing, artisan.

Production of goods by the use of hand tools or small-scale, light mechanical equipment occurring solely within an enclosed building where such production requires no outdoor operations or storage, and where the

production, operations, and storage of materials related to production occupy no more than 3,500 square feet of gross floor area. Typical uses have negligible negative impact on surrounding properties and include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts, production of alcohol, or food processing.

(Ord. No. 1874, § 2, 12-2-2013) “ City of Bozeman

Important differences to note from the Bozeman and Missoula Artisan Manufacturing zones and what is being proposed for the Highway 93 West Corridor Plan and yet still called Artisan Manufacturing include:

- Artisan Manufacturing is only allowed in industrial zoned areas in Missoula. In Bozeman it may also be allowed outside of an industrial zone with a conditional use permit but only in business districts. (Note that Helena also only allows microbreweries in business districts).
- There is NO provision for "ancillary retail" in Bozeman or Missoula in this Artisan Manufacturing zone. (Thus these zones are designed not to compete with downtown retail or to generate excess traffic in a residential area.)
- There is no out door storage or operation allowed in the Artisan Manufacturing Districts in Bozeman and Missoula. Everything must occur in an enclosed building.

Allowing outdoor storage even with screening, as the proposed Highway 93 West Corridor plan does, will further degrade the character of the neighborhood and existing homes. As the APA report notes;

“ The two basic rationales for storage restrictions are aesthetics and public health. Outdoor storage can be an uninviting eyesore, especially in pedestrian-oriented areas. And left unattended, production waste may produce foul odors and attract vermin.”

The lack of comprehensive standards in Whitefish zoning regulation to limit impacts to adjoining properties specific to the uses proposed for Artisan Manufacturing or even any analysis of this in this planning process is unacceptable. The neighbors have raised real and important reservations about the potential impacts to the character of their neighborhood areas and the potential impacts to their property values and quality of life. What assurances are there that these uses won't be sought by other developers, in other areas of this corridor once this barn door is opened?

Parking and traffic are additional concerns. Within the draft Whitefish Highway 93 West Corridor Plan, Artisan Manufacturing as proposed and defined is so broad that almost anything could be construed to fit into the category including many business uses currently located in the downtown Whitefish core business area. This is in conflict with the goals and intent of the Whitefish Growth Policy and the recently updated 2015 Whitefish Downtown Neighborhood Plan.

Adding retail sales to uses within the corridor including Artisan Manufacturing will greatly increase traffic impacts within Whitefish Highway 93 West Corridor Plan area. Looking at the Whitefish regulations for parking requirements for bars and taverns it appears that the 10 spaces per 1000 sq ft is the standard, but in Bozeman for breweries it is 16 spaces per 1000 sq ft and in Helena it is 14 spaces per 1000 sq ft. ---what should the requirements be---there is little to no guidance in this plan or in the city regulations for the specific and unique uses called for in this corridor plan. Combining retail with manufacturing further begs the question of what the traffic generation will be.

Citizens for a Better Flathead and residents of this corridor want to work with the city and your planning staff to continue to refine and improve this plan. We hope you will table this plan tonight and give us that opportunity. Please take the time to get this right.

Missoula definition/zoning code for Artisan Manufacturing

(Ord.3511,2013;Ord.3471,2011; Ord. 3410,2009)

20.105.050 Industrial Use Group

The industrial use group includes uses that produce goods from extracted materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. It also includes uses that store or distribute materials or goods in large quantities. The industrial use group includes the following use categories:

A. Junk/Salvage Yard An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junk or salvage yard includes an auto wrecking yard, but does not include waste-related uses or recycling facilities.

B. Auto Wrecking

The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

C. Manufacturing, Production and Industrial Services

1. Artisan

On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 3,500 square feet of gross floor area. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small scale manufacturing uses that have no negative external impacts on surrounding properties.

Breweries and Distilleries are not included under Artisan uses and have a separate definition in Missoula, also under Industrial Uses:

D. Microbrewery/Microdistillery

A brewery (for malt beverages) that has an annual nationwide production of not less than 100 barrels or more than 10,000 barrels. A distillery that produces 25,000 proof gallons or less of liquor annually in accordance with MCA 16-4-310 through 312.

Letter to City Council 4/14/15

May 4, 2015

Gail Linne, 106 Murray Avenue

My comments are also on behalf of ten of my neighbors

Good evening, Mayor Muhlfeld and City Council members,

Whitefish City Council has a history of preserving the character of the city and its neighborhoods, which is evident in your April 20 decisions to not allow short-term rentals and to hold lot coverage to 50% along the Highway 93 West Corridor. We appreciate those decisions. However, we have serious concerns with adopting the plan tonight because of flaws in the plan as proposed. There is still work to do.

- The Whitefish Growth Policy states that corridor plans will have goals and policies:
 "Corridor Plans: The Land Use Element of this Growth Policy recommends that corridor plans be formulated and adopted for five specific transportation corridors within the Whitefish area. Upon adoption, **these corridor plans will effectively amend this Growth Policy with goals, policies, and recommended actions specific to each corridor.**"
 Page 144
- The proposed corridor plan before you tonight only includes goals and objectives about the process, which are found on page 5 of the corridor plan, but not the plan specific goals and policies required by the Whitefish Growth Policy. The specific goals and policies required for the corridor plan are needed to provide the guidance or sidebars for decisions you will be asked to make about future applications of uses in this corridor.
- The corridor plan before you tonight does not have a land use map of existing uses. This is an essential and basic tool commonly used to show how uses in this corridor are, or are not, changing and the pattern of new growth. It should be developed and we can help with that if needed.
- The described transitional character of this corridor, which the corridor plan says is occurring, is counter to the actual on the ground residential character of the neighborhood. The plan suggests Area B is an 'area in transition' (moving to light commercial, industrial) but in reviewing uses in the area, Area B historically was and currently is residential with the exception of 5-6 professional offices. The existing zoning is working.

- Future development of the Idaho Timber Property would best be addressed with a subarea plan as provided for in the Whitefish Growth Policy on page 144.
- The corridor plan does not look at Montana Department of Transportation's plan for the corridor, which is based on residential use of the area/highway/access/traffic patterns.
- The plan relies on a survey that is not representative of the concerns expressed by many residents. For example, decisions for Area B are based on nine responses in the survey for Area B. You have the signatures of fifty residents in your Feb. 2, 2015 packet who oppose changing Area B to WT-3.

Neighbors are concerned about the plan's negative impacts for our city. We are willing to work with staff to correct these flaws and develop a plan that reflects community needs and adheres to Whitefish City and State of Montana requirements. However if the plan is adopted as proposed we feel we will have few options but to seek legal advice as to how to insist that the plan address the concerns we have raised, and to take action to file an application with you for an amendment to develop a neighborhood plan which reflects the character of Whitefish along the corridor.

Vote to table the Highway 93 West Corridor Plan tonight and allow residents to work with City planning staff to revise this draft corridor plan to address concerns we have raised. We also ask you to remove breweries and distilleries as uses in this corridor-they simply are bars that do not belong in residential areas.

Sincerely,

Gail Shay Linne, 106 Murray Avenue

John and Sandy Kuffel, 109 Murray Avenue

Rik Smistad and Val Kinnear, 105 Murray Avenue

Dave and Pam Supina, 108 Murray Avenue Kirk

and JoAnn Jurgens, 104 Murray Avenue Ken

and Karen Thompson, 104 Murray Avenue

Rec'd City Council Meeting 5-4-15

May 4, 2015

Susan Prilliman
334 W 3rd Street
Whitefish

Good Evening Mayor and Council Members.

The decision 2 weeks ago to disallow short-term rentals in area B has made a two important statements: 1) that this is a corridor worth protecting and 2) that short-term rentals would, in fact, degrade the area. I thank the Council for this decision and for your attention to neighborhood concerns.

Another issue is before you for reconsideration tonight-that of the inclusion or exclusion of alcohol-related businesses in Area B. A microbrewery would fall under the category of "Artisan Manufacturing." I tried looking this new term up on Google and could find no reference to it other than the name of an actual company in NJ that manufactures kitchen fixtures.

I have since been told that "Artisan Manufacturing" is, in fact, a term that has been borrowed from the cities of Bozeman and Helena, but that in neither of those cases was there any component of retail- not even 1% let alone 40%-included as part of the concept. In neither case was this use allowed in anything except for a property that was already zoned as an industrial or business district. This concept seems to have been reinvented to make it an apparent acceptable and tested use in an area similar to our highway corridor. This is simply not true.

By the proposal's definition nearly anything could be construed to fit into the category of Artisan Manufacturing. There could be a small pottery studio where pottery is created and then offered for sale on the premises. Such a business could be within a scale that is compatible with other WR3-compliant uses.

But when I think about a microbrewery, I see an entirely different animal-not **only** because of alcohol, but because of the number of patrons that would gather at the same time. Red flags go up when I consider how many cars could be exiting Highway 93 to find parking at the brewery- then the flags go up even higher when I think about the cars that would be reentering the highway when there was not enough on-site parking or when patrons are leaving the brewery en masse after consuming their limit of alcohol.

A CUP can put limits and requirements on parking for the brewery property only. When those spots are full, parking is going to encroach into the neighborhoods, even into neighborhoods on the south side of the highway, where we have children playing on quiet country streets with no sidewalks. The City can do nothing to prevent this. Residents who find cars parked on their lawns or blocking their driveways may have no recourse or could be subject to constantly policing their neighborhood.

Another neighbor and I were curious enough about parking questions to spend part of two evenings last week observing the parking at the Bonsai Brewery on Wisconsin. We came away scratching our heads because although there were usually a couple of marked spaces available in the brewery's lot, some people didn't even bother to go into the lot, choosing instead to find a spot on the street or on the grass of a next-door property. In one instance a car leaving the brewery drove straight across the grass of someone's private property. It was chaotic, and this is the shoulder season. I can only imagine what it is like in the summer.

Stories abound about traffic congestion and parking nightmares around microbreweries, and we are considering the possibility of one along this highway entrance into our city. If it becomes a reality, some patrons could end their evening after enjoying their limit of beer by crossing the highway on foot and wandering into a nearby neighborhood to retrieve their cars. This is an intrusion into sensitive residential streets that the committee and the Council have decided should be protected. This scenario potentially repeats itself on a nightly basis and grows in vast proportion during the peak seasons.

As I understand it, the Montana DOT's planning for approaches for the newly reconstructed highway does not account for anything except the existing WR-3-compliant use along Area B. Now, after this section of the highway has been completed, we are considering subjecting it to a much heavier use. Adding to the heavy use would be trucks delivering grain and hops and whatever else it takes to continually supply the needs of the brewing process. This use would be vastly out of proportion with any multi-family residential or professional business that currently exists in Area B.

This proposal before you does nothing to define what is appropriate in terms of scope and scale for "Artisan Manufacturing" businesses. If we are concerned about short-term rentals, why would we not be concerned about the even more degrading impact that a microbrewery would bring? Neighbors are serious about this concern. We have people here telling you their concerns, and we have had them for every public hearing ever since the idea was first introduced. We bought properties in or near a WR-3 zone for a reason, and it wasn't to see that zoning relaxed to the degree that this proposal calls for. We have 50 people on a petition who are communicating this concern through their signatures.

We should not leave this decision to a CUP process down the road. A CUP process would not

determine IF a microbrewery would be allowed or *not*, and the negative impacts of such issues as parking, noise and smells cannot be prevented or fixed by conditions imposed on such a project.

I urge you to disallow alcohol-related businesses in Area B, and I ask that we all take a more in-depth look at the all of the ramifications of a business that might "fit" your definition of Artisan Manufacturing. Not all would be equal, and yet it seems that most would "qualify". I believe the existing proposal leaves us wide open to uses that would negate the effort that has already been made to protect the character of neighborhoods and the highway corridor itself.

Thank you for hearing my concerns.

Read at Council Meeting 5-4-15

May 4, 2015

West Third Street resident Barbara Palmer:

The Highway 93 proposal is ineffectually written and opens the way for "anything goes" possibilities. Clearly and concisely written standards are needed to prevent unsightly strip development.

I'm especially concerned with the "Artisan Manufacturing" element that would allow for unlimited bars, taverns and distilleries. A distillery is a far cry from the intent of the original corridor plan.

Respect for the investment of area homeowners and defending the character of the neighborhood should be a non-negotiable concern in this or any future corridor plan.

Please approach your decision as if you lived in our

neighborhood. Thank you.

May 4, 2015

Chani Craig
429A W 3rd Street
Whitefish, MT

Even though I am not currently living in my home at 429A W 3rd St, it is important to me and to my tenants that it remain a peaceful and serene place. The beauty of our neighborhood is its close proximity to the bustle and business of downtown coupled with the buffer of a quiet suburban setting. It is the reason I purchased in this neighborhood where I plan to live again someday. I value its proximity to town and to the outdoor activities we love as people who choose to live in Whitefish. If a brewery project is allowed to proceed and the character of our neighborhood and value of our properties are threatened, I believe our neighborhood would have grounds for legal action to look into the validity of the City's actions and processes.

Please do the right thing and honor our neighborhood's lifestyle and investment choices. Do not allow the financial considerations of a few individuals to outweigh those of the homeowners in the affected area.

Thank you.
Chani Craig

May 4, 2015

Dear Whitefish City Council,

I am sorry I could not be here with you tonight. I have lived at 328 West 3rd Street in Whitefish for five years. I was born in Whitefish and have lived here for most of my life. The other day I saw a young boy ride by my house on his bike and I was overcome with nostalgia -- because twenty-five years ago, that boy was me, riding to Circle K to buy candy or baseball cards. I reflected on this for a while and realized how amazing it is how very little the neighborhood on west third has changed. Every day from my house, I see kids walking home from school, playing on bikes, on skateboards. I see families pushing strollers and a plethora of family pets. I would like to see 2nd street (HW 93) grow responsibly and not impact west third or any of the surrounding neighborhoods in a negative way. Any increase in traffic or street parking on west third would pose a major problem for us and potentially put our children and pets in harm's way. Artisan businesses in section B that have excessive parking could overflow into neighborhoods and be a major detriment especially if alcohol is involved. Of course, I want businesses to grow and flourish in whitefish but never in spite of the individuals and families who live in the surrounding neighborhoods.

Sincerely,

Adam Pitman



To: Whitefish City Council

Re: Whitefish Highway 93 West Corridor Plan Planning Staff Report: Growth Policy Amendment WGPA 15-02

Date: May 4, 2015

Citizens for a Better Flathead appreciates this opportunity to comment on the Whitefish Growth Policy Amendment before you tonight. Our organization was founded in 1992 and we represent some 1500 supporter\$ throughout the county. Our mission is to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead *Special Forever*. We believe that thoughtfully planned growth can and should occur without diminishing the very special characteristics of the Flathead Valley, and in this case specifically Whitefish, that play such an important role in attracting and retaining investments that grow the Flathead's economy.

We are providing additional comments tonight to the email you should have received Saturday (see attached) and which I will again summarize for the hearing record tonight. In addition we want to review with you:

- The criteria for developing goals and policies this corridor plan should meet, which is required by the 2007 Whitefish Growth Policy, and why we feel this plan does not meet this criteria.
- The criteria for an amendment to the Whitefish Growth Policy and why we find this plan does not meet those criteria.
- Specific text and elements of the plan that we ask you review and clarify before proceeding with further consideration of this corridor plan.

11. Overview of the issues raised in the alert we sent for the hearing record.

See attached.

2. The criteria for developing goals and policies this corridor plan should meet," which is required by the 2007 Whitefish Growth Policy, and why we feel this plan does not meet this criteria.

"Corridor Plans: The Land Use Element of this Growth Policy recommends that corridor plans be formulated and adopted for five specific transportation corridors within the Whitefish area. Upon adoption, these **corridor plans will effectively amend this Growth Policy with goals, policies, and recommended actions specific to each corridor.** "

P.145 WFGP 2007

The plan as drafted contains only "process or project" goals and objectives as outlined on page 4 of the corridor plan. No goals and objectives as called for in the 2007 WFGP have been developed. Goals and objectives are needed to provide you the framework to base future corridor decisions on. For example, while some discussion was had during the planning process about having a brewery perhaps along the river, but I *don't* think anyone envisioned five or six breweries packed into the highway corridor or elsewhere. As written, however, with out clear goals and policies this plan allows for unlimited uses such as breweries or sandwich shops. At one point this plan had wording for sandwich shops that said no formula businesses allowed. This is not in the current plan. Hotels and motels are allowed in an area of this plan along the river but there is no goal in this plan currently that calls for no formula businesses---an issue which this council has dealt with recently and should be addressed here.

If this corridor plan is pushed forward with out stepping back to develop goals and objectives the neighborhood is prepared to submit an application to force the development of a neighborhood plan with required goals and objectives for this area--so either way -even if you call this just a corridor plan---you need to develop overall goals and policies.

I would also suggest that you look at the provisions within your growth policy for the development of a **subarea plan. This may be a more appropriate way to move forward with a plan for the Idaho Timber area** in that it would allow for the lay out of an overall plan for the area that could utilize existing zoning tools rather than trying to craft new zones that we would argue are so broad and open-ended as to not be wise or necessary amendments to the Whitefish Growth Policy.

"Subarea Plans: Subarea plans are a Growth Policy amendment mechanism through which a developer or group of developers may plan for the orderly development of primarily undeveloped land. Like neighborhood plans, the requirements and procedures for submittal and review of subarea plans will be set forth in the land development regulations. Generally however, in order to ensure compliance with this Growth Policy, subarea plans shall be subject to a strict community benefit test that includes:

- The subarea plan must substantially further the goals and vision of the Growth Policy.
- The plan must provide of substantial community benefits such as affordable housing, open space, protection of air and water quality, protection and/or enhancement of critical areas, provide for essential public facilities including parks, ped/bikeways, streets, and school sites as needed and as applicable to each individual subarea plan.
- All on and off site improvements must be provided for, including but not limited to streets, utilities, drainage, and bike/pedestrian facilities.
- Any and all environmental constraints and natural hazards on site shall be avoided or effectively mitigated.

- Any and all adverse impacts upon existing neighborhoods shall be avoided or effectively mitigated. These shall include but may not be limited to traffic, noise, and overburdening of public facilities and services."

p. 144-145 WFGP 2007

<p>3. The criteria for an amendment to the Whitefish Growth Policy and why we find this plan does not meet those criteria.</p>
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"**Amendments:** This Growth Policy and the Whitefish Zoning Jurisdiction regulations shall provide that any person may apply for an amendment to the text of the Growth Policy. Provisions shall also be made for owners of real property or their authorized agents to petition for amendments to the Future Land Use Map. All procedures and criteria for text and map amendments shall be set forth in the land development regulations, but generally those criteria shall include:

- **A specific error was made in the Growth Policy that necessitates an amendment to the text or map in order to preserve a property right, or to preserve or achieve equal protection under the law.** (Example: A property may have been treated differently than a similarly situated property in the same general area under the same general conditions.)
- **Community conditions have changed to the degree that amendments to the map and/or text will facilitate achieving community goals and the overall vision of the citizens of Whitefish.** (Example: Increased infrastructure capacity may render a property or an entire area more advantageous for additional community growth.)
- **There is a clear, extraordinary community benefit** in terms of achieving goals, resolving problems or issues, or furthering the realization of the Whitefish community vision. (Example: A proposed amendment may produce desired community benefits such as affordable housing, bike and pedestrian trails, or a needed transportation corridor.)"

p. 143-144 WFGP 2007

While you have been told by the consultant for this plan and while the plan so states, that this corridor is an area in "transition" there is no existing land use map to show what the current uses are and how these have changed over time to provide evidence of this. A map showing current land uses lot by lot is common for a plan of this scale. Had it been done as some of the neighbors are beginning to do now, it would show that the changes in this corridor are consistent with the existing zoning. And as the existing zoning allows for changes are resulting in upgrades to properties, additional multi family housing that is providing much needed additional housing close to the city, and the development of some professional offices and creative uses like the recent Mindful design project that provides both office and residential.

So with this as but one example, **community conditions have not changed to the degree that amendments to the map and/or text will facilitate achieving community goals and the overall vision of the citizens of Whitefish.**

This corridor plan does not provide evidence that another area of 43 acres ---an area larger than the current downtown core area of approximately 38 acres is needed for the additional

commercial and retail uses allowed for broadly and open-endedly in this plan area. The proposed uses in this plan are so broad that many of the uses, which are now specified as uses for the downtown core area, could be pulled away from downtown. Despite one of the process goal of this plan being to develop a corridor plan that maintains the essential elements of the Downtown Growth Policy, this plan contains no evidence that any analysis was done or that this process goal has been achieved.

So here again, this corridor plan does not meet the criteria for a growth policy amendment to show **there is a clear, extraordinary community benefit** from this proposed new corridor plan in terms of achieving goals, resolving problems or issues, or furthering the realization of the Whitefish community vision.

4. Specific text and elements of the plan that we ask you review and clarify before proceeding with further consideration of this corridor plan.

In reviewing this plan we are continually finding problematic sections. We have included a list below for your consideration, but again feel it would be best to table this plan tonight and allow the city planning staff and area residents to continue to revise this plan and find consensus.

p. 106--"Sample zoning district language is provided for Area Band for the Idaho Timber Site. These sample zoning districts are meant to be used as guidelines should property owners, in the future, request new zoning in either Area B or for the Idaho Timber Site." Placing these zones in the appendix as "samples" is almost meaningless as the supporting text for these zones is woven throughout the plan currently. If these zones are allowed here why can it not be argued that similar zones are appropriate elsewhere in the city. There has been inadequate review of the conflicts these zones pose with the 2015 Whitefish Growth Policy update.

p. 107---Formula Businesses. The concept of no formula businesses has been dropped and a goal for the entire plan area should disallow formula businesses.

p. 107---Parking proposed to be allowed in front yard setback and green belt areas. Smart growth principles call for parking in the rear and given the recent upgrades of sidewalks and boulevards why would this plan allow for 40% parking in the green belt?

p. 107-Boarding houses. Is this an outdated use that should just be eliminated? What justification is there for including it?

p. 107---Bulk and Scale. Most of the housing in this area is around 1000 sq ft. The proposed change being recommended for the plan is to allow structures up to 5000sq ft. This is not in character with the scale of housing in the area and should be consistent with the current scale of housing in the plan area.

p. 107---Dwelling groups or clusters. I could find no definition in code or plan for this. What is it?

p. 108---Lot coverage. Given concerns raised about the inappropriateness of uses proposed for WT-3 and WT1 a decision to allow lot coverage to increase to 50% should not be made until the issue of what scope of uses should be included in the plan is resolved.

p. 109 and p 113---Hours of Operation. Need to include wording and findings to allow for justification for conditioning hours of operation in site-specific applications when needed.

p.109---Gross Floor Area for manufacturing---as proposed this might conflict with the scale of development in or adjoining residential areas.

p. 110 and 113---Live work areas---there is no clear definition for this. It allows for commercial uses but these are not specified. Why is it a permitted use as opposed to a conditional use?

p. 111---Creative Industries and Business Incubator---these are loosely used and poorly defined uses that need to be reviewed to determine need and meaning and if such uses are not already covered under other provisions in existing zoning.

p. 112--- Coffee Shops and other drive up uses---the plan fails to call for not allowing drive up uses or formula businesses. These should not be allowed in this area for the same reasons as they are not allowed in the downtown and even more so in this residential area.

p. 113---Outdoor storage---As the APA report submitted for this hearing states "The two basic rationales for storage restrictions are aesthetics and public health. Outdoor storage can be an uninviting eyesore, especially in pedestrian-oriented areas. And left unattended, production waste may produce foul odors and attract vermin." This use is not allowed in similar districts in Bozeman, Missoula, and Helena. Outdoor storage for equipment, displays, waste products from industrial uses like breweries.

General comments issues:

Conditional Use Permits in the council discussions to date appear to be misunderstood. They are not appropriate tools to limit say the proliferation of a use for which multiple uses create an undesirable pattern of development. Clear goals and policies or overlay zoning tools are more appropriate tools.

New bridge and river crossing. There has been almost no discussion of the soundness of this proposal, of cost, or if this crossing makes sense at this specific location. This deserves more review.

Parkland needs and river access. The downtown neighborhood plan identifies the need to secure additional parkland. This corridor plan is silent on goals that would give priority say when subdividing to give preference to retaining river access and parkland dedication.

Catering to Large landowners over smaller owners. This plan should be driven by what is good for Whitefish now and in the long term. Many small businesses have invested in our downtown and the integrity of this plan should be honored. There will be other large landowners in other corridors. Uses and decisions should be carefully crafted with the goals, policies and criteria that the grown policy provides. Countless studies show the negative impact of providing an over supply of commercial and retail property for development.

Affordable housing. This plan is essentially silent on this issue and it needs to be squarely addressed to promote, secure, and retain affordable housing in this corridor.

The location of Breweries and Distilleries. As called for in the APA report submitted for this hearing---the city should step back and look at standards and conditions to address potential impacts from these uses to adjoining properties city wide and decide where they should and should not be allowed.

Corridor Plans should address future growth outside of city limits. No policies and goals have been developed to address this.

Consolidations of lots and potential impacts have not been address in the plan.

Planned Unit Developments have not been looked at in relationship to the proposed zoning and potential unintended conflicts.

Peace Park issues. These issues including noise, *hours*, drinking and unruly behavior, frequency of events, public vs. private *uses*, traffic and parking offsite issues all have not been addressed.

Short-term rentals. While these have been removed no policies or goals have been provided to support this for future councils.

Rest at Council Meeting
5-4-15

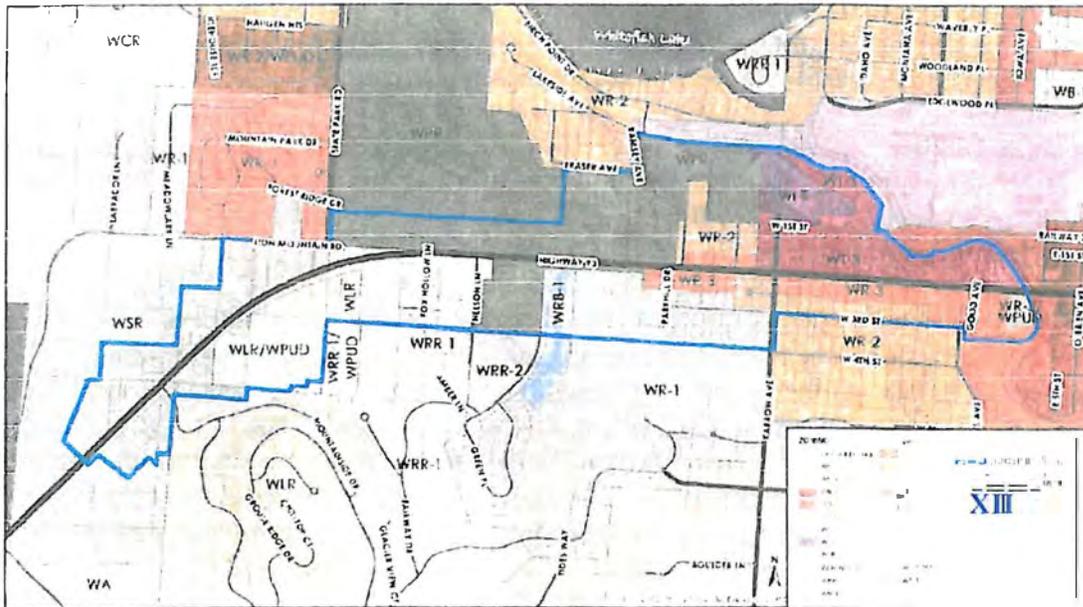
It time to speak up again. Say no to proposed retail/commercial sprawl and bars & taverns along the Hwy 93 West Corridor entrance to Whitefish!

Click [here](#) (email) cotTiments.

This is important!! Please plan to attend the public hearing.
Monday, May 4th at 7:10pm at the Whitefish City Hall-Council Chambers.
See sample comments below.

This new Highway 93 West Corridor Plan area is shown in the map below outlined in blue. The corridor is approximately 1.5 miles in length beginning at the Whitefish Veteran's Bridge and extending just past Mountainside Drive. The area where unlimited bars and taverns and retail/commercial development is proposed is shown in purple. The north side of Highway 93 within the blue line, labeled WT-3 and WT-4 is shown in purple. (click here for a larger version, see page 69) Zoning for the remainder of the area is proposed to remain unchanged.

The zoning recommendations for the Highway 93 West Corridor are shown in the Proposed Future Zoning Map below.



The areas proposed to be changed (shown in purple) represent about 43 acres. **One important issue is not even included in the proposed plan: How much more commercial is viable in Whitefish without harming the currently economically healthy and vibrant downtown core area?**

The recently approved update to the Whitefish Downtown Master Plan allows the capacity to add 200,000 sq. ft. of new retail and commercial, and 90,000 sq. ft. of lodging. That's a lot! Do we really need more? Although the proposed corridor plan is **required** to be compatible and consistent with the downtown plan, the corridor plan does not even provide a review of this critical factor.

This loosely written proposal for the Highway 93 Corridor instead leaves the "barn door" wide open for potential lot consolidations and for planned unit developments (PUDs) and other large-scale development. Homes in this area are generally less than 1,000 sq ft, and yet the proposal allows for buildings that are at least 5 times that size.

The scope and nature of the expanded commercial and retail proposed for this corridor are "disguised" by fancy new names and are buried in ambiguity. The term "Artisan

Manufacturing," for example, is used to allow for unlimited bars (distilleries and taverns) and is so broadly defined that it could include almost any retail use in this area. Other nonresidential uses that could be included under the plan are described in vague terms such as "Live/Work Units," "Creative Industries," "Business Incubators" and "Research Facilities." Coffee and sandwich shops would also be allowed without limit. Please note that professional offices are already a conditional use in much of this area.

The earlier draft of the corridor plan called for short-term rentals. We very much appreciate the Council's recognition that this type of use would negatively impact the character of the neighborhood and of this important corridor. At the April 20, 2015 meeting, the Council unanimously voted to remove this use from the plan area.

As proposed the corridor plan lacks **standards and other goals and policies** that would limit a pattern of strip development. The proposed corridor plan **invites commercial buildout which would degrade the neighborhood and conflict with character of existing residential uses along the corridor.**

The overall effect would seriously undermine the 35-year history of directing commercial and retail uses to the downtown core area of Whitefish and would start a process of draining development away from the downtown core area.

Please join us in asking the council to table and not approve this plan. Ask the council to:

1. Have the Whitefish City planning staff conduct a review of the potential conflicts with the goals and standards in the adopted Whitefish Downtown Plan. This should include a basic analysis of current and future land use and market capacity.
2. Have the Whitefish City planning staff map actl,Jal land uses and recent changes in the corridor.

These

were not inventor:_id in this corridor plan--the residents in this area argue that the existing zoning is working and is an acceptable mix of professional offices with residential and multi-family.

3. Direct the City of Whitefish planning staff to work with area residents to ensure that goals and policies are clearly defined in terms of desired scale,scope, and nature of new uses in this residential area.

4. Take the time to finalize this corridor plan and build vital neighborhood buy-in and understanding of

the implications of the plan and the policies as related to the residential character of this area. This corridor area should reflect its historical role of providing single and multi-family housing within the city and close to the downtown core. Consideration of policies to support and secure affordable housing development should be part of this review.

5. Have the Whitefish City planning staff work with area residents and owners of the Idaho Timber property to develop a more detailed subarea plan, as specified in the Whitefish Growth Policy (pages 133-145). This will guide development along the river corridor to enhance this resource and to more clearly define appropriate development for this area.

The plan refinements recommended above:

Can be accomplished cost effectively, using city staff and area residents, over an estimated three-month period or sooner.

- Will build community consensus and will result in quality growth that will keep the Whitefish economy strong.

Sincerely,

Citizens for a Better Flathead

DOUG Need

520 SONNERS AVE

Ed DOCTOR
- TAMMUCK

LAKE
VENING

Please return to Necile

HUNTER HOUNS

PUBLIC HEARINGS

PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 5/4/15

PLEASE PRINT NAME and ADDRESS

IRON HORSE HOA Guard-
House/Welcome Center

Intent to Adopt - Hwy 93
West Corridor Plan

Regulations/Business
within 200' City Beach

General Business-Old
Town Central & Railway
Districts

Weed/Invasive
Species Guide

✓ 1.	DIANE TAYLOR 445 GOSNEY XRD COLUMBIAT FALLS		X			
✓ 2.	GAIL LINNE		X			
3.	Kim/Sonny Schierl (may speak, may not)			X		
4.	ANDY ADAMER					
5.	RYAN ZIMMER 409 W 2nd St. W FISH		X			
6.	KE STEIN		X			
7.	Anne Moran 432 W 3rd.		X			
8.	Joel Larsen 25 W. 2nd St. (might speak)		X			
10.	BOB DOBSON					
11.	BILLY THOMAS FOX BOWL CORNER		X			
12.	IAN COLLINS 898 BLUE HEMION DR.		X			
13.	SUSAN PALLMAN 334 W. 3rd St W FISH		X			
14.	BARBARA PALMER		X			
15.	CHANEY GRIG 429 A W 3rd		X			
16.	ADAM PITMAN 328 W 3rd St		X			
17.	MOLY FLOWERS CRB		X			
18.	RITONDA FITZGERALD 412 Lup for Ave		X			

Please return to Necile

PUBLIC HEARINGS
PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 5/4/15

PLEASE PRINT NAME and ADDRESS

	IRON HORSE HOA Guard-House/Welcome Center	Intent to Adopt – Hwy 93 West Corridor Plan	Regulations/Business within 200' City Beach	General Business-Old Town Central & Railway Districts	Weed/Invasive Species Guide
1.	Billie Thomas 240 Fox Farm ct W.F., MI	✓			
2.					
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