

**WHITEFISH CITY COUNCIL**

**July 5, 2016**

**7:10 P.M.**

**1) CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Sweeney, and Williams. Councilor Frandsen arrived at 7:26p.m. City Staff present were City Manager Stearns, City Clerk Howke, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Dial and Senior Planner Compton-Ring. Approximately twenty-four people were in the audience.

**2) PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Mike Jenson to lead the audience in the Pledge of Allegiance.

**3) PRESENTATIONS – City Hall/Parking Structure Construction Update – Owner’s Representative Mike Cronquist (p.81)**

Owner’s Representative Mike Cronquist was absent; City Manager Stearns gave the staff report that is provided in the packet on the website.

**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)**

Tom Gilfillan, owner of Whitefish Pottery, 355 Twin Bridges Road, would like to see something done with the speed limit on Highway 93 West near the Whitefish Cemetery. He was almost rear-ended coming out of the Whitefish Lake Restaurant. He feels the speed limit should change to 45mph past the Grouse Mountain entrance or the turn off to State Park Road.

Mike Jenson, 919 Dakota Avenue, states he supports the United Methodist Church and its activities, but does not support their interest in putting up a cell tower. He is here to alert the Council that the 150-200-foot metal tree is being proposed for private property off of Wisconsin Avenue. He questions this possibility and does not believe that any conditional use permit should allow an entity to enter into activities and agreements that degrade their neighborhood property. If for some reason it is approved and they argue it is not an imposition to the neighborhood, he suggests they put it up by their steeple.

**5) COMMUNICATIONS FROM VOLUNTEER BOARDS - None**

**6) CONSENT AGENDA**

- a) **Minutes from the June 20, 2016 Special Meeting (p. 93)**
- b) **Minutes from the June 20, 2016 Regular Meeting (p. 94)**

**Councilor Sweeney made a motion, second by Councilor Hildner to approve the consent agenda. The motion passed 5-0, Councilor Frandsen was absent.**

- 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) **Ordinance No. 16-11; An Ordinance rezoning approximately 4.73 acres of land located at 325 Haugen Heights Road, in Section 27, Township 31 North, Range 22 West, Whitefish, Montana, from County R-2.5 (Rural Residential District) to City WER (Estate Residential District) and adopting findings with respect to such rezone (First Reading) (p. 103) (WZC16-02) (CD1 14:00)**(Councilor Frandsen attended the meeting during Senior Planner Compton-Ring's report, 7:26p.m.)

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

Mayor Muhlfeld opened the Public Hearing

Henry Elsen and Andree' Larose, 901 Stuart Street, Helena Montana, are the owners of the property and were present for any questions.

Nick Polumbus, 303 Stumptown Loop, said there has been a lot of rezoning, annexation and development in the area, and his concern is the traffic component as a whole for the safety of the neighborhood.

Joel Shehan, 400 Icehouse Terrace, which is on the corner of Haugen Heights Road and east of the current Tamarack Ridge subdivision. He wanted to bring the Council's attention when the rezoning was approved there was an amendment that although the zoning was designated WER, there was a stipulation of a maximum of 32 residences being constructed there, which matched the acreage that was being rezoned. He also emphasized the concerns for increased traffic use.

**Councilor Hildner made a motion, second by Councilor Feury to approve Ordinance No. 16-11; An Ordinance rezoning approximately 4.73 acres of land located at 325 Haugen Heights Road, in Section 27, Township 31 North, Range 22 West, Whitefish, Montana, from County R-2.5 (Rural Residential District) to City WER (Estate Residential District) and adopting findings with respect to such rezone in staff report WZC16-02. The motion passed unanimously.**

- b) **Consideration of not demolishing the Depot Park Building in the future as planned for in the Depot Park Masterplans and instead leasing it out (p. 130)(CD1 21:51)**

City Manager Stearns gave the staff report provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing

Dan Graves, 192 Sweetgrass Way, board member for the Chamber of Commerce, says he hopes the Council considers the aspects of the building. There are several organizations that need a home; the Big Mountain Commercial Association, The Chamber of Commerce, the Convention and Visitor Bureau (WCVB), and then a Visitor Center. All four organizations would fit beautifully in the building, and it is a great location. He knows it is a part of the masterplans to

demolish and take it back to some type of greenspace. He said masterplans change all the time. On the 4<sup>th</sup> of July he was at the train station and looked over at the Depot Park and saw a man, a woman and a yellow Labrador, that was the extent of the traffic in the park. City of Whitefish is surrounded by thousands and thousands of acres, the largest National Park in Montana, and a river that runs through the middle of town, he asks “Do we really think people come here to utilize our park?” Yes, it is great for Tuesday markets, one weekend a month from May to October, but other than that it is a delightful green area and it can remain that way, but we don’t need to take down a building that would suit 365 days a year of function for an industry that drives this area. It would make a great home for those organizations.

Bruce Boody, Landscape Architect, was the lead person on the Depot Park Masterplans. One of the important things to remember is that was a continuation of the Downtown Masterplan. The Downtown Masterplan was 8 years’ worth of work, which was the original decision to acquire the park and remove the structures in the park. The decision was not made lightly, there was a lot of debate about it. When we started the Depot Park Masterplan, we just reaffirmed that decision and moved forward with that. All told we probably have 10-12 years of decision making that reaffirmed how valuable that park was to the downtown business district. That is why the City spent \$3.8 million to buy it. There are two very eloquent letters from John Phelps and Tee Bauer reaffirming the decision from all different directions. He echoes John Phelps and Tee Bauer’s comments, and the statements and the masterplans, and asks the Council to take a long view and reaffirm the decision to keep the park as green open space.

Turner Askew, 3 Ridgecrest Court, said one of the opportunities while serving on the Council was to interview people to do the masterplan, and hired Crandall Arambula as consultants for the Downtown Masterplan. They came up with some really interesting ideas and the masterplans came out. That doesn’t mean they are God, they were consultants and they were making us think. It looks like there are people that could use the building. Maybe for the next 5 years to get income, it’s a good idea to keep the building. If you tear it down, we can’t go back, we can’t put the Chamber of Commerce there. He encourages the Council to consider the options and go for it.

Kevin Gartland, 622 Somers Ave, Director of the Chamber of Commerce and serves on the Depot Park Steering Committee. The Chamber of Commerce has not come to the City and asked the City to reconsider the Depot Park Masterplan so that they can live there for the rest of their lives. We are here because from Council to Staff came the idea for a potential to drive revenue, which the City needs at this point in time. The Chamber has discussed it, and he referenced the letter from Tony Veseth that is included in the packet on the website. Kevin said that if it is a 5-year lease, at least two of the four non-profit organizations would dropout. The economy savings isn’t there, and the Chamber of Commerce is not interested in a five-year lease. If the building stays, the parking lot is not needed, he and his employees can park down past the railroad. Depot Park is supposed to be a park and we should maximize it for a park, but could also serve a very important purpose for the Chamber as well.

Mike Jenson, 919 Dakota Avenue, agrees with moving the non-profits into a central location. They can have a common receptionist in the front, save everybody money. In all his travels, every town he has encountered has an information center. Plans evolve all the time and to be bound in a rigid plan that is not flexible is not a valid plan. It’s hard to argue we need everything that building can provide, and can’t find it anywhere else. He believes we should keep the building.

Rebecca Norton, 530 Scott Avenue, prefers to demolish the building and continue with the regular plan. She likes the idea of the non-profits being together, but thinks there are other places that can be used for that purpose. Once you commit to that purpose you will never get that piece of property back. The people who have been designing our plan for years have shown incredible vision for downtown, and the opportunity to have that space function as it is designed. She votes for greenspace.

Joey Kositzky, Director of the Whitefish Community Library, urges the Council to read the letter from the Board of Trustees that is provided in the packet on the website. As a Library Director she is very much in favor of keeping the building and opening it up to non-profit. The Library gets walk-ins every day, five to ten to twenty people wanting to know where the visitors center is, where the Chamber of Commerce is, and where to get information? So she and her staff are stepping outside their building, pointing down the street, and hope they find it. If you do keep the building, she hopes to keep the parking lot, every decision you make about that park impacts the Library.

Ashley Meyette, Whitefish Gift and Gear, said keeping the building for a visitor center, or Chamber of Commerce would be ideal for them as a business. People ask where to go, what's around here; so they play tour guide a lot of times. Where do we find a visitor center, so staff directs them to the Chamber and they can't find, they don't know where the building is, they come back or they say they went over to the library. Having a central location down the street of all the businesses would be perfect to point them in the direction and then the Chamber can point them back. Or finding a different use for the building but keeping it for volunteer purposes. It's still centrally located, it's in a good spot and in good condition. There is no reason to throw it away,

Nick Polumbus, 303 Stumptown Loop, representing the Whitefish Convention and Visitor Bureau (WCVB), their core mission is to go to the world and convince people to come here for a vacation. The WCVB currently has a good deal in rent where they are at, and because their core mission is to go into the world and drive people in, their take on it would boil down to the terms of the lease and the cost. Of course an info center in a high profile location in town would be a benefit, that it a very rational thing we can all agree to. The WCVB's position depends on the dollars and cents, by they don't want to take resources away from their core mission to put towards increased rent for their purposes.

Rhonda Fitzgerald, 412 Lupfer Avenue, chairs the State Tourism Research Committee and they do a lot of research on all matters, visitor and recreation, and there is significant body of literature there now, saying that the walk up visitor information center is a very much declining concept. Most people are getting their information from their phone or at some sort of 24/7 kiosk which is why the WCVB partnered with the Heart of Whitefish and the City to provide the information kiosks around town. People are not wanting information 9-5 Monday thru Friday, they want it on Sunday night, or Friday night at 10:00. Even though the manned visitor center is a feel good thing, it really is not the wave of the future at all. Typically, the more techno savvy people are the less apt to use it, and we do market to a high value low impact visitor that is really quite sophisticated in their travel. She would say over time that function is going to become less and less important. The State of Montana no longer funds visitor information centers around the State. Their mission is use their funds for more affective visitor outreach. She participated on the Depot

Park Masterplan Committee as a representative for the Whitefish Market, and she referred to item #2 of John Phelps's letter that is provided in the packet on the website and reiterated his point. In this particular case the purchase with significant funds for the Depot Park was the number two catalyst project to create a town square, a public square viewed from Central Avenue to connect the Depot. The building squats right on the sight line for entrance into the park. As a private citizen she reached out to the consultants that helped out with the Downtown Masterplan, and they submitted a letter that is provided in the packet.

Donna Maddux, incoming Whitefish Library Association President, found Mr. Phelps words very convicting, however she brings the Council's attention to we are just recovering from the Great Recession. Work has come back into our area, but salaries have not yet come back in our area. We look to the leadership of our community to make wise decisions on our behalf and the masterplan has that piece of continuity, and she can't deny that value in that, but what she does deny is that its responsible to tear a perfectly good building because we apparently are very concerned about the view. Those are mentioned several times in that draft document. She guesses she has to say why in the dickens are we building a potentially three story City Hall if we are so concerned about the view? What happens at that park impacts the Library and at the moment she is a library association member, she wants the Council to think that we are a community recovering, we are not recovered yet. Please take that into account as you weigh a lot of valuable testimony tonight.

Tom Gilfillan, Whitefish Pottery, 355 Twin Bridges Road, agrees with Dan Graves, Mike Jenson, and Tony Veseth. He is a downtown businessman, and the two questions he gets asked the most at Whitefish Pottery is where are the public restrooms, and where is the visitor information center? It would be easier to tell visitors the center is at the end of the street, and you can find all the information you want. The information could be a valuable ticket outlet for the O'Shaughnessy Center, Alpine Theatre Project, events on the mountain, lift tickets. The building is a viable useful building and to tear it down would be financially irresponsible. Masterplans change. He doesn't think everybody sees how valuable the building could actually be. If it needs a new roof, let's get some donations and in-kind services to fix the roof, he will head it up. He stresses to the Council how valuable the building could be for a number of organizations, and the viability of the people coming to town.

Don Kaltschmidt, 230 JP Road, member of the Chamber of Commerce Board, also agrees with those who spoke towards keeping the building. As a lessee, if improvements are needed the investment needs to be paid back in a period of time. He suggests a five-year lease with an extension of time.

Tee Bauer, 211 Huckleberry Lane, served on the Park Board two years ago and served on the Park Planning Committee. He has written a letter that is provided in the packet on the website. The Depot Park is a special asset for the community, and he thinks that the potential of Depot Park for the downtown is underutilized and unrealized at this point. He thinks the work that was done on the Planning Committee will help us realize the real potential of Depot Park, the result is to take the building down. It will create an opportunity for the growth of downtown. Downtown today has become more urbanized. To have a greenspace in a park as beautiful as Depot Park as the masterplan has dictated would be a real asset, and even help the urban properties grow. We are not here to find a place for the Chamber or the WCVB, there is space in downtown to re-locate.

The opportunity now is to make Depot Park the potential it can be. He would like to propose to the Council he would be happy to make a gift to the City for the demolition cost of the building so the project can move forward as the masterplan has dictated. He asks Maria Butts to get three bids and he will work with her toward the demolition.

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

Councilor Frandsen said she was on board for keeping the building. She is not ready to tear down a building that might have 5-years left in it, if that is the responsible and prudent thing to do. If we can earn a little revenue on the side to pay back to the TIF fund that is great. We need a more centrally located visitor information center, she is not convinced the City will be able to offer terms that would suffice those needs, nor would we be able to provide the improvements needed in that building for a longer term. She hadn't been looking at this as a long term move, and she had only been looking at this as keeping it alive for a little while longer, get a little more life out of it, with a term set for removing the building as planned.

Councilor Hildner asked the usable square feet in the existing building versus the square feet available in the space in the parking garage. Manager Stearns said the existing building is 2386 square feet and the parking structure is 2824 square feet. Councilor Hildner asked if a condition survey has been done for the building? Manager Stearns said no, other than when the decision was made for Parks and Recreation to move in, Building Inspector Bench looked at it. Director Taylor and Director Butts would have a feel for limitations or conditions. Councilor Hildner then asked if there has been any consideration to moving the building either to convert to affordable housing or to a City owned property for City use. Manager Stearns said there has been thought of putting it out for bid to buy and move. The front part is slab on grade, the back part has a crawl space and could be moved if a viable use. We haven't identified viable city use at this time. Councilor Hildner referred to page 133 of the packet, looking at aerial photos of 1961 and 2006 and number of trees are approximately 51 trees to now 19 trees. The southwest corner, triangle to the southeast is not usable space so we lose roughly 20% of the park with the building. He agrees with Jen and wants to have a full and robust discussion.

Discussion followed between Councilor Frandsen and Manager Stearns regarding the Montana Annotated Code and City Code and who has authority to make the decision to set the lease. Manager Stearns said the City Council provided the funding for the Depot Park Masterplan, therefore it is the City Council decision.

Councilor Barberis said she came into tonight thinking it would make sense to keep the building and it would be a great spot for a visitor center, but if in fact folks don't want to lease it for five years because of improvements, she doesn't want the City to spend money on making improvements, and thinks the retail space in the Parking Garage is a good alternative. She is in favor to demolition the building or moving all or some of it for storage for the Parks Department.

Councilor Sweeney, stated this is an uncomfortable place to be because he is squarely on the fence. He can see the benefits of retaining this building for a period of time and he thinks there is some fiscal responsibility for retaining it. At the same time, he respects the work that has been done on both the Downtown Masterplan and the Depot Park Masterplan. You would expect there

would be changes to masterplans overtime. It is important that we challenge this and all parts of masterplans to implement them. He had convinced himself at one point that retaining this building we would be affectively delaying or deciding when to implement various parts of the masterplan. This simply is a timing issue and not an overall concept of what we want that park to be. He would like to understand what renovation would be proposed for the building for the uses that have been articulated and who is going to fund those costs and whether or not under the circumstances makes sense to retain this building. Under no circumstances is he willing to retain the building for something less than a near market value. It doesn't make economic sense to do that. The City paid good money for that building and that park with the full intention to tear it down. If people are interested in it given the economics of it, he thinks we have made our decision. We are not willing to trade a community benefit for a revenue stream and visitor center or a community oriented building, because it doesn't make economic sense for a tradeoff.

Manager Stearns said he doesn't think we ever envisioned we would do a lot of improvements to the building, we think they would be tenant improvements, at the same time anytime tenants do improvements they either expect a break on their market lease or amortize it over a length of time. The original genesis of this thought was to use the revenue for the Parking Structure.

Councilor Feury echoes what Councilor Sweeney says that it is a very difficult issue. The only thing he heard in arguments in keeping the building is to provide a home for 3 possibly 4 perspective tenants. But what he has not heard in any of the argument is the impact of the function of the park. Ultimately the Depot Park Masterplan was how well will that park function as a park. When he looks at the photo on page 133 of the packet, he sees 45% of the park unusable because of the buildings. Dan Graves mentioned he saw a man and a women and a yellow Labrador on a leash, therefor it doesn't get any use, in part that is a good observation and very correct. The reason for that is if you are standing on Central Avenue there is zero to draw you into that park. He spent nine years standing across selling bread for his wife at the farmer's market, and watching, and states the building really does inhibit the function of the park. This park doesn't function well because of the building. Even though he thinks it is a great location for visitor center, and thinks they would be great uses and valuable, he thinks it would be at the detriment of the park. Therefor he can't support any change in the masterplan.

Councilor Williams understands and sees value in both sides of the argument. She believes that circumstances have changed, we need to be fiscally conservative and be smart about how we are spending our money and how we are generating revenue. Right now we have the opportunity to keep the building and she echo's Councilor Sweeney's concern in making sure it is actually worth our time and efforts to keep the building and bring in the revenue that we want. If we do keep the building, we need to set termination date of 5 years and echo the ideas of the Depot Park Masterplan. Circumstances change and who is to say circumstances won't change and we have actually made the positive additions to the building and that building becomes a very workable part of the park. She thinks with all the testimony she heard today, she would like to know more about the fiscal balance sheet of what needs to be done in terms of remodel and renovations to house tenants and not set a 5-year termination date, will make it approachable for tenants. In that case move forward and demolish the building.

**Councilor Hildner made a motion, second by Councilor Feury to honor the Depot Park Masterplan and remove the building in the southwest corner of the park so that we may continue to develop the park as designed.**

Councilor Hildner said in listening to the public and reviewing the masterplan he thinks there are options for those organizations who presented several hypotheticals, for them to pursue other alternatives. He thinks that the idea of parkland is one that is part and parcel of not only this community but really the preservation of parklands as part of our genetics as citizens of the United States. He thinks that it is incumbent upon us as elected officials to consider those alternatives, but given the opportunity he wants to come down on the side of future generations who will be able to enjoy this open space in the center of the community. He reminded himself when he looked again this morning, the approval of the Depot Park Masterplan was one the first votes he cast as a City Councilor, he thinks it was a proper vote then and it's the vote today.

Councilor Sweeney is not ready to make a decision to demolish the building with the set of facts he has in front of him. His concern is if there is no economic viability to retain the building, and set those parameters out, by all means tear it down. He can't support it at this time.

Councilor Frandsen said she thinks it is an important point to consider at this time whether or not to remove the building. However, it stands its coming down, and this is whether or not we should reconsider that effort. Tonight we also do not have a report on the condition of the building, how long the viability is of the building, the cost of improving it, how would lease negotiations look like with potential tenants, or who is really willing to be in the space. What is the economic impact of moving in a visitor center as to a park? She feels uncomfortable making a decision without some of those facts at hand, and wished it could have been tabled until having all the facts.

Councilor Feury said to address Councilor Frandsen's concerns, we are not going to moving out of there for more than a year. He would be more concerned in making a decision to go ahead and keep it at this point. By reaffirming the Depot Park Masterplan doesn't preclude anybody providing that information in the future or revisiting this decision. This is supporting the masterplan and in the future the issue could be revisited.

**The motion dies on a 4 to 3 vote with Councilors Sweeney, Frandsen, Williams and Mayor Muhlfeld voting against the motion.**

**Councilor Sweeney made a motion, second by Councilor Frandsen to affirm the Downtown Masterplan and the Depot Park Masterplan calling for the removal of the building upon our vacation of that building, pending a detailed proposal from potential tenants within four months.**

Councilor Sweeney doesn't know enough to make an argument about the fiscal important of retaining that building. The reality is if the tenants have interest in the building and they want something specific that is important to them, they will have to spend money to get it. If they come with a viable real proposal, he would entertain keeping the building.

Councilor Feury said the Chamber was uncomfortable with a 5-year lease and some wanted 10 years, and stated very clearly that after 5 years they could prove how valuable the building is.

He said you enter into a lease with somebody, it will be impossible to move a tenant out. This is not a five-year decision. Councilor Sweeney agrees with Councilor Feury, but at the same time he thinks there is some fiscal reasons and as a result some community benefit for us to look at whether or not over the next four months.

Mayor Muhlfeld said the reason this is on the agenda may be his responsibility when we were dealing with some budget issues related to the new City Hall and Parking Structure. He and Manager Stearns started investigating alternative revenue streams the City could perhaps tap and this of course rose to the top of the list. He voted for the Downtown Masterplan and the Depot Park Masterplan and there are certain elements of both plans that have changed. With a plan it is important to keep in mind that as long as most of the parts are retained and implemented, it still can be a functioning plan. He sees the same with this, retaining for a period of time and it is one of the few revenue generating assets the City owns outright and looking at a revenue stream of \$35,000 to \$40,000 a year even over a five-year life cycle is a significant source of revenue to help offset some of the escalated costs for City Hall. Furthermore, looking down the road it has always been contemplated that as the city grows and staff is added, we would have the opportunity to add a third floor to City Hall. When that third floor gets contemplated the TIF will no longer be available to the City, and how it will be paid for has been a question in his mind. A logical department for the City in the event we do need to expand to relocate back to this building would be the Parks and Recreation Department. It would be a logical fit to the park, not only in the short term but also the long term. The Council doesn't have all the information to make the best and informed decision.

**The motion passes on a 4-3 vote with Councilors Barberis, Feury and Hildner voting in opposition.**

**c) Consideration of an application from Whitefish TP, LLC for a Conditional Use Permit to develop a three story, 81-room Marriott Towneplace Suites with 90 off-street parking spaces at 6361 Highway 93 South (WCUP 16-04)(p. 164) (CD1 1:53:30)**

Senior Planner Compton-Ring gave her staff report that is provided in the packet on the website. The Conditional Use Permit is required due to the size of the footprint exceeding 15,000 square feet and is not granting a variance to the standards of the city, this is extra review and gives the city an opportunity to look at possible impacts.

Councilor Frandsen asked and Compton-Ring said the footprint of the building is 17,565 square feet, and staff reviews the landscape and fencing plans at the time they submit it for building permit. Councilor Hildner asked and Planner Compton-Ring said the demonstrable public benefit is only part of Planned Unit Development (PUD) requests. Councilor Sweeney asked Planner Compton-Ring said any use of that property would have an impact on the intersection and doing nothing will make it worse.

Mayor Muhlfeld opened the Public Hearing

The applicant Jordon Scott, 11011 N 92<sup>nd</sup> Street in Scottsdale, Arizona and the President of Glacier House Hotels, has been a visitor of Whitefish for 22 years. As a tourist he looks forward to visiting all the shops and restaurants downtown Whitefish provides. One of the great things

about downtown Whitefish is it is unique, and does not have the chains and the brands that you will find in other cities in the United States. As a hotel developer that specializes in brands. Every unit has its own suite, and it's a very nice expensive product to build, but it does not have a full service restaurant, full service bar or a gift shop. That is important to make sure the guests use and maximize the downtown amenities Whitefish has to offer.

Eric Mulcahy with Sands Surveying worked with the design team on this project. As Planner Compton-Ring pointed out in her staff report, this is the second run on this project. The original plan had a CUP for the size of the building and a PUD for the height of the building. In that process there was quite a bit of feedback from the residential neighbors and also the Planning Board in regards to the height, the character and the size of the structure. So Jordan and his team of architects really went to work on this project and essentially selected a sight that is south the of the original site and further removed from the residences and then they started working on the height of the building and the unit count. The building is within the 35-foot height envelope that is in the zoning ordinance and reduced the size of the structure from 111 suites to 81 suites. They tried to preserve as many as those trees as they could, through the layout of the parking lot. Bike parking, is provided for the guest in the front of the building and provided in the back for the employees, and the refuse and recycling for the building is located at the back of the building.

Mayor Muhlfeld asked and Eric said there is a 20-foot setback from the property and a number of islands in the parking lot for now storage and in the larger snow years they will haul the snow.

David Mitchell, 2 Main Street, Kalispell with CTA Architects reviewed the design plans that are provided on page 237-240 in the packet on the website.

Councilor Hildner asked and Dave said the large rectangle on the roof is screening for the mechanical units, and there is no use for patrons on the roof. Jordon said there is no alcohol sales at this hotel, there will be a warm dish breakfast that is free to the guests.

Judy Spivey, 117 Park Knoll Lane quoted Alexis de Tocqueville, and questions why must we accept a request for a variance to our rules. Have we considered the increased pressures, the 81+ bathrooms have on the already compromised sewer system? Do we actually need this new hotel/motel facility? How will the facility affect our present hotel/motel owners? Don't allow the City to become another "any town USA". We can lead with our hearts, act with empathy and civility as we exercise the courage of our conviction. Is it impossible to simply say no?

Don Spivey, 117 Park Knoll Lane, compliments the current design and he has some concerns. One of the issues is the traffic congestion we are experiencing on Highway 93 between JP Road and the signal at the mall. Does the City's current sewer system have the capacity to deal with the additions, and is the City going to be able to manage the odor problem? What is being requested has already been granted several times, which is a variance to the foot print size. His concern is we are establishing so much precedent by it over and over again, we are going to set a precedence that we are not going to be able to work around. We need to either fix that regulation or we need to not approve the CUP. His recommendation is to deny the CUP largely on the premise that we don't need to continue to set precedence that we are going to set in time.

Kent Taylor, 1735 East Lakeshore Drive, owner of Hidden Moose Lodge, said Whitefish is losing its charm and character. The new hotels coming in don't have restaurants, where are the people going to eat? Where are they going to park? It's like the Lowe's and the Home Depot, once they are in, Applebee's, and Chili's, will be knocking on our front door and that is going to the entrance to Whitefish. It is going to negatively impact the lodging community, because we are diluting the shoulder season. There is more inventory, there is not more people coming. They are a franchisee so people are going to be making reservations and that is going to be taking away from existing lodging businesses. He thinks any new property that comes in should have to pay in, because they are getting the benefit of all the hard work and money that has gone into the effort to bring people into Whitefish. Look forward down the road, this is just one applicant that looking to build a hotel, but what is it going to bring? The brands are here and they are capturing the business as people are coming into town. He requests that the Council deny the CUP.

Rhonda Fitzgerald, 412 Lupfer Avenue passed out a graph to the Council that is provided in the packet on the website. The graph reflects the last twenty years of hotel/motel Resort Tax collections. It shows not much has changed, July and August are the really strong months, and the rest of time there is not much business around here. In a way is a good thing because we are not a tourist town, we are a town of people who live here year around and work hard. That is a charming thing, it has a character and is very appealing to visitors. The WCVB has worked hard to build the shoulders months. Because she is in the lodging business, everybody she knows asks her what is with all these hotels. She doesn't understand how it is going to work because there is just no more business to be shared. It is really going to dilute the other ten months of the year. She thinks we are losing our town, and thinks we are at a tipping point. If we are going to be a town of hotels and restaurants and art galleries and t-shirt shops, most of us don't want to live her. The City's standards are probably pretty loose. This CUP is just to go from 15,000 square feet to 17, 565 square feet with is less than 20% increase. She thinks the City needs to go back and look at the standards, and franchise standards. She thinks we are making a huge mistake in our community. Not just this applicant but in general.

Michael Morton, 101 Lakeside Boulevard, owner of the property of the proposed hotel. He asked the Council if they really want to get into the business of deciding when we have enough rooms in Whitefish? Was this a discussion when you the Hampton Inn or the Firebrand Hotel was approved? He doesn't think it is the business of the Council to decide when we have enough rooms in Whitefish, he thinks the market will decide that. If you are going to get into that, what are the criteria?

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

Councilor Frandsen appreciates the effort the owners have taken to revise their plan. This is a use by right, and we don't get to see it. We don't get to add conditions to it. We don't get to say no. She would say at this moment this is a good opportunity to shape what we want this property to look like and how we want it to fit into that neighborhood to set some expectations for some standards we would like to see. This property is sitting a little closer to the highway than some previous ones we have looked at in the past. As unfortunate as it is so many brands popping up in the entrance to our community, that is what it is zoned for.

**Councilor Frandsen made a motion, second by Councilor Sweeney to approve the Conditional Use Permit to develop a three story, 81-room Marriott Towneplace Suites with 90 off-street parking spaces at 6361 Highway 93 South for Whitefish TP, LLC.**

Councilor Frandsen said there are a few areas that concerns her, besides the mass of the structure, she hopes it could have been a little smaller, but she thinks it looks pleasing given the size of the property. She asked and Planner Compton-Ring said the buffering is 20 feet along the eastern edge past the parking.

**Councilor Frandsen made a motion, second by Sweeney to amend Condition #14 to add a 20-foot additional screening and landscaping in the southwest corner of the property starting at the fence line to screen the refuse facility and in addition along the west side of the property to the highway right-of-way. The motion was approved unanimously.**

Councilor Hildner needed clarification regarding connectivity to the bike path system. Dan Mann, the engineer for the applicant said as part of the MK project, there is a sidewalk on the south side of Akers Lane that is a standard sidewalk and on the north side there is a bike path that goes from Whitefish Avenue to Highway 93, at one of the entry points a cross walk can be put in to cross to the bike path. There is currently not a connection on the west side.

**Councilor Hildner made a motion, second by Councilor Sweeney to add Condition #17, building wash lighting shall not be permitted. The motion was approved unanimously.**

**Councilor Hildner made a motion, second by Councilor Sweeney to add Condition #18 to provide bicycle path connection on the west side of the project to Highway 93. The motion was approved unanimously.**

**Councilor Frandsen amended the original motion to include the findings of fact in the staff report WCUP 16-04. Councilor Sweeney being the second agreed.**

Councilor Sweeney said there is some validity of concerns from Kent Taylor and Rhonda Fitzgerald particularly given the history with the City that in what we all want the City to be is not someplace else. He thinks Kent is probably right by allowing these kinds of formula development which we don't prohibit and have not gone through that discussion, he would invite that discussion as we go forward. What we can do under the circumstances is try to address that concern with our architectural standards, landscaping standards, as we approach each of these kinds of projects. We require that if we are going to allow those kinds of uses we at least insure that they are landscaped appropriately and screened appropriately so that it doesn't look like every town USA or the commercial strip in Kalispell. Under the circumstances, given these amendments, he can feel okay about approving this kind of formula use on Highway 93. He would like to be able to make an argument the traffic that will cause us a problem on bases as to which to deny it, but any use of this property will cause that intersection to drop to a D level operation. This particular use doesn't impact or negatively impact any use of that property. He hears what Kent and Rhonda are saying and thinks they are viable concerns and we need to address those.

Councilor Hildner thanked Judy Spivey for quoting Alexis de Tocqueville. He also stated with regards to Michael Morton's question of enough rooms, is not his concern, it's how we

provide those rooms. The argument that if we come back down to 15,000 square feet then it becomes a use by right and then all of the conditions of approval end up going away.

**The original motion fails with a 4-2 vote, Councilors Feury, Barberis, Hildner and Williams voting in opposition.**

Manager Stearns said that given the findings of facts support a motion to approve, the Council should ask staff and the City Attorney to come back with findings of fact for denial. Council could reopen the hearing. Land use decisions are based on the land use outlined in the code, not on economics. The one main criteria for addressing some of the comments made tonight is in 11-7-8J7e, which talks about community character. The Council, staff and City Attorney will need to look at 11-7-8J7e to come up with findings of fact for denial, and any enumeration or help you can provide tonight would help staff and the City Attorney draft those.

Councilor Frandsen hoped her fellow Councilors would reconsider their denial. This could come back as use by right at 15,000 square feet with whatever they like as long as it fits within current code. She thinks they outline some pretty good conditions, if the Council doesn't like what they are proposing, she hopes they would let the applicant know what they don't like. We can't govern competition; we can't tell somebody who probably has a financial stake in the game what we think is the right way to do business. We can tell them how they fit into our town and community and she thinks the applicant made a good faith effort.

**Councilor Feury made a motion, second by Councilor Williams to reconsider the original motion.** Councilor Feury states Councilor Frandsen makes a good point that we are not economic reason. He would like to see it moved to be tabled and see if there are a set of findings of conditions that would allow us to deny. **The motion to reconsider the original motion passed unanimously.**

**Councilor Feury made a motion, second by Councilor Barberis to postpone to July 18<sup>th</sup>, and direct staff at the Planning Department and City Attorney Jacobs to provide alternate set of findings to deny. The motion passed unanimously.**

- d) **Ordinance No. 16-12; An Ordinance rezoning approximately 0.11 acres of land known as Tract 1MA in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) Northern Portion, and Tract 1B, Tract 1-0 in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) Southern Portion, of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, from County RR-1 (Low Density Resort Residential District) to City WRR-1 (Low Density Resort Residential District) and adopting findings with respect to such rezone (First Reading)(WZC 16-04) (p. 247)(CD2 59:23)**

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

Mayor Muhlfeld opened the Public Hearing

Chris Hyatt, 547 Spokane Avenue, on behalf of the Department of Homeland Defense and Border Patrol said there are some concerns.

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

Mayor Muhlfeld asked Chris to elaborate on his comments. Chris stated the concerns are dealing with this agenda item and agenda item 7e. There is concerns from the Federal Government on safety of developing that road to a wider road. The Federal Government or Buttrey Realty Co. are the owners to the east and the west side of Nelson Lane and Highway 93 West, neither one has received any notice at this time.

Senior Planner Compton-Ring stated notices were mailed to property owners 150 feet along with the public notice in the paper. Manager Stearns had pulled up on the county GIS map the mailing address for both properties.

**Councilor Feury made a motion, second by Councilor Hildner to approve Ordinance 16-12; An Ordinance rezoning approximately 0.11 acres of land known as Tract 1MA in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) Northern Portion, and Tract 1B, Tract 1-0 in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) Southern Portion, of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, from County RR-1 (Low Density Resort Residential District) to City WRR-1 (Low Density Resort Residential District) and adopting findings with respect to such rezone as stated in staff report WZC 16-04. The motion passed unanimously.**

- e) **Consideration of an application from GMJ LLC for a Conditional Use Permit to develop twelve condominium cabins at 1325 & 1331 Nelson Lane (WCUP16-04) (p. 265)(CD2 01:05:18)**

Planner Compton-Ring gave her staff report that is provided in the packet on the website. The project is proposing to access off of Nelson Lane, which is connected to Highway 93 West. It is currently a narrow dirt road that is not constructed to City standards. The City is requesting a 24-foot-wide paved surface. The applicant owns the 10-foot wide parcel, however the actual dirt road is not located within that 10-foot area and is right up against the Border Patrol building. There is 26 ½ foot strip of land that has been discovered does not belong to anyone. It is between the 10-foot strip, and the eastern Grouse Mountain Park and the eastern Border Patrol building. Staff is recommending a condition of approval that the applicant obtains legal right to construct a roadway using that area, and then once obtained legal access give an easement for a water line that crosses the property.

Councilor Sweeney asked if there was discussion with Fox Hollow for primary access. Planner Compton-Ring said Fox Hollow is a private road. Councilor asked and Planner Compton-Ring said Fire Marshall Kennelly approved the plans with the designed a T-turnaround.

Mayor Muhlfeld opened the Public Hearing

Garth Boksich, 501 South Karrow Estates Road, is the applicant. The idea behind this is a condominium project with individual deeded condos, that are small cabins. These will be very high end, small units with little impact on the neighborhood. They have had ongoing discussions

with Fox Hollow and taken all of their suggestions into account. An HOA will be established, and a HOA manager, and possibly an onsite office.

Councilor Hildner asked and Garth said the pedestrian path goes to Nelson Lane after it dead ends at the east end of the property. The golf cart barn is really an equipment storage facility.

Councilor Frandsen asked if there was any additional snow storage available other than above Unit #1? Councilor Williams said there is snow storage on the west side above Unit #6.

Mark Tracy, 235 Fox Hollow, said his unit overlooks this development sight. He is not here tonight to oppose the development. He feels there is necessity for onsite management of this project, because, it's like a golfing destination facility. The existing house on the property over the years has had some pretty wild gatherings during the summer season. He is asking the Council to really look at onsite management especially during the high summer season.

Pete Glee, manages Fox Hollow Homeowners Association, and is in favor of the project but encourages an onsite manager. Fox Hollow has a mixture of owner occupied, long term rentals and short term rentals.

Chris Hyatt, 547 Spokane Avenue, on behalf of the Homeland Security and the Border Patrol said the concern comes from the fact that the new road would be less than 10-feet from the building. It would make it easy access to run a vehicle into the building. They are willing to work with the developer ask the Council to table until another date.

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

Councilor Hildner asked and Manager Stearns said the cabins will be subject to Resort Tax. Planner Compton-Ring added if each cabin is individually owned, each owner would have to submit a Short Term Rental Application, and get a Business License and report Resort Tax.

Discussion followed between Councilor Frandsen and staff. The City is asking for the road to be developed to 24-feet, leaving 12-feet undeveloped. Snow removal will be looked at during final review of the road. Typically, all improvements will need to be maintained within the right-of-way.

Councilor Hildner is concerned about the piece of property that nobody owns; somebody has to own it. Garth said 1963 the property was sold from a family to the federal government, the 26.5 feet was set aside and was not included in the sale. The Grouse Mountain Park property was sold to the City/County in 1973. The owners on Nelson Lane have been using that lane to access their homes.

**Councilor Feury made a motion, second by Councilor Frandsen to extend the meeting to 11:30pm. The motion passed unanimously.**

Doug Peppmeier, TDH Engineering, did a survey and met with the County and they have agreed it is an error.

**Councilor Feury made a motion, second by Councilor Sweeney to approve WCUP16-04 findings of fact in the staff report relative to public comment both here and with the Planning Board.** Councilor Feury said since the stake is 7 feet from the Border Patrol is not the applicants fault, the building was built too close to it. With regard to the location of that and if they can get the 26.5-feet and make it work, that is a condition of approval, it doesn't need to be debated. **The motion passed unanimously.**

**8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD2 01:43:10)**

- a) Consideration of approving a revised design and cost estimate for a parking lot at the James R. Bakke Nature Reserve on West 7<sup>th</sup> Street (p. 303)**

Public Works Director Workman gave his staff report that is included in the packet on the website.

**Councilor Hildner made a motion, second by Councilor Williams to approve the revised design and cost estimate for a parking lot at the James R. Bakke Nature Reserve on W. 7<sup>th</sup> Street as described in the packet. The motion passed unanimously.**

**9) COMMUNICATIONS FROM CITY MANAGER (CD2 01:46:10)**

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 311)- None**
- b) Other items arising between June 29<sup>th</sup> and July 5<sup>th</sup> - None**
- c) Resolution No. 16-29; A Resolution authorizing an application for a Community Development Block Grant ("CDBG") Planning Grant for an Affordable Workforce Housing Implementation Plan (p. 315)**

Manager Stearns gave his staff report that is provided in the packet on the website. There is a correction to the packet on page 324, the planning close out is August 2017, and the narrative should read "for the reimbursement for professional planning services". The City has committed \$15,000, the matching funds are of total commitment of \$60,000 and associated administrative costs will be absorbed by the City, the Housing Authority and the Chamber of Commerce.

Mayor Muhlfeld asked and Kevin said this helps fund Phase II and to get \$45,000 of matching funds from the government.

**Councilor Frandsen made a motion, second by Councilor Williams to approve Resolution No. 16-29; A Resolution authorizing an application for a Community Development Block Grant ("CDBG") Planning Grant for an Affordable Workforce Housing Implementation Plan. The motion passed unanimously.**

- d) Resolution No. 16-30; A Resolution adopting revisions to the Consultant Selection Policy (p. 335)**

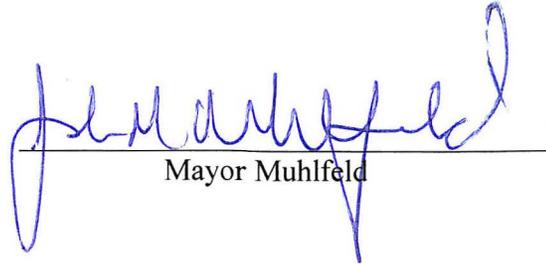
**Councilor Hildner made a motion, second by Councilor Williams to postpone for further discussion on Resolution No. 16-30; A Resolution adopting revisions to the Consultant Selection Policy. The motion passed unanimously.**

**10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

Councilor Hildner will not be present for the July 18<sup>th</sup> meeting. Councilor Frandsen apologized for her tardiness.

**11) 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 11:14pm.



Mayor Muhlfeld

Attest:

  
Michelle Howke, City Clerk

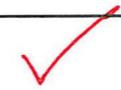
PUBLIC HEARINGS

PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 7-05-2016

Name and Address	7a) Rezone 325 Haugen Heights	7b) Depot Park Building	7c) Whitefish TP, LLC CUP Marriot Towneplaces Suites	7d) Rezone aprox. 0.11 acres next to Nelson Lane	7e.) CUP-GMJ LLC 12 Condominium condos @ 1325 & 1331 Nelson Lane		
DAN CRIVINS <sup>Chamber</sup> of Commerce		✓					
PETE GLEE - Fox Hollow Condos				✓	✓		
Bruce Boody		✓					
Turner Askew		✓					
KEVIN GANTLAND		✓					
MIKE JOHNSON		✓					
Rebecca Norton		✓					
JOEY (LIBRARY)		✓					
Ashley (downtown store owner)		✓					
NICK POLUMBUS		✓					
RHONDA FITZGERALD		✓					
TEE BAUER		✓					
DONNA MADDOX		✓					
TOM GILFILLAN		✓					
DON KARTSCHMIDT		✓					

CHRIS HYATT

Please return to Michelle



\* CUP=Conditional Use Permit