

**WHITEFISH PLANNING BOARD
MINUTES OF MEETING
AUGUST 18, 2016**

<p>CALL TO ORDER AND ROLL CALL</p>	<p>In the absence of the Chair and the vacancy of the Vice Chair position, Jim Laidlaw called the regular meeting of the Whitefish Planning Board to order at 6:00 pm and made a motion that Steve Qunell conduct the meeting. The motion passed unanimously. Board members present were John Ellis, Jim Laidlaw, Rebecca Norton and Steve Qunell (newly appointed Board Member). Chair Ken Meckel, Councilor Richard Hildner and Allison Linville (newly appointed Board Member) were absent. Planning Director David Taylor, Senior Planner Wendy Compton-Ring and Planner II Bailey Minnich represented the Whitefish Planning and Building Department.</p>
<p>APPROVAL OF MINUTES 6:00 pm</p>	<p>Norton moved and Laidlaw seconded to approve the July 21, 2016 minutes with one amendment. The motion passed unanimously.</p>
<p>COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA) 6:00 pm</p>	<p>None.</p>
<p>OLD BUSINESS: 6:05 pm</p>	<p>None.</p>
<p>PUBLIC HEARING 1: TANNER BABCOCK CONDITIONAL USE PERMIT 6:05 pm</p>	<p>A request by Tanner Babcock for a Conditional Use Permit to construct a second primary use. The property is zoned WB-3 (General Business District). It is located at 26 O'Brien Avenue and can be legally described as Lot 1, Block 24, Whitefish Original Townsite in Section 36, Township 31N, Range 22W.</p>
<p>STAFF REPORT WCUP 16-07 (Compton-Ring)</p>	<p>Planner Compton-Ring reviewed her staff report and findings. To date, one letter was received with concerns about an additional vacation rental in the neighborhood and a suggestion the property be subdivided instead of having two units on one lot. Compton-Ring noted Staff Report WCUP 16-07 stated the home has a valid short-term rental permit, but could also potentially be used for long-term rentals. She recommended amending Condition No. 6 to add, "if short-term rental" at the end, so Condition No. 6 would read, "Residential sprinklering shall be required, <u>if short-term rental.</u>"</p>

	<p>Staff recommended adoption of the findings of fact and conditions of approval within staff report WCUP 16-07, and for approval to the Whitefish City Council.</p>
<p>BOARD QUESTIONS OF STAFF</p>	<p>Norton asked about setbacks and Compton-Ring said they will need to meet the building code requirements. She also asked and Compton-Ring said the way we know if someone is doing short-term or long-term rentals is they need short-term rental permit and business license. If they do it without us knowing, Compton-Ring said they are in violation of the Zoning Code.</p> <p>Laidlaw asked and Compton-Ring said if they are not intending to do short-term rentals, they will not have to do the residential sprinkling. Because it is a commercial use, the Fire Department requested sprinkling, if used for short-term rental. Complaints would be generated by neighbors, etc. Since there is a valid short-term rental permit on the front home, they know a permit is required.</p> <p>Ellis asked and Compton-Ring said the setback requirements in this building zone are zero in the back, zero on the sides and the front is prevailing. In this case, the front is O'Brien Avenue and there is already a house there. For corner lots, the front of the lot is the shorter of the two. Ellis asked and Compton-Ring said on Railway Street this building could be built up to the property line. Ellis asked and Compton-Ring referred him to the applicant or the site plan regarding how far the property line is from the curb of Railway Street.</p> <p>Acting Chair Qunell asked and Compton-Ring said all parking spaces need to be paved, with two of them in the garage, which meets the requirement. He had concerns with the garage being utilized for storage rather than parking and Compton-Ring said the Condition could be amended to read the parking in the garage is intended for off-street parking since there is not a lot of space in that neighborhood.</p> <p>Acting Chair Qunell also asked and Compton-Ring said the only stairs on the building are located outside. He also asked and Compton-Ring said the reason they need a Conditional Use Permit (CUP) is because they have multi buildings and multiple uses on one lot. Even though all businesses, they still need a CUP for multiple primary uses. They could have done a subdivision with one building per lot, or a CUP with two buildings on one lot. Acting Chair Qunell asked and Compton-Ring said as long as it was another building, they could not build a retail store in that location without getting a CUP.</p>

	<p>Norton asked why the neighbor who commented thought it should be subdivided versus a CUP, and Compton-Ring said she did not know, but that was how they thought it should be designed. Taylor said if it was subdivided, you could sell the pieces separately, which would be the main advantage.</p>
<p>APPLICANT / AGENCIES</p>	<p>Jillian Lawrance, Associate Architect at MT Creative, 158 Railway Street, representing applicant Tanner Babcock. She thanked Compton-Ring for a very accurate staff report. There are presently two structures on the property at 26 O'Brien Avenue, the primary residence which is presently a legal, short-term rental, and an existing garage in a state of disrepair. They want to demolish the existing non-functional garage and replace it with a new two-car garage with apartment above. The footprint of the garage will be approximately 753 sq. ft., and the apartment above will be approximately 560 sq. ft., accessible by an exterior stair which is designed to be Code compliant. Early in the process Ms. Lawrence consulted with Planning staff and it was recommended they go for a CUP because this is essentially a separate dwelling and is being developed with the idea that it could be subdivided in the future. It is not the desire of her client to do that, but the design is intended to accommodate that possibility in the future. Parking spots 3 and 4 will be accessible for the existing home and a new boundary line could be placed on the west side of those parking spaces. The west side of the property could then be a separate parcel that could be sold. In that case, the prevailing setback would be shifted over to Railway Street where it would be an average of adjacent structures, in this case is nearly 5'9", and the design they are proposing would accommodate this setback if the property were later subdivided. She reiterated in the original report, the proposed use of this structure was as a vacation rental but they would like the flexibility of it being a short-term or long-term rental, and would like that changed in the verbiage of the CUP. Also, regarding the comment letter submitted by a neighbor, subdivision is not desirable at this time for her client, but they are designing it so that it could be in the future. Hopefully, that might satisfy their concerns. Their concern might be that this will be another short-term rental, but it is zoned for that use and the applicant already has a legal short-term rental on the front of this property.</p> <p>Norton asked and Compton-Ring said if the owner wants to subdivide later, there is no minimum lot size issue with this property since it is in the WB-3, which is intended to include our most urban development.</p> <p>Ellis asked and Ms. Lawrance said the existing house and existing garage extend into the public right-of-way as indicated on the drawings. He said there are no sidewalk on that side of Railway Street. He asked Planning</p>

	<p>staff what the status of sidewalks should be in a WB-3 zone. Compton-Ring said it has just never been rebuilt and Taylor said we do not necessarily have that requirement; more information may be available from the Public Works Department. Ellis asked and Compton-Ring said the only requirement to have City sidewalks on properties that are developed is when subdividing; developers can either install a sidewalk or pay a fee in lieu of installing a sidewalk.</p> <p>Ellis said on other buildings in Whitefish, particularly one on 6th Avenue and Columbia, overhanging roofs extend into the City right-of-way or boulevard. He asked and Ms. Lawrence said the roof overhang is 13.5" to the street.</p> <p>Acting Chair Qunell asked and Compton-Ring said the term "guesthouse" is defined in our Code.</p>
<p>PUBLIC COMMENT</p>	<p>Acting Chair Qunell opened the public hearing; there being no comment, he closed the public hearing and turned the matter over to the Planning Board for consideration.</p>
<p>MOTION / BOARD DISCUSSION / VOTE</p>	<p>Norton moved and Ellis seconded to adopt the findings of fact within staff report WCUP 16-07, with the eight (8) Conditions of Approval, as proposed by City Staff, with Compton-Ring's proposed addition to Condition No. 6, to read, "Residential sprinklering shall be required, <u>if short-term rental.</u>"</p> <p>Acting Chair Qunell made a friendly motion and Laidlaw seconded to add a Condition No. 9, "The garage is intended for off-street parking," because he wanted to make sure that it be used for parking instead of storage. The motion passed unanimously.</p> <p>The motion passed unanimously to add "if short-term rental" to Condition No. 6.</p> <p>The motion passed unanimously to approve WCUP 16-07. The matter is scheduled to go before the Council on September 6, 2016.</p>
<p>PUBLIC HEARING 2: CITY OF WHITEFISH REZONE REQUEST 6:35 pm</p>	<p>A request by the City of Whitefish to rezone five parcels recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject properties are located on Highway 93 W and can be legally described as Parcels A, B and C of Certificate of Survey No. 20226, and Parcels A, B and D of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31N, Range 22W, P.M.M., Flathead County, Montana.</p>

<p>STAFF REPORT WZC 16-03 (Compton-Ring)</p>	<p>Planner Compton-Ring reviewed her staff report and findings. To date, no comments have been received.</p> <p>Staff recommended adoption of the findings of fact and conditions of approval within staff report WZC 16-03, and for approval to the Whitefish City Council.</p>
<p>BOARD QUESTIONS OF STAFF</p>	<p>None.</p>
<p>APPLICANT / AGENCIES</p>	<p>None.</p>
<p>PUBLIC COMMENT</p>	<p>Acting Chair Qunell opened the public hearing. Carl Denny, President of the Whitefish County Water District Board used to own Parcel 2CAA adjacent to the project and provided some history regarding stormwater conveyance issues. He offered to write a letter to the Planning staff and Board, and Taylor said that would be useful to them, and also to the Public Works Department. Additionally, Mr. Denny pointed out the City put a water line through there, which affected how the water gets out to the west.</p> <p>There being no further comment, Acting Chair Quenell closed the public hearing and turned the matter over to the Planning Board for consideration.</p>
<p>MOTION / BOARD DISCUSSION</p>	<p>Ellis moved and Laidlaw seconded to adopt the findings of fact within staff report WZC 16-03.</p>
<p>VOTE</p>	<p>The motion passed unanimously. The matter is scheduled to go before the Council on September 6, 2016.</p>
<p>PUBLIC HEARING 3: CITY OF WHITEFISH REZONE REQUEST 6:40 pm</p>	<p>A request by the City of Whitefish to rezone parcels recently annexed into City limits under Resolution 16-30 from County R-3 (One Family Residential) to WR-1 (One-Family Residential District). The subject parcels are known as: 1436, 1500, 1518, 1550, 1558, 1616, 1618, 1620, 1622, 1624, 1644, 1648, 1656, 1660, 1664, 1672 - 1675, 1684, 1700, 1800, 1825, and 1835 West Lakeshore Drive, two vacant parcels without addresses (LAKE PARK ADD, BLOCK 001, 150 FT X 100 FT TR 5 IN BLK 1, and LAKE PARK ADD, BLOCK 005, LOT 012), and the full width of the County-owned portion of West Lakeshore Drive, including the rights-of-way all in Section 26, Township 31N, Range 22W.</p>

<p>STAFF REPORT WZC 16-06 (Minnich)</p>	<p>Planner Minnich reviewed her staff report and findings. To date, no comments have been received. Minnich pointed out one unique criteria, compliance with our Growth Policy designation. Our future Land Use Map designates this area as Suburban Residential which typically corresponds with our WCR, WER and WSR. However, the intent of this area being designated Suburban Residential instead of Urban, which would comply with the WR-1, was to maintain the area around Whitefish Lake to be more rural and limit the amount of subdivision and higher impact zones that might apply. Prior to the termination of our Inter-local Agreement with Flathead County, it still was zoned a County R-3. This area had never been rezoned to a City zone. Therefore, the WR-1 is the most equivalent to the R-3 and is similar to the areas that have already been annexed into the City of Whitefish.</p> <p>Staff recommended adoption of the findings of fact within staff report WZC 16-06, and for approval to the Whitefish City Council.</p>
<p>BOARD QUESTIONS OF STAFF</p>	<p>Laidlaw asked and Minnich said these lots have already been annexed into the City.</p> <p>Acting Chair Qunell asked if there have been any studies about the setbacks, since some of the setbacks on the front yards are different, and whether this action would rezone any of these homes into noncompliance. Minnich said she does not know what the setbacks are for the homes there, and Taylor said we have to change them to a Whitefish zone regardless. If it makes them nonconforming, they are nonconforming, and there is nothing we can do about that. Acting Chair Qunell asked and Minnich said no comments were received from the people they noticed, but this would affect the property owners if they wanted to subdivide or even rebuild a nonconforming deck or add an addition.</p>
<p>APPLICANT / AGENCIES</p>	<p>None.</p>
<p>PUBLIC COMMENT</p>	<p>Acting Chair Qunell opened the public hearing; there being no comment, he closed the public hearing and turned the matter over to the Planning Board for consideration.</p>
<p>MOTION / BOARD DISCUSSION</p>	<p>Ellis moved and Laidlaw seconded to adopt the findings of fact within staff report WZC 16-06 as proposed by City Staff.</p>

<p>VOTE</p>	<p>The motion passed unanimously. The matter is scheduled to go before the Council on September 19, 2016.</p>
<p>NEW BUSINESS 6:47 pm</p>	<p>None.</p>
<p>GOOD AND WELFARE 6:47 pm</p>	<p>1. Matters from Board. Norton asked about the Firebrand Hotel deviating from what they presented to the Board when they said a small place for guests to obtain food would be included, and now they have a restaurant. She feels there will be a lot more traffic going there and more people crossing the already busy intersection. They said since they would not have a restaurant they would be directing people to other downtown businesses to get meals, which is no longer true. They also took away one of the homes and are now using the space to park a tractor. She heard they are charging \$20 for parking and the proposed agreement with the Downtowner for employee parking never went through. A lot of the streets around the school are full of out-of-state license plates, and they do not seem to have enough parking for their guests. She feels there will be more issues with the Firebrand and wondered what we could do about it. Taylor said without a Condition precluding a restaurant, it is allowed in the zoning district they are in, so there is nothing we can do about that. On the parking issue, there were Conditions related to parking on the Conditional Use Permit and Planning staff can look into that to make sure they are adhering to the Conditions. Acting Chair Qunell asked and Taylor said it normally starts with a complaint. Taylor heard a rumor they are charging \$12 a day for parking and Laidlaw said he heard \$15. Ellis said he can assure us that people who live in that neighborhood will be filing a complaint if that parking lot, which is not allowed in that district, remains after a reasonable time for them to finish construction, probably by October. That parking area where they tore the house down is gravel now and is zoned residential. Laidlaw said he checked with Taylor about the status of their liquor license because the intention they presented to the Planning Board was not that it would be a full restaurant. Laidlaw said it is tough to go out into the public once you have had a meeting and the Averills know exactly what they said here. Now they are promoting they have the only place in all of Whitefish that has cast ale. It is not the first time it has happened that what we approve is not what ends up being built. Norton said it changes the use pattern of that very busy intersection in terms of pedestrians crossing and drinking and crossing, as well as the way parking is being used in that very busy neighborhood. She asked what we can do in the future to be sure they stick to the plan they have presented; is there a way to put a Condition on things? Taylor said you cannot restrict the commerce if it is an allowed use. It becomes very difficult and invites lawsuits if you try to overregulate certain things.</p>

Norton asked if we could have required a lease agreement for employee parking and Taylor said he thought that was part of one of the Conditional Uses. She feels it is very misleading when we think we are approving things that will fit with this community as it is and will not be harmful to the community or the people using that part of town. Now it is full blown beyond what they presented and what they said they were going to do and we do not stop them. How do we not let this happen again because it is very different from what they said was going to happen and now they want a pool, which was not part of it. Taylor said a pool was part of it, but just not on the roof. The Council included Conditions to preclude them for putting a hot tub on the roof. Compton-Ring pointed out during the whole construction process, Planning staff have been monitoring them. Laidlaw asked and Compton-Ring said they did get their elevator in and inspected before the Certificate of Occupancy was issued. Laidlaw said it is too bad when Mr. Averill comes and complains about the Marriott and too many hotels and he keeps inching forward. Minnich said the Conditions are so important, and before she or Compton-Ring sign off on a Building Permit, they review the Conditions and make sure they have been met. If there is not a Condition on there, and it is a permitted use they cannot do anything about it. Norton said it is disturbing that we have to anticipate the absolute maximum buildout that can be done legally in that area, realizing it will be exceeded at some point by the developer or whoever buys it. Ellis pointed out Norton voted against it so she did all she could. Taylor said to keep in mind anyone building in the WB-3 is not required to have parking, so requiring them to have parking was way above and beyond, although a hotel needs parking to be successful.

Norton said at the City Council meeting on Monday, Mayre Flowers mentioned some Planning departments will review the ideas as they come through the city; however, city councilors said they would not have time to do that, but she wondered about the Planning Board. Taylor said they get a lot of people asking about rezoning, and they tell them it is either spot zoning or they need to amend the growth policy or whatever and generally they get dissuaded from that. Occasionally, maybe once or twice a year, someone comes to them with a zoning text amendment that makes sense, but not generally. Some of the ideas people present are proprietary and confidential for various reasons until they submit an application officially. Minnich said we hold Site Review meetings, which is a public application but in no way binding, every Thursday at 1:30 where people can present ideas and get feedback from various departments on whether City requirements are being met in their proposal, etc., and it is free of charge. Norton asked and Minnich said April in Public Works keeps the Site Review minutes and creates the agenda.

	<p>Laidlaw asked and Taylor said the City Council has approved a Code amendment to make Lakestream a Conditional Use in the WB-2 zoning district, which goes into effect October 6. After that, if Lakestream wants to submit a Conditional Use Permit, they can and we will start the whole process over again. It will probably come to the Planning Board in November and go to the City Council in December. Laidlaw asked and Taylor said although Laidlaw heard they may have already purchased the building, Lakestream cannot move until the Conditional Use Permit is approved.</p> <p>2. Matters from Staff. Update on PUD Re-Write Committee. Taylor said the Committee met last night and discussed affordable housing, and density bonuses which is a huge quagmire waiting for the affordable housing study that is being done to give them more ideas of what types of housing is needed. They are trying to analyze things like where the bonus percentages come from and whether they are functional for developers. Will it "punish" developers if they decrease the amount of bonuses so much that no one is going to want to do affordable housing, etc. Some feel bonuses are too high right now but if we lower it will no one build affordable housing? Compton-Ring said the Council passed extending the moratorium on the PUD blending for a year on August 15, and Taylor said there have not been any PUD applications. Compton-Ring announced we have a new member, Allison Linville, to replace Ken Stein who will be at the next meeting. The date of the next meeting will be September 22, so Planning Board members can attend the open house for the four City Manager applicant finalists on September 15, on the second floor of Casey's, at 7:00 pm. Minnich said there have not been any applications, so there may not be a September Planning Board meeting.</p> <p>3. Poll of Board members available for the next meeting on September 22, 2016. Acting Chair Qunell and Ellis thought they would be available, but Norton did not think she would be able to attend and Laidlaw will not be able to attend.</p>
<p>ADJOURNMENT 7:05 pm</p>	<p>Laidlaw moved and Norton seconded to adjourn the meeting at approximately 7:05 pm. The motion passed unanimously. The next regular meeting of the Whitefish Planning Board is scheduled to be held on September 22, 2016, at 6:00 pm, at 1005 Baker Avenue.</p>

/s/ Ken Meckel
Ken Meckel, Chair of the Board

/s/ Keni Hopkins
Keni Hopkins, Recording Secretary

APPROVED AS SUBMITTED / CORRECTED: 10-20-16