



CITY COUNCIL REGULAR MEETING AGENDA

The following is a summary of the items to come before the City Council at its regular session to be held on Monday, January 6, 2014, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 14-01. Resolution numbers start with 14-01.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) PRESENTATIONS - Presentations of plaques to departing City Council members
- 4) CONSENT AGENDA
 - a) Minutes from the December 2, 2013 Council special session (p. 15)
 - b) Minutes from the December 2, 2013 Council regular meeting and executive session (p. 16)
 - c) Ordinance No. 13-11; An Ordinance for a Preliminary Plat and Planned Unit Development for Phase 3 of the Great Northern Heights Subdivision (Second Reading) (p. 34)
- 5) OATHS OF OFFICE AND SEATING OF MAYOR AND COUNCIL
 - a) Administration of oath of office to three (3) new City Councilors – Mayor Muhlfeld (p. 40)
 - b) Election of Deputy Mayor
- 6) 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)
- 7) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 8) 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) Resolution No. 14-___; A Resolution amending Resolution No. 13-10 to extend the duration of the Highway 93 West Corridor Plan Steering Committee through June 30, 2014 (p. 42)
 - b) Consideration of approving the final plat for Dear TRACS subdivision, a 2-lot subdivision located at 6348 Highway 93 S (p. 43)

9) **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 an application from Brendan Whitcomb for a Conditional Use Permit to construct an accessory apartment on the 2nd floor of a recently constructed garage at 637 Somers Avenue (p. 73)

10) **COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR**

- a) Consideration of application from Colin and Teri Sellwood for a preliminary plat approval for the Sellwood subdivision, a two lot subdivision at 3930 Highway 40 (p. 95)

11) **COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**

- a) Consideration of contract award for an articulated wheel loader for Public Works (p. 109)

12) **COMMUNICATIONS FROM CITY MANAGER**

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 113)
- b) Other items arising between January 1st and January 6th
- c) Resolution No. 14-___; A Resolution approving a Definite Term Lease Agreement with BNSF Railway Company, for the Whitefish landing, a non-motorized boat launch, located along the Whitefish River, south of the BNSF Roundhouse, Line Segment 0036, Mile Post 1219.55, Whitefish, Montana (p. 122)

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

- a) Appointments of City Council Members to Various Boards, Commissions, and Committees (p. 144)
 - i) Park Board – Mayor or Mayor's Designee – Chris Hyatt was previous designee; (p. 152)
 - ii) Resort Tax Monitoring Committee – Mayor or Councilor – Bill Kahle was previous appointee (p. 156)
 - iii) Montana West Economic Development Board – Previously was Bill Kahle and Turner Askew was Alternate (p. 160)
 - iv) Architectural Review Committee – Ex-officio member was Phil Mitchell; ex-officio member not provided for in ordinance nor required (p. 162)
 - v) Pedestrian & Bicycle Path Advisory Committee – Mayor or Councilor; currently Richard Hildner (p. 166)
 - vi) Whitefish Tree Advisory Committee - Mayor or Councilor; previously was Phil Mitchell (p. 172)
 - vii) Ice Rink Advisory Committee – Mayor or Councilor; currently Frank Sweeney (p. 176)
 - viii) Weed Control Advisory Committee – City Councilor; currently Richard Hildner (p. 179)
 - ix) Impact Fee Advisory Committee – City Councilor; previously was Chris Hyatt (p. 182)

- x) Flathead County Regional Wastewater Study Committee –currently John Anderson with Chuck Stearns as staff/alternate (p. 185)
- xi) 9-1-1 Administration Board – Currently Chief Dial; alternate is Turner Askew; has to be elected officials or designees (p. 187)
- xii) Insurance (Medical) Committee – Two City Councilors as Ex-Officio members; currently is John Anderson and Frank Sweeney (p. 199)
- xiii) Whitefish Arts Council – was Bill Kahle
- xiv) Real Estate Advisors – Mayor and One Councilor; currently is Mayor Muhlfeld and Frank Sweeney;
- xv) Legacy Lands Advisory Committee – Mayor and one Councilor or two Councilors; currently is Mayor Muhlfeld, John Anderson, and Frank Sweeney (p. 205)
- xvi) City Hall Steering Ad-Hoc Committee – Mayor and One City Councilor; currently is Mayor Muhlfeld and Councilor was Phil Mitchell (p. 211)
- xvii) Whitefish Lake Institute Board – one City elected official; currently is Frank Sweeney;
- xviii) Mountain Trails Park Master Plan Committee – two City Councilors; (p. 214)

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



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

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

Adopted by Resolution 07-09
February 20, 2007

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December 31, 2013

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

Mayor Muhlfeld and City Councilors:

Monday, January 6, 2014 City Council Agenda Report

There will **not** be a work session before this meeting – therefore, we will not provide food for this meeting.

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

CONSENT AGENDA

- a) Minutes from the December 2, 2013 Council special session (p. 15)
- b) Minutes from the December 2, 2013 Council regular meeting and executive session (p. 16)
- c) Ordinance No. 13-11; An Ordinance for a Preliminary Plat and Planned Unit Development for Phase 3 of the Great Northern Heights Subdivision (Second Reading) (p. 34)

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

Items a and b are administrative matters. Item c is a quasi-judicial matter.

OATHS OF OFFICE AND SEATING OF MAYOR AND COUNCIL

- a) Administration of oath of office to three (3) new City Councilors – Mayor Muhlfeld (p. 40)
- b) Election of Deputy Mayor

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) Resolution No. 14-____; A Resolution amending Resolution No. 13-10 to extend the duration of the Highway 93 West Corridor Plan Steering Committee through June 30, 2014 (p. 42)
- b) Consideration of approving the final plat for Dear TRACS subdivision, a 2-lot subdivision located at 6348 Highway 93 S (p. 43)

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

Item a is a legislative matter; item b is a quasi-judicial matter.

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

- a) Consideration of an application from Brendan Whitcomb for a Conditional Use Permit to construct an accessory apartment on the 2nd floor of a recently constructed garage at 637 Somers Avenue (p. 73)

From Senior Planner Wendy Compton-Ring's transmittal letter:

Summary of Requested Action: Brendan Whitcomb is requesting approval of a Conditional Use Permit to have an accessory apartment at 637 Somers Avenue. The property is currently developed with a single family home and recently constructed garage. The property is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as "Urban Residential".

Planning Board Action: The Whitefish City-County Planning Board met on December 19, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with six (6) conditions as contained in the staff report and adopted the staff report as findings of fact. (Vail, Konapatzke and Anderson were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with six (6) conditions set forth in the attached staff report.

A full staff report and other documents are in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering the testimony at the public hearing and in the packet, along with the recommendations from staff and the Planning Board, approve a Conditional Use Permit to construct an accessory apartment on the 2nd floor of a recently constructed garage at 637 Somers Avenue subject to 6 conditions and approve the staff report with findings of fact.

This item is a quasi-judicial matter.

COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) Consideration of application from Colin and Teri Sellwood for a preliminary plat approval for the Sellwood subdivision, a two lot subdivision at 3930 Highway 40 (p. 95)

From Senior Planner Wendy Compton-Ring’s staff report:

This application is a request for preliminary plat approval of a two-lot subdivision with an existing single family home and existing commercial building. The subject property is approximately 2.199-acres.

This property was included in the rezone for the Whitefish Business Service District in 2009. As part of the rezone, an application for a site plan was required. This site plan is on page 5 of the staff report.

- A. **Owner/Applicant:**
Colin and Teri Sellwood
PO Box 4564
Whitefish, MT 59937

Technical Assistance:
F&H Land Surveying
Craig Wickham
PO Box 114
Whitefish, MT 59937

- B. **Location:**
The property is located on the south side of Highway 40 west of Conn Road. The property is addressed as 3930 Highway 40. The property can be legally described as Lot 1, Staats Subdivision in Section 16, Township 30N, Range 21W, P.M.M., Flathead County, Montana.



- C. **Size:**
The subject property is 2.199-acres in size and the lots are 1.189 and 1.010 acres.

- D. **Existing Land Use and Zoning:**
WBSD, Business Service District, intended to “create defined areas that are appropriate for non-retail limited commercial services and light industrial uses. This district is restricted to those areas identified as business service center in the growth policy. Typical uses would be light manufacturing and component assembly,

office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Structures would be of moderate to high architectural quality and clearly not "industrial" in appearance. Landscaping will be extensive with good quality and effective screening and buffering.”

E. Adjacent Land Uses and Zoning:

North:	commercial	WBSD
West:	residential	WCR
South:	church	WCR
East:	residential	WBSD

F. Utilities/Services:

The proposed subdivision lies outside the service area of the City of Whitefish. Services will be provided by the following:

Sewer service:	on-site
Water service:	on-site
Solid Waste:	North Valley Refuse
Gas:	Northwest Energy
Electric:	Flathead Electric Co-op
Phone:	CenturyLink
Police:	Flathead County Sheriff
Fire:	Columbia Falls Rural Fire Department
Schools:	Whitefish School District #44

G. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on December 9, 2013. A sign was posted on the property on December 16, 2013. Advisory agencies were noticed on December 9, 2013. As of the writing of this report, no comments have been received.

A full staff report and other documents are in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering the testimony at the public hearing and in the packet, along with the recommendations from staff and the Planning Board, approve a preliminary plat for the Sellwood subdivision, a two lot subdivision at 3930 Highway 40 and approve the staff report with findings of fact.

This item is a quasi-judicial matter.

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of contract award for an articulated wheel loader for Public Works (p. 109)

From Public Works Director John Wilson's staff report:

The Public Works Department has published an Advertisement for Bids for an Articulated Wheel Loader and received bids from two local companies. This memo is to recommend the City Council approve the purchase of a 2014 Case 521F wheel loader from Titan Machinery of Columbia Falls in the amount of \$92,775.

This new piece of machinery will replace a 20 year old John Deere 244E loader. The versatile, mid-size Case loader will be used extensively for snow removal, general street work and utility repairs.

Funds for this purchase are included in the FY14 budget and divided in relatively equal portions between the Street, Water and Wastewater Funds. The low bid price of \$92,775 includes a trade-in allowance of \$11,284 for the old John Deere.

RECOMMENDATION: Staff respectfully recommends the City Council approve the contract award for a 2014 Case 521F wheel loader from Titan Machinery of Columbia Falls in the amount of \$92,775 and return bid security at the appropriate time.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 113)
- b) Other items arising between January 1st and January 6th
- c) Resolution No. 14-___; A Resolution approving a Definite Term Lease Agreement with BNSF Railway Company, for the Whitefish landing, a non-motorized boat launch, located along the Whitefish River, south of the BNSF Roundhouse, Line Segment 0036, Mile Post 1219.55, Whitefish, Montana (p. 122)

Mayor Muhlfeld and I met this past summer on June 20th with Allen Stegman, General Director Environmental for BNSF, Barbara Ranf, State Governmental Affairs for BNSF, and Rob Hagler of Kennedy/Jenks Consultants, BNSF environmental consulting firm regarding BNSF's offer of a lease of land on the Whitefish River for use as a public river access point. BNSF wanted to offer the lease of this land, at no cost to the City, as a thank you to the community for enduring three plus years of river closures and river clean-up. Then a public dedication and

ribbon cutting for the access point and celebration of the end of the river cleanup was held on August 1st – an article on this ceremony can be found at http://www.whitefishpilot.com/whitefishpilot/article_a6799bca-4e7f-5595-a693-6406bb160970.html .

Since that time, Mary and I have worked with BNSF representatives and attorneys on a lease of the land. There were many issues to work through because this lease was different than a normal BNSF lease where the city typically has to accept all of the legal conditions that BNSF requires. Most of these issues deal with insurance, liability, and indemnification. We were finally able to work through all of those issues to find a lease acceptable to the staff of both BNSF and the City of Whitefish.

Attached is a lease agreement for 20 years, although it does allow BNSF to terminate the lease with 30 day's notice. There are some other less than desirable conditions in the lease, mostly dealing with insurance, liability, and indemnification, but we got BNSF to move on many of those issues as far as we can. We think that we can live with the current lease proposal which is Exhibit 1 to the attached resolution. BNSF does reserve the right to use the river landing for their necessary launches of motorized boats and barges associated with any cleanup work.

The City incurs no direct cost for this lease unless we initiate any improvements to the property. Also, BNSF Foundation has pledged \$25,000 for improvements at the landing (however, much of this grant may be required for a special BNSF insurance policy covering any improvements). Any city costs that we incur will be approved by the City Council in a budget or as approved by the Park Board and/or the City Council.

RECOMMENATION: Staff respectfully recommends the City Council enact a Resolution approving a Definite Term Lease Agreement with BNSF Railway Company, for the Whitefish landing, a non-motorized boat launch, located along the Whitefish River, south of the BNSF Roundhouse, Line Segment 0036, Mile Post 1219.55, Whitefish, Montana.

This item is a legislative matter and, as a lease, requires approval by 2/3rd's of the City Council.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Appointments of City Council Members to Various Boards, Commissions, and Committees (p. 144)
 - i) Park Board – Mayor or Mayor's Designee – Chris Hyatt was previous designee; (p. 152)
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Sincerely,



Chuck Stearns
City Manager

"Cheat Sheet" for Robert's Rules

Motion	In Order When Another has the Floor?	Second Required?	Debatable?	Amendable?	Vote Required for Adoption	Can be reconsidered?
Main Motion	N	Y	Y	Y	Majority unless other spec'd by Bylaws	Y
Adjournment	N	Y	N	Y	Majority	N
Recess (no question before the body)	N	Y	N	Y	Majority	N
Recess (question before the body)	N	Y	Y	Y	Majority	N
Accept Report	N	Y	Y	Y	Majority	Y
Amend Pending Motion	N	Y	If motion to be amended is debatable	Y	Majority	Y
Amend an Amendment of Pending Motion	N	Y	See above	N	Majority	Y
Change from Agenda to Take a Matter out of Order	N	Y	N	N	Two-thirds	N
Limit Debate Previous Question / Question	N	Y	N	Y	Two-thirds	Yes, but not if vote taken on pending motion.
Limit Debate or extend limits for duration of meeting	N	Y	Y	Y	Two-thirds	Y
Division of Assembly (Roll Call)	Y	N	N	N	Demand by a single member compels division	N
Division of Ques/ Motion	N	Y	N	Y	Majority	N
Point of Information	Y	N	N	N	Vote is not taken	N
Point of Order / Procedure	Y	N	N	N	Vote is not taken	N
Lay on Table	N	Y	N	N	Majority	N
Take from Table	N	Y	N	N	Majority	N
Suspend the Rules as applied to rules of order or, take motion out of order	N	Y	N	N	Two-thirds	N
Refer (Commit)	N	Y	Y	N	Majority	Neg. vote only

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WHITEFISH CITY COUNCIL MINUTES
DECEMBER 2, 2013
SPECIAL SESSION, 5:00 PM TO 7:00 PM

1. Call to Order

Mayor Muhlfeld called the meeting to order. Councilors present were Anderson, Hildner, Sweeney, Hyatt, and Kahle. Councilor Mitchell was absent. City Staff present were City Manager Stearns, City Clerk Lorang, and City Attorney VanBuskirk.

2. Interviews

The Mayor and Council conducted interviews with Joe Malletta and David Spangler for the Lake and Lakeshore Protection Committee. Bill Mulcahy was interviewed for the Whitefish Housing Authority. Also applying for the Whitefish Housing Authority was Ralph Ammondson, Manor Resident, but not in attendance for a personal interview, his application letter was included in the packet. Camisha Sawtelle, Ken Stein, William Parker, Cindy McGlenn, Michelle Handlin, Monte Gilman, Greg Gunderson and Mary Vail were interviewed for the City-County Planning Board. Also applying for the City-County Planning Board was John Ellis, Jr., whose letter of application was included in the packet but he was not available for a personal interview tonight.

3. Public Comment - None

4. Appointments

4a. Mayor Muhlfeld appointed Ralph Ammondson, as a representative of the Mountain Manor residents, for another two-year term, and Bill Mulcahy for a five-year term; both to the Whitefish Housing Authority Board.

4b. Councilor Hildner offered a motion, seconded by Councilor Hyatt, to appoint Joe Malletta for a three-year term to the Lake and Lakeshore Protection Committee. The motion passed unanimously.

4c. Mayor Muhlfeld appointed Ken Stein for a two-year term on the City-County Planning Board. Councilor Sweeney offered a motion, seconded by Councilor Hyatt, to re-appoint Greg Gunderson for another two-year term on the City-County Planning Board. The motion passed unanimously.

Council discussion included comments that it was good to see so much interest in serving on the boards and committees; all good applicants including nine applicants for two positions on the City-County Planning Board. The Mayor and Council expressed hope that these applicants continue their interest and pursue positions on other committee and boards.

5. Adjournment - Mayor Muhlfeld adjourned the Special Session at 7:03 p.m.

Mayor Muhlfeld

Attest:

Necile Lorang, City Clerk

WHITEFISH CITY COUNCIL MINUTES

December 2, 2013

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Anderson, Hildner, Kahle and Hyatt. Councilor Mitchell was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Planner II Minnich, Public Works Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 18 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Brian Wood to lead the audience in the Pledge of Allegiance.

3. PRESENTATIONS-Arbor Day 2014 Proclamation (p. 40)

The Mayor proclaimed Friday, April 25, 2014 as Arbor Day and encouraged citizens to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in our community.

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)

Turner Askew, 3 Ridge Crest Court, thanked the existing Council, those going off at the next meeting, and those who have been serving. He said the public doesn't understand that it takes a lot of time reading the material, listening and serving on the Council. He said about six months after they've been elected by a certain group of people they learn that they represent **everyone** in the community. They might get criticism for that, but it's the right thing to do. He said he appreciated all that they do and have done.

Dan Vogel, 451 Woodland Place, said he is part of a group of 20-30 year olds who are offering Ted X Whitefish to the world. TED stands for technology, education and design. January 16, 2014 from 9 a.m.-5 p.m. at Central School they will have 14 different speakers looking at defining "The Last Best Place." He said their purpose is to give them an opportunity to speak and offer a clearinghouse of information to the community and to the world. He said the tickets just went on sale and they are already 60% sold out. He asked the public to watch this dynamic exchange. Tickets are available for \$60 and are available at www.tedxwhitefish.com.

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)

6a. Minutes from the November 18, 2013 Council regular session (p. 42)

6b. Ordinance No. 13-10; An Ordinance granting to NorthWestern Corporation d/b/a/ NorthWestern Energy a non-exclusive franchise and fixing the terms thereof under which said company may construct, equip, lay, maintain and operate natural gas delivery facilities in, under, upon, over and across streets, avenues, alleys, highways, bridges, easements and other public places in the City of Whitefish, Montana, and may deliver and sell natural gas (Second Reading) (p. 57)

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve the consent agenda. 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)

7a. Consideration of an application from Jeff Lyman on behalf of Richard & Roberta Bennett for a Conditional Use Permit to construct an accessory apartment at 325 Lupfer Avenue on Lots 18 and 19 of Block 54 of Whitefish Subdivision (p. 62)

Planner II Minnich reported that Jeff Lyman with Aspen Ridge Design, on behalf of Richard and Roberta Bennett, is requesting approval of a Conditional Use Permit to allow for an accessory apartment above a new garage at 325 Lupfer Avenue. The property is currently developed with a single family home and an existing garage which will be removed. The property is zoned WR-4 (High Density Multi-Family Residential District). The Whitefish Growth Policy designates this property as "High Density Residential".

The proposed new garage with the accessory apartment will be located in the southeast corner of the property. The new structure will be approximately 31 feet, 6 inches long by 18 feet wide. There will be a small extension on the structure approximately 7 feet 6 inches long by 3 feet 6 inches wide. The structure will be a total of 593.25 square feet, which allows a reduced side and rear setback of 6 feet from the property lines. There are no proposed changes to the existing home. The public was notified, but no comments have been received. The subject property is 6,500 square feet and the zoning setbacks for accessory structures less than 600 square feet will be met.

The subject property is located on two lots that when combined meet both the minimum lot size and lot width requirements. Per Section 11-2-3(B)(3) of the zoning regulations, where several contiguous lots are developed as a single property, the exterior lot lines are used for determining compliance. However, the section specifically states that "*prior to or as a condition of issuance of any building permit, all interior lot lines affected by the structure(s) shall be abandoned.*" Therefore, a condition will be added that prior to building permit approval, the interior lot line must be abandoned.

The maximum permitted lot coverage in this zoning district is 40%. The existing residence and the proposed garage will have a lot coverage of approximately 26%. The proposed lot provides adequate

space to accommodate all parking needs on site and the garage could be used for one space. There is plenty of room for additional parking in the back.

The subject property is currently served by sewer and water, and is within the jurisdiction of the Whitefish Fire Department and the City of Whitefish Police Department. Minimal traffic impact is expected. The proposed structure will be similar to existing adjacent residential uses in the neighborhood, and will not exceed the maximum height of 24-feet for an accessory structure. It will be placed about 30 feet from the existing structure and that allows enough open space. Staff recommends approval subject to seven conditions.

Planner Minnich said the Whitefish City-County Planning Board met on November 21, 2013 and had questions on the reduced setbacks and the stormwater condition, but those issues will be reviewed at the time of the building permit. No one from the public wished to speak and the Planning Board unanimously recommended approval of the above referenced conditional use permit with seven conditions.

Councilor Sweeney said three parking spaces are required. He wondered if they would have to build the parking on site. Planner Minnich said the parking does have to be delineated and constructed. Councilor Hildner said he doesn't see where they will retain stormwater on site, especially with the roof design. Planner Minnich said it is reviewed by Public Works. Mayor Muhlfeld said that is reviewed during the building permit process. Councilor Sweeney said he would like it to say that the parking has to be designated and constructed and Planner Minnich said they could change the wording to add that.

Mayor Muhlfeld opened the public hearing. No one wished to speak and Mayor Muhlfeld closed the public hearing.

Councilor Hildner addressed condition #6 and said he wants to be sure that it is followed. The owners live in Washington and condition #6 said the main home has to be owner occupied. He said he is also concerned that they provide adequate paved parking. He said the pitch of the roof will drop all the snow onto the parking area.

Councilor Sweeney offered a motion, seconded by Councilor Hyatt, to approve the Bennett Conditional Use Permit to construct an accessory apartment at 325 Lupfer Avenue on Lots 18 and 19 of Block 54 of Whitefish Subdivision, along with the Staff Report WCUP 13-14; amending Condition #5 to state that one off-street parking spot will be designated and constructed for the accessory apartment and two off-street parking spots will be designated and constructed for the primary residence. The motion passed unanimously.

7b. Ordinance No. 13-11; An Ordinance approving a Preliminary Plat and Planned Unit Development for Phase 3 of the Great Northern Heights Subdivision – an application from Rob Pero on behalf of Hilltop Partners is proposing to subdivide 6.125 acres into 24 single family lots (First Reading) (p. 92)

Senior Planner Compton-Ring reported that this is a request for 24 single family lots on 6.1 acres in Phase 3 of Great Northern Heights Subdivision. In July of this year, the applicant was scheduled for a public hearing before the Planning Board, but withdrew their application for 42 lots (21 townhouses) in

order to provide a revised plan. The revised plan was reviewed by the Planning Board in September, which consisted of 32-lots (20 single family lots and 12 townhouse lots). The Planning Board recommended denial on the project. This matter was scheduled before the City Council in October; however, the applicant pulled the request in order to revise the project and bring it back to the Planning Board. She noted that on March 6, 2006, Hilltop Partners received preliminary plat approval for Great Northern Heights, Phase 3 for 21 single family homes. The applicant received an extension in 2008, but in 2010, the preliminary plat expired. This phase is located within the larger Great Northern Heights neighborhood that includes 49 single family lots and 22 townhouse sublots (PUD overlay.) In 2012 the PUD overlay was amended to allow for increased lot coverage to facilitate single story townhouses. The subject property is located off Highway 93 South to the west of Western Building Center and Midway Rental. The property is undeveloped and the current zoning is WR-1.

The current request no longer contains townhouses and the gross density of the subdivision is 3.92 dwelling units per acre. The street within the project is a standard public street within a 60-foot right-of-way with sidewalks, street trees and boulevards on both sides. This phase of Great Northern Heights will be independent of the other phases and have its own Homeowners' Association. Phase 3 will be responsible for maintaining the open space areas and stormwater facilities within Phase 3. The applicant is no longer proposing a 60-foot public right-of-way to the west in this phase. This future right-of-way was intended to facilitate a future roadway connection to the west and out to Karrow Avenue. This proposed right-of-way was originally proposed in the vicinity of Lot 1. This particular Phase is also proposing open space in the form of the wetland buffer and stormwater facilities. The wetland buffer/open space is 1.458 acres. The site is bounded by pasture land to the west and the drainage/wetland area to the north and east.

In addition to the subdivision, the applicant is proposing a Planned Unit Development (PUD) to overlay all of Phase 3. The PUD is no longer needed for a density bonus, but to accommodate the design of the project due to the wetland buffer. The Water Quality Protection (WQP) regulations permit one to transfer 100% of the density to upland areas, and the lot size, setbacks and lot coverage may be modified to accommodate the density transfer (§11-3-29B(9)). No subdivision variances are being requested.

The following zoning deviation is being requested through the Planned Unit Development and Water Quality Protection regulations:

- Lot sizes/width reduced from the 10,000 square feet standard with a 60-foot width to those depicted on the preliminary plat map. They range in size from 5,285 square feet to 9,651 square feet with the most common lot size being approximately 5,300 square feet, as well as lot widths from 40-feet at the smallest, but averaging of 54-feet.

The property is served by all public services. A notice with the revised plan was mailed to adjacent land owners within 300-feet of the subject parcel on October 25, 2013. A sign was posted on the property on October 26, 2013. Advisory agencies were noticed on October 25, 2013. A notice was published in the Whitefish Pilot on October 30, 2013. As of the writing of this report, 10 letters have been received and identified the following concerns:

- Proposed small lot sizes
- Loss in value for existing lots/homes

- Traffic congestion
- Not compatible with existing neighborhood and detrimental to the residential character
- Too dense
- Concerns with the future design of the homes – narrow lots could force a garage forward design
- Draw for more transient people
- Relationship between Phase 3 and the existing homeowners association
- Lots too narrow
- Too much impervious surface and not enough green space
- Preference for the 2006 21-lot proposal over this current plan
- Design of homes wouldn't be cohesive with existing neighborhood
- Concerns with the lack of backyards for family use
- Single car garage design causes parking problems
- Safety
- Density will have a detrimental effect on the wetland and wildlife

Planner Compton-Ring said one letter was received today and said they don't support any deviations to the lot size and they want this phase to be part of the larger HOA.

According to the Environmental Assessment, the project will generate 240 trips/day. No traffic impact study was included, but it would be expected that a majority of the trips would be directed to the intersection of JP Road and Highway 93 S where a traffic light is located. JP Road was developed and designed to accommodate the traffic from this development and traffic from the future Baker Avenue extension. The developer of the Great Northern Heights neighborhood paid its proportionate share of the stop light at JP Road in anticipation of this neighborhood's build-out.

There is a wetland/drainage area along the east side of the project that bisects the Great Northern Heights neighborhood. The wetland/drainage area was set aside as open space for the neighborhood and a trail was installed along the east side of the wetland. As part of the request, the applicant is proposing to reduce the buffer through restoration and buffer averaging. These buffer options are available to property owners through the Water Quality Protection regulations and are described below.

Buffer Reduction - §11-3-29C(3). The required buffer adjacent to a wetland is 100-feet for single family. A buffer can be reduced by 25% with a restoration plan which would allow a 75-foot buffer. The applicant has submitted a restoration plan along with the application. The restoration plan provides a selection of plant materials, includes a requirement to eradicate the weeds and a 5-year monitoring program to make sure the restoration is successful. Staff will also recommend a condition of approval to obtain a financial guarantee for the 5-year monitoring period. Due to the small lots, staff is concerned these restored buffer areas could be degraded by adjacent homeowners looking to expand their actual yard areas. In order to protect the restoration area, staff will recommend some sort of permanent delineation be installed along the length of the buffer. This could be landscaping, a split rail fence or some other method.

Buffer Averaging - §11-3-29C(4). The total buffer area can be adjusted provided the overall area (square footage) remains the same, the decreases are generally where the riparian functions may be less sensitive to adjacent land uses and the averaged buffer is no less than 50% of the standard width – in this

case it would be 50-feet. It appears these standards are generally being met, but the detailed information will be provided as a condition of approval.

The previous plans provided an extension of Great Northern Drive to the western property line to provide a future extension of the road to Karrow Avenue. This is an extension the City would still like to see with this proposal. The applicant has proposed to eliminate this connection and points to the connection to the south of this phase and an extension of JP Road to the west. The applicant also points out that the property to the west is currently held within a conservation easement and development of this lot is unlikely; therefore, a road connection is unnecessary.

However, the City is always looking for opportunities to better connect neighborhoods to each other. Having a grid system reduces traffic 'choke points' and provides better opportunities for non-motorized transportation. In addition, the City's Growth Policy and Subdivision regulations also support the connection of roads. Staff has included a condition of approval requiring this connection. This would result in the loss of a lot or two in order to accommodate a 60-foot right-of-way, however, the Planning Board disagreed with staff and eliminated that condition for approval in their recommendation.

As with previous phases of this neighborhood, staff will recommend a condition that will appear on the face of the plat alerting future homeowners that the neighboring agricultural use pre-dates their subdivision and is lawful.

The zoning permits up to 4 dwelling units per acre (DUA) and the applicant is proposing an overall density of 3.92 DUA well within the acceptable density range for the zoning district. This is a reduction from the original plan of 6.86 DUA.

The Water Quality Protection Regulations permit one to transfer 100% of the density out of the required water quality protection area to the upland areas and modify lot size, setbacks and lot coverage provided the following four standards can be met:

- a. The increased density does not significantly harm the water quality protection areas on site or on adjacent properties;

The project is meeting all the required buffer standards and buffer reduction option available to property owners. The buffer enhancement plan will further protect water quality as the project is developed. In addition, all city stormwater standards will continue to be required, as they are for all subdivision projects.

- b. The increased density does not significantly harm wildlife habitat, including migration corridors;

As described above, the area is not mapped as important winter range for big game nor is the area mapped by the Montana Natural Heritage Program as an area containing plant or animal species of concern. However, it is likely that deer and other animals use the site. The project is preserving the wetland area, which has grown since the earlier preliminary plat application in 2004, and they are enhancing the wetland buffer area creating a larger area for animals to use and move through the neighborhood.

- c. The increased density does not significantly harm the character and qualities of the existing neighborhood; and

This has been the most significant concern from the neighbors as it has gone through its previous iterations, including this most current proposal. The June version was 42 townhouse lots (21 townhouses), the September version was 20 single family lots and 12 townhouse lots (6 townhouses) and this most recent version is 24 single family lots. While the neighbors point to the 2006 preliminary plat of 21-lots as the appropriate density (3.43 dwelling units per acre) versus the current proposal of 24-lots (3.92 dwelling units per acre), conditions and standards have changed in this neighborhood. In 2006, there were no Water Quality buffers and setbacks and the stormwater standards were less rigorous than they are currently. The gross density of the project meets the zoning regulations, but due to the requirement for a Water Quality buffer and setback, it necessitates smaller lot sizes.

Concerns have also been raised regarding the small lot widths that may result in a ‘garage-forward design’. The City doesn’t permit this design for multi-family buildings through the Architectural Review Standards, but the city does not regulate this design for detached single family homes. The City doesn’t regulate the design of any single family homes. Some subdivisions have proposed to place detached garages to the rear of lots and have either individual or shared driveways – such as Cougar Ridge and Woodside Meadows. Some subdivisions, such as Creekwood, require the garage to be setback from the front of the home. The developer included photos of previously constructed homes that the developer intends to construct to maintain a pleasing streetscape and both options have been included.

- d. Where applicable, the increased density makes efficient use of infill property.

The project is nearly surrounded by urban-scale development and is served by public sewer and water. While on the edge of town, the property is, for all intent and purpose, an infill project. Infill is a priority for the city’s Growth Policy.

The Planned Unit Development is intended to encourage flexible land use development by allowing development based upon a comprehensive, integrated and detailed plan rather than upon specific requirements applicable on a lot by lot basis. The project is using the standards in the Water Quality Protection regulations (11-3-29B(9)) to permit the smaller lot size and transfer the density to the upland area. The tool to request the minimum lot size/width is through the PUD; however, this is not a PUD in the traditional sense. As such, staff has only provided an analysis of the Water Quality Protection criteria, as described above.

The Whitefish City-County Planning Board met on November 21, 2013 and considered the requested preliminary plat. Following the public hearing, the Planning Board unanimously recommended approval.

The Planning Board made two changes to the conditions. They deleted Condition # 6 requiring an extension of a public right-of-way to the west and added the following condition:

20. The number of lots on the west side of Brimstone Drive shall not exceed twelve.

Planner Compton-Ring said this reduces the number of lots from 24 to 21. Neighbors to the project spoke at the public hearing. Comments included: unacceptable lot sizes, confusion about how this phase and its HOA will interface with the existing HOA, change in the character of the neighborhood, loss in value of their homes, safety, traffic, concerned with the quality of the proposed homes, impacts to the conservation district to the west, and maintenance of the wetland buffer. The Planning Board recommended approval with 20 conditions. She said Condition #9 deals with the open space requirements, Condition #12 states that they must provide a financial guarantee for the buffer delineation. Conditions also require uniform fencing along the western boundary, a 10-foot utility easement and reduction of the lots to the west of Brimstone to 12 total lots. Councilor Kahle asked and Planner Compton-Ring said the Planning Board recommended the reduction to 12 lots on the west side of Brimstone. Councilor Hildner asked who reviews the 5-year restoration plan. He said it takes longer than that to restore wetlands and he asked what happens if it fails. Planner Compton-Ring said the regulations are so new that they haven't dealt with this yet, but she thinks the City will ask them to submit a report annually. She said they have the financial guarantee in case restoration work needs to be completed. Councilor Hildner asked and Planner Compton-Ring said they ask for 125% of the value of the project. The City holds those as a letter of credit or in escrow. Councilor Sweeney asked if there was a way to obtain a commitment from a developer to use something other than a garage-forward design. She said they could add that as a condition. She said Cougar Ridge had a requirement that perhaps 50% of the lots had to use something other than a garage-forward design.

Mayor Muhlfeld opened the public hearing.

Eric Mulcahy, Sands Surveying, represented the applicants. He passed out the subdivision approval that was granted in 2006. He said this is what the developers originally wanted—21 lots that were 10,000 square feet. The plat expired because of the real estate recession. The critical areas regulations were adopted after the original preliminary plat was adopted in 2006. Therefore, more land has been aside for the wetland buffer. This is their 3rd revision and it contains all single family homes. He said the extension of Great Northern Drive to the west was not required in the original preliminary plat. There were already three road extensions off property for this site, so they felt this road was redundant since there is a conservation easement to the west. He said they understand staff's reasons for wanting it and respect their opinion. They have proposed 24 single family lots with reduced lot sizes. The streets will be built to public standards with 32 feet curb-back to curb-back and will match the other phases. He said there would be a separate set of CC&Rs for this site because the lot sizes are reduced and the homes will be slightly smaller. He said the restoration plan will be the responsibility of these owners and not the owners in Phases 1 and 2. The CC&Rs can link to the broader CC&Rs for the park maintenance for the development as a whole. He said they concur with the staff's recommended conditions except the extension of the road and they would like the Council to omit condition #20 as proposed by the Planning Board. He said they feel they can build attractive homes on 50 foot wide lots.

Rob Pero, Hilltop Partners, said they completed Phases 1 and 2 and all of the lots have been sold. They are proud of the subdivision. They initially had 21 lots approved, but the CAO took away 25% of their land, so then they would have had to drop 5-6 lots, so it didn't make sense to build 10,000 square foot lots any longer. The Critical Areas Ordinance (CAO) states the developer is not to be penalized for the new CAO standards and it allows developers to transfer the density. He said they tried to meet with the neighbors, but no one would meet with them. He said the neighbors show up and complain, but they

won't meet with him to work on a plan they can all be happy with. He said they are requesting the 24 lots. He said if they reduce it to 21 then they aren't transferring any of the density and it penalizes him as the developer. He said he didn't think the Planning Board made any consideration to the effect of the CAO. He thinks 24 lots is a fair number. He said some of the homes will be garage forward, but he thinks a lot of them won't be and he hopes the neighbors will be happy in the long run.

Susan Robison, 320 Minnesota Avenue, said she owns lot 45 in Phase 2. She appreciates that the project has gone down from 42 homes to where it is now. She asked Rob Pero not to take it personally that they couldn't meet. It has been hard to get all of the homeowners together. She said her concern is that everyone purchased their property based on the Phase 3 proposal which required 1,700 square feet for a single family home and 2,400 for two story homes. With the smaller lot size they can't do 1,700 square feet homes, so it won't match the design of the rest of the neighborhood. The neighbors are concerned that it will devalue their property. The neighbors would like the same CC&Rs and standards in Phase 3.

Roger Sherman, 280 Brimstone, thanked the Council for their service to the community. He said they are a great Council. He thanked Hilltop Partners for developing Phase 1 and Phase 2 as a beautiful neighborhood in Whitefish. He is concerned about Phase 3; they are going to attenuate the other two phases by changing the compatibility into smaller lots. He said he understands Hilltop Partner's desire to do the right thing and to make a profit. He said it is a beautiful 6.1 acres back there and those lots can make a profit if done right. He prefers 21 lots as the Planning Board recommended. He didn't think there should be a separate set of CC&Rs for this part of the development. He said at Monterra they had a similar problem with The Lakes and had to hire a mediator to work it out. He reminded them that there is a PUD to the south for 12 townhouses which will increase the traffic density on Great Northern Heights.

Chad Phillips, 199 Vista Drive, said he is an architect and land use planner and a member of the Whitefish Planning Board and has worked with critical areas a lot. He felt that the CAO is young and a little immature. He said this wetland is really a stormwater wetland area that bleeds off into a pasture area. There is no waterfowl habitat or fishery. He said as Phase 1 and Phase 2 develop they will saturate this more and may flood the neighbor to the northwest. He said the west edge of the wetland needs service, but something on the northwest end needs to be dealt with, too. He said they should review that. He said Phase 1 and Phase 2 abut to this wetland area. To hold the developer back seems inappropriate. This puts financial burdens on the developer because it forces them to make smaller lots, which devalues the property. He said the real problem is the area designated as a critical area. This is not fed by anything and doesn't go into anything, so it isn't a real critical area; it's more of a stormwater area with aspens creating congestion in the area. He said as a Planning Board member he values traffic engineering. Any subdivision that has over 200 trips/day is supposed to have a traffic impact study. He said a traffic engineer would build the necessary right-of-way to accommodate the townhomes that are already approved. He said the lots are less than 100 feet in depth so there is no way to build the garage in the back. He said it won't be very appealing at the streetscape.

Mayor Muhlfeld closed the public hearing.

Councilor Kahle asked if the lot sizes changed when they went from 24 to 21 lots. Eric Mulcahy said he did some quick math and it would add about 1300 square feet to the 12 lots on the west side so

they would be about 6800 square feet each. Councilor Hyatt asked and Planner Compton-Ring said this has come before the Planning Board twice. Councilor Hildner said he is concerned about the garage-forward design. He would like to have some assurance that they can eliminate the garage forward design and said that it might be more possible with the reduced number of lots. He asked and Rob Pero said they haven't designed any houses yet. Mr. Pero said some of the pictures he gave them of homes he built on smaller lots didn't have garage forward designs. Those homes were built on 60x130 foot lots, so some of the garages were in the back. He said some of the Phase 3 lots are 9,000 square feet so there won't be any problem with those lots. He said they will build good looking homes and keep the garages back where they can. Some will require a garage forward design due to the lot size.

Councilor Kahle asked and Director Taylor said that according to Code single family homes are allowed to have garage forward designs. Councilor Kahle asked and Eric Mulcahy said garage forward designs are not forbidden in the HOA regulations. Councilor Hildner said he has concerns about the HOA relationships within the subdivision. He wouldn't want them to have to pay for a mediator to get around their issues. He asked and Rob Pero said he doesn't think they'll have a problem being part of the HOA, but they'll need their own covenants because they can't be bound by the minimum home sizes from the other phases. This phase can be part of the HOA, but they'll need their own covenants. Councilor Anderson asked about the traffic study requirement for vehicle trips over 200 trips/day and Planner Compton-Ring said it is in the engineering standards, but Public Works Director Wilson said it wasn't necessary because there are two points of exit and there is a light at JP Road designed to handle the full development of this project. Councilor Anderson asked and Planner Compton-Ring said a traffic study wouldn't likely change the design of the roads. Eric Mulcahy said a Traffic Impact Study was completed for the entire neighborhood as planned for build-out. Councilor Sweeney said the density for this phase has not changed from the original approval in 2006 and Planner Compton-Ring agreed that if they approved 21 lots it would be the same.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to approve Ordinance 13-11 approving a Preliminary Plat and Planned Unit Development for Phase 3 of the Great Northern Heights Subdivision – an application from Rob Pero on behalf of Hilltop Partners is proposing to subdivide 6.125 acres into 21 single family lots at First Reading, adding Condition #21 which would eliminate garage forward design, subject to the findings of fact (Staff Report WPP 13-01/WPUD 13-03).

Councilor Hyatt said if garage forward designs were allowed in Phase 1 and Phase 2 then why would they restrict it in Phase 3 and Councilor Hildner said garage forward designs discourage neighborhoods. He said the houses in Phase 1 and 2 don't have that design.

Councilor Hyatt said there is nothing in the conditions about the CC&Rs which require the larger lot sizes. He would like to see the HOAs working together and maybe the only change is the size of the buildings in that phase. Mayor Muhlfeld said Condition #18 already deals with the HOA and CC&Rs and already addressed the stormwater and parkland maintenance.

City Manager Stearns said the motion as read has Condition #18 already included. He said they need their own CC&Rs due to the home size issue. He didn't know if the condition speaks to a separate HOA versus the different CC&Rs. Planner Compton-Ring said standard CC&Rs deal with maintenance for the property. She said staff doesn't get into minimum home sizes. She recommended that Phase 3

be part of the larger HOA for Great Northern Heights. She said she didn't think the Council needed to be concerned about the details. Councilor Anderson said CC&Rs encompass including how an HOA operates and the architectural standards which can be site specific. He said Condition #18 probably needs to be written to have the current CC&Rs address some of their concerns.

Rob Pero said Phase 3 will have to have their own covenants. If they tried to change the CC&Rs for all units then they would have to get approval from the other 49 homeowners. He said they need their own covenants, but they must be part of the HOA. Councilor Anderson said they will have to modify the HOA. Rob Pero said the current HOA can vote to accept them. If they choose not to accept them then they will create their own HOA for Phase 3. Councilor Anderson said typically when they get a preliminary plat they have all the lots delineated. He said it seems problematic to change the lot lines. He didn't think an amendment was the best way to handle it. He said maybe they need to get a drawing in front of them that shows the lots.

Councilor Kahle said the garage forward discussion should be a conversation that they would have community wide. He said as a developer of O'Brien Bluffs they chose to not have garage forward designs. He said in this case though, it was allowed in Phases 1 and 2, so it didn't seem right to restrict it in Phase 3. He said the reduction to 21 lots seems like a knee-jerk reaction from the Planning Board. He would support going with the design as proposed. Manager Stearns talked about the road extension to the west. He said staff wanted to press for the road extension; however, seeing that it wasn't in the original subdivision approval makes him pause. He said sooner or later the City needs to connect out to Karrow Avenue. He said that because there is a light at JP Road and Highway 93 S that may be a more logical western connection if they could make that happen. He said that the conservation easement could be changed if they need that road extension in the future, so he wouldn't normally forego on such a possibility. It was in the original condition and he thought they should discuss it further. Public Works Director Wilson said after they looked at the pattern of houses built to the west he thinks it is a good idea to let the idea of an extension pass. He noted that they do, however, need an extension to Karrow Avenue for the future traffic plan.

Councilor Sweeney said he agreed with Councilor Kahle about the garage forward design. He wants to respect the neighbor's concerns. He said they aren't increasing the density, but it will appear that they are because of the smaller lot sizes. He said he wants the developer to be able to take advantage of the WQP laws, so that the developer is not penalized. He said he thinks it is important to discuss the garage forward design issue for this phase. He said the developer would have to use the garage forward design on a few lots because of their size. Councilor Kahle asked about Chad Phillips' comments about this not being a critical area anymore. Director Wilson said it is the head end of a stream all the way to W. 6th called the Karrow Avenue conveyance. It is a natural conveyance. Mayor Muhlfeld said it is mapped in the wetland master plan.

City Manager Stearns said the WQP says developers are not to be penalized. He is imagining that it was for vested developments that had a final plat. He said the City can't impair vested property rights, but since this one is expired, the vested property rights were let go. Planner Compton-Ring said the term, "shall not penalize a developer" is not verbatim out of the regulations. She agreed with Manager Stearns. Mayor Muhlfeld said when they mapped the critical areas they were sensitive to those with preliminary plats. Councilor Anderson asked if this is requiring a zone change and Planner Compton-Ring said the PUD is an overlay over the zoning and it allows the smaller lot sizes.

The motion passed 3-2 with Councilors Hyatt and Kahle voting in opposition.

Later on in the meeting Planner Compton-Ring noted that an ordinance takes four votes to pass. Between Agenda Items 8a and 8b; Attorney VanBuskirk suggested that the Mayor redirect the Council back to their decision for additional action or discussion because four votes are required to pass an ordinance.

Councilor Hyatt said if they remove the garage forward design condition then he would vote for it.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve Ordinance 13-11 approving a Preliminary Plat and Planned Unit Development for Phase 3 of the Great Northern Heights Subdivision – an application from Rob Pero on behalf of Hilltop Partners to subdivide 6.125 acres into 21 single family lots at First Reading, subject to the findings of fact and with 20 conditions (Staff Report WPP 13-01/WPUD 13-03), as amended by the Planning Board.

Councilor Kahle said the only change is that they aren't forbidding a garage forward design. Mayor Muhlfeld said he tended to agree with Councilor Kahle and Hyatt. He said Rob Pero has built a lot of homes that are affordable and allow working families a chance to have a home. He said to get hung up on this particular phase mandating eliminating any garage forward design is a little short-sighted.

The motion passed 4-1 with Councilor Hildner voting in opposition.

7c. Ordinance No. 13-___; An Ordinance approving text amendments to the Whitefish Zoning Jurisdiction Regulations to create a new Zoning District entitled "Whitefish Planned Resort District", and adopting corresponding amendments regarding architectural standards, signage and landscaping (First Reading) (p. 189)

Planning and Building Director Taylor reported on a request by the City of Whitefish to amend the zoning regulations to create a new zoning district called Whitefish Planned Resort (WPR) in Section 11-2W, Zoning Districts, as called for in the 2007 Whitefish City-County Growth Policy. He said that the Planned Resort zoning district is set up to be similar to a Planned Unit Development (PUD) in that there is flexibility built in to deviate from some development requirements provided that the development offers up significant public benefit of some sort. A neighborhood plan for the area is required prior to adoption of any WPR zoning, and a binding site plan consistent with the neighborhood plan as well as any conditions imposed become part of the development requirements of the final zoning district. All development in the district must follow the basic outline of the approved final binding site plan.

The Growth Policy outlines a Planned Resort land use designation, and states that a zoning district called Planned Resort be implemented there. The only area currently with a Planned Resort designation on the Future Land Use Map is Whitefish Mountain Resort. The Growth Policy defines the Planned Resort Future Land Use as follows:

Planned Resort: This designation is for a master planned, dense, mixed and multi-use destination resort complex. The Planned Resort center is highly walkable and is pedestrian and bicycle oriented. Architecture and streetscapes are of very high quality. Parking is generally in on-site structures or lots that do not interfere with trails, paths, and walkways. Land uses include accommodations of all kinds, resort retail, eating and drinking establishments, and spas and fitness centers. Residential uses are generally medium to high density and are clustered around open space and other resort amenities. Zoning is generally WPR (Whitefish Planned Resort). The Growth Policy will eventually need to be amended in the last sentence of that section to include Big Mountain Resort Residential (WBMRR) and Big Mountain Village Districts (WBMV).

Staff held a work session with the Whitefish City-County Planning Board on October 17, where the Board reviewed this draft and consented to have a final version sent to them for review and approval. The only change from that draft is under 11-2-X-2-C-2(i) below. As was suggested by the board, we added a provision that green building practices and minimizing impervious surfaces can qualify as a public benefit. He said the intent is for resort type development. The Idaho Timber site is a site they will look at in a visioning session in December. This proposed zone provides more flexible approval for different types of development. The neighborhood plan would be a refinement and would provide benefits for community. He highlighted some of the proposed changes for this ordinance.

Proposed Text Amendment: (changes are in red)

11-2X WPR PLANNED RESORT DISTRICT

11-2X-1: INTENT AND PURPOSE:

The WPR district is intended for destination resort purposes and to provide for the development of high density resort uses, including lodges, hotels, motels, resort condominiums and townhouses, indoor and outdoor recreation uses, and other similar uses oriented toward recreation and resort businesses. This district may also provide meeting rooms, convention and/or conference facilities, bars, lounges, restaurants, and retail and commercial service uses intended primarily for the guests and residents of the resort facilities.

It is further the purpose of the WPR district to provide a mechanism to allow the developer and design professionals the flexibility to respond to the physical and environmental characteristics of a site, the character of the surrounding neighborhood, and the changing market demands and needs of the Whitefish community. In return for this increased flexibility, it is the intent of the WPR that the proposed planned resort provides extraordinary community benefits toward the stated goals of the Growth Policy and includes such things as affordable housing and employee housing, preservation of community/neighborhood character, preservation and/or enhancement of natural resources, provision of open space, or essential and/or desirable community infrastructure.

11-2X-2: REVIEW PROCEDURE

Planning Director Taylor reviewed the procedure for review and for the neighborhood plan.

Review Process. Review and approval of a Planned Resort shall consist of the follow steps:

1. A pre-submission conference with staff prior to submitting any applications.

2. A neighborhood meeting with those property owners likely to be affected by the Planned Resort development.
3. Adoption of a neighborhood plan consistent with the Whitefish Growth Policy and Montana State Law.
4. Approval of a zoning map amendment to WPR, along with a binding Site Plan for the site.
5. Approval of necessary land divisions.
6. Approval of necessary conditional use permits.
7. Approval of necessary architectural review.
8. Obtain building permits, as necessary.

The Neighborhood Plan shall comply with and help implement the Growth Policy. The plan shall also demonstrate the following:

1. That the proposed plan is a refinement and implementation of the Growth Policy; and,
2. That the proposed plan provides extraordinary community benefits toward the stated goals of the Growth Policy, including the following items where possible:
 - a. Preservation and/or enhancement of environmentally sensitive areas of the site.
 - b. b. Preservation of crucial wildlife habitat and/or daily or seasonal migration corridors.
 - c. Provision of usable open space.
 - d. Preservation and protection of the character and qualities of existing neighborhoods.
 - e. Making efficient use of infill property.
 - f. Provision of effective buffers or transitions between potentially incompatible uses of land.
 - g. Facilitation of street continuity and connectivity, and attractive high quality streetscapes.
 - h. Provision of pedestrian and bicycle facilities and transportation alternatives.
 - i. Provision of green building practices, energy efficiency, and sustainable design, including minimizing impervious surfaces.
 - j. Provision of affordable housing and employee housing.
 - k. Provision of recreational opportunities to the local community as well as to the visiting public.
 - l. Implementation of essential or desirable community infrastructure.

11-2X-4 CONDITIONAL USES

These apply if they come in with these ideas after the original plan.

1. Amusement parks and water parks
2. Bars, lounges and taverns

3. Boat launching ramps and docks (subject to the standards of Title 13 Lake and Lakeshore Protection Provisions).
4. Cellular towers
5. Churches and other places of worship
6. Convention/conference centers and facilities.
7. Dwellings: nine-plex or greater multi-family dwelling units
8. Golf courses
9. Marinas (subject to the standards of Title 13 Lake and Lakeshore Protection Provisions).
10. Microbreweries and distilleries.
11. Parking structures, commercial.
12. Recreational vehicle parks and campgrounds
13. Ski areas (downhill) and facilities

The Whitefish City-County Planning Board held a work session on this item on October 17, 2013, and then a public hearing on November 21, 2013. Following this hearing, the Planning Board unanimously recommended approval of the above referenced zoning text change with two amendments and adopted the supporting findings of fact in the staff report (Anderson and Vail were absent). The amendments, which passed unanimously, were: 1) to amend 11-2W-2, A-2, to add notifying property owners with 1,500 feet for a neighborhood plan update; and, 2) to move Conference Centers from Conditional Uses to Permitted Uses. He expanded it to include a press release and notification in the newspaper.

At the public hearing, Chris Hyatt, 611 Somers, spoke. He approved of the new district but wanted to see more of the conditional uses moved into the permitted uses. The Planning Board discussed it and added the conference centers as a permitted use.

Councilor Kahle asked and Director Taylor said they've been approached with ideas about some large developments. He said the Idaho Timber site is one likely location, and someone asked about property at the base of Big Mountain Road. Councilor Kahle asked how this is different than a PUD and Director Taylor said a PUD is an overlay over existing zoning. That process isn't designed for a resort. This ordinance would require a lot of public input, if it was a large project, but it could also be a small 5 acre project like a water park. This doesn't affect Big Mountain at all because their Resort Plan is already in place. Councilor Kahle said this new zoning designation could be used anywhere. Director Taylor said it could, but the applicants would have to amend the Growth Policy. Councilor Anderson said he appreciated all of the work that went into this by Director Taylor. He said he would appreciate a work session on this because there is so much information.

Mayor Muhlfeld opened the public hearing. No one wished to speak and the public hearing was closed.

Councilor Anderson offered a motion, seconded by Councilor Sweeney, to table an Ordinance approving text amendments to the Whitefish Zoning Jurisdiction Regulations to create a new Zoning District entitled "Whitefish Planned Resort District," continuing the public hearing until after a work session.

Councilor Hildner asked if they want to keep the public hearing open. City Attorney VanBuskirk said they could just continue this hearing until after the work session. Councilor Kahle said something about this scares him. He said it seems like a slippery slope. He isn't sure they are a resort town—they are a family town. He urged them to proceed cautiously.

The motion to table passed unanimously.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 251)

This is the point in the meeting that Attorney VanBuskirk suggested that the Mayor redirect the Council back to their decision under 7b for additional action or discussion because four votes are required to pass an ordinance. Council action is recorded at the end of section for Item 7b, above.

8b. Other items arising between November 27th and December 2nd

City Manager Stearns said the City Hall Steering Committee will hold a design competition and interviews with the four finalist architectural firms as part of the process for recommending an architectural firm for the new City Hall building. This design competition will occur all day on Wednesday, December 11th. The schedule for the architectural firms' presentations and interviews is below. Each presentation will begin with a half hour presentation by the firm on their conceptual ideas and proposal for how a new City Hall could look. After that half hour, the Committee will ask questions about their presentation and also ask interview questions about the firm's experience and skills.

The schedule of presentations on Wednesday, December 11th is:

8:30 a.m.	Mosaic Architecture
10:15	MMW Architects
1:00 p.m.	CTA Architects/Engineers
2:45 p.m.	OZ Architects/John Constenius

He said it should be an interesting day in the evolution of City Hall and he hopes the public will attend.

8c. Resolution No. 13-___; A Resolution approving a real estate Buy-Sell Agreement with respect to 1 Lakeside Boulevard, Lots 7, 8 and 9, of Block 16, City of Whitefish (p. 257)

City Manager Stearns said the buy-sell agreement he signed expired last week without two of the three owners signing it. Three people own the property and all three must sign it. He said Attorney VanBuskirk wrote the resolution that will allow him to keep negotiating. It is important to get a reading on whether the Council will support this proposal. He said any subsequent buy-sell would come back to the Council for approval.

Manager Stearns, for the benefit of the public, reviewed how they were contacted by a realtor who is representing the owners of a property at 1 Lakeside Blvd (Jacqueline Creon et al) which is at the

corner of Lakeside Blvd and Oregon Avenue, right by City Beach. The legal description is Lots 7, 8, and 9 of Block 16 of the Original Whitefish Townsite. Ms. Creon is in assisted living and would like to sell it. He said staff talked with the real estate committee and then the rest of the Councilors who support the idea. He said Councilor Mitchell thought he could support it but wanted to think about it further.

The realtor representing Ms Creon's conservator believes that a price of \$450,000.00 is a fair price for this piece of land (17,705 sq. ft. or .407 acres) which equals \$25.35 per sq. ft. The realtor points to Rob Pero's recent purchase of the lakefront property next to City Beach as indicative of pricing, but that really is a different type of property with beachfront. However, for another piece of property in the vicinity, Manager Stearns asked Joe Basirico to do a CMA (Comparative Market Appraisal – a realtor's valuation) and he said that property was probably worth \$175,000 to \$200,000 for 6,500 sq. ft. which is \$26.92 to \$30.77 per sq. ft.

If the City were to develop the lot as parking, they would also incur demolition costs (unless the Fire Dept did a test burn, but even then there are some costs) and construction costs. If they were to assume 40 spaces at \$5,000 per space, that would be construction costs of \$200,000 and engineering costs of \$30,000 on top of the purchase and demolition costs. These costs are just estimates for decision making purposes and they wouldn't know better costs until the City hired an engineering firm to design a parking lot. During his site inspection, Manager Stearns noticed that there is about a ten foot grade difference from the north end of the lot to the south end, so there may be a need for some retaining walls, which the costs above do not include. There may be uses other than a parking lot, but parking has seemed to be the biggest problem at City Beach. Parks and Recreation Director Cozad agreed that this is a high priority for the City for parking near the beach. He said Resort Tax could be used for this project, but they are proposing TIF funds because there are limits on the parks and recreation Resort Tax money.

Councilor Kahle asked and Manager Stearns said they can pass the resolution even if the attached buy-sell isn't part of the package. He wouldn't want turning down the resolution to be misconstrued. Attorney VanBuskirk advised they could also consider a simple motion to authorize City Manager Stearns to continue negotiations.

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to authorize Manager Stearns to negotiate for this property. The motion passed unanimously.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Standing budget item - None.

9b. Email from Chris Erler requesting that he not be required to submit a petition to annex his property in Rest Haven and sign a waiver of protest of annexation as a condition of being allowed to connect to the sewer system (p. 281)

City Manager Stearns said Mr. Erler was out of town and got waylaid by the weather so he couldn't attend the meeting tonight, and requested this item be continued to a later meeting.

9c. Appointments to committees not made during the special session preceding the meeting.

None.

COUNCILOR COMMENTS:

Councilor Hildner said the lighting on Veteran's Memorial Bridge is beautiful and worth a stroll. He said he noticed that there are more and more oil cars heading through Whitefish on the rails. He wondered if it was time for the City to look at their safety plans to make sure they have enough emergency equipment for potential spills. He thanked Councilors Kahle, Hyatt and Mitchell for their time of service on the Council and said that the City is better for their service. Councilor Hyatt said his term has been an enlightening and growing experience. He appreciates all of the Councilors. He said they might not see eye-to-eye, but they've had good dialogue. He thanked the staff and said he was impressed with all the work they do.

Councilor Anderson thanked the departing Councilors. Councilor Kahle thanked the staff. He said he sees how hard they work to keep the town what it is. He said the community benefits from their efforts. He thanked the recording secretary and videographer. He thanked former Councilors Ryan Friel and Turner Askew and all of the Councilors and the Mayor. He said he saw the two Councilor-elects in the audience and knows they will enjoy their time on the Council. He said Whitefish seems to be at a crossroads. He said they are a hometown with a unique blending of industry and resort town. When he hears things about pedestrian loops and resort zoning it concerns him and he would urge them to proceed cautiously because first and foremost they are a hometown. Councilor Sweeney thanked them for their service and said it has been a pleasure working with them. Mayor Muhlfeld echoed their comments. Manager Stearns reminded the out-going Councilors that they need a quorum on January 6, 2014 to approve the minutes.

10. 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 9:37 p.m.

Mayor Muhlfeld

Jane Latus Emmert, Recording Secretary

Attest:

Necile Lorang, City Clerk

ORDINANCE NO. 13-11

An Ordinance of the City Council of the City of Whitefish, Montana, for a Preliminary Plat and Planned Unit Development for Phase 3 of the Great Northern Heights Subdivision.

WHEREAS, in 2006, the Whitefish City Council approved the preliminary plat for Phase 3 of the Great Northern Heights Subdivision, for 21 single-family homes. The applicant, Hilltop Partners, LLC received an extension in 2008, but in 2010 the preliminary plat expired; and

WHEREAS, Phase 3 is located within the larger Great Northern Heights neighborhood that includes 49 single-family lots and 22 townhouse sublots (planned unit development overlay); and

WHEREAS, an overall park master plan was adopted by the Whitefish City Council on November 1, 2004, for the required parkland dedication for all phases of Great Northern Heights neighborhood; and

WHEREAS, in 2012, the Whitefish City Council approved an amendment to the 2004 PUD for Phase 1B for the townhouse lots to allow for 50% lot coverage for single-story buildings on Lots T-1 through T-8, but limited two-story buildings to the standard 35% lot coverage, subject to the original conditions with three additional conditions of approval; and

WHEREAS, the Whitefish Planning and Building Department received an application from Hilltop Partners, LLC for a preliminary plat and a planned unit development for 42 lots (21 townhouses) on 6.125 acres located to the west of the Great Northern Heights neighborhood off Great Northern Drive and Brimstone Drive, but that application was withdrawn in July 2013 in order to provide a revised plan; and

WHEREAS, Hilltop Partners LLC revised its proposal from 42 lots (21 townhouses) to 32 lots (20 single-family lots and 12 townhouse lots), and the Whitefish Planning staff prepared Staff Report WPP 13-01/WPUD 13-03 dated September 12, 2013; and

WHEREAS, at a lawfully noticed public hearing held on September 19, 2013, the Whitefish City-County Planning Board received Staff Report WPP 13-01/WPUD 13-03, reviewed the applicant's revised proposal for 32 lots (20 single-family lots and 12 townhouse lots), considered public input, and thereafter recommended denial of the project; and

WHEREAS, the applicant's revised proposal for 32 lots was scheduled before the Whitefish City Council on October 21, 2013. The applicant pulled its proposal from the meeting agenda to further revise the project for resubmission to the Whitefish City-County Planning Board; and

WHEREAS, following receipt of the applicant's revised proposal for a 24-lot subdivision (single-family), with a PUD overlay to accommodate the design of the project due to the wetland buffer under the Water Quality Protection Regulations, WCC §11-3-29B(9), Planning Staff revised their analysis to include the revised proposal in Staff Report WPP 13-01/WPUD 13-03, now dated November 14, 2013; and

WHEREAS, at a lawfully noticed public hearing on November 21, 2012, the Whitefish City-County Planning Board considered the applicant's request, the revised

November 14, 2013 Staff Report WPP 13-01/WPUD 13-03, invited public input, and thereafter recommended approval of the preliminary plat and planned unit development for Phase 3 of the Great Northern Heights Subdivision, and deviation from the zoning standards as requested by Hilltop Partners LLC, subject to the conditions as shown on Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, at a lawfully noticed public hearing on December 2, 2013, the Whitefish City Council received an oral report and the written Staff Report WPP 13-01/ WPUD 13-03, considered public input, discussed the requested preliminary plat approval, planned unit development overlay, subject to the conditions of approval, Exhibit "A", and proposed zoning standards deviation; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the preliminary plat and planned unit development, subject to the conditions of approval, Exhibit "A", and approve the deviation from the zoning standards; and

WHEREAS, the proposed PUD amendment, subject to the conditions of approval, will be compatible with and conform to the City-County Growth Policy and the City zoning regulations contained in Title 11 of the Whitefish City Code and will not adversely affect the appropriate development of the community.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: All of the recitals set forth above are adopted as Findings of Fact.

Section 2: The City Council hereby approves and adopts as Findings of Fact Staff Report WPP 13-01/WPUD 13-03.

Section 3: The City Council hereby approves the preliminary plat and planned unit development, for Phase 3 of the Great Northern Heights Subdivision, subject to the conditions of approval as shown on Exhibit "A," attached hereto and incorporated herein by reference, and deviation from the zoning standards.

Section 4: The Zoning Administrator is authorized and directed to amend the official zoning map to carry out the terms of this Ordinance.

Section 5: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2014.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

Exhibit "A"
Conditions of Approval

1. The subdivision shall comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.
2. Except as amended by these conditions, the development of the subdivision and planned unit development shall be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as "approved plans" by the City Council.
3. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, trails, sidewalks, driveways, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (City Engineering Standards, 2009)
4. Approval of the preliminary plat is subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2009)
5. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
 - Dust abatement and control of fugitive dust.
 - Hours of construction activity.
 - Noise abatement.
 - Control of erosion and siltation.
 - Routing for heavy equipment, hauling, and employees.
 - Construction office siting, staging areas for material and vehicles, and employee parking.

- Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
 - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
 - Notation of any street closures or need to work in public right-of-way.
(City Engineering Standards, 2009)
6. Street lighting shall be required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting shall be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (Zoning Regulations §11-3-25; City Engineering Standards, 2009)
 7. The Fire Marshal shall approve the placement and design of all fire hydrants-prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-18; Engineering Standards, 2009)
 8. A Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the storm drainage, water and sewage facilities for the subdivision. (Subdivision Regulations, Appendix C)
 9. The design of the stormpond shall be such that it is an integral part of the open space for the subdivision. This shall include a landscaping plan to be reviewed and approved by the Planning Department. (Staff Report, Finding 3)
 10. A report shall be submitted with the final buffer averaging details. This report shall indicate the overall area required, the amount being reduce and a 'to scale' drawing showing the minimum width of no less than 50-feet. (Staff Report, Finding 3; Zoning Regulations §11-3-29C)
 11. The final wetland buffer restoration plan shall be submitted to Planning and Public Works Departments for review and approval. A financial guarantee of 125% of the restoration plant materials and installation to be held for the 5-year monitoring period and shall be held by the city. (Staff Report, Findings 3; Zoning Regulations §11-7-10E)
 12. A split rail fence or some other delineation, with the exception of chain link, along the restored wetland buffer shall be installed and maintained for the life of the project. The proposed delineation shall be reviewed and approved by the Planning Department prior to its installation. (Staff Report, Finding 3)
 13. A uniform fencing system, no chain link, is required on the west boundary of Phase 3. This fence shall be reviewed and approved by the Planning Department prior to its installation. (Staff Report, Finding 5)
 14. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners' association. (Subdivision Regulations §12-4-30)

15. The following notes shall be placed on the face of the plat:
 - House numbers shall be located in a clearly visible location.
 - The neighboring agricultural use pre-dates the Great Northern Heights development and these agricultural uses are completely lawful. Trespassing without landowner consent, harassing livestock and destruction of property such as fences are illegal and can be enforced by the appropriate law enforcement agencies.(Subdivision Regulations §12-4-6; Staff Report Finding 5; City Engineering Standards, 2009)
16. A 10-foot utility easement shall be located along the front of the lots. (Subdivision Regulations §12-4-29)
17. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Subdivision Regulations §12-4-24)
18. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) for Great Northern Heights, Phase 3 Subdivision Homeowners' Association (HOA) providing for:
 - Long-term maintenance of the open spaces;
 - Long-term weed management plan. The weed management plan shall be submitted to the Planning Department for review and approval prior to final plat; and
 - Long-term maintenance plan for drainage and storm water management facilities.(Subdivision Regulations §12-4-30; Staff Report Finding 3; City Engineering Standards, 2009)
19. The Great Northern Heights Phase 3 preliminary plat and planned unit development is approved for three years from Council action. (Subdivision Regulations, §12-3-8)
20. The number of lots on the west side of Brimstone Drive shall not exceed 12.

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Return to: Necile Lorang, City Clerk
City of Whitefish
PO Box 158
Whitefish, MT 59937-0158

OATH OF OFFICE

I, _____, City Councilor of the City of Whitefish, Montana, do solemnly swear that I will support, protect, and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity, so help me God.

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ day
of _____, 2014.

Necile Lorang, City Clerk

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RESOLUTION NO. 14-_____

A Resolution of the City Council of the City of Whitefish, Montana, amending Resolution No. 13-10 to extend the duration of the Highway 93 West Corridor Plan Steering Committee through June 30, 2014.

WHEREAS, on May 20, 2013, the Whitefish City Council adopted Resolution No. 13-10, which created a Highway 93 West Corridor Plan Steering Committee (the "Committee"). Resolution No. 13-10 provided for the Committee to disband no later than January 1, 2014, or earlier if the City Council completes its consideration of the Plan prior to that date; and

WHEREAS, the Committee is still working in an advisory role to the Planning Consultant, WGM Group, and the kick off and visioning sections of the planning process have been completed; and

WHEREAS, the consultant is now preparing a draft plan document, including existing conditions, hardscape design, future land use maps, possible new zoning district, and identification of implementation activities, which will take several more months; and

WHEREAS, during the Committee's December 12, 2013 visioning meeting, the Consultant recommended the Committee be expanded through June 30, 2014, to allow the Committee's continued participation in the development of the Corridor Plan with the City Council and public process; and

WHEREAS, it will be in the best interests of the City of Whitefish to extend the term of the Committee to June 30, 2014, or earlier if the City Council completes its consideration of the Highway 93 West Corridor Plan prior to that date.

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

Section 1: That Section 4 of Resolution No. 13-10 is hereby amended in its entirety to provide as follows:

Section 4: The Committee will begin its deliberations as soon as practical after creation of the Committee. The Committee shall meet for two hours at a time on at least six occasions, with the dates and times to be determined by the Planning Consultant, WGM Group. The Committee shall be disbanded as of ~~January 1, 2014~~ **June 30, 2014**, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

Section 2: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS _____ DAY OF _____, 2014.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

PLANNING & BUILDING DEPARTMENT
510 Railway Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



December 30, 2013

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

Re: Final Plat for Dear TRACS Subdivision; WFP 13-04

Honorable Mayor and Council Members:

This office is in receipt of a final plat application from Dear TRACS llc. This is a 2-lot subdivision located at 6348 Highway 93 S. The property is zoned WB-2 (Secondary Business District) and WLR (One-Family Limited Residential District). Preliminary plat approval was granted by the City Council on January 18, 2011, subject to 15 conditions.

Following is a list of the conditions of approval and a discussion of how they have been met.

COMPLIANCE WITH PRELIMINARY PLAT CONDITIONS OF APPROVAL:

Condition 1. That the final plat is in substantial compliance with the preliminary plat and the subdivision regulations per WCC Title 12 as approved unless modified by the conditions of approval.

- Condition met. The final plat conforms to the applicable city codes.

Condition 2. That necessary public improvements required to service this subdivision shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's engineering standards and the Whitefish Subdivision Regulations. The Public Works Department shall provide a letter stating that the plans and specifications for the development have been reviewed and approved in accordance with City standards or are otherwise not applicable. (City Engineering Standards, 2009)

- Condition met. The City of Whitefish Public Works Department reviewed and approved the public improvements.

Condition 3. The sewer and water mains shall be extended to the western boundary of Baker Avenue extension and then to the northern boundary within the Baker Avenue

right-of-way, in accordance with the Whitefish Engineering Standards. (City Engineering Standards, General Provisions 1.3, 2009)

- Condition met. Water and sewer mains were installed and inspected according to the approved plans. See attached letter.

Condition 4. That a Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the water and sewage treatment facilities for the subdivision. (Subdivision Regulations, Appendix C)

- Condition met. See attached letter from DEQ.

Condition 5. The developer shall dedicate an 80-foot right-of-way for Baker Avenue extension. Similar to the location shown on the preliminary plat. The final location of this right-of-way shall be determined by the Public Works Department prior to final plat and detailed by the subdivider's surveyor. (Finding of Fact 4, South Whitefish Transportation Plan, October 1999)

- Condition met. An 80-foot right-of-way dedicated to the City of Whitefish is shown on the plat.

Condition 6. That the developer shall waive the right to protest the SID for construction of Baker Avenue. (Finding of Fact 4)

- Condition met. This is noted on the plat.

Condition 7. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Subdivision Regulations § 12-4-29)

- Condition met. See note #3 on the face of the plat.

Condition 8. That all noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner. (Subdivision Regulations, Appendix D)

- Condition met. See note #4 on the face of the plat.

Condition 9. No trees on Lot 2 shall be removed until a development plan has been reviewed and approved by the city. Dead or diseased trees may be removed prior to a development plan. Future development on this lot shall integrate healthy trees into its design. (Subdivision Regulations § 12-4-5)

- Condition met. There are not immediate development plans for this lot; therefore, note #5 addresses this condition for future development plans.

Condition 10. That a tree preservation plan be adopted for Lot 1 subject to the following conditions:

- Prior to any grading or clearing, submit a site plan indicating all protected trees 4 inches at DBH (diameter at breast height) and greater that lie outside the building footprints.
- Indicate species, size and location.
- Indicate lot corners in the field.
- Indicate outer limits of structure corners on site plan.
- To insure proper root protection, all protected trees shall be barricaded to the dripline prior to any construction activity.
- A natural tree buffer of 20-feet along the western property line shall be preserved and delineated on the final plat and in the field. No trees within this buffer shall be removed with the exception of dead or diseased trees.
- Contact the Planning Department for a field inspection prior to any construction activity. (Subdivision Regulations § 12-4-5, Finding of Fact 3)

- Condition met. See note #6 on the face of the plat.

Condition 11. That a note shall be placed on the face of the final plat requiring addresses be posted in a clearly visible location. (Subdivision Regulations, Appendix D)

- Condition met. See note #7 on the face of the plat.

Condition 12. That the development of Lot 1 shall include adequate fire access or sprinklering of the residence. A letter shall be obtained from the Whitefish Fire Marshal stating that all of the required improvements comply with applicable fire codes and conditions of approval. (Subdivision Regulations § 12-4-19)

- Condition met. See attached email from the Whitefish Fire Marshal.

Condition 13. That a mail facility shall be provided by the developer and approved by the local post office. (Subdivision Regulations § 12-4-23)

- Condition met. See attached letter from the Whitefish Post Office.

Condition 14. That all utilities shall be placed underground. (Subdivision Regulations § 12-4-28)

- Condition met. See note #9 on the face of the plat.

Condition 15. That the preliminary plat is valid for a period of three years from the date of approval. (Subdivision Regulations § 12-3-8)

- Condition met. The project was approved by the Whitefish City Council on January 18, 2011 and will be on the January 6, 2014 Council agenda, which is within the timeframe.

Please be advised that the Council should act on this application within 30-days following receipt of this recommendation.

Sincerely,



Wendy Compton-Ring, AICP
Senior Planner

Attachments: 2 reproducible Mylar of final plat
Final plat application (received 12-13-13)
Letter – applicant (12-10-13)
Treasurer’s Certification (12-12-13)
Letter – DEQ, EQ#14-1366 (11-13-13)
Letter, Carver Engineer (12-23-13)
Certificate of Title, Fidelity National Title Insurance Company, File No. FTFH-02-FT20130972 (12-2-13)
Consent to Plat, Whitefish Credit Union (12-11-13)
Email, Joe Page, Fire Marshal (10-28-13)
Letter, USPS (10-24-13)

c/w/att: Necile Lorang, Whitefish City Clerk

c/wo/att: Dear TRACS llc, Holly Carbo 6348 Highway 93 S Whitefish, MT 59937
Sam Cordi Land Surveying, Skip Sibson, PO Box 323 Whitefish, MT 59937

FINAL PLAT OF DEAR TRACS SUBDIVISION

IN THE NW1/4 SE1/4, SEC.1, T30N, R22W, P.M.,M.,
FLATHEAD COUNTY, MONTANA

CERTIFICATE OF DEDICATION

I, Holly Carbo, managing member of Dear Tracs, LLC., the undersigned property owner, do hereby certify that I have caused to be surveyed and platted into lots all the following described property as described in the Certificate of Dedication, and shown by the annexed plat or map and situated in Flathead County, Montana:

Commencing at the southwest corner of the Northwest one-quarter of the Southeast one-quarter (NW1/4SE1/4) of said Section One (1); thence North00°20'35"East 242.51 feet along the westerly boundary of said Northwest one-quarter of the Southeast one-quarter (NW1/4SE1/4) of Section One (1) to the TRUE POINT OF BEGINNING of the tract of land herein described; thence North00°20'35"East 617.94 feet along said westerly boundary; thence South87°40'02"East 1240.83 feet to the westerly right of way of U.S. Highway number 93; thence South02°35'28"West 206.09 feet along said westerly right of way; thence North87°38'54"West 1082.82 feet; thence South02°21'01"West 273.79 feet; thence North87°49'44"West 87.45 feet; thence South02°02'34"West 178.98 feet; thence North52°39'37"West 71.50 feet to the point of beginning and containing 7.008 acres of land, gross measure, more or less. All as shown hereon.

Subject to and together with all appurtenant easements of record.

The above described tract of land shall hereafter be known as "DEAR TRACS SUBDIVISION," and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Also, Dear TRACS, LLC., the undersigned property owner hereby waives any and all right of protest which it may have in regards to any attempt to be made by the City of Whitefish, Montana, to initiate a Special Improvement District within the City of Whitefish for the purpose of the future construction of Baker Avenue; however, it understands that it retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District. Dear TRACS, LLC. agrees that this covenant shall run to, with, and be binding upon the title of the real property described above, and shall be binding upon its heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the above-described real property.

Furthermore, Lot 2 is excluded from review by the Department of Environmental Quality pursuant to ARM 17.36.605(2)(b)(i)(ii), "a parcel that has no existing facilities for water supply, wastewater disposal, or solid waste disposal other than those that were previously approved by the reviewing authority or that were exempt from such review if no new facilities will be constructed on the parcel and the division will not cause approved facilities to violate any conditions of approval, and will not cause exempt facilities to violate any conditions of exemption."

In witness whereof, I have caused my hand to be set on this _____ day of _____, _____.

HOLLY CARBO, managing member of Dear TRACS, LLC.

STATE OF _____)
County of _____) SS

On this _____ day of _____, _____, before me, the undersigned, a Notary Public for the State of _____, personally appeared HOLLY CARBO, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of _____
Residing at _____
My Commission expires _____

CERTIFICATE OF CITY COUNCIL

We, _____, Mayor for the City of Whitefish, and _____, City Clerk of Whitefish, do hereby certify that the accompanying plat was duly examined and approved by the City Council of the City of Whitefish at its regular meeting held on _____ day of _____, _____.

Mayor of Whitefish, Montana City Clerk of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY

I, _____, City Attorney for the City of Whitefish, do hereby certify that I have examined the Certificate of Title by a licensed title company on the land described in the Certificate of Dedication on the Plat of DEAR TRACS SUBDIVISION, and find that

_____ are the owners in fee simple of the land so platted. Dated this _____ day of _____, _____.

City Attorney for the City of Whitefish

CERTIFICATE OF CITY ENGINEER

I, _____, City Engineer for the City of Whitefish, Montana, do hereby certify that the accompanying plat conforms to the adjoining additions of plats in the City of Whitefish, Montana which are already platted, as near as circumstances will permit.

City Engineer of Whitefish, Montana
Reg. No. _____

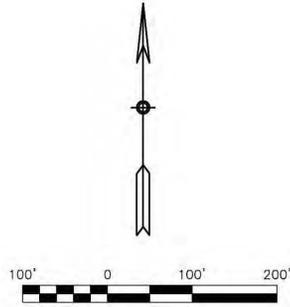
CERTIFICATE OF SURVEYOR

THOMAS BIRBAUM-REGISTRATION NO. 19827-LB
APPROVED: _____

EXAMINING LAND SURVEYOR REG. NO. 84298
STATE OF MONTANA
County of Flathead SS
Filed on the _____ day of _____
A.D. _____ at _____ o'clock _____ M.

CLERK AND RECORDER
BY: _____
DEPUTY
INSTRUMENT REC. NO. _____

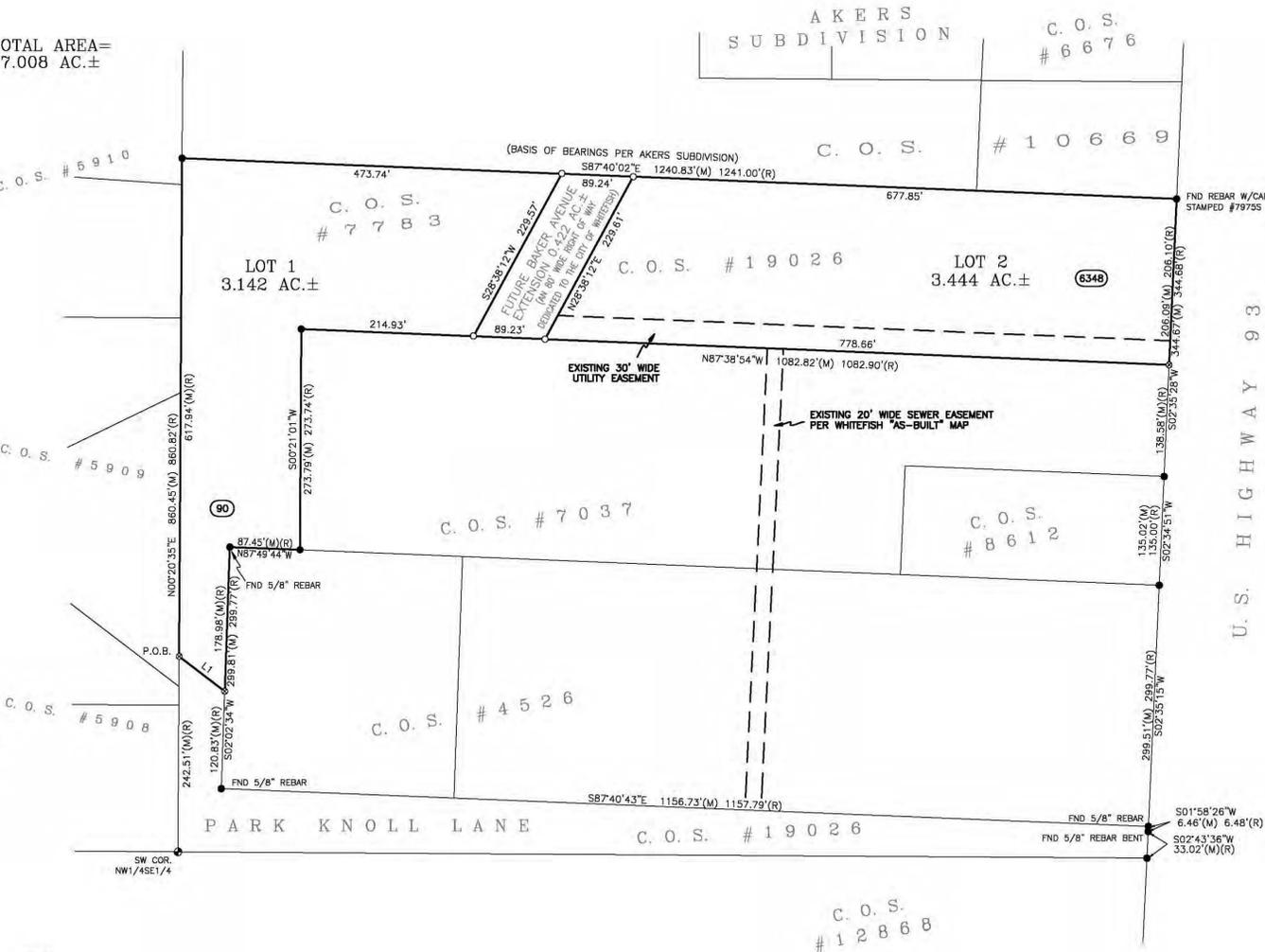
TOTAL AREA=
7.008 AC.±



LINE	BEARING	DISTANCE
L1	N52°39'37"W	71.50'(M)(R)

LEGEND

- C-S 1/16 CORNER SECTION 1 FOUND REBAR W/CAP STAMPED #4739S
- FOUND REBAR W/CAP STAMPED #4739S (UNLESS OTHERWISE NOTED)
- FOUND REBAR W/CAP STAMPED #13102LS
- SET 5/8" X 24" REBAR W/PLASTIC CAP STAMPED #15627LS
- COMPUTED POINT
- P.O.B. POINT OF BEGINNING
- (M) MEASURED DISTANCE
- (R) RECORDED DISTANCE
- (6348) PROPERTY ADDRESS



NOTES

- 1) NO PARK DEDICATION REQUIRED - EXCEPTION CONTAINED IN SECTION 79-3-621(3)(a), MCA.
- 2) PARK KNOLL LANE IS THE PRIMARY ACCESS FOR LOT 1 OF THIS SUBDIVISION PURSUANT TO THE EASEMENT AGREEMENT BETWEEN DEAR TRACS, LLC, AND THE PARK KNOLL ESTATES HOMEOWNERS' ASSOCIATION, RECORDS OF FLATHEAD COUNTY, MONTANA, DOCUMENT NO. 2010-000-21825.
- 3) ALL AREAS DISTURBED BECAUSE OF ROAD AND UTILITY CONSTRUCTION SHALL BE RE-SEEDED AS SOON AS PRACTICAL TO INHIBIT EROSION AND SPREAD OF NOXIOUS WEEDS.
- 4) ALL NOXIOUS WEEDS, AS DESCRIBED BY WHITEFISH CITY CODE, SHALL BE REMOVED THROUGHOUT THE LIFE OF THE DEVELOPMENT BY THE RECORDED PROPERTY OWNER.
- 5) NO TREES ON LOT 2 SHALL BE REMOVED UNTIL A DEVELOPMENT PLAN HAS BEEN REVIEWED AND APPROVED BY THE CITY OF WHITEFISH.
- 6) PRIOR TO ANY DEVELOPMENT OF LOT 1, A TREE PRESERVATION PLAN SHALL BE ADOPTED, SUBJECT TO THE CONDITIONS LISTED WITHIN CONDITION OF APPROVAL #10 OF THE PRELIMINARY PLAT APPROVAL (WPP 10-31, DATED JANUARY 18, 2011).
- 7) HOUSE NUMBERS ARE REQUIRED TO BE POSTED ON THE HOUSE IN A CLEARLY VISIBLE LOCATION OR AT THE DRIVEWAY ENTRANCE.
- 8) THE DEVELOPMENT OF LOT 1 SHALL INCLUDE ADEQUATE FIRE ACCESS OR SPRINKLERING OF THE RESIDENCE, IN COMPLIANCE WITH ALL APPLICABLE FIRE CODES OF THE CITY OF WHITEFISH.
- 9) ALL UTILITIES SHALL BE PLACED UNDERGROUND.

SAM CORDI
REGISTERED LAND SURVEYOR
974 COLORADO AVE.
P.O. BOX 323
WHITEFISH, MT 59937
PHONE: (406)-862-9977



City of Whitefish
Planning & Building Department
 PO Box 158
 510 Railway Street
 Whitefish, MT 59937
 Phone: 406-863-2410 Fax: 406-863-2409

File #: 13-04
 Date: 12-12-13
 Intake Staff: _____
 Date Complete: _____

FINAL PLAT APPLICATION

FEE ATTACHED \$ 1456.00
 (See most current fee schedule)

Project /Subdivision Name: Dear TRACs Subdivision

OWNER(S) OF RECORD:

Name: Dear TRACs, LLC., Holly Carbo, managing member Phone: 249-7818

Mailing Address: 6348 US Highway 93 South

City, State, Zip: Whitefish, MT 59937

Email: _____

APPLICANT (if different than above):

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

TECHNICAL/PROFESSIONAL:

Name: Sam Cordi Land Surveying Phone: 862-9977

Mailing Address: PO Box 323

City, State, Zip: Whitefish, MT 59937

Email: scordi@centurytel.net, tesibson@hotmail.com

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

Date of Preliminary Plat Approval: January 18, 2011

Type of Subdivision: Residential _____ Industrial _____ Commercial _____ PUD _____ Other _____

Total Number of Lots in Subdivision 2 Land in Project (acres) 7.008 Acres

Parkland (acres) 0 Cash-in-Lieu \$0 Exempt _____

NUMBER OF LOTS BY TYPE:

Single Family: 1 Townhouse: _____ Mobile Home Park: _____ Duplex: _____ Apartment: _____

Recreational Vehicle Park: _____ Commercial: 1 Industrial: _____ Planned Unit Development: _____

Condominium: _____ Multi-Family: _____ Other: _____

Legal Description of the Property: Assessor Tract 3AB of Section 1, T30N, R22W, P.M.,M.,

Tract 1 of C.O.S. #19026

All applicable items required by *Appendix C: Final Plat Contents of the Whitefish Subdivision Regulations* must be submitted with the application for final plat including the following. Check items attached or not applicable.

<u>Not</u> <u>Applicable</u>	<u>Attached</u>	(MUST CHECK ONE)
_____	✓	Cover letter listing each condition of approval and individually state how each condition is specifically met. In cases where documentation is required, such as an engineer's certification, State Department of Health certification, etc., original letters shall be submitted. Blanket statements stating, for example, "all improvements are in place" are not acceptable.
_____	✓	Montana DEQ Health Department Certification (<i>Original</i>)
_____	✓	Title Report (<i>Original, not more than 90 days old</i>)
_____	✓	Tax Certification (<i>Property taxes must be paid</i>)
_____	✓	Consent(s) to Plat (<i>Originals and notarized</i>)
_____	_____	Engineer's Certification (<i>Original</i>)
_____	_____	Subdivision Improvements Agreement (<i>Attach collateral</i>)
_____	<i>N/A</i>	Engineering Improvements (<i>sidewalks, walkways, street lights, street signs, solid waste facilities, utilities</i>)
_____	_____	Landscaping Improvements (<i>landscaping, street trees, parkland improvements – trails, park facilities,)</i>
_____	<i>N/A</i>	Parkland Cash-in-Lieu (<i>Check attached payable to City of Whitefish</i>)
_____	<i>N/A</i>	Maintenance Agreement (<i>as applicable: stormwater facility, private roads, parks, etc</i>)
_____	<i>N/A</i>	Articles of Incorporation and Conditions, Covenants & Restrictions
_____	<i>N/A</i>	Approach Permit (<i>when applicable</i>)
_____	✓	Plat: signed mylars: 2, 24" x 36" paper copy: 2, 11" x 17" paper copy: 1 and .pdf The plat must be signed by all owners of record, the surveyor and the examining land surveyor.

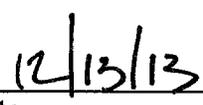
A complete final plat application must be submitted no less than **90 days** prior to expiration date of the preliminary plat.

When all application materials are submitted to the Planning & Building Department, and the staff finds the application is complete, the staff will submit a report to the City Council. Incomplete submittals will not be accepted and will not be forwarded to the Council for approval. Changes to the approved preliminary plat may necessitate reconsideration by the Planning Board.

I certify that all information submitted is true, accurate and complete. I understand that incomplete information will not be accepted and that false information will delay the application and may invalidate any approval. The signing of this application signifies approval for Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.



 Owner(s) Signature



 Date

****NOTE:** Please be advised that the County Clerk & Recorder and the City of Whitefish request that all subdivision final plat applications be accompanied with digital copies.

****A digital copy of the final plat in a Drawing Interchange File (DXF) format or an AutoCAD file format, consisting of the following layers:**

1. Exterior boundary of subdivision
2. Lot or park boundaries
3. Easements
4. Roads or rights-of-way
5. A tie to either an existing subdivision corner or a corner of the public land survey system

SAM CORDI

Land Surveying and Mapping, Inc.



P.O. Box 323 • Phone & Fax: (406) 862-9977 • Cell: (406) 249-9902 • Whitefish, MT 59937 • e-mail: scordi@centurytel.net

Wendy Compton-Ring, AICP
City of Whitefish
Planning & Building Department
510 Railway Street
Whitefish, MT 59937

December 10, 2013

RE: Final Plat Application of Dear TRACs Subdivision

Dear Wendy,

Enclosed you will find the maps and documents required for Final Plat Approval of Dear TRACs Subdivision. On January 18, 2011, the City Council granted Preliminary Plat Approval with conditions of approval. The conditions of approval are addressed as follows:

1. In addition to the signed Application by the developer, the following documents are hereby submitted: a Title Report, a Tax Certification, and a Consent to Plat Certification; therefore, the Final Plat complies with the Preliminary Plat and subdivision regulations per WCC Title 12.
2. The final plat is in compliance with the preliminary plat and the subdivision regulations per WCC Title 12.
3. The public improvements required to service the subdivision has been designed and constructed under the supervision of a licensed engineer. The Whitefish Public Works Department reviewed and approved the plans of said improvements. See Engineer's certification and letter from the Public Works Department.
4. The sewer and water mains have been extended to the western and northern boundaries of the Baker Avenue extension. See Engineer's certification and letter from the Public Works Department.
5. The Montana Department of Environmental Quality has approved the water and sewage treatment facilities for the subdivision and a Municipal Facilities Exclusion has been granted. See approval letter from the MT DEQ.
6. An 80-foot wide right-of-way has been dedicated for a Baker Avenue extension. See face of plat, dedication language within Owner's Certification, and the South Whitefish Neighborhood Conceptual Major Street System Exhibit provided to this firm by the City.
7. The developer waives the right to protest the SID for construction of Baker Avenue. See waiver within the Owner's Certification on face of plat.
8. Per the approved construction plans, all areas disturbed because of road and utility construction will be reseeded weather permitting this spring. See Note #3 of face of plat.
9. Noxious weeds will be removed throughout the life of the development. See Note #4 on face of plat.
10. No trees will be removed prior to the review and approval of a development plan by the City. See Note #5 on face of plat.

11. A tree preservation plan must be adopted prior to the development of Lot 1. See Note #6 on face of plat.
12. Property addresses are assigned and labeled on plat. Also, addresses will be posted in a clearly visible location. See Note #7 on face of plat.
13. The development of Lot 1 will include sprinklering of the residence, per Whitefish Fire Code. See e-mail correspondence with Assistant Chief Joe Page, and Note #8 on face of plat.
14. The USPS has approved a mail facility and location for Lot 1. See letters from Supervisor Scott White of the Whitefish USPS.
15. All utilities will be placed underground. See Note #9 on face of plat.
16. Preliminary Plat approval expires January 18, 2014.

If you have any questions or concerns regarding this application, please call me or Sam at this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Skip Sibson". The signature is written in a cursive, flowing style.

Thomas "Skip" Sibson, LS



Plat Room
Flathead County, Montana
800 S. Main St.
Kalispell, MT 59901
(406) 758-5510

This Form is for Subdivisions Only

BY : CORDI

FOR : Dear TRACS LLC

DATE : 10/30/13

DESCP : DEAR TRACS SUB
(Tr. 3AB in 1-30-22)

PURPOSE : SUB.

YEARS

ASSESSOR #

2009 THRU 2013

0195850

I hereby certify that there are no outstanding taxes on the property assigned the assessor numbers listed above, for the years indicated for each assessor number.

DEC 12 2013

Marla Robert

Deputy Treasurer
(seal)





"Healthy environment, healthy people"

**Montana Department of
ENVIRONMENTAL QUALITY**

Steve Bullock, Governor
Tracy Stone-Manning, Director

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.mt.gov

November 13, 2013

Carver Engineering
1995 Third Avenue East
Kalispell MT 59901

RE: Dear TRACs
Municipal Facilities Exclusion
EQ#14-1366
City of Whitefish
Flathead County

Dear Sirs;

This is to certify that the information and fees received by the Department of Environmental Quality relating to this subdivision are in compliance with 76-4-127, MCA and ARM 17.36.602. Under 76-4-125(2)(d), MCA, this subdivision is not subject to review, and the plat can be filed with the county clerk and recorder.

Plans and specifications must be submitted when extensions of municipal facilities for the supply of water or disposal of sewage are proposed {76-4-111 (3), MCA}. Construction of water or sewer extensions prior to DEQ, Public Water Supply Section's approval is prohibited, and is subject to penalty as prescribed in Title 75, Chapter 6 and Title 76, Chapter 4.

Sincerely,

Janet Skaarland
Compliance Specialist
Subdivision Section
(406) 444-1801 – email jskaarland@mt.gov

cc: City Engineer
County Sanitarian
file

October 29, 2013

Andy Hyde, PE
Carver Engineering
P.O. Box 2039
Kalispell, MT 59903

**Re: City of Whitefish – Dear Tracs MFE Subdivision
Water & Sewer Main Extension Approval
EQ#14-1365**

Dear Mr. Hyde:

I have reviewed the plans and specifications for the water and sewer main extension, received October 9, 2013, under the seal of Andrew J. Hyde, license#07939PE, in accordance with Circular DEQ-1 Design Standard, 2006 Edition and Circular DEQ-2 Design Standard, 2012 Edition. The City of Whitefish approval and capacity letter were provided October 28, 2013. Municipal Facilities Exclusion (MFE) approval was given on October 29, 2013. The site stormwater runoff design and facilities are reviewed and approved by the City of Whitefish as a part of the MFE process.

The plans and specifications, received October 9, 2013, are hereby approved with the condition listed below. One copy of the plans and specifications bearing the approval stamp of the Department of Environmental Quality is enclosed. A second set will be retained as Department Record.

Condition One: The water model that included 1000 gpm fire flow is applicable provided that Lot 1 of Dear Tracs is used for a single family residence. Multi-family residential or commercial fire flows were not modeled.

Dear Tracs Subdivision proposes two lots, one commercial (currently occupied by “Organic Dry Cleaning” served by existing Highway 93 fire hydrants) and one proposed for a single family residence. The water modeling for the city of Whitefish illustrated a residual pressure of 62 psi could be maintained with a 1000-gpm fire flow. Static pressure in this area of town is approximately 70 psi.

The water main extension improvements include: approximately 260 feet of 8-inch diameter water main (C900 PVC DR18 CL150) and approximately 200 feet of 12-inch diameter water main (C900 PVC DR18 CL150) installed within the future right-of-way of Baker Avenue (extended), one connection to existing 8-inch water main, one new fire hydrant assembly, two capped dead ends and three valves.

The sewer main extension improvements include: approximately 370 feet of 8-inch diameter gravity sewer main (SDR 35 PVC) and four new manholes.

Approval is given with the understanding that any deviation from the approved plans and specifications will be submitted to the Department for reappraisal and approval. Prior to operation of the public water and wastewater system improvements, certification by the project engineer that the constructed system components were completed in accordance with plans and specifications must be submitted to the Department. Within 90 days following completion of the project, a complete set of “as-built” record drawings must be signed, stamped and submitted to the Department.

It is further understood that construction will be completed within three years of this date. If more than three years elapse before completing construction, plans and specifications must be resubmitted and approved before construction begins. This three-year expiration period does not extend any compliance schedule requirements pursuant to a Department enforcement action against a public water or sewage system.

Department approval of this project covers only those portions of the plans and specifications that are subject to the Department’s review authority under the Public Water Supply Laws (MCA 75-6) and the Administrative Rules promulgated thereunder (ARM 17.38). This approval does not cover items found within the plans and specifications that are outside of the Department’s review authority, including but not limited to: electrical work, architecture, site grading or water and sewer service connections.

Thank you for your efforts on this submittal. If you have any further questions, please contact me at (406) 755-8979 or egillespie@mt.gov.

Sincerely,



Emily J. Gillespie, P.E.
Public Water Supply and Subdivisions Bureau

cc: Holly Carbo, 525 Railway, Suite 102, Whitefish, MT 59937
John Wilson, Whitefish Public Works
Wendee Jacobs, Flathead County Environmental Health
MDEQ Plan Review File
MDEQ PWS File#MT000357



Carver Engineering

Consulting Civil Engineers

December 23, 2013

John Wilson, P.E.
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

Subject: Dear Tracs - Whitefish - EQ#14-1365
Construction Certification

Dear John:

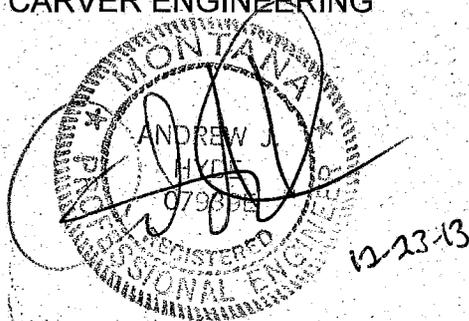
Attached please find a set of Record Drawings for the project. Also attached is a copy of the punchlist, which was prepared today. We will send digital copies of the Record Drawings to Melisa Phelps for the City's records.

Based upon our observations, it is our opinion that the work is complete, except for the items on the punchlist, and has been constructed in general conformance with the approved plans and specifications

If you have any questions or need additional information, please call me.

Sincerely,

CARVER ENGINEERING



Andrew J. Hyde, P.E.

cc: Wendy Compton-Ring, City of Whitefish Planning Department
Emily Gillespie, Montana DEQ, Kalispell
Holly Carbo, Dear Tracs LLC
Thomas Sibson, Sam Cordi Surveying

DEAR TRACS SUBDIVISION
Water & Sewer Main Extensions

PUNCHLIST

December 23, 2013

1. Cut out dent in sewer line and piece back together w/ solid, gasketed PVC coupling.
2. Clean all of the new sewer and videotape again.
3. Final restoration of project site.

FIDELITY NATIONAL TITLE INSURANCE COMPANY

SUBDIVISION CERTIFICATE OF TITLE

FIDELITY NATIONAL TITLE INSURANCE COMPANY

Certificate Number: FTFH-02-FT20130972

To the County of Flathead and the City of Whitefish in Montana

Fidelity National Title Insurance Company, a corporation duly authorized to insure titles in Montana hereby certifies that from its examination of those public records which impart constructive notice of matters affecting the title to the real estate described in Schedule A hereof, as of the 2nd day of December, 2013 at 08:00-AM the title to the described real estate was indefeasibly vested in fee simple record in:

Dear TRACs, LLC, a Montana Limited Liability Company

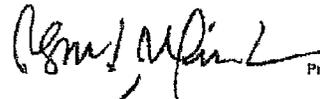
subject only to the objections, lien charges, encumbrances and other matters shown under Schedule B hereof.

The maximum liability of the undersigned under this certificate is limited to the sum of 10,000.00

This certificate of title is made in consideration of the payment of the premium by the subdivider of the land and for the use of the County and City above named.

FIDELITY NATIONAL TITLE INSURANCE COMPANY

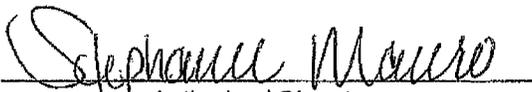
BY

 President

ATTEST

 Secretary

Countersigned:


Authorized Signature

Fidelity National Title Company
130 1st Avenue West
Kalispell, MT 59901

FDMT0332.rdw

Subdivision Guaranty
Cover

SCHEDULE A

Certificate Number: FTFH-02-FT20130972

Being the legal description of the real estate covered by this certificate.

The following described parcels of real estate:

A tract of land lying and being in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, and more particularly described as follows:

Commencing at the Southwest corner of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section One (1); thence
North 00°20'35" East 242.51 feet along the Westerly boundary of said Northwest Quarter of the Southeast Quarter of Section 1 to the True Point of Beginning of the tract of land herein described; thence
North 00°20'35" East 617.94 feet along the said Westerly boundary; thence
South 87°40'02" East 1240.83 feet to the Westerly right-of-way of U.S. Highway No. 93; thence
South 02°35'28" West 206.09 feet along said Westerly right-of-way; thence
North 87°38'54" West 1082.82 feet; thence
South 00°21'01" West 273.79 feet; thence
North 87°49'44" West 87.45 feet; thence
South 02°02'34" West 178.98 feet; thence
North 52°39'37" West 71.50 feet to the Point of Beginning.

The above described tract of land is to be known and designated as Dear Tracs Subdivision

SCHEDULE B

Certificate Number: FTFH-02-FT20130972

Being all of the estates, interests, equities, lawful claims, or demands, defects, or objections whatsoever to title; and all easements, restrictions, liens, charges, taxes (general, special, or inheritance, or assessments of whatever nature), or encumbrances; and all other matters whatsoever affecting said premises, or the estate, right, title, or interest of the record owners, which now do exist of record.

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records, or attaching subsequent to the effective date hereof but prior to the date the proposes insured acquires of records for value the estate or interest or mortgage thereon covered by this commitment

General Exceptions:

- a. Rights or claims of parties in possession not shown by the public records.
- b. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises including, but not limited to, insufficient or impaired access and matters contradictory to any survey plat shown by the public records.
- c. Easements, or claims of easements, not shown by the public records.
- d. Any lien, or right to a lien, for services, labor, or material heretofore or here after furnished, imposed by law and not shown by the public records.
- e. (a) unpatented mining claims: (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof: (c) water rights, claims or title to water, whether or not the matters accepted under (a), (b), (c) are shown by the public records.
- f. Taxes to special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
- g. County road rights-of-way, not recorded and indexed as a conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21 M.C.A, including, but not limited to any right of the Public in the County of Flathead to use and occupy those certain roads and trails.

Paragraphs 1, a, b, c, d, and f will not appear as printed exceptions on extended coverage policies, except as to such parts thereof which may be typed as a Special Exception in Schedule B-Section 2.

Special Exceptions:

2. General Taxes for the year 2013
1st Half: \$8,554.13, PAID
2nd Half: \$8,554.08, DUE and will become delinquent after May 31, 2014
Tax ID No.: 74-0195850
3. Any possible additional tax assessments because of construction and/or improvements to the property.

SCHEDULE B

Certificate Number: FTFH-02-FT20130972

4. Delinquent water and service charges of the City of Whitefish, if any, for which no investigation has been made.
5. Easement(s) and rights incidental thereto, as granted in a document:
Recording Date: January 27, 1967
Recording No.: 569 in Book 487, Page 133

Agreement to reduction of width of road easement and relocation

Recording Date: August 11, 1982
Recording No.: 11801 in Book 744, Page 878
6. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Pacific Power & Light Company
Recording Date: November 20, 1972
Recording No.: 11133 in Book 543, Page 859
7. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Pacific Power & Light Company
Recording Date: November 20, 1972
Recording No.: 11134 in Book 543, Page 860
8. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Pacific Power & Light Company
Recording Date: December 5, 1979
Recording No.: 18577 in Book 682, Page 850
9. Easement(s) and rights incidental thereto as reserved in a document:

Recording Date: April 28, 1980
Recording No.: 5200 in Book 690, Page 623
10. Memorandum of Agreement, including the terms and provisions contained therein,

Recording Date: August 11, 1982
Recording No.: 11800 in Book 744, Page 875
11. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Surveys No. 4526, 7037 and 7783. Reference is hereby made to the survey for more particulars.

SCHEDULE B

Certificate Number: FTFH-02-FT20130972

12. State of Montana Department of Environmental Quality Certificate of Subdivision Approval, attached to Certificate of Survey No. 7783

Recording Date: September 26, 1984
Recording No.: 84-270-10270

13. Easement(s) and rights incidental thereto as reserved in a document:

Recording Date: October 2, 1984
Recording No.: 84-276-11360

14. Easement(s) and rights incidental thereto, as granted in a document:

Recording Date: October 2, 1984
Recording No.: 84-276-14420

15. Resolution (Designation of Limited Access Highway)

Recording Date: December 6, 1989
Recording No.: 89-340-09150

16. Terms and provisions regarding access control, contained in instruments,

Recording Date: March 5, 1992
Recording No's.: 92-065-15070, 92-065-15080, 92-065-15090 and 92-065-15100
and
Recording Date: December 16, 1996
Recording No.: 1996-351-11270

17. Resolution No. 01-44 (Annexation)

Recording Date: November 15, 2001
Recording No.: 2001-319-12060

18. Notice of Late-Comers Agreement, including the terms and provisions contained therein,

Recording Date: January 20, 2004
Recording No.: 2004-020-08450

19. An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: Assignment of Lease by Landlord
Lessor: Dear TRACs, LLC
Lessee: Naturally Clean, Inc.
Recording Date: December 2, 2004
Recording No: 2004-337-12500

SCHEDULE B

Certificate Number: FTFH-02-FT20130972

20. An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: Assignment of Lease by Tenant

Lessor: Dear TRACs L.L.C.

Lessee: Naturally Clean, Inc.

Recording Date: March 14, 2006

Recording No: 2006-073-16230

21. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 19026. Reference is hereby made to the survey for more particulars.
22. Terms and provisions contained in Easement,
Recording Date: September 23, 2010
Recording No.: 201000021825
23. Terms and provisions contained in Easement,
Recording Date: September 23, 2010
Recording No.: 201000021826
24. Matters contained in that certain Road Maintenance Agreement which document, among other things, may provide for liens and charges.
Recording Date: September 23, 2010
Recording No: 201000021827
25. This property lies within the boundaries of Resolution No. 11-40 for Special Improvement Parking District No 155, recorded September 9, 2011 as Document No. 201100018348 and will be subject to any levies and assessments thereof.
26. This property lies within the boundaries of Resolution No. 11-43 for City's Stormwater Improvement and Maintenance District, recorded September 9, 2011 as Document No. 201100018351 and will be subject to any levies and assessments thereof.
27. This property lies within the boundaries of Resolution No. 11-44 for Special Improvement Lighting District, recorded September 9, 2011 as Document No. 201100018352 and will be subject to any levies and assessments thereof.
28. This property lies within the boundaries of Resolution No. 11-45 for Special Improvement Lighting District, recorded September 9, 2011 as Document No. 201100018353 and will be subject to any levies and assessments thereof.
29. This property lies within the boundaries of Resolution No. 11-46 for City's Street Maintenance District, recorded September 9, 2011 as Document No. 201100018354 and will be subject to any levies and assessments thereof.

SCHEDULE B

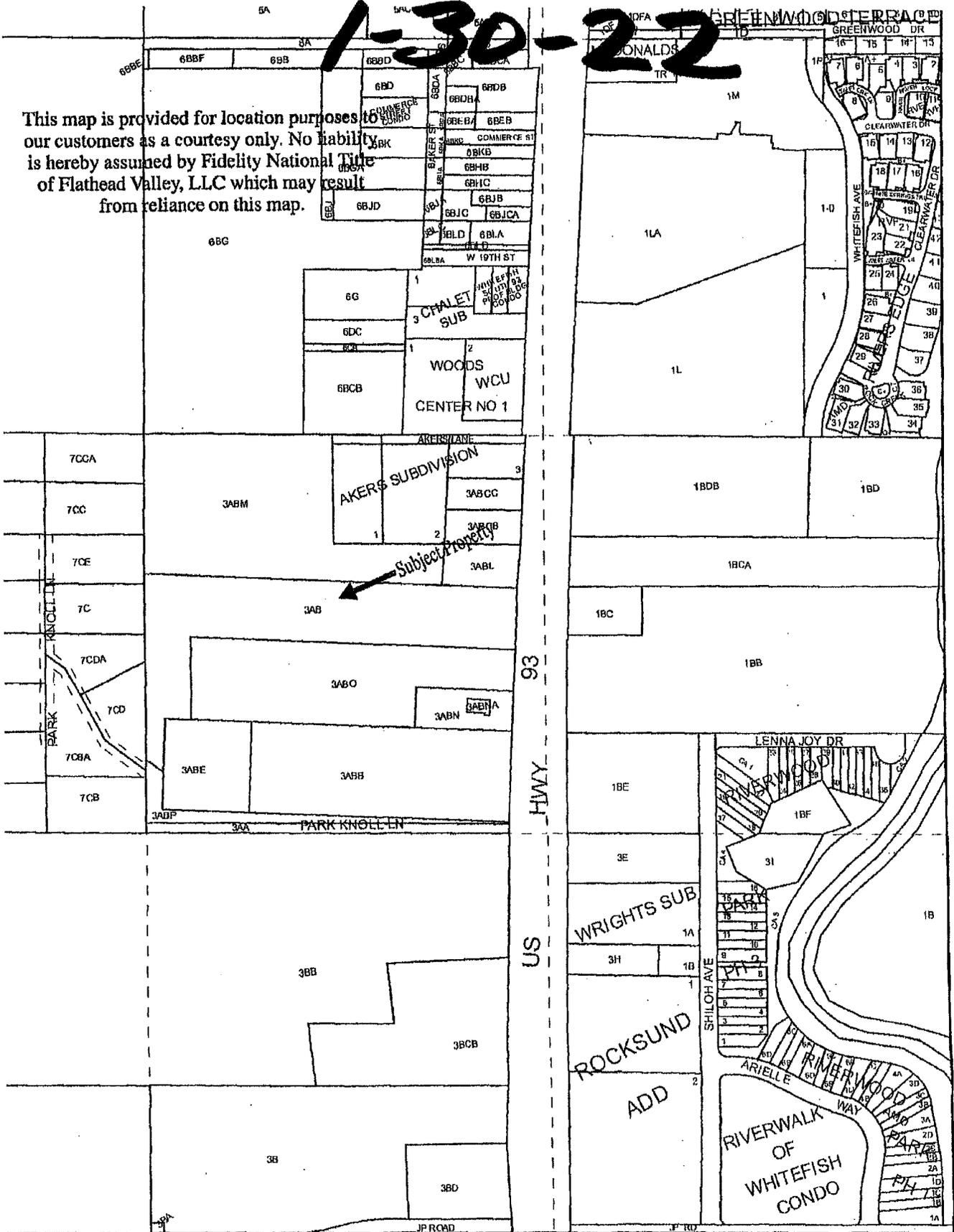
Certificate Number: FTFH-02-FT20130972

30. This property lies within the boundaries of Resolution No. 11-47 for City's Parkland and Greenway Maintenance District, recorded September 9, 2011 as Document No. 201100018355 and will be subject to any levies and assessments thereof.
31. This property lies within the boundaries of Resolution No. 11-48 for levying and assessing taxes and SID's, recorded September 9, 2011 as Document No. 201100018356 and will be subject to any levies and assessments thereof.
32. A trust indenture to secure an indebtedness in the amount shown below,
Amount: \$764,973.64
Dated: April 15, 2008
Trustor/Grantor: Dear Tracs, LLC, a Montana Limited Liability Company
Trustee: Sterling Title Services
Beneficiary: Whitefish Credit Union
Recording Date: April 22, 2008
Recording No: 200800010744
33. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as referred to on proposed survey or plat to be recorded prior to or as a part of this transaction.
34. The property lies within the boundaries of the Whitefish Fire District.
35. In order to expedite this report to you, no physical inspection of the land has been made. If a physical inspection is made, any matters found by our inspection requiring disclosure to you will be shown in a Supplemental Report.
36. The land described in the commitment/policy shall not be deemed to include any home trailer or mobile home located on the property.
37. Exceptions and reservations contained in Patents of record.

End of Schedule B

1-30-22

This map is provided for location purposes to our customers as a courtesy only. No liability is hereby assumed by Fidelity National Title of Flathead Valley, LLC which may result from reliance on this map.



CONSENTS TO PLAT
CERTIFICATION

Date: DECEMBER 11, 20 13

Flathead County Clerk & Recorder
800 South Main Street
Kalispell, Montana 59901

Re: Dear TRACs SUBDIVISION

To Whom It May Concern,

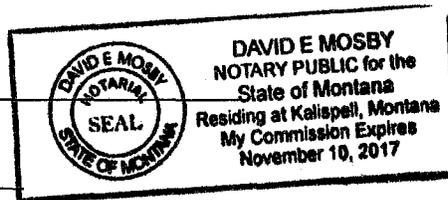
I, STEVEN L. MOSS VP-MBL - WINTERFRESH CREEK UNZEL consent to the recording of the final plat with respect to the above referenced subdivision.



STATE OF Montana)
County of Flathead) SS

On this 11th day of December, 2013, before me, the undersigned, a Notary Public for the State of Montana, personally appeared STEVEN L. MOSS, and known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same. In witness whereof I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

David E Mosby
Notary Public for the State of Montana
Residing at Kalispell, Montana
My Commission expires 11/10/17



RE: Dear TRACs Subdivision

From: **Joe Page** (jpage@cityofwhitefish.org)

Sent: Mon 10/28/13 10:47 AM

To: 'Thomas Sibson' (tesibson@hotmail.com)

Cc: Chief Tom Kennelly (tkennelly@cityofwhitefish.org); Joe Page (jpage@cityofwhitefish.org)

Skip,

Good morning

Yes – if you can't meet the access road requirements one of the conditions on the Final Plat would be an automatic sprinkler system for the residence.

Thanks

Joe

From: Thomas Sibson [mailto:tesibson@hotmail.com]

Sent: Monday, October 28, 2013 9:22 AM

To: Joe Page

Subject: RE: Dear TRACs Subdivision

Hello Joe,

Thanks for the info. So, can we just have an automatic sprinkler system? And, if so, will a note on the face of the Final Plat suffice?

I've already addressed the addresses within the notes.

Thomas "Skip" Sibson, LS
Sam Cordi Land Surveying
PO Box 323
Whitefish, MT 59937
(w)(406)862-9977
(c)(406)250-0371

From: jpage@cityofwhitefish.org

To: tesibson@hotmail.com

CC: tkennelly@cityofwhitefish.org; jpage@cityofwhitefish.org

Subject: RE: Dear TRACs Subdivision

Date: Fri, 25 Oct 2013 14:30:35 -0600

Skip,

POSTMASTER
UNITED STATES POSTAL SERVICE



October 24, 2013

Re: Dear TRACs Subdivision
Whitefish, MT-Subdivision.

To Whom It May Concern:

Please find enclosed a letter stating approval of mail delivery for the location described in your letter of 12/6/11, a copy of which I have also enclosed. This letter can be used to satisfy your requirement with the Flathead County Planning Dept. A copy has NOT been sent to them.

Mail delivery for Lot 1 as described in your letter can be affected at the primary access point on Park Knoll Lane.

If you need further information please contact me. (406) 862-2151

Thank you,

A handwritten signature in black ink, appearing to read "S. White".

Scott White
Supervisor, Customer Service
Whitefish, MT 59937
(406) 862-2151

424 BAKER AVE.
WHITEFISH, MT. 59937-9998
406-862-2151
FAX:

POSTMASTER
UNITED STATES POSTAL SERVICE



October 10, 2013

To Flathead County Planning Department

Re: Dear TRACs Subdivision
Whitefish, MT-Subdivision.

To Whom It May Concern:

The above referenced project has been reviewed, and a suitable location for mail delivery has been established.

If you need further information please contact me. (406) 862-2151

Thank you,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

Scott White
Supervisor, Customer Service
Whitefish, MT 59937
(406) 862-2151

424 BAKER AVE.
WHITEFISH, MT. 59937-9998
406-862-2151
FAX:

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PLANNING & BUILDING DEPARTMENT
510 Railway Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



December 30, 2013

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

RE: Whitcomb at 637 Somers Avenue; (WCUP 13-15)

Honorable Mayor and Council:

Summary of Requested Action: Brendan Whitcomb is requesting approval of a Conditional Use Permit to have an accessory apartment at 637 Somers Avenue. The property is currently developed with a single family home and recently constructed garage. The property is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as “Urban Residential”.

Planning Board Action: The Whitefish City-County Planning Board met on December 19, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with six (6) conditions as contained in the staff report and adopted the staff report as findings of fact. (Vail, Konapatzke and Anderson were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with six (6) conditions set forth in the attached staff report.

Public Hearing: The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on January 6, 2014. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in cursive script that reads "Wendy Compton-Ring".

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A: Recommended Conditions of Approval

Draft Minutes of 12-19-13 Planning Board Meeting

Exhibits from 12-19-13 Staff Packet

1. Staff Report – WCUP 13-15, 12-12-13
2. Adjacent Landowner Notice, 11-22-13
3. Advisory Agency Notice, 11-22-13

The following were submitted by the applicant:

4. Application for Conditional Use Permit, 10-16-13

c: w/att Necile Lorang, City Clerk

c: w/o att Brendan Whitcomb, PO Box 5233 Whitefish, MT 59937

Exhibit A
Whitcomb Accessory Apartment
WCUP 13-15
Whitefish City-County Planning Board
Recommended Conditions of Approval
December 19, 2013

1. The project shall be constructed in compliance with the plans submitted on November 4, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.
2. All storm water generated by the proposal shall be retained on-site.
3. The applicant shall be required to obtain a building permit from the City of Whitefish for the proposed accessory apartment.
4. One off-street parking space shall be designated for the accessory apartment and two off-street parking spaces shall be designated for the primary residence.
5. Prior to building permit issuance, the property owner shall provide the City a recorded copy of either a deed restriction or a restrictive covenant that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure.
6. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

**WHITEFISH CITY PLANNING BOARD
MINUTES OF MEETING
DECEMBER 19, 2013**

**CALL TO ORDER AND
ROLL CALL**

The regular meeting of the Whitefish City-County Planning Board was called to order at 6:00 p.m. Board members present were Rick Blake, Ken Meckel, Diane Smith, Chad Phillips and Greg Gunderson. Dennis Konapatzke, Mary Vail and Zak Anderson were absent. Planning Director Taylor represented the Whitefish Planning & Building Department.

APPROVAL OF MINUTES

Gunderson offered an amendment on Page 11, under Board Discussion, and said he would like paragraph 2 to replace the word "wetland" with "the neighboring conservation easement." Smith moved and Blake seconded to approve the November 21, 2013 City minutes of the Whitefish Planning Board as amended. On a vote by acclamation the motion passed unanimously.

**PUBLIC ITEMS NOT ON
AGENDA**

Ken Stein said he would see them next month as a board member. No else one wished to speak.

OLD BUSINESS

None.

**WHITCOMB
CONDITIONAL USE
PERMIT REQUEST**

A request by Brendan Whitcomb for a Conditional Use Permit in order to construct an accessory apartment on the 2nd floor of a recently constructed garage. The property is located at 637 Somers Avenue.

**STAFF REPORT WCUP 13-
15**

Planning Director Taylor said the applicant is requesting a conditional use permit to construct an accessory apartment above a recently constructed garage at 637 Somers Avenue. The site currently has an existing single family home, existing off-street parking, a garage, and the proposed accessory apartment will be located along the east property line adjacent to a City alley. The subject property is 7,945 square feet and is currently developed with a single family residence. The property is zoned WR-2, Two-Family Residential District. The Growth Policy designation for this area is 'Urban' which corresponds to the WR-2. It meets all of the criteria for an accessory apartment. Public notice was given and staff didn't get any comments from neighbors. He reviewed the conditions for approval, noting that the apartment may only be rented if the owner occupies the primary home.

Gunderson asked if the applicants were supposed to get the permit before they framed it in and Director Taylor said they could build a room but not rent it out unless the CUP is approved.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

Ken Stein, 44 Fairway View, asked why the Board had to hear these requests every time. He said it needs to be addressed. Director Taylor said it is on the list staff is trying to cover. He said an attorney in Missoula said they can't enforce requiring the property owner to occupy the home, so Missoula didn't adopt that requirements. Meckel said he thought it is contrary to some of their goals for affordable housing in Whitefish and Director Taylor agreed.

PUBLIC HEARING

No one wished to speak and the public hearing was closed.

MOTION

Blake moved and Phillips seconded Whitefish to adopt staff report WCUP 13-15, the Whitcomb Conditional Use Permit to construct an accessory apartment above a garage.

VOTE

The motion passed unanimously. (Scheduled for City Council on January 6, 2014.)

NEW BUSINESS

None.

GOOD AND WELFARE

1. Matters from Board

Gunderson said he was appointed to another term and he said there was a good field of applicants. Meckel thanked him for serving again. Gunderson said he is sad to see Meckel leave the Board.

2. Matters from staff

Director Taylor said in January they will try to have a work session on the growth policy land use map. They are also looking at a code amendment for food vendors to streamline the process. He thanked Meckel and Vail for their service to the Board. The rest of the Board members thanked Ken Meckel, too.

3. Poll of Board members available for next meeting (January 17, 2013.) All members except Smith and Gunderson indicated they would be available. Blake said he is waiting to hear from the County.

ADJOURNMENT

The meeting was adjourned by motion at approximately 6:15 p.m. The next regular meeting of the Whitefish City-County Planning Board will be held on January 17, 2013, 6:00 PM

Ken Meckel, Chair of the Board

Jane Latus Emmert, Recording Secretary

APPROVED as submitted/corrected: ____/____/14

**WHITCOMB
CONDITIONAL USE PERMIT
WCUP 13-15
DECEMBER 12, 2013**

This is a report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request for a conditional use permit to allow an accessory apartment in a WR-2 zone. This application has been scheduled before the Whitefish City-County Planning Board for a public hearing on Thursday, December 19, 2013. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, January 6, 2013.

PROJECT SCOPE

The applicant is requesting a conditional use permit to construct an accessory apartment above a recently constructed garage. The site currently has an existing single family home, existing off-street parking, a garage, and the proposed accessory apartment will be located along the east property line adjacent to a city alley.



A. OWNER:

Brendan Whitcomb
PO Box 5233
Whitefish, MT 59937

B. SIZE AND LOCATION OF PROPERTY:

The subject property is 7,945 square feet. It is located at 637 Somers Avenue, and can be described as Lot 6 in Block 2 of McKeens Subdivision in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana.



C. EXISTING LAND USE AND ZONING:

The subject property is currently developed with a single family residence. The property is zoned WR-2, Two-Family Residential District. The purpose of this district is intended for one and two-family residential purposes connected to municipal utilities and services.

D. ADJACENT LAND USES AND ZONING:

North:	Residential	WR-2
West:	Residential	WR-2
South:	Residential	WR-2
East:	Residential	WB-2

E. ZONING DISTRICT:

WR-2 (Two-Family Residential District)

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Growth Policy designation for this area is 'Urban' which corresponds to the WR-2. "This is generally a residential designation that defines the traditional neighborhoods near downtown Whitefish, but it has also been applied to a second tier of neighborhoods both east of the river and in the State Park Road area. Residential unit types are mostly one and two-family, but town homes and lower density apartments and condominiums are also acceptable in appropriate locations using the PUD. Densities generally range from 2 to 12 units per acre. Limited neighborhood commercial located along arterial or collector streets are also included in this designation. Zoning includes WLR, WR-1, and WR-2."

G. UTILITIES:

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	North Valley Refuse
Electric:	Flathead Electric Co-op
Gas:	Northwest Energy
Phone:	CenturyLink
Police:	City of Whitefish
Fire:	Whitefish Fire Department

H. PUBLIC COMMENTS:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on November 22, 2013. A notice was emailed to advisory agencies on November 22, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on November 27, 2013. As of the writing of this staff report, no comments have been received.

REVIEW AND FINDINGS OF FACT

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

1. **Growth Policy Compliance:**

Finding 1: The proposed use complies with Growth Policy Designation of Urban.

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

The property is zoned WR-2, Two-Family Residential District. The purpose of this district is intended for one-family and two-family homes in an urban setting connected to all municipal utilities and services.



The development proposal is consistent with the purpose and intent of the applicable regulations. Section 11-3-1 describes the requirements for an accessory apartment and this project meets all the requirements. The proposed use is accessory to a single family home and adequate parking is provided with two off-street parking spaces off E 7th Street in a driveway and two spaces within the garage. Additionally, the zoning setbacks for accessory structures less than 600 square feet are met.



Finding 2: The proposed use complies with the WR-2 zoning district because it conforms to the development standards outlined in the zoning and Section 11-3-1 of the Whitefish Zoning Regulations regarding accessory apartments.

3. **Site Suitability. The site must be suitable for the proposed use or development, including:**

Adequate usable land area: The subject parcel is 7,945 square feet in size. Since the structure has a footprint of less than 600 square feet, it is permitted to have reduced side and rear setbacks of 6 feet. The building is 8-feet from the north property line, 10-feet from the rear lot line and 12-feet from the south property line. The maximum permitted lot coverage in this zoning district is 40%. The existing residence and garage have a lot coverage of approximately 18%.

Access that meets the standards set forth in these regulations, including emergency access: The subject property is located on the corner of Somers Avenue and E 7th Street and has access via an alley to the east where the garage is accessed. This alley, along with Somers Avenue and E 7th Street, should provide adequate emergency access.

Absence of environmental constraints that would render the site inappropriate for the proposed use or development, including, but not necessarily limited to floodplains, slope, wetlands, riparian buffers/setbacks, or geological hazards: The proposed development is not located within the 100-year floodplain. Additionally, there are no wetlands, riparian zones, or geological hazards on or near the subject property.

Finding 3: The subject property is suitable for the proposed accessory apartment because the proposal complies with the minimum lot size, minimum lot coverage, and required setbacks; access to the proposed garage will be from the existing alley, Somers Avenue or E 7th Street; and there are no environmental constraints on the property to limit development.

4. Quality and Functionality. The site plan for the proposed use or development has effectively dealt with the following design issues as applicable.

Parking locations and layout: Section 11-6-2(A) of the Whitefish Zoning Regulations requires two (2) parking spaces per single family dwelling unit and Section 11-3-1(D) requires one (1) off-street space must be provided for the accessory apartment. The property has an existing driveway off E 7th Street that accommodates two vehicles and two parking spaces within the recently constructed garage.

Traffic Circulation: The proposed use should not impact traffic circulation on the existing road or alley.

Open space: The submitted site plan appears to have adequate open space.

Fencing/Screening: Fencing and screening are not required by the zoning regulations. The applicant currently has an existing wooden fence around the subject property.

Landscaping: Section 11-4-1 of the Whitefish Zoning Regulations exempts single family dwellings and accessory apartments from the landscaping requirements; therefore, no landscape plan is required.

Signage: No signage is proposed for the accessory apartment.

Undergrounding of new and existing utilities: The subject property currently has existing utilities located on-site which service the single family residence. Any new utilities will be required to be installed underground.

Finding 4: The quality and functionality of the proposed development is adequate because the applicant meets the required number of parking spaces, the proposed use will not impact existing traffic circulation, no signage is proposed for the accessory apartment, and all new utilities will be undergrounded.

5. Availability and Adequacy of Public Services and Facilities.

Sewer and water: The subject property is currently serviced by municipal services to the existing single family residence. Separate water and sewer service is required for the accessory apartment.

Storm Water Drainage: Storm water created by the proposed accessory apartment is not anticipated to impact adjacent properties because all storm water is required to be maintained on-site.

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

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

Streets: The subject property is located directly off Somers Avenue and E 7th Street, and is accessed from an existing alley located behind the property. All rights-of-way are paved surfaces.

Finding 5: The subject property appears to have adequate availability of public services because the property is currently served by sewer and water, is within the jurisdiction of the Whitefish Fire Department and the City of Whitefish Police Department, is located directly adjacent to a paved city street, and is accessed from a paved alley located behind the subject property.

6. Neighborhood/Community Impact:

Traffic Generation: Traffic impacts are anticipated to be minimal as the subject property has an existing single family residence, and the proposed accessory apartment should not result in a significant impact to traffic on Somers Avenue, E 7th Street or surrounding roadways.

Noise or Vibration: No additional noise or vibration is anticipated to be generated from the proposed use. Any additional noises or vibrations would be associated with construction and are not anticipated to be permanent impacts.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from the residential use currently onsite.

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

Hours of Operation: There are no hours of operation anticipated with this use beyond those that would be typical for a residential property.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact because the proposed accessory apartment will not increase traffic generation on surrounding streets, there will be no noise or vibration beyond associated construction disturbance, no fumes or other odors are anticipated, and there will be no hours of operation for the residential use.

7. Neighborhood/Community Compatibility:

Structural Bulk and Massing: The proposed accessory apartment's bulk and massing will be less than 600 square feet. This allows for a reduced setback on the side and rear to 6 feet. The proposed structure will be similar to existing adjacent residential uses in the neighborhood, and does not exceed the maximum height of 24-feet for an accessory structure.

Scale: The proposed accessory apartment appears to be adequately scaled to the subject property. It will be smaller than the existing single family residence and will be located approximately 52-feet away from the existing residential structure. This will allow for adequate open space within the subject property to maintain the character of the neighborhood.

Context of Existing Neighborhood: The existing neighborhood is predominantly single family residential. Nearby are the schools, a church and daycares. The proposed use is not expected to impact or change the character of the existing neighborhood. The proposed use is consistent with the existing zoning and the structures already constructed within the neighborhood.

Density: The design of the proposed structure is similar to other buildings in the area. The density is not out of character with the area.

Community Character: The proposed accessory apartment will not be detrimental to the immediate neighborhood integrity as the accessory apartment reflects the housing standards established in the area and will be utilized as an accessory use to the existing primary residence.

Finding 7: The proposed accessory apartment is compatible with the surrounding neighborhood because the use is similar to existing uses in the neighborhood, it will be consistent with the design, size and density of the immediate area, and it will be utilized as an accessory use to the existing primary residence.

RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board adopt the findings of fact within staff report WCUP 13-15 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be constructed in compliance with the plans submitted on November 4, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.
2. All storm water generated by the proposal shall be retained on-site.
3. The applicant shall be required to obtain a building permit from the City of Whitefish for the proposed accessory apartment.
4. One off-street parking space shall be designated for the accessory apartment and two off-street parking spaces shall be designated for the primary residence.
5. Prior to building permit issuance, the property owner shall provide the City a recorded copy of either a deed restriction or a restrictive covenant that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure.
6. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.



Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Brendan Whitcomb is requesting a Conditional Use Permit in order to construct an accessory apartment on the 2nd floor of a recently constructed garage. The property is developed with a single family home and a garage and is zoned WR-2 (Two-Family Residential District). The property is located at 637 Somers Avenue and can be legally described as Lot 6, Block 2 McKeen's Subdivision in S36 T31N R22W.

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

**Thursday, December 19, 2013
6:00 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937**

The City-County Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, January 6, 2013 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at wcompton-ring@cityofwhitefish.org. Comments received by the close of business on Monday, December 9, 2013, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

PLANNING & BUILDING DEPARTMENT
PO Box 158
510 Railway Street
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



Date: November 22, 2013
To: Advisory Agencies & Interested Parties
From: Whitefish Planning & Building Department

The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, December 19, 2013 at 6:00 pm. During the meeting, the Board will hold public hearings on the item listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing on Monday, January 6, 2014. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Brendan Whitcomb for a Conditional Use Permit in order to construct an accessory apartment on the 2nd floor of a recently constructed garage. The property is located at 637 Somers Avenue and can be legally described as Lot 6, Block 2 McKeen's Subdivision in S36 T31N R22W. Compton-Ring (WCUP 13-15)

Documents pertaining to this agenda item is available for review at the Whitefish Planning & Building Department, 510 Railway Street during regular business hours. Inquiries are welcomed. Interested parties are invited to attend the hearing and make known their views and concerns. Comments in writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: dtaylor@cityofwhitefish.org. For questions or further information regarding this proposal, phone 406-863-2410.

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Thursday, November 21, 2013 8:48 PM
To: 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Gary Krueger (gkrueger@flathead.mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'Joe Page' (jpage@cityofwhitefish.org); 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; Karen Reeves; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); Tara Fugina (tfugina@flathead.mt.gov); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears '; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'
Cc: David Taylor; bminnich@cityofwhitefish.org
Subject: December City-County Planning Board
Attachments: 12-2013_PB meeting.pdf

Attached please find the Planning Board notice for the December meeting.

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

WCUP 17-15

Whitefish Planning & Building
PO Box 158
510 Railway Street
Whitefish, MT 59937
Phone: (406) 863-2410 Fax: (406) 863-2409

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

FEE ATTACHED \$ 990.00 (See current fee schedule)

OWNER(S) OF RECORD:

Name: Brendan Whitcomb

Mailing Address: PO BOX 5233

City/State/Zip: Whitefish, MT 59937 Phone: 406-750-8052

PERSON(S) AUTHORIZED TO REPRESENT THE OWNER(S) AND TO WHOM ALL CORRESPONDENCE IS TO BE SENT:

Name: Brendan Whitcomb & Ekaterina Whitcomb

Mailing Address: PO BOX 5233

City/State/Zip: Whitefish, MT 59937 Phone: 406-750-8052

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street Address: 637 Somers Avenue Sec. No. 36 Town-ship 31N Range No. 22 W

Subdivision Name: McKeens Sub Tract No(s). _____ Lot No(s). 6 Block No. 2

DESCRIBE PROPOSED USE: Rent or lease of accessory dwelling for a period of greater than one month. 598 sq ft 2 car garage w/ dwelling upstairs.

ZONING DISTRICT: _____

CHAPTER 7 OF TITLE 11 WHITEFISH ZONING REGULATIONS REQUIRES THE FOLLOWING:

A. FINDINGS - The following criteria form the basis for approval or denial of the Conditional Use Permit. The burden of satisfactorily addressing these criteria lies with the applicant. Review the criteria below and, on a separate sheet of paper, discuss how the proposal conforms to the criteria. If the proposal does not conform to the criteria, describe how it will be mitigated.

1. Describe how the proposal conforms to the applicable goals and policies of the Whitefish City-County Growth Policy.
2. Describe how the proposal is consistent with the purpose, intent and applicable provisions of the regulations.

EXHIBIT

4

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?
4. How are the following design issues addressed on the site plan?
 - a. Parking locations and layout
 - b. Traffic circulation
 - c. Open space
 - d. Fencing/screening
 - e. Landscaping
 - f. Signage
 - g. Undergrounding of new utilities
 - h. Undergrounding of existing utilities
5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
 - a. Sewer
 - b. Water
 - c. Stormwater
 - d. Fire Protection
 - e. Police Protection
 - f. Street (public or private)
 - g. Parks (residential only)
 - h. Sidewalks
 - i. Bike/pedestrian ways – including connectivity to existing and proposed developments
6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general? Describe any adverse impacts under the following categories.
 - a. Excessive traffic generation and/or infiltration of traffic into neighborhoods
 - b. Noise, vibration, dust, glare, heat, smoke, fumes, odors
7. What are the proposed hours of operation?
8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:
 - a. Structural bulk and massing
 - b. Scale
 - c. Context of existing neighborhood
 - d. Density
 - e. Community Character

B. PROPERTY OWNER LIST

Submit a list of names with mailing addresses of property owners within **150 feet** of the proposed use (**public street right-of-ways are not counted as part of the 150 feet**). The owner of record must appear exactly as on the official records of Flathead County. This list is obtained from the Flathead County GIS Department using the 'Adjacent Landowner Request' form.

C. SITE PLAN

Submit a site plan, either drawn to scale or with dimensions added, which shows in detail your proposed use, your property lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, signage, and any unusual topographic features such as slopes, drainage, ridges, etc. Where new buildings or additions are proposed, building sketches and elevations shall be submitted.

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.

Brendan Whitcomb

Applicant's Signature

10/16/2013

Date

Brendan Whitcomb

Print Name

The application for conditional use permit for the dwelling space above garage at 637 Somers Avenue finds the following:

This project is what people have referred to as a house that is otherwise known as a garage. The proposed space applies to the goals and policies of Whitefish city-county growth policy because the garage with apartment/dwelling upstairs is consistent with infill development. At the same time, the newly constructed unit maintains the character and quality of the existing neighborhood. There are several adjacent properties ranging in 1-2 units per lot that are currently rented & not owner occupied.

I am proposing an owner occupied property with additional dwelling above a newly constructed garage. The detached garage with dwelling has a 598 sq.ft. footprint that meets all setbacks and has the required off street parking. Currently, there are two off-street parking spaces accessed from 7th and two off-street parking spaces accessed from alley that are included in the new garage. The intent is that the unit will only be leased at a time when the main house is owner occupied and utilities can remain in owner's name. Additionally, the term for lease would be stated as a period not less than one month.

The primary and additional dwelling units have considerable outdoor living space; approx. 60'x50' of grassy lawn exists between structures. And an ornamental u-shaped staircase with sundeck provides additional privacy and charm. Emergency vehicles may access the property via 7th, Somers, or the alley. In addition, the emergency vehicles may access the 20'x20' concrete slab that is currently used for parking between structures. There are no known environmentally sensitive areas present on the property.

Parking locations are as mentioned; 20'x20' concrete slab situated between main house and new garage and is currently used as off-street parking. And a newly constructed 23'x26' garage that provides additional off-street parking space for two vehicles. The property will also feature a property line fence once spring returns and the grounds are thawed. All utilities are newly installed from house-garage-street and have been inspected per city codes.

The previous clay sewer pipe has been replaced from house to main with schedule 40 PVC and plumbed for additional usage. Water has been upgraded to a 1" meter pit and 1" main going into the house with an upgraded 3/4" meter to accommodate the new fixture count after additions. Outdoor living space for additional unit is a 50'x60' grassy yard with privacy sundeck off side of dwelling unit. Storm water is being handled with the existing storm drains on & around property which have been undisturbed. All insulation and sheetrock will meet with fire and city code and include required alarm system to be in place. No additional police protection is required; however, the necessary access is available in any event. The adjacent alleyway and sidewalks are public and clear of debris. The setback from the pedestrian side of the newly constructed garage was maintained at a maximum allowable of 18' in order to separate walls, windows, & doors from the public walkway and appeal to the neighborhood charm. Bike/pedestrian walkways to the unit are poured with concrete and there are no adjacent parks.

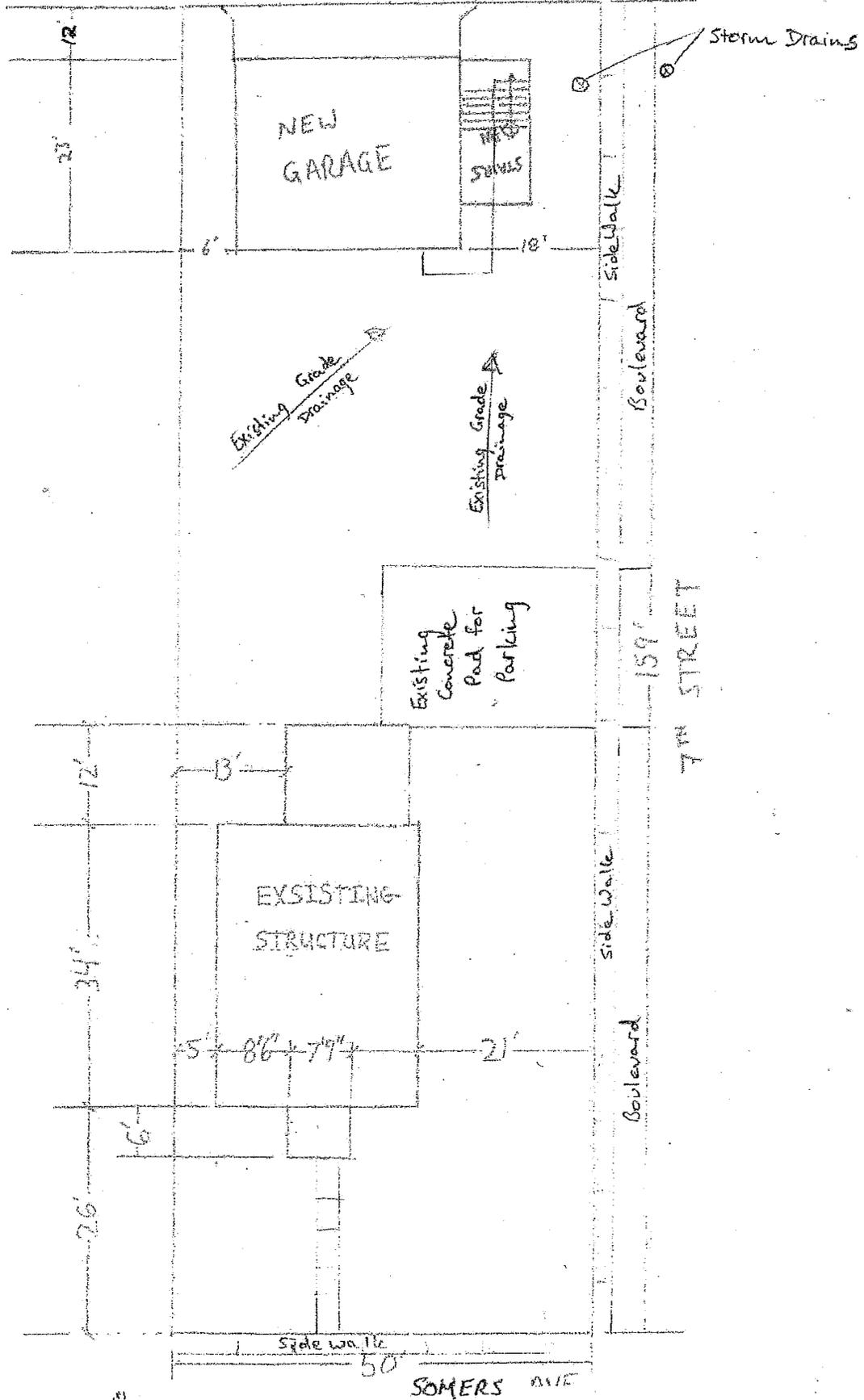
The impact to the adjacent properties will be minimal. Currently, 625 Somers Avenue adjoins the property and has two units currently rented without owner occupancy. Directly across 7th, there is a duplex with two dwelling units in addition to multiple residential units used as rentals sprinkled throughout the local neighborhood. Traffic is slightly congested during normal school

hours due to the close proximity to schools; however, the additional dwelling unit is ideally a single occupancy studio and will have minimal impact. And congestion can easily be avoided through the alleyway. Everything is paved and will stir little dust or fumes. There will also be little heat, smoke, and odors due to the fact that there will be no fireplace or wood burning stove.

There will be no hours of operation other than that associated with single dwelling living space.

The space should be compatible with existing neighborhood as it is a scale replica of the existing house and closely matches detail and character of neighborhood. Density of neighborhood is consistent with 1-2 units per property as two adjacent properties are currently two unit dwelling spaces. Additionally, the neighborhood is a mixed bag of rentals and owner occupancy. During construction, a common statement of most observers has been that the garage really looks like a house and is extremely nice. Due to the frost, the final coat of exterior paint has not been applied and only shows a primer color. And it will more closely match the character of neighborhood once it has a final finish. This has been an exciting and popular project amongst passing pedestrians and has yet to receive any negative feedback.

Alley



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**SELLWOOD
STAFF REPORT WPP 13-11
DECEMBER 30, 2013**

A report to the Whitefish City Council regarding a request for preliminary plat by Colin and Teri Sellwood for a two-lot Minor Subdivision. This request is scheduled before the Whitefish City Council for a public meeting Monday, January 6, 2013 in the Council Chambers at 7:10 p.m.

PROJECT SCOPE

2014

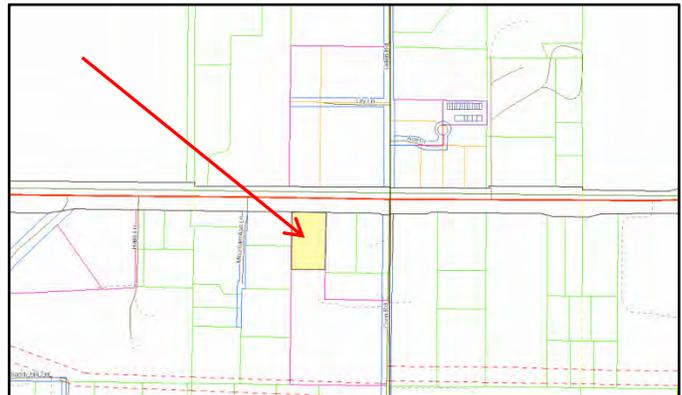
This is a request for preliminary plat approval of a two-lot subdivision with an existing single family home and existing commercial building. The subject property is approximately 2.199-acres.

This property was included in the rezone for the Whitefish Business Service District in 2009. As part of the rezone, an application for a site plan was required. This site plan is on page 5 of the staff report.

A. Owner/Applicant:
Colin and Teri Sellwood
PO Box 4564
Whitefish, MT 59937

Technical Assistance:
F&H Land Surveying
Craig Wickham
PO Box 114
Whitefish, MT 59937

B. Location:
The property is located on the south side of Highway 40 west of Conn Road. The property is addressed as 3930 Highway 40. The property can be legally described as Lot 1, Staats Subdivision in Section 16, Township 30N, Range 21W, P.M.M., Flathead County, Montana.



C. Size:
The subject property is 2.199-acres in size and the lots are 1.189 and 1.010 acres.

D. Existing Land Use and Zoning:
WBSD, Business Service District, intended to “create defined areas that are appropriate for non-retail limited commercial services and light industrial uses. This district is restricted to those areas identified as business service center in the

growth policy. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Structures would be of moderate to high architectural quality and clearly not "industrial" in appearance. Landscaping will be extensive with good quality and effective screening and buffering."

E. Adjacent Land Uses and Zoning:

North:	commercial	WBSD
West:	residential	WCR
South:	church	WCR
East:	residential	WBSD

F. Utilities/Services:

The proposed subdivision lies outside the service area of the City of Whitefish. Services will be provided by the following:

Sewer service:	on-site
Water service:	on-site
Solid Waste:	North Valley Refuse
Gas:	Northwest Energy
Electric:	Flathead Electric Co-op
Phone:	CenturyLink
Police:	Flathead County Sheriff
Fire:	Columbia Falls Rural Fire Department
Schools:	Whitefish School District #44

G. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on December 9, 2013. A sign was posted on the property on December 16, 2013. Advisory agencies were noticed on December 9, 2013. As of the writing of this report, no comments have been received.

REVIEW AND FINDINGS OF FACT

This application is reviewed as a minor subdivision in accordance with the Whitefish Subdivision Regulations.

A. Effects on Health and Safety:

Fire: The Columbia Falls Fire Chief reviewed the proposed project and had comments on access. There is an existing 10-foot wide paved driveway. The Fire Department requested a 20-foot all weather surface with a



suitable 'T' turn around. This shared driveway will be placed within a 30-foot access easement. This will be added as conditions of approval.

Flooding: Pursuant to the FEMA flood insurance rate map, community panel 30029 1090 G, the property is outside the 100-year floodplain and is located within Zone X – areas determined to be outside the 0.2% annual chance floodplain

Access: Each lot will have access off Montana State Highway 40 via a shared private driveway/easement ending in a suitable emergency turn around. As this access is now changing to a joint use access with two uses, the Montana Department of Transportation requests a new approach permit. This is included as a recommended condition of approval.

Finding 1: The proposed subdivision will not have a negative effect on public health and safety. The fire department has reviewed the proposal for conformance with fire code; MDT requires a new approach permit for the joint-use access onto the state highway; the property is not located within a mapped floodplain; access is existing and will be shared between the two lots; and the amount of traffic generated will not have an effect on the local streets.

B. Effects on Wildlife and Wildlife Habitat:

The site is located in the rural area of the Whitefish Planning Jurisdiction. The area is not mapped by the Montana Department of Fish, Wildlife and Parks as important winter range for big game; however, it is likely that deer and other animals use the site.

Finding 2: The proposed subdivision is not mapped as a winter range for big game therefore the subdivision should not have a negative effect on wildlife or wildlife habitat.

C. Effects on the Natural Environment:

Surface and groundwater: Existing on-site well and septic will continue to serve the proposed lots.

Drainage: As this area is outside the city limits, the city standards for stormwater do not apply. There is adequate area on the property to drain any impervious areas.

Slopes: The property is flat.

Finding 3: The subdivision is not located within any environmentally sensitive areas. No effects on surface or groundwater are anticipated and there are no slopes on the property.

D. Effects on Local Services:

Water and Sewer: The existing home and commercial building are served by an on-site well and septic system. Both lots are proposing to continue to share these facilities. Flathead County Environmental Health requires a new Certificate of Subdivision. This will be added as a recommended condition of approval.

Roads: The project is served by a private driveway ending in a suitable emergency turn-around.

Schools: The property is within the Whitefish School District and this subdivision will not have a significant impact on the school district.

Parks and Open Space: Subdivisions creating one additional lot are exempt from parkland dedication requirements and no parkland is being proposed. Impacts to the parks in the area as a result of this subdivision will not be significant.

Police: This property is outside the city limits of Whitefish and would therefore be served by Flathead County Sheriff's Department. The proposed development is not anticipated to impact the current level of service.

Fire Protection: This property is currently served by the Columbia Falls Fire District. The proposed development is not anticipated to impact the current level of service.

Solid Waste: Solid waste will be handled by the North Valley Refuse and taken to the Flathead County Landfill. There is sufficient capacity within the landfill to accommodate the additional solid waste generated from this subdivision.

Medical Services: Ambulance service is available from the fire department and ALERT helicopter service. North Valley Hospital is approximately 2 miles from the subdivision site.

Finding 4: The proposed subdivision does not pose any negative effects on local services. A Certificate of Subdivision is required.

E. Effects on Agriculture and Agricultural Water User Facilities:

The property is not agricultural land.

Finding 5: No effects are anticipated upon agriculture and agricultural water user facilities. The property has an existing well that is proposed to be shared between the two lots.

F. Compliance with Growth Policy:

The Whitefish City Growth Policy designates this area as Business Service District.

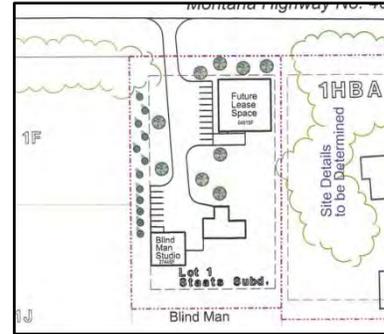
Business Service District: This is a non-retail service commercial and light industrial designation. Major uses would be distribution, light manufacturing and component assembly, office-warehouse-showroom types of operations, contractors, building and material suppliers, wholesale trades, mini-storage, and other commercial services of a destination nature. Suitable locations would be adjacent to arterial or collector streets or a highway. Structures would be of moderate to high architectural quality, and clearly not "industrial" in appearance. Landscaping will be extensive with good quality and effective screening and buffering. Applicable zoning districts would be WB-4 and a re-written WI.

Finding 6: The density and zoning of the subject property falls within the guidelines for the Business Service Center designation according to the Whitefish Growth Policy.

G. Compliance with Zoning

As described above, this tract was part of the rezoning for this neighborhood in 2009. As required in the WBSD zone, a site plan was established showing where future development will take place. The zoning chapter has an administrative process to make minor modifications to the site plan and major changes are reviewed and approved by the City Council.

Site Plan Approved by Council in Conjunction with Rezone



In addition, the WBSD has the following development standards:

- Minimum Lot Size: 1 acre
- Minimum Lot Width: 125-feet
- Setbacks:

- Front – 30-feet
- Side – 10-feet; 30-feet if adjacent to residential or agricultural use or zone
- Rear – 15-feet; 30-feet if adjacent to residential or agricultural use or zone

While the lot area and lot width meet the minimum standards in the zone, staff would like to point out a possible future concern with the side yard setbacks. As described above, the setbacks are increased to 30-feet if the use of the adjacent lot is residential. Currently, Lot 1 will be used for commercial purpose and Lot 2 is both residential and commercial purposes which is permitted according to the WBSD. If Lot 2 were to be only a residential use, the side yard setback to the east would increase to 30-feet. As the lot width of Lot 1 near the structure is 82-feet once the 30-foot side yard setbacks is subtracted from both the east and west sides, the developable area would only be 22-feet wide. The applicants' long-term plan is to completely eliminate the residential use and devote Lot 2 to a commercial enterprise according to the site plan approved in 2009. This isn't a concern with this application, but could pose challenges in the future depending on how Lot 2 ultimately is developed.

Finding 7: The proposed subdivision meets the requirements of the zoning regulations contained within Section 11 of the Whitefish City Code.

H. Compliance with the Whitefish Subdivision Regulations:

Finding 8: The proposed subdivision complies with the requirements of the subdivision regulations contained within Section 12 of Whitefish City Code.

I. Compliance with the Montana Subdivision and Platting Act:

Finding 9: The proposed subdivision complies with the Montana Subdivision and Platting Act, MCA 76-3.

STAFF ANALYSIS

While the site plan shows a proposed structure along the highway, the layout of the proposed subdivision wouldn't permit this structure in this location.

RECOMMENDATION

It is recommended that the Whitefish City Council adopt the findings of fact within staff report #WPP 13-11 and **approve** the preliminary plat for Sellwood Subdivision, as submitted by the applicant, subject to the following conditions:

1. The development of the subdivision shall be in substantial conformance with the approved preliminary plat.
2. The private driveway shall be improved to a 20-foot wide all-weather surface ending in a suitable emergency turn-around. (Whitefish Zoning Regulations, §11-6-3-1D; Staff Report, Findings 1 and 4; 2009 IFC, Appendix D, D103.4)
3. A new approach permit from Montana Department of Transportation shall be obtained. (Finding 1)
4. A Certificate of Subdivision Approval be obtained from the Department of Environmental Quality. (Finding 4, Subdivision Regulations, Appendix C)
5. All areas disturbed because of road construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Whitefish Subdivision Regulations, §12-4-30)
6. That a common off-street mail facility shall be provided by the developer and approved by the local post office. (Whitefish Subdivision Regulations, §12-4-24)
7. The following notes shall be placed on the final plat:
 - a. That house numbers shall be posted on the house in a clearly visible location.
 - b. All noxious weeds shall be removed throughout the life of the development by the recorded property owner.
(Subdivision Regulations, Appendix D)
8. A Homeowners' Association shall be responsible for snow plowing the private driveway. The CC&Rs shall contain a maintenance plan for the facilities they are responsible. (Staff Report, Findings 1 and 4)
9. The preliminary plat is valid for a period of three years from the date of approval. (Whitefish Subdivision Regulations, §12-3-8)



Element Review Preliminary Plat Application

RE: Element Review for: Sellwood Subdivision

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

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

Is missing the following Elements: _____

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

Staff Signature

12-13-13
Date

PLANNING & BUILDING DEPARTMENT
510 Railway Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



December 13, 2013

Colin & Teri Sellwood
PO Box 4564
Whitefish, MT 59937

RE: Sufficiency Review for Sellwood Subdivision; (WPP 13-11)

Dear Mr. and Mrs. Sellwood:

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

- ✓ Contains sufficient detail to commence review of the application. Your application will be scheduled for City Council on January 6, 2014.

Is lacking required detail in the following Elements:

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

If you have any questions, please feel free to contact our office at 406-863-2410.

Sincerely,

A handwritten signature in cursive script that reads "Wendy Compton-Ring".

Wendy Compton-Ring, AICP
Senior Planner

C: Craig Wickham, F&H Land Surveying

Planning & Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Colin & Teri Sellwood are proposing to subdivide their lot into 2-lots. The property is developed with a single family home and accessory building and is zoned WBSD (Business Service District). The property is located at 3930 Highway 40 and can be legally described as Lot 1, Staats Subdivision in Section 16 Township 30N Range 21W.

You are welcome to provide comments on the project. Comments can be in written or email format. The City Council will hold a public meeting for the proposed project request on:

**Monday, January 6, 2014
7:10 p.m.**

**Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937**

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at wcompton-ring@cityofwhitefish.org. Comments received by the close of business on Tuesday, December 24, 2013, will be included in the packets to the Councilors. Comments received after the deadline will be summarized to the Councilors at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

mailed 12-27-13 / posted 12-16-13



City of Whitefish
Planning & Building Department
 PO Box 158
 510 Railway Street
 Whitefish, MT 59937
 Phone: 406-863-2410 Fax: 406-863-2409

File #: WPP 13-11
 Date: 12-4
 Intake Staff: _____
 Date Complete: _____

MINOR PRELIMINARY PLAT APPLICATION

Schedule a Time to Submit the Application: _____ (Date/Time) **FEE ATTACHED \$1190.00**
 (See most current fee schedule)

Project /Subdivision Name: Sellwood Subdivision

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

A. OWNER(S) OF RECORD:

Name: Colin and Teri Sellwood Phone: (406)-897-1008
(406)-862-1553

Mailing Address: PO Box 4564
 City, State, Zip: Whitefish, Mt 59937
 Email: cwsellwood@gmail.com

APPLICANT (if different than above):

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

TECHNICAL/PROFESSIONAL:

Name: Craig Wickham F and H Land Surveying Phone: cell: 314-3840 office: 862-2368
 Mailing Address: P.O. Box 114
 City, State, Zip: Whitefish, MT 59937
 Email: craigw@fandhsurveying.com

B. LEGAL DESCRIPTION OF PROPERTY: Street Address 3930 Hwy 40, Whitefish MT,
 Assessor's Tract No.(s) 0601700 Lot No(s) 1 Block # N/A
 Subdivision Name: STAATS 1/4 Sec NE1/4 Section 16 Township 30 Range 21

12-04-13 A09:57 IN

C. GENERAL DESCRIPTION OF SUBDIVISION:

ZONING DESIGNATION: WBSD

If proposing to change the underlying zoning, proposed zoning: N/A

CRITICAL AREAS ON-SITE OR NEARBY: N/A

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

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

- Date of Parks Board Meeting (prior to submitting an application): _____
- Market Value before Improvements: _____
- Total Acreage in Parks, Open Spaces and/or Common Areas: _____

LOTS AND ACREAGE:

Total Acreage in Subdivision: 2.199 Acres Number of Lots or Rental Spaces: 2

Maximum Size of Lots or Spaces: 1.189 Acres Minimum Size of Lots or Spaces: 1.010 Acres

Total Acreage in Lots: 2.199 Acres Total Acreage in Streets or Roads: N/A

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

Single Family: 1 Townhouse: _____ Mobile Home Park: _____ Duplex: _____ Apartment: _____

Recreational Vehicle Park: _____ Commercial: 2 Industrial: _____

Planned Unit Development: _____ Condominium: _____ Multi-Family: _____ Other: _____

IMPROVEMENTS TO BE PROVIDED:

Roads: Gravel Paved Curb Gutter Sidewalks Alleys Other (explain): Paved Shared Driveway

Water System: Individual Multiple User Neighborhood Public Other (explain): _____

Sewer System: Individual Multiple User Neighborhood Public Other (explain): _____

Other Utilities: Cable TV Telephone Electric Gas Other (explain): _____

Solid Waste: Home Pick Up Central Storage Contract Hauler Owner Haul

Mail Delivery: Central Individual

Fire Protection: Hydrants Tanker Recharge

Drainage System: On Site

D. Application Contents:

All applicable items required by *Appendix B: Preliminary Plat Submittal Requirements*¹ of the Whitefish Subdivision Regulations must be submitted to the Whitefish Planning & Building Department with the application for preliminary plat, including the following:

Attached

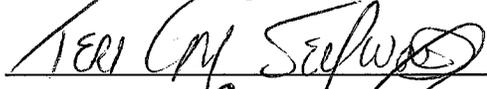
- Preliminary Plat Waiver Application
- 1 copies of the preliminary plat
- One reduced copy of the preliminary plat not to exceed 11" x 17"
- Electronic version of plat such as .pdf
- One reproducible set of supplemental information.
- Certified adjacent owners list for properties within 150-feet of subject site
- Any additional information requested during the pre-application process
- Documentation from public records demonstrating the subdivision is a minor
- N/A Fair Market Appraised Value (Parkland)
- N/A Recommendation from the Parks Board – unless exempt 12-4-10(C)
- \$100.00 deposit for sign to be posted on-site during the duration of the public process (submit a separate check, which will be returned to you after you return the sign to the Planning Office)

When all application materials are submitted to the Planning & Building Department, and the staff finds the application is complete, the staff will schedule the subdivision for a public meeting before the City Council. The Council must act within 60 working days or 80 working days if the subdivision has 50 or more lots once an application is determined to be complete pursuant to Section 12-3-5 of the Subdivision Regulations.

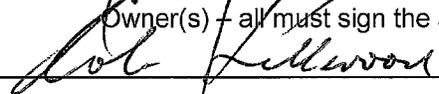
E. VARIANCES:

ARE ANY VARIANCES TO THE SUBDIVISION REGULATIONS BEING REQUESTED? Yes/No
If yes, please complete the Variance Section (attached) and submit the applicable fee.

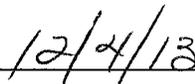
I hereby certify under penalty of perjury and the laws of the State of Montana the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.



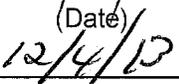
 Owner(s) – all must sign the application



 Owner(s) – all must sign the application



 (Date)



 (Date)

Applicant – if different than above

(Date)

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

Applicant

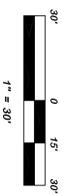
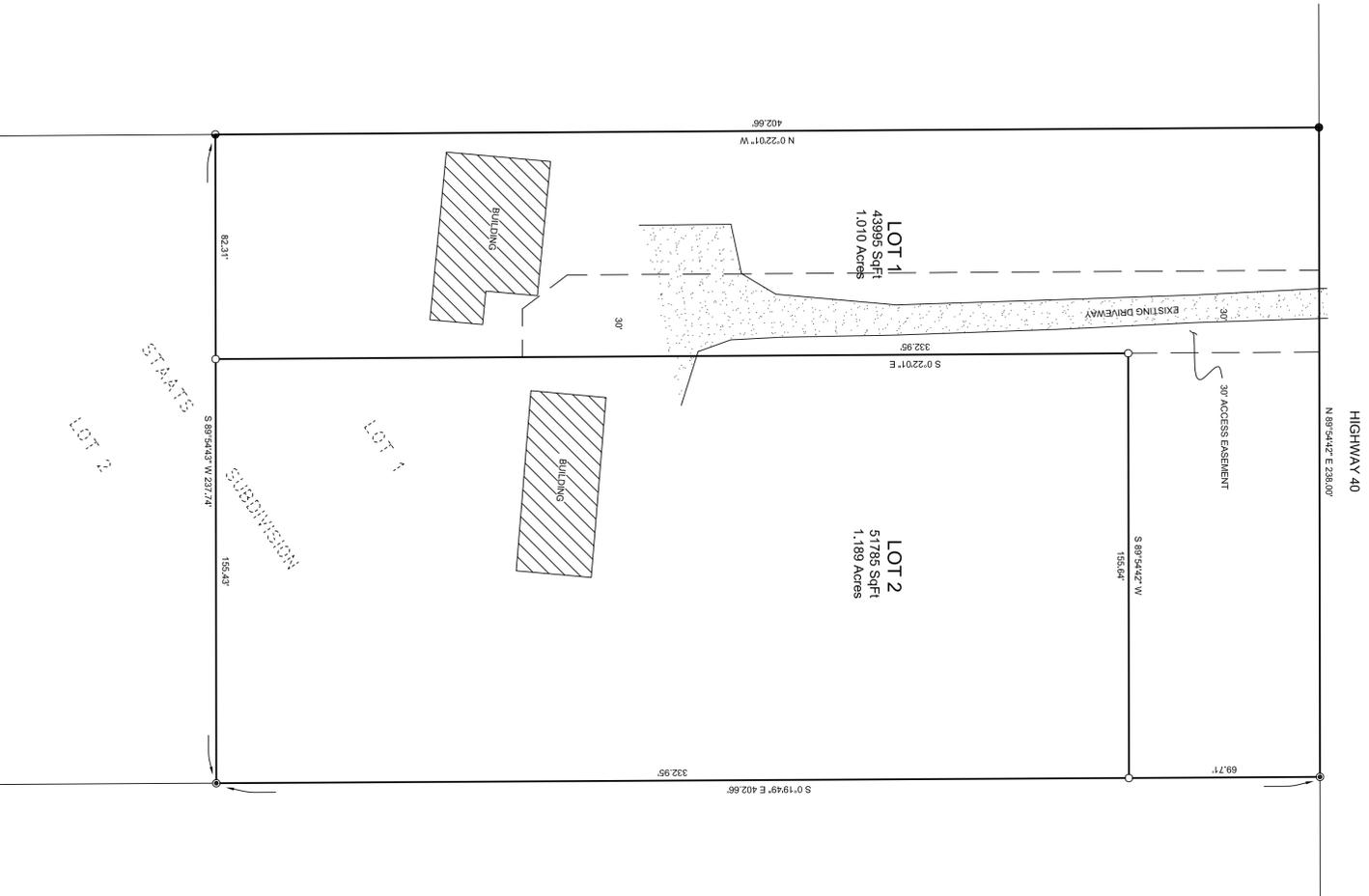
(Date)

¹ An environmental assessment is not required for a the first minor from a tract of record

Owner: Collin and Teri Sellwood
 Date: 11/30/13
 Job# 13-129 Sellwood
 For: Collin Sellwood

F & H LAND SURVEYING, INC.
 144 Second Street East
 P.O. Box 114
 Whitefish, MT. 59937
 406-862-2988

**PRELIMINARY PLAT OF
 SELLWOOD SUBDIVISION
 A SUBDIVISION
 IN NE1/4 SECTION 16, T.30N., R.21W., P.M.,M.
 FLATHEAD COUNTY, MONTANA**



- LEGEND**
- Found 5/8\"/>
 - Found 1/2\"/>
 - Found 5/8\"/>
 - Found 1/2\"/>
 - Set 5/8\"/>
 - Set 1/2\"/>
 - Set 5/8\"/>
 - Set 1/2\"/>



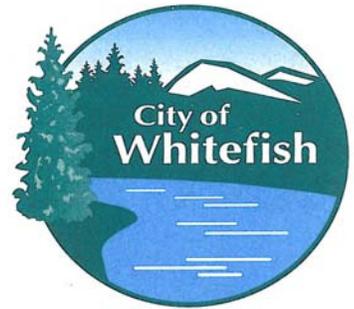
DESCRIPTION

That portion of the North-east one-quarter (NE1/4) of Section sixteen (16), Township Thirty North (T.30N.), Range Twenty-one West (R.21W.), Principal Meridian, Montana, Flathead County, Montana, described as follows:
 LOT 1 OF STATA'S SUBDIVISION, a map or plat of which is on file with the Clerk and Recorder's Office, Flathead County, Montana, containing 2.20 Acres of land more or less.

**VICINITY MAP
 NO SCALE**



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December 13, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Approve the Purchase of a Case 521F Wheel Loader

Introduction/History

The Public Works Department has published an Advertisement for Bids for an Articulated Wheel Loader and received bids from two local companies. This memo is to recommend the City Council approve the purchase of a 2014 Case 521F wheel loader from Titan Machinery of Columbia Falls in the amount of \$92,775.

Current Report

This new piece of machinery will replace a 20 year old John Deere 244E loader. The versatile, mid-size Case loader will be used extensively for snow removal, general street work and utility repairs.



Financial Requirement

Funds for this purchase are included in the FY14 budget and divided in relatively equal portions between the Street, Water and Wastewater Funds. The low bid price of \$92,775 includes a trade-in allowance of \$11,284 for the old John Deere.

Recommendation

Staff respectfully recommends the City Council approve the purchase of a 2014 Case 521F wheel loader from Titan Machinery of Columbia Falls in the amount of \$92,775.

Sincerely,

A handwritten signature in blue ink, appearing to read "John C. Wilson".

John C. Wilson
Public Works Director

BID OPENING AND TABULATION SHEET
 CITY OF WHITEFISH
 ARTICULATED WHEEL LOADER

Attendance: ~~See attached sheet~~ *Chuck Stearns, J. Bannan, Ron Zeiler, Necile Long*

BID OPENING: Thursday, December 12, 2013 at 11:30 a.m.

Bidder: <u>Triple W Equipment</u>	Bidder: <u>Titan Machinery</u>	Bidder: _____	Bidder: _____	Bidder: _____
Address: <u>3145 Hwy 93 S.</u>	Address: <u>28 Arcadia Way</u>	Address: _____	Address: _____	Address: _____
<u>PO Box 1937</u>	<u>Columbia Falls, MT</u>			
<u>Kalispell, MT 59901</u>	<u>59912</u>			
<u>Yes 10% of Amt Bid</u>	<u>Yes 10% of Amt Bid</u>	_____	_____	_____
<u>2014 - model 444K</u>	<u>2013-2014 Case 521F</u>	_____	_____	_____

One Exception to Specs

Comments on Specs

Wheel Loader Price as Proposed	\$ <u>121,250.00</u>	\$ <u>104,059.00</u>	\$ _____	\$ _____	\$ _____
less value of trade-in of 1993 John Deere 244E Loader	-\$ <u>15,250.00</u>	-\$ <u>11,284.00</u>	-\$ _____	-\$ _____	-\$ _____
Total Cost of Wheel Loader	\$ <u>106,000.00</u>	\$ <u>92,775.00</u>	\$ _____	\$ _____	\$ _____
Delivery Date or Days from Contract Award	<u>90 days</u>	<u>90 days</u>	_____	_____	_____
Other Costs	_____	_____	_____	_____	_____
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Total Cost of all items	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

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MANAGER REPORT

December 19, 2013



CITY HALL ARCHITECTURAL DESIGN COMPETITION

On December 11th, the Future City Hall Steering Committee held a design competition among the four finalist architectural firms, Mosaic Architecture, MMW Architects, CTA Architects-Engineers, and OZ Architects/Constenius Architecture. The display boards of the four firms' architectural renderings can be viewed at <http://www.cityofwhitefish.org/cms-assets/documents/144034-580675.architectural-firms.display-boards.all>

On Thursday, December 19th, the Committee met again to discuss and rank the firms for qualifications, design approach, and other variables required in state law. At the end of that meeting, the Committee ranked the two highest ranked firms. Mosaic Architecture of Helena was the overwhelming choice for the Committee's recommendation of a firm to the City Council. We are planning to have the City Council consider that recommendation of Mosaic Architecture as the architectural firm to pair with Kimley-Horn and Associates as the engineering firm of the parking structure at the meeting of January 21st.

RESORT TAXES

Resort Tax collections for October were down 7.13% or \$9,151 from October of 2012. The likely explanation for this decrease was the federal government shutdown and the complete closure of the Going to the Sun Road. We have often heard from tourism officials that Whitefish tourism drops off significantly as soon as the Going to the Sun Road closes.

For the year to date, we are still 5.3% or \$45,550 ahead of last year at this time (4 months into the fiscal year). There is a chart and graphics showing recently monthly collections and trends in the packet.

NEW CITY WEBSITE

The new City website will go live on Thursday, January 2nd, 2014. The URL is www.cityofwhitefish.org. There will be a link to connect from our old website to go to the new website. Please let department directors or me know about questions or suggestions. Former Assistant City Manager/Rich Knapp and a committee of staff members designed the website with assistance from a website developer. They looked at many other cities' websites and our new website follows what is an emerging trend for the home page and navigation menus of other

cities. We finally have control to add our own pictures and this new website is much more user friendly for staff to edit and to add content.

MELISA PHELPS RETIRES FROM PUBLIC WORKS

After working for the City of Whitefish for over 15 years, Melisa Phelps of the Public Works Department has decided to retire at the end of 2013. Her husband John Phelps retired from the City several years ago and Melisa's retirement will allow her more time to be with her family, children, and grandchildren and allow more time for traveling and hiking.

Melisa only worked 35% of full time and we are going to evaluate the possibility of expanding the position to a full time position in next year's budget to focus more time on the GIS project and also do Information Technology (IT) work so that we have continuity for the IT role when Greg Acton retires.

NEW ASSISTANT CITY MANAGER/FINANCE DIRECTOR ARRIVES

Corey Swisher, the new Assistant City Manager/Finance Director began work on Monday, December 9th. Corey was most recently the Finance Director/City Clerk for Basehor, Kansas, a community similar in size to Whitefish near Kansas City. Prior to that time Corey was the Assistant to the City Manager in Vail, Colorado for six years. While it will take some time for Corey to get trained and fully up to speed, he has already shown to be a quick study and has great experience from other cities.

HYDRO-ELECTRIC PLANT REPORT

Attached with this report in the packet is the most recent generation and loan report on the hydro-electric plant. We have generally exceeded production expectations from the plant and after about 15 months of operation we have almost paid back 25% of the pre-purchase agreement funding.

WHITEFISH HOUSING AUTHORITY'S RAILWAY DISTRICT HOUSES

In mid-December, the Whitefish Housing Authority's (WHA) contractor began working on the renovation and rehabilitation of the two houses on 1st Street that were donated to WHA from the Burlington Northern-Santa Fe railroad. As the picture below shows, work was going on during this day on December 19th. It is good to see the boards coming off the houses and the renovations beginning.



COUPLE OF LETTERS OF INTEREST

I am including in the packet with this report a fourth quarter membership letter from Montana West Economic Development Corporation (MWED) and a letter from Charter Communications on upcoming changes to their services and rates.

MEETINGS

Meeting with Verizon officials (12/12) – Dave Taylor and I met with two regional officials from Verizon Wireless. One official was the Mountain Region Real Estate and Regulatory Manager from Denver, CO. They wanted to meet just to discuss the trends they are seeing in cell phone, smart phone, and tablet usage which is driving the demand for more cell towers. He said he was recently in a jurisdiction that had three existing towers, but had applications for 12 more towers. He said he thinks they will need 1-2 more sites in Whitefish in the next 2-5 years. They also discussed improving technology and their ability to better match existing tree species with their fake trees.

WAVE Board Meeting (12/18) – As a Board member, I attended the bi-monthly meeting of the WAVE Board. The most important items were an update on the construction project (about 3 weeks behind schedule) and approval of the 2014 budget. The Board did approve the budget, delaying until a year from now any consideration of a dues increase to cover the cost of the expansion project debt service payments. The WAVE can get

through the next year without a dues increase at which time our O&M and debt costs for the expansion will be more certain.

UPCOMING SPECIAL EVENTS

Winter Carnival – Friday February 7th through Sunday, February 9th. Parade on Saturday.

REMINDERS

Monday January 20th – Martin Luther King holiday – City Hall is closed

Tuesday, January 21st – City Council meeting because of Monday holiday

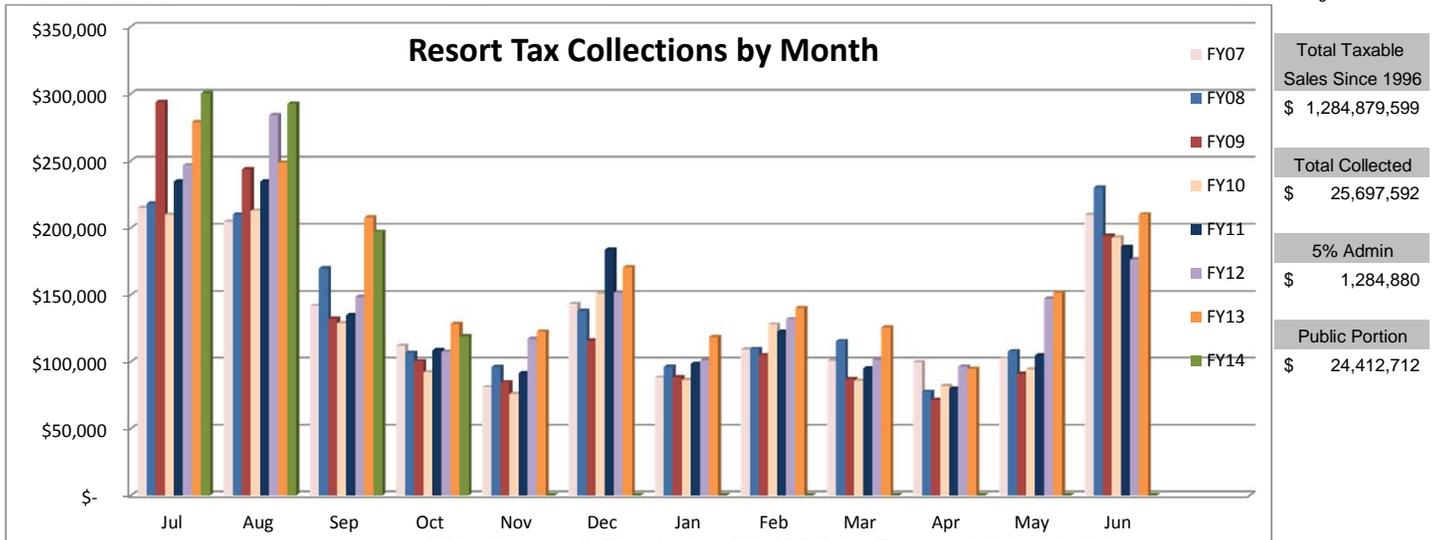
Respectfully submitted,



Chuck Stearns
City Manager

Resort Tax Report
Reported in the Month Businesses Paid Tax

Month/Year	Lodging	Bars & Restaurants		Retail	Collected	% Chng Mnth to Pr Yr Mnth	% Chng Quarter to Pr Yr Quarter	Interest	Total
		Restaurants	Restaurants						
Jul-08	57,424	80,928	155,462	293,814		35%	\$ 3,040	\$ 296,854	
Jul-09	41,463	71,552	96,808	209,823		-29%	\$ 5,828	\$ 215,652	
FY09 vs FY10	-9.0%	-4.1%	-2.6%	-4.2%		or \$ (67,489)		TaxableSalesFY10 \$ 81,019,064	
Jul-10	54,499	81,857	98,267	234,624		12%	\$ 2,423	\$ 237,047	
Aug-10	69,698	79,873	84,842	234,413		10%	1,023	235,436	
Total FY11	\$ 274,688	\$ 651,321	\$ 747,615	\$ 1,673,624		Compared to Prv Yr	\$ 38,004	\$ 1,711,629	
FY10 vs FY11	12.0%	15.5%	2.4%	8.7%		or \$ 134,262		TaxableSalesFY11 \$ 88,085,492	
Jul-11	56,106	90,212	100,325	246,642		5%	\$ 979	\$ 247,621	
Aug-11	85,621	91,408	106,860	283,889		21%	7,833	291,722	
Sep-11	28,154	58,830	61,535	148,519		10%	593	149,112	
Oct-11	17,944	45,919	43,610	107,473		-1%	496	107,969	
Nov-11	14,351	39,054	63,758	117,162		28%	479	117,641	
Dec-11	16,531	51,195	84,000	151,726		-17%	526	152,252	
Jan-12	10,032	44,089	46,905	101,026		3%	515	101,541	
Feb-12	14,585	56,427	60,780	131,793		8%	578	132,371	
Mar-12	11,008	42,952	47,682	101,643		7%	557	102,200	
Apr-12	9,353	39,367	47,657	96,377		21%	610	96,987	
May-12	15,461	51,207	80,526	147,194		40%	6,993	154,187	
Jun-12	35,584	68,403	72,472	176,460		-5%	625	177,085	
Total FY12	\$ 314,731	\$ 679,063	\$ 816,110	\$ 1,809,903		Compared to Prv Yr	\$ 20,785	\$ 1,830,688	
FY11 vs FY12	15%	4%	9%	8%		or \$ 136,279		TaxableSalesFY12 \$ 95,258,076	
Jul-12	69,418	94,341	115,149	278,908		13%	\$ 643	\$ 279,551	
Aug-12	53,361	92,463	102,812	248,636		-12%	444	249,080	
Sep-12	57,000	77,503	73,232	207,734		40%	533	208,267	
Oct-12	24,519	54,631	49,137	128,288		19%	434	128,722	
Nov-12	8,099	40,326	74,122	122,547		5%	393	122,941	
Dec-12	15,490	66,046	88,956	170,492		12%	363	170,855	
Jan-13	13,152	51,930	53,396	118,478		17%	413	118,891	
Feb-13	18,023	55,180	66,995	140,198		6%	405	140,603	
Mar-13	16,171	56,231	53,318	125,720		24%	465	126,185	
Apr-13	10,105	42,230	42,325	94,660		-2%	427	95,087	
May-13	19,009	52,303	80,090	151,402		3%			
Jun-13	41,222	74,833	94,085	210,140		19%			
Total FY13	\$ 345,570	\$ 758,018	\$ 893,617	\$ 1,997,205		Compared to Prv Yr	\$ 4,520	\$ 1,640,183	
FY12 vs FY13	10%	12%	9%	10%		or \$ 187,301		TaxableSalesFY13 \$ 105,116,040	
Jul-13	81,828	98,642	120,028	300,497		8%			
Aug-13	77,809	108,131	106,422	292,362		18%			
Sep-13	50,377	77,416	69,328	197,120		-5%			
Oct-13	16,851	48,015	54,271	119,137		-7%			
Total FY14	\$ 226,865	\$ 332,203	\$ 350,049	\$ 909,117		YTD Compared to Last Year	\$ 4,520	\$ 1,640,183	
YTD vs Last Year	11.0%	4.2%	2.9%			or \$ 45,550		TaxableSalesFY14 \$ 47,848,260	
FY14 % of Collections	25%	37%	39%					\$ 747,488 \$ 19,510,104	
Grand Total	\$ 4,424,309	\$ 9,065,244	\$ 10,923,159	\$ 24,412,712				\$ 747,488 \$ 19,510,104	
% of Total Collections	18%	37%	45%					3.1% Average i since '96	



Your Co-op Flathead Electric

Community...Integrity...Reliability

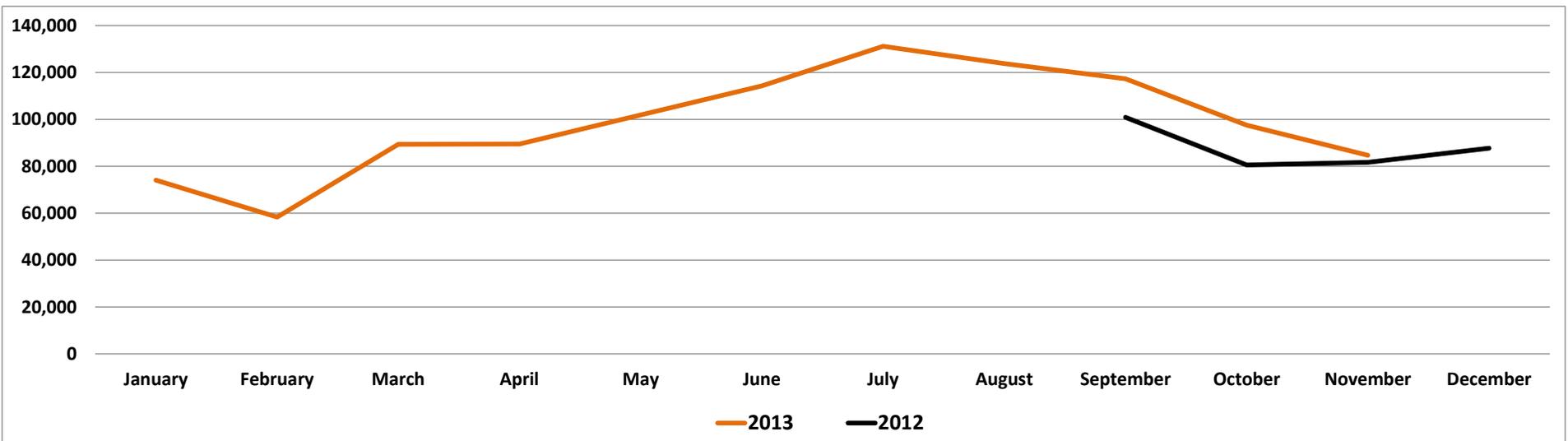
Whitefish Hydro Power Purchase & Exchange Agreement

Month End: November 30, 2013

Contract Detail	
Dollars	
Contracted Prepaid Power	\$ 400,000
Cumulative Credits	\$ 86,185
Prepaid Power Balance	\$ 313,815
Monthly Average	\$ 5,746
Kilowatt Hours	
Contracted Prepaid Power	6,650,000
Cumulative Generation	1,432,822
Prepaid Power Balance	5,217,178
Monthly Average	95,521
Estimated Contract Completion Date Based on Current Average:	
	June 2018

Production Detail				
Period	kWh Generated	Power Cost (\$.06015/kWh)	Power Balance	kWh Balance
Nov-13	84,719	\$ 5,096	\$ 313,815	5,217,178
Oct-13	97,567	5,869	318,911	5,301,897
Sep-13	117,346	7,058	324,780	5,399,464
Aug-13	123,804	7,447	331,838	5,516,810
Jul-13	131,207	7,892	339,285	5,640,614
Jun-13	114,332	6,877	347,177	5,771,821
May-13	101,918	6,130	354,054	5,886,153
Apr-13	89,426	5,379	360,184	5,988,071
Mar-13	89,321	5,373	365,563	6,077,497
Feb-13	58,310	3,507	370,936	6,166,818
Jan-13	74,093	4,457	374,443	6,225,128
Dec-12	87,710	5,276	378,900	6,299,221
Nov-12	81,623	4,910	384,176	6,386,931
Previous	181,446	10,914	389,086	6,468,554
Total	1,432,822	\$ 86,185		

Monthly Production Summary & Annual Comparison												
	January	February	March	April	May	June	July	August	September	October	November	December
2012									100,885	80,561	81,623	87,710
2013	74,093	58,310	89,321	89,426	101,918	114,332	131,207	123,804	117,346	97,567	84,719	





FLATHEAD VALLEY / GLACIER PARK REGION

December 2013 Fourth Quarter Membership Letter

Dear Stakeholders:

As 2013 draws to a close we want to share some salient points about what your support to Montana West Economic Development has achieved this year:

- 106 new touches with companies, entrepreneurs, or residents evaluating ideas
- Of those 106 touches 51 became clients of Montana West utilizing resources through our connections
- In the past 12 months \$1.9 million was lent to existing business and new business startups from Montana West
- The \$1.9 million leveraged local bank capital of \$2 million for business, and owner equity of \$954,453
- \$1.3 million in additional loan funds were procured by Montana West to revolve to business loans
- To accelerate business growth and hiring \$977,580 in grant funds were passed on to local business
- 100+ new positions were created by Montana West clients in the past 12 months
- An additional 100 new positions are projected for creation in 2014 from existing clients

We appreciate your business' contribution to support the delivery of local economic development services. If our team can share a cup of coffee with members of your organization to further dive into what we do or how we do it, we are always willing to share success stories and examples.

In closing, thank you for supporting the local economy and the philosophical understanding that "all boats rise with the tide." We look forward to 2014.

Sincerely,

Kellie Danielson, CECD
President

Montana West Economic Development is an equal opportunity employer, provider, and lender.

314 Main Street, Kalispell, Montana 59001 406.257.7711 x 4



December 20, 2013

received
12/23/13 CC

Chuck Stearns
City Manager
City of Whitefish
418 E Second Street
Whitefish, MT 59937

Dear Chuck:

Charter Communications is committed to improving the overall experience for customers in your community and is delivering more value with new and existing products and services.

As we begin transitioning to Charter pricing and packaging, customers in your community will begin seeing exciting and positive changes. Beginning in February, the speed for Internet customers will be doubled from 15 mbps to 30 mbps at no cost to the customers. Video customers will see changes to their package pricing; some will experience no change and some will experience a modest increase.

Effective February 2014, customer statements will reflect adjustments to pricing in your community. Those changes are detailed below and will be communicated via a customer notice. Customers currently on promotional pricing will not see a change in this portion of their fee during the promotional period.

Specific changes in Whitefish include:

- Broadcast TV Surcharge, which reflects charges assessed to Charter by broadcast TV stations, from \$2.36 to \$3.50
- Optimum Broadcast Basic from \$25.00 to \$26.99
- Legacy Limited Basic (Bresnan) from \$23.34 to \$26.99
- Legacy Expanded (Bresnan) from \$38.40 to \$34.75
- Set-Top Box (SD, HD and DVR) plus remote from \$6.70 to \$6.99
- Family Cable \$57.95 to \$59.99
- Silver Package from \$74.95 to \$79.99
- Gold Package from \$94.95 to \$99.99
- Español Tier from \$6.00 to \$6.99
- Sports Pak from \$5.95 to \$7.00
- DVR service from \$11.95 to \$11.99
- A la carte premium channels from \$11.95 to \$15.00
- A la carte premium channels with Subscription Video on Demand from \$15.90 to \$15.00
- Unreturned Equipment will be changed as follows: Digital Set-Top Box, from \$144-\$344 to \$125; CableCard from \$75 to \$39; and where applicable, Digital Terminal Adapter from \$60 to \$44.

As a reminder, if you are receiving franchise fee payments from Charter; there is a quicker alternative to receiving checks via the U.S. mail. You continue to have the option to sign up for an electronic direct payment process assuring a more efficient and timely manner of receiving your funds. If you would like to opt into the electronic payment process, please contact me at the number below. We believe this convenient method will be of significant value to Whitefish.

If you have any questions about these or any other changes, please contact me at 406-670-3496 or melissa.shannon@charter.com.

Sincerely,

Melissa Shannon
Area Director, Government Affairs

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RESOLUTION NO. 14-_____

A Resolution of the City Council of the City of Whitefish, Montana, approving a Definite Term Lease Agreement with BNSF Railway Company, for the Whitefish landing, a non-motorized boat launch, located along the Whitefish River, south of the BNSF Roundhouse, Line Segment 0036, Mile Post 1219.55, Whitefish, Montana.

WHEREAS, the BNSF Railway Company is the owner of the Whitefish landing, a non-motorized boat launch, located along the Whitefish River, south of the BNSF Roundhouse, along Line Segment 0036, Mile Post 1219.55, Whitefish, Montana, as depicted on Drawing No. 1-58572 dated July 26, 2013, attached to the Definite Term Lease, attached as Exhibit 1, and referred to as the "Premises"; and

WHEREAS, the BNSF Railway Company recognized the completion of its five-year Whitefish River and the Mackinaw Bay cleanup on Whitefish Lake with the dedication of a new public park and non-motorized boat launch located on the Premises; and

WHEREAS, through a \$25,000 grant from the BNSF Foundation, a public park and boat launch have been established on the Premises, which allows direct access to the Whitefish pedestrian and bicycle path and access to the river; and

WHEREAS, the BNSF Railway Company and the City have negotiated a Definite Term Lease Agreement, covering the Premises for a lease term of 20 years, renewable for up to three additional five-year periods, terminable upon 30-days' notice, and no base rental due BNSF Railroad Company; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, for the City Council to approve the Definite Term Lease Agreement with the BNSF Railway Company; and

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

Section 1: The Definite Term Lease Agreement, a copy of which is attached hereto as Exhibit "1" and incorporated herein by reference, is hereby approved by the City Council.

Section 2: The City Manager is authorized to execute the Definite Term Lease Agreement.

Section 3: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2014.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

**DEFINITE TERM LEASE
LAND**

THIS DEFINITE TERM LEASE FOR LAND ("Lease") is dated as of the _____ day of _____, _____ (the "Effective Date") between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Lessor") and **CITY OF WHITEFISH**, a Montana municipal corporation ("Lessee").

RECITALS

A. Lessor is in the railroad transportation business and owns or controls a system of rail tracks ("Lessor's Track(s)") and various real properties associated therewith, including certain Premises as described below which Lessee desires to lease from Lessor.

B. Lessor has agreed to lease to Lessee the Premises, subject to the terms, conditions and limitations provided herein.

AGREEMENTS

In consideration of the mutual covenants herein, Lessor and Lessee hereby agree as follows:

Section 1. Premises and Term.

A. Lessor leases to Lessee and Lessee rents from Lessor, subject to the covenants, agreements, terms, provisions and conditions of this Lease, for the Term (as defined below), that certain parcel of real property, situated in the City of Whitefish, County of Flathead, State of Montana, along Line Segment 0036, Mile Post 1219.55 and constituting the shaded area shown upon Print No. 1-58572 dated 7/26/13, a copy of which is attached hereto as **Exhibit "A"** and made a part hereof ("**Premises**").

B. Lessee leases the Premises from Lessor for a term ("**Term**") of twenty (20) years beginning _____ ("**Commencement Date**"), and continuing thereafter until _____ or until this Lease shall be terminated earlier pursuant to the terms herein ("**Termination Date**").

C. Each consecutive twelve-month period during the Term, beginning with the Commencement Date of this Lease, is herein called a "**Lease Year**."

Section 2. Early Termination.

A. This Lease may be terminated by either party, at any time, without cause, for convenience, by serving upon the other party written notice of termination ("**Termination Notice**") at least thirty (30) days in advance. Upon the expiration of the time specified in such notice, this Lease and all rights of Lessee shall absolutely cease.

B. In the event of termination of this Lease pursuant to the Termination Notice in accordance with **Section 2(A)**, Lessee, before the termination date stated in said Termination Notice, shall remove from the Premises Lessee's property not purchased by Lessor, and if it fails to do so, Lessee hereby grants Lessor the absolute right to remove such property at the cost of Lessee, or to keep, convey, destroy, or otherwise dispose of the property in any way Lessor chooses and, in addition, Lessee shall promptly upon demand pay Lessor the net (i.e., after deduction and salvage value) cost incurred by Lessor in doing so.

Section 3. Use and Compliance.

A. Lessee may use the Premises for the sole and exclusive purpose of a picnic area and landing for canoes and kayaks and for no other purpose without the prior written consent of Lessor. Lessee shall respond to Lessor's reasonable inquiries regarding the use or condition of the Premises. Motorized vehicle access or parking at the landing is not permitted.

B. Lessee shall comply with all Laws applicable to Lessee, the Premises, this Lease and Lessee's activities and obligations hereunder, and shall have the sole responsibility for costs, fees, or expenses associated with such compliance. As used herein, the term "**Laws**" shall mean any and all statutes, laws, ordinances, codes, rules or

regulations or any order, decision, injunction, judgment, award or decree of any public body or authority having jurisdiction over Lessee, the Premises, this Lease, and/or Lessee's obligations under this Lease, and shall include all Environmental Laws (as defined in **Section 5(A)**).

C. If any governmental license or permit is required or desirable for the proper and lawful conduct of Lessee's business or other activity in or on the Premises, or if the failure to secure such a license or permit might in any way affect Lessor, then Lessee, at Lessee's expense, shall procure and thereafter maintain such license or permit and submit the same to inspection by Lessor. Lessee, at Lessee's expense, shall at all times comply with the requirements of each such license or permit.

Section 4. Rent.

A. Lessee shall pay as rental for the Premises, in advance, an amount equal to zero and no/100 dollars (\$0.00) annually during the Term. ("**Base Rent**").

Section 5. Environmental.

A. Lessee shall strictly comply with all federal, state and local environmental laws and regulations in its occupation and use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Clean Air Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, and CERCLA (collectively referred to as the "**Environmental Laws**"). Lessee shall not maintain any treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws, on the Premises. Lessee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws, on or about the Premises.

B. Lessee shall give Lessor immediate notice to Lessor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises and to Lessor's Manager Environmental Leases at (785) 435-2386 for any violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws. Lessee shall use its best efforts to promptly respond to any release on or from the Premises. Lessee also shall give Lessor's Manager Environmental Leases immediate notice of all measures undertaken on behalf of Lessee to investigate, remediate, respond to or otherwise cure such release or violation and shall provide to Lessor's Manager Environmental Leases copies of all reports and/or data regarding any investigations or remediations of the Premises.

C. In the event that Lessor has notice from Lessee or otherwise of a release or violation of Environmental Laws on the Premises which occurred or may occur during the term of this Lease, Lessor may require Lessee, at Lessee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Lessor's right-of-way.

D. Lessee shall promptly report to Lessor in writing any conditions or activities upon the Premises which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Lessee's reporting to Lessor shall not relieve Lessee of any obligation whatsoever imposed on it by this Lease. Lessee shall promptly respond to Lessor's request for information regarding said conditions or activities.

E. Hazardous Materials are not permitted on the Premises except as otherwise described herein. Lessee expects to use on the Premises the following Hazardous Materials: NONE and to store on the Premises the following Hazardous Materials (as defined in **Section 5(F)** below): NONE; provided, however, that Lessee may only use and store the listed Hazardous Materials in such amounts as are necessary and customary in Lessee's industry for the permitted uses hereunder ("**Permitted Substances**"). All such Permitted Substances shall be placed, used, and stored in strict accordance with all Environmental Laws. Use or storage on the Premises of any Hazardous Materials not disclosed in this **Section 5(E)** is a breach of this Lease.

F. For purposes of this Section, "**Hazardous Materials**" means all materials, chemicals, compounds, or substances (including without limitation asbestos, petroleum products, and lead-based paint) identified as hazardous or toxic under Environmental Laws.

G. Lessee will leave the premises in the same condition as premises were in at beginning of lease plus any improvements. Lessee acknowledges that the Premises is part of and/or adjacent to the Burlington Northern Whitefish CECRA Facility and, as such, may have existing environmental impacts.

Section 6. Access to Adjacent Property by Lessee.

If access to and from the Premises can be accomplished only through use of Lessor's property adjacent to the Premises, such use is granted for ingress and egress only and on a non-exclusive basis, subject to such restrictions and conditions as Lessor may impose by notice to Lessee. Lessor shall have the right to designate the location or route to be used. Lessee understands and agrees that all of the terms and obligations under this Lease applicable to Lessee shall also be applicable to Lessee with respect to Lessee's use of any property adjacent to the Premises which Lessee may use just as though the property has been specifically described as part of the Premises, including, without limitation, the indemnity provisions of **Section 14**. Notwithstanding anything to the contrary herein, this **Section 6** shall not grant Lessee any right to cross any of Lessor's Tracks. Any such crossing rights may only be granted by a separate written agreement between Lessor and Lessee.

Section 7. Access to Premises by Lessor.

A. Lessor and its contractors, agents and other designated third parties may at all reasonable times and at any time in case of emergency, in such manner as to not unreasonably interfere with Lessee's use of the Premises as allowed hereunder, (i) enter the Premises for inspection of the Premises or to protect the Lessor's interest in the Premises or to protect from damage any property adjoining the Premises, (ii) enter the Premises to construct, maintain, and operate trackage, fences, pipelines, communication facilities, fiber optic lines, wireless towers, telephone, power or other transmission lines, or appurtenances or facilities of like character, upon, over, across, or beneath the Premises, without payment of any sum for any damage, including damage to growing crops, (iii) take all required materials and equipment onto the Premises, and perform all required work therein, for the purpose of making alterations, repairs, or additions to the Premises as Lessor may elect if Lessee defaults in its obligation to do so, (iv) enter the Premises to show the Premises to holders of encumbrances on the interest of Lessor in the Premises, or to prospective purchasers or mortgagees of the Premises, (v) during the twelve (12) months prior to expiration of the Term, exhibit the Premises to prospective lessees, and Lessor or its broker may place signage on the Premises to advertise that the same is available for lease or sale, and all such entries and activities shall be without any rebate of rent to Lessee for any loss of occupancy of the Premises, or damage, injury or inconvenience thereby caused.

B. For purposes stated in this **Section 7**, Lessor will at all times have keys with which to unlock all of the doors and gates on the Premises, and Lessee will not change or alter any lock thereon without Lessor's permission.

C. In an emergency, Lessor will be entitled to use any and all means that Lessor may deem proper to open doors, gates, and other entrances to obtain entry to the Premises. Any entry to the Premises by Lessor as described in this **Section 7** shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or any eviction of Lessee from the Premises, and any damages caused on account thereof will be paid by Lessee.

Section 8. Warranties.

LESSOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LESSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE. This Lease is made subject to all outstanding rights or interests of others. If the Premises are subsequently found to be subject to prior claim, this Lease shall terminate immediately on notice to that effect from Lessor. Lessee accepts this Lease subject to that possibility and its effect on Lessee's rights and ownership of the Lessee Improvements. In case of eviction of Lessee by anyone other than Lessor, or anyone owning or claiming title to or any interest in the Premises, Lessor shall not be liable to Lessee for damage of any kind (including any loss of ownership right to Lessee's Improvements) or to refund any rent paid hereunder, except to return the unearned portion of any rent paid in advance.

Section 9. Premises Condition; Lessee Improvements.

A. Lessee represents that the Premises, the title thereto, any subsurface conditions thereof, and the present uses thereof have been examined by the Lessee. Lessee accepts the same in the condition in which they now are, without representation or warranty, expressed or implied, in fact or by law, by the Lessor, and without recourse to the

Lessor as to the title thereto, the nature, condition or usability thereof, or the uses to which the Premises may be put. By taking possession or commencing use of the Premises, Lessee (i) acknowledges that it is relying on its own inspections of the Premises and not on any representations from Lessor regarding the Premises; (ii) establishes conclusively that the Premises are at such time in satisfactory condition and in conformity with this Lease and all zoning or other governmental requirements in all respects; and (iii) accepts the Premises in its condition as of the Commencement Date on an "AS IS," "WHERE IS," and "WITH ALL FAULTS" basis, subject to all faults and infirmities, whether now or hereafter existing. Lessee acknowledges that the Premises is part of and/or adjacent to the Burlington Northern Whitefish CECRA Facility and, as such, may have existing environmental impacts. Nothing contained in this **Section 9** affects the commencement of the Term or the obligation of Lessee to pay rent as provided above. Lessee represents and warrants to Lessor as follows: (i) Lessee does not intend to, and will not, use the Premises for any purpose other than as set forth in **Section 3**; (ii) Lessee has previously disclosed in writing to Lessor all special requirements (but Lessor shall have no responsibility relative to any such special requirement), if any, which Lessee may have in connection with this intended use; and (iii) Lessee has undertaken and has reasonably and diligently completed all appropriate investigations regarding the suitability of the Premises for Lessee's intended use. Lessee shall comply with any covenants, conditions or restrictions now or hereafter affecting the Premises, and acknowledges that Lessor may place any covenants, conditions or restrictions of record affecting the Premises prior to or during the Term. In such event, this Lease will be subject and subordinate to all of the same without further action by either party, including, without limitation, the execution of any further instruments. Lessee acknowledges that Lessor has given material concessions for the acknowledgements and provisions contained in this **Section 9**, and that Lessor is relying on these acknowledgements and agreements and would not have entered into this Lease without such acknowledgements and agreements by Lessee.

B. If initial improvements are necessary for Lessee's use of the Premises, Lessee, at Lessee's sole cost and expense, shall, on or after the Commencement Date, construct and install such initial improvements to the Premises which are necessary for Lessee's use of the Premises and are acceptable to Lessor in Lessor's sole discretion ("**Lessee Improvements**"). The construction and installation of any Lessee Improvements shall be subject to Lessor's prior written approval of plans and specifications for such Lessee Improvements to be prepared by Lessee and submitted to Lessor for approval as set forth below, such approval to be in Lessor's sole and absolute discretion. Within forty-five (45) days after the Commencement Date, Lessee shall submit detailed plans and specifications, and the identity of Lessee's proposed general contractor for the Lessee Improvements for Lessor's review and approval. Lessor shall either approve or disapprove the plans and specifications and general contractor (in its sole and absolute discretion) by written notice delivered to Lessee within sixty (60) days after receipt of the same from Lessee. In the event of any disapproval, Lessor shall specify the reasons for such non-approval. If Lessor fails to deliver notice to Lessee of Lessor's approval or disapproval of the plans, specifications, and proposed general contractor within the time period discussed above, Lessee's plans, specifications and proposed contractor shall be deemed disapproved. If Lessor specifies objections to the plans and specifications or general contractor as herein provided and Lessor and Lessee are unable to resolve the objections by mutual agreement within a period of thirty (30) days from the date of delivery of written notice thereof, Lessee, as its sole remedy, to be exercised not later than ten (10) days after the expiration of said thirty (30) days period, may terminate this Lease by written notice to Lessor. Upon approval of the plans and specifications by Lessor, Lessor and Lessee shall sign the same, and they shall be deemed a part hereof. All Lessee Improvements shall be constructed and installed in accordance with the terms and conditions of **Exhibit "B"** attached to the Lease and all applicable terms and conditions of the Lease regarding alterations and improvements. Lessee shall not construct any other alteration or improvement to the Premises without Lessor's prior written consent. The Lessee Improvements constructed pursuant to the above provisions shall be owned by Lessee during the Term and removed from the Premises or surrendered to the Lessor pursuant to **Section 2(B)** above or **Section 21** below, as applicable, upon termination of this Lease.

Section 10. Taxes and Utilities.

A. In addition to Base Rent, Lessee shall pay all taxes, utilities, and other charges of every kind and character, whether foreseen or unforeseen, ordinary or extraordinary, which are attributable to the Term of this Lease and may become due or levied against the Premises, against Lessee, against the business conducted on the Premises or against the Lessee Improvements placed thereon during the Term hereof, even though such taxes, utilities or other charges may not become due and payable until after termination of this Lease provided; however, that Lessee shall only be responsible for the payment of property taxes levied against the Premises to the extent such taxes are separately assessed by the applicable taxing authority as a result of this Lease. Lessee agrees that Lessor shall not be required to furnish to Lessee any utility or other services. If this Lease is a transfer of an existing lease, Lessee must make arrangements with the present lessee for payment of any delinquent and current taxes, utilities, and other charges prior to taking possession. If such arrangements are not made, Lessee agrees to pay all such taxes, utilities, and other charges. If Lessor should make any such payments, Lessee shall promptly upon demand reimburse Lessor for all such sums.

B. Should the Premises be subject to special assessment for public improvements in the amount of Five Hundred Dollars (\$500.00) or less during any Lease Year, Lessee shall promptly reimburse Lessor the amount in full. Should the assessment exceed Five Hundred Dollars (\$500.00) during any Lease Year then such excess shall be paid by Lessor, but the Base Rent herein shall be increased by an amount equal to twelve percent (12%) of such excess payable for each Lease Year such amounts are payable.

Section 11. Track Clearance.

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Section 12. Repairs; Maintenance.

A. Lessee shall, at its sole expense, take good care of the Premises (including all Lessee Improvements) and shall not do or suffer any waste with respect thereto and Lessee shall promptly make all necessary or desirable Repairs to the Premises. The term "**Repairs**" means all reasonable repair and maintenance necessary to keep the Premises (including all Lessee Improvements) in good condition and includes, without limitation, replacements, restoration and renewals when necessary. Lessee shall keep and maintain any paved areas, sidewalks, curbs, landscaping and lawn areas in a clean and orderly condition, and free of accumulation of dirt and rubbish.

B. Lessor shall not have any liability or obligation to furnish or pay for any services or facilities of whatsoever nature or to make any Repairs or alterations of whatsoever nature in or to the Premises, including but not limited to structural repairs, or to maintain the Premises in any manner. Lessee acknowledges that Lessor shall have no responsibility for management of the Premises.

Section 13. Safety; Dangerous and Hazardous Conditions.

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Section 14. Indemnity.

A. Lessor understands and acknowledges that Lessee is a political subdivision created and existing under the Constitution and Laws of the State of Montana. Licensor further acknowledges and understands that Lessee's obligations, duties, and liabilities under this Lease are subject to the Constitution and Laws of the State of Montana. Nothing in this Lease shall be construed as a waiver by the Lessee of any rights, immunities, privileges, monetary limitations to judgments and defenses available to the Licensee under common law or the applicable provisions of the Montana constitution and statutes.

B. TO THE FULLEST EXTENT PERMITTED BY LAW AND TO THE EXTENT OF LESSEE'S OBLIGATIONS, DUTIES, AND LIABILITIES INCLUDING BUT NOT LIMITED TO ANY APPLICABLE PROVISIONS OF THE MONTANA CONSTITUTION AND STATUTES, LESSEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS LESSOR AND LESSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS LEASE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS CAUSED BY, AGGRAVATED BY, OR CONTRIBUTED IN WHOLE OR IN PART, BY LESSEE;**
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LEASE;**
- (iii) LESSEE'S OCCUPATION AND USE OF THE PREMISES;**
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY, AGGRAVATED BY, OR CONTRIBUTED IN WHOLE OR IN PART, BY LESSEE; OR**

(v) ANY ACT OR OMISSION OF LESSEE OR LESSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

THE ONLY LIABILITIES WITH RESPECT TO WHICH LESSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

C. FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW AND TO THE EXTENT OF LESSEE'S OBLIGATIONS, DUTIES AND LIABILITIES, INCLUDING BUT NOT LIMITED TO ANY APPLICABLE PROVISIONS OF THE MONTANA CONSTITUTION AND STATUTES, AND SUBJECT TO THE LIMITATION IN SECTION 14(A) AND (B), LESSEE SHALL NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS OF WHETHER SUCH CLAIMS ARE BASED ON STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PREMISES FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LESSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LEASE SHALL NOT IN ANY WAY SUBJECT LESSOR TO CLAIMS THAT LESSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS.. IN NO EVENT AS BETWEEN LESSOR AND LESSEE AS TO USE OF THE PREMISES AS CONTEMPLATED BY THIS LEASE SHALL LESSOR BE RESPONSIBLE TO LESSEE FOR A THIRD PARTY CLAIM.

D. TO THE FULLEST EXTENT PERMITTED BY LAW AND TO THE EXTENT OF LESSEE'S OBLIGATIONS, DUTIES AND LIABILITIES, INCLUDING BUT NOT LIMITED TO ANY APPLICABLE PROVISIONS OF THE MONTANA CONSTITUTION AND STATUTES, AND SUBJECT TO THE LIMITATION IN Section 14 (A), (B) and (C), LESSEE FURTHER AGREES, REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LESSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL HEALTH AND SAFETY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.

E Upon written notice from Lessor, Lessee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this Lease for which Lessee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Lessee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

Section 15. Equal Protection. It is agreed that the provisions of **Sections 11, 13, and 14** are for the equal protection of other railroad companies, including, without limitation, the National Railroad Passenger Corporation (Amtrak), permitted to use Lessor's property, and such railroad companies shall be deemed to be included as Indemnitees under **Sections 11, 13, and 14**.

Section 16. Assignment and Sublease.

A. Lessee shall not (i) assign or otherwise transfer this Lease or any interest herein, or (ii) sublet the Premises or any part thereof, without, in each instance, obtaining the prior written consent of Lessor, which consent may be withheld in Lessor's sole and absolute discretion. For purposes of this **Section 16**, in the event that there are aggregate transfers or other changes in the ownership interests of Lessee resulting in a change of more than 20% of the ownership interests as held on the date hereof, a transfer shall be deemed to have occurred hereunder. Any person or legal representative of Lessee, to whom Lessee's interest under this Lease passes by operation of law, or otherwise, will be bound by the provisions of this Lease.

B. Any assignment, lease, sublease or transfer made pursuant to **Section 16(A)** may be made only if, and shall not be effective until, the assignee cures all outstanding defaults of Lessee hereunder and executes, acknowledges

and delivers to Lessor an agreement, in form and substance satisfactory to Lessor, whereby the assignee assumes the obligations and performance of this Lease and agrees to be personally bound by and upon all of the covenants, agreements, terms, provisions and conditions hereof on the part of Lessee to be performed or observed. Lessee covenants that, notwithstanding any assignment or transfer, whether or not in violation of the provisions of this Lease, and notwithstanding the acceptance of rent by Lessor from an assignee or transferee or any other party, Lessee will remain fully and primarily liable along with the assignee for the payment of the rent due and to become due under this Lease and for the performance of all of the covenants, agreements, terms, provisions, and conditions of this Lease on the part of Lessee to be performed or observed.

Section 17. Liens.

Lessee shall promptly pay, discharge and release of record any and all liens, charges and orders arising out of any construction, alterations or repairs, suffered or permitted to be done by Lessee on the Premises. Lessor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by law to prevent the attachment of any such liens to the Premises; provided, however, that failure of Lessor to take any such action shall not relieve Lessee of any obligation or liability under this Section or any other Section of this Lease.

Section 18. Insurance.

Lessee shall, at its sole cost and expense, procure and maintain during the life of this Lease the following insurance coverage:

- A.** All risks property insurance covering all of Lessee's property including property in the care, custody or control of Lessee. Coverage shall include the following:
- ◆ Issued on a replacement cost basis.
 - ◆ Shall provide that in respect of the interest of Lessor the insurance shall not be invalidated by any action or inaction of Lessee or any other person and shall insure the respective interests of Lessor as they appear, regardless of any breach or violation of any warranty, declaration or condition contained in such policies by Lessee or any other person.
 - ◆ Include a standard loss payable endorsement naming Lessor as the loss payee as its interests may appear.

B. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$1,000,000 each occurrence and an aggregate limit of at least \$ 2,000,000. Coverage must be purchased on a post 1998 ISO occurrence form or equivalent and include coverage for, but not limited to, the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Any exclusions related to the explosion, collapse and underground hazards shall be removed.

No other endorsements limiting coverage may be included on the policy.

C. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- ◆ Bodily injury and property damage
- ◆ Any and all vehicles owned.

D. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:

- ◆ Lessee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

E. If construction is to be performed on the Premises by Lessee, Lessee or Lessee's contractor shall procure Railroad Protective Liability insurance naming only the Lessor as the Insured with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:

- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
- ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
- ◆ Endorsed to remove any exclusion for punitive damages.
- ◆ No other endorsements restricting coverage may be added.
- ◆ The original policy must be provided to the Lessor prior to performing any work or services under this Lease

Other Requirements:

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) shall name **Railroad and Jones Lang LaSalle** as additional insureds with respect to work performed under this Lease. Naming **Railroad and Jones Lang LaSalle** as additional insureds shall be indicated on the certificate of insurance.

Lessee is not allowed to self-insure without the prior written consent of **Railroad**. If granted by **Railroad**, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Lessee in lieu of insurance. Any and all **Railroad** liabilities that would otherwise, in accordance with the provisions of this Lease, be covered by Lessee's insurance will be covered as if Lessee elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Lessor acknowledges to Lessee's liability coverages and limitations from the Montana Municipal Interlocal Authority (MMIA), which is a self-insurance pool of Montana Municipalities as shown in a Certificate of Insurance acceptable to Lessor.

Prior to accessing the Premises, Lessee shall furnish to **Railroad** an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify **Railroad** in writing at least 30 days prior to any cancellation, renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from **Railroad**, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to **Railroad** or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the Premises is located.

Lessee represents that this Lease has been thoroughly reviewed by Lessee's insurance agent(s)/broker(s), who have been instructed by Lessee to procure the insurance coverage required by this Lease. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, **Railroad** may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be contracted by Lessee, Lessee shall require that the contractor shall provide and maintain insurance coverages as set forth herein, naming **Railroad** as an additional insured, and shall require that the contractor shall release, defend and indemnify **Railroad** to the same extent and under the same terms and conditions as Lessee is required to release, defend and indemnify **Railroad** herein.

Failure to provide evidence as required by this section shall entitle, but not require, **Railroad** to terminate this Lease immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Lessee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Lessee shall not be deemed to release or diminish the liability of Lessee including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by **Railroad** shall not be limited by the amount of the required insurance coverage.

For purposes of this section, **Railroad** shall mean "Burlington Northern Santa Fe LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

Section 19. Water Rights and Use of Wells.

This Lease does not grant, convey or transfer any right to the use of water under any water right owned or claimed by the Lessor which may be appurtenant to the Premises. All right, title, and interest in and to such water is expressly reserved unto Lessor, and the right to use same or any part thereof may be obtained only by the prior written consent of the Lessor. Lessee shall not use, install or permit to be installed or used any wells on the Premises without the prior written consent of Lessor.

Section 20. Default.

A. An "Event of Default" by Lessee shall have occurred hereunder if any of the following shall occur:

- (i) if Lessee violates any safety provision contained in this Lease;
- (ii) if Lessee fails to pay rent or any other monetary payment hereunder when due or fails to perform any other obligations under this Lease and such failure continues thirty (30) days after written notice from Lessor to Lessee of Lessee's failure to make such payment or perform such obligations;
- (iii) if a decree or order of a court having jurisdiction over the Premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Lessee or over all or a substantial part of the property of Lessee shall be entered; or if Lessee becomes insolvent or makes a transfer in fraud of creditors; or an interim receiver, trustee or other custodian of Lessee or of all or a substantial part of the property of Lessee shall be appointed or a warrant of attachment, execution, or similar process against any substantial part of the property of Lessee shall be issued and any such event shall not be stayed, dismissed, bonded or discharged within thirty (30) days after entry, appointment or issuance;
- (iv) if the Premises is abandoned or vacated by Lessee.

B. If an Event of Default occurs as provided above, Lessor may, at its option, (i) terminate this Lease by serving five (5) days notice in writing upon Lessee, in which event Lessee shall immediately surrender possession of the Premises to Lessor, without prejudice to any claim for arrears of rent or breach of covenant, (ii) proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by Lessee of the applicable provisions of this Lease or to recover damages for a breach thereof, (iii) cure the default by making any such payment or performing any such obligation, as applicable, at Lessee's sole expense, without waiving or releasing Lessee from any obligation, or (iv) enter into and upon the Premises or any part thereof and repossess the same without terminating the Lease and, without obligations to do so relet the Premises or any part thereof as the agent of Lessee and in such event, Lessee shall be immediately liable to Lessor for all costs and expenses of such reletting, the cost of any alterations and repairs deemed necessary by Lessor to effect such reletting and the full amount, if any, by which the rentals reserved in this Lease for the period of such reletting exceeds the amounts agreed to be paid as rent for the Premises for the period of reletting. The foregoing rights and remedies given to Lessor are and shall be deemed to be cumulative and the exercise of any of them shall not be deemed to be an election excluding the exercise by Lessor at any time of a different or inconsistent remedy. If, on account of breach or default by Lessee of any of Lessee's obligations hereunder, it shall become necessary for the Lessor to employ an attorney to enforce or defend any of Lessor's rights or remedies hereunder, then, in any such event, any reasonable amount incurred by Lessor for attorneys' fees shall be paid by Lessee. Any waiver by Lessor of any default or defaults of this Lease or any delay of Lessor in enforcing any remedy set forth herein shall not constitute a waiver of the right to pursue any remedy at a later date or terminate this Lease for any subsequent default or defaults, nor shall any such waiver in any way affect Lessor's ability to enforce any Section of this

Lease. The remedies set forth in this Section shall be in addition to, and not in limitation of, any other remedies that Lessor may have at law or in equity, and the applicable statutory period for the enforcement of a remedy will not commence until Lessor has actual knowledge of a breach or default.

Section 21. Termination.

Upon the termination of Lessee's tenancy under this Lease in any manner herein provided, Lessee shall relinquish possession of the Premises and shall remove any Lessee Improvements (unless Lessor has purchased same in accordance with the provisions hereof), and restore the Premises to substantially the state and environmental condition in which it was prior to Lessee's use ("**Restoration Obligations**"). If Lessee shall fail within thirty (30) days after the date of such termination of its tenancy to complete the Restoration Obligations, then Lessor may, at its election (i) either remove the Lessee Improvements or otherwise restore the Premises, and in such event Lessee shall, within thirty (30) days after receipt of bill therefor, reimburse Lessor for cost incurred, (ii) upon written notice to Lessee may take and hold any Lessee Improvements and personal property as its sole property, without payment or obligation to Lessee therefor, or (iii) specifically enforce Lessee's obligation to restore and/or pursue any remedy at law or in equity against Lessee for failure to so restore. Further, in the event Lessor has consented to Lessee Improvements remaining on the Premises following termination, or in the event Lessor has elected to purchase the same as provided herein, Lessee shall, upon request by Lessor, provide a Bill of Sale in a form acceptable to Lessor conveying such Lessee Improvements to Lessor.

Section 22. Survival of Obligations.

Notwithstanding any expiration or other termination of this Lease, all of Lessee's indemnification obligations and any other obligations that have accrued but have not been satisfied under this Lease prior to the termination date shall survive such termination.

Section 23. Holding Over.

If Lessee fails to surrender the Premises to Lessor upon the expiration of the Term or upon any other termination of this Lease, and Lessor does not consent in writing to Lessee's holding over, then such holding over will be deemed a month-to-month tenancy. Lessee's holdover will be subject to all provisions of this Lease.

Section 24. Multiple Party Lessee.

In the event that Lessee consists of two or more parties, all the covenants and agreements of Lessee herein contained shall be the joint and several covenants and agreements of such parties.

Section 25. Damage or Destruction.

If at any time during the Term, the Premises are damaged or destroyed by fire or other casualty, then Lessor may terminate this Lease or repair and reconstruct the Premises to substantially the same condition in which the Premises existed immediately prior to the damage or destruction, except that Lessor is not required to repair or reconstruct any Lessee Improvements, personal property, furniture, trade fixtures, or office equipment located on the Premises and removable by Lessee under the provisions of this Lease.

Section 26. Eminent Domain.

If any part of the Premises is taken by eminent domain, Lessor may either terminate this Lease or continue the Lease in effect. If Lessor elects to continue the Lease, rent will be reduced in proportion to the area of the Premises taken by eminent domain, and Lessor shall repair any damage to the Premises resulting from the taking. All sums awarded or agreed upon between Lessor and the condemning authority for the taking of the interest of Lessor or Lessee, whether as damages or as compensation, will be the property of Lessor; without prejudice, however, to claims of Lessee against the condemning authority for moving costs and the unamortized cost of leasehold improvements paid for by Lessee taken by the condemning authority. If this Lease is terminated under this **Section 26**, rent will be payable up to the date that possession is taken by the condemning authority, and Lessor shall refund to Lessee any prepaid unaccrued rent less any sum then owing by Lessee to Lessor.

Section 27. Representations.

Neither Lessor nor Lessor's agents have made any representations or promises with respect to the Premises except as herein expressly set forth.

Section 28. Signs.

No signs are to be placed on the Premises without the prior written approval of Lessor of the size, design, and content thereof.

Section 29. Consents and Approvals.

Whenever in this Lease Lessor's consent or approval is required, such consent or approval shall be in Lessor's sole and absolute discretion. If Lessor delays or refuses such consent or approval, such consent or approval shall be deemed denied, and Lessee in no event will be entitled to make, nor will Lessee make, any claim, and Lessee hereby waives any claim, for money damages (nor will Lessee claim any money damages by way of set-off counterclaim or defense) based upon any claim or assertion by Lessee that Lessor unreasonably withheld or unreasonably delayed its consent or approval.

Section 30. Captions.

The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

Section 31. Public Record.

It is understood and agreed that this Lease shall not be placed of public record.

Section 32. Governing Law.

All questions concerning the interpretation or application of provisions of this Lease shall be decided according to the substantive laws of the state in which the Premises are located.

Section 33. No Waiver.

One or more waivers of any covenant, term, or condition of this Lease by Lessor shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition. The consent or approval by Lessor to or of any act by Lessee requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

Section 34. Binding Effect.

All provisions contained in this Lease shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Lessor and Lessee to the same extent as if each such successor and assign was named a party to this Lease.

Section 35. Force Majeure.

Except as may be elsewhere specifically provided in this Lease, if either party is delayed or hindered in, or prevented from the performance required under this Lease (except for payment of monetary obligations) by reason of earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God or other reason of the like nature not the fault of the party delayed in performance of its obligation, such party is excused from such performance for the period of delay. The period for the performance of any such act will then be extended for the period of such delay.

Section 36. Entire Agreement/Modification.

This Lease is the full and complete agreement between Lessor and Lessee with respect to all matters relating to lease of the Premises and supersedes any and all other agreements between the parties hereto relating to lease of the Premises. If this Lease is a reissue of an existing agreement held by Lessee, it shall supersede and cancel the previous lease or leases, without prejudice to any liability accrued prior to cancellation. This Lease may be modified only by a written agreement signed by Lessor and Lessee.

Section 37. Notices.

Any notice or documents required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given or shall be deemed to have been served and given if (i) delivered in person to the address hereinafter set forth for the party to whom the notice is given, (ii) placed in the United States mail, certified - return receipt requested, addressed to such party at the address hereinafter set forth, or (iii) deposited into the custody of any reputable overnight carrier for next day delivery, addressed to such party at the address hereinafter set forth. Any notice mailed as above shall be effective upon its deposit into the custody of the U. S. Postal Service or such reputable overnight carrier, as applicable; all other notices shall be effective upon receipt. All rent and other payments due to Lessor hereunder shall also be made as provided in **Section 4(A)** above, and delivery of such rental and other payments shall only be effective upon actual receipt by Lessor. From time to time either party may designate another address or telecopy number within the 48 contiguous states of the United States of America for all purposes of this Lease by giving the other party not less than fifteen (15) days' advance written notice of such change of address in accordance with the provisions hereof.

If to Lessee:

City of Whitefish
Box 158
Whitefish, MT 59937

If to Lessor:

BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828
Attn: Land Revenue Management

With a copy to:

Jones Lang LaSalle – RR, Inc.
4300 Amon Carter Blvd, Suite 100
Fort Worth, Texas 76155
Attn: Leases and Permits

Section 38. Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this Agreement may also be exchanged via electronic facsimile machines and any electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.

Section 39. Relationship.

Notwithstanding anything else herein to the contrary, neither party hereto shall be construed or held, by virtue of this Lease, to be the agent, partner, joint venturer, or associate of the other party hereto, it being expressly understood and agreed that the relationship between the parties hereto is and at all times during the Term of this Lease, shall remain that of Lessor and Lessee.

Section 40. Severability.

If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

Section 41. Transferability; Release of Lessor.

Lessor shall have the right to transfer and assign, in whole or in part, all of its rights and obligations under this Lease and in the Premises, and upon such transfer, Lessor shall be released from any further obligations hereunder, and Lessee agrees to look solely to the successor in interest of Lessor for the performance of such obligations.

Section 42. Tax Waiver.

Lessee waives all rights pursuant to all Laws to protest appraised values or receive notice of reappraisal regarding the Premises (including Lessor's personalty), irrespective of whether Lessor contests the same.

Section 43. Attorneys' Fees.

If any action at law or in equity is necessary to enforce or interpret the terms of this Lease, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any relief to which it may be entitled.

Executed by the parties to be effective as of the Effective Date set forth above.

LESSOR

BNSF Railway Company

By: _____
Name: _____
Title: _____

LESSEE

City of Whitefish

By: _____
Name: _____
Title: _____

EXHIBIT "A"

PREMISES

EXHIBIT "B"

WORK LETTER AGREEMENT

THIS WORK LETTER AGREEMENT (the "**Agreement**") supplements that certain Definite Term Lease for Land ("**Lease**") dated _____, _____ by and between BNSF Railway Company, a Delaware corporation ("**Lessor**") and _____, a(n) _____ ("**Lessee**"). In the event of any conflict between the provisions of this Agreement and the provisions of the Lease, the provisions of this Agreement shall control. Unless the context otherwise requires, capitalized terms not defined herein shall have the meaning assigned to such terms in the Lease.

In the event Lessee uses one or more general contractors or subcontractors ("**Contractor(s)**") for any improvements, alterations, build out, finish out, or other similar work on the Premises ("**Work**"), Lessee agrees to and accepts the following:

1. Prior to performing any Work, Lessee shall obtain Lessor's approval of each Contractor and any Work to be performed by such Contractor shall be performed pursuant to a written contract between Lessee and the Contractor ("**Work Contract**") approved in advance by Lessor.

2. Prior to commencing any Work, Lessee shall submit for Lessor's review and approval Lessee's plans, specifications and/or drawings for such Work (collectively, "**Plans**") in accordance with the procedure set forth in the Lease.

3. All Work must be performed at Lessee's sole cost and expense and in accordance with the Plans which have previously been approved by Lessor.

4. Lessee shall cause its Contractors to meet all insurance and indemnification requirements required of Lessee under the Lease and shall obtain indemnification and insurance provisions from its Contractors in favor of Lessor and in the same form as set forth in the Lease.

5. Prior to the commencement of the Work, all required local building, fire, health and other departments must approve all Plans requiring approval by local building codes. In addition, the Work shall be performed, installed and/or constructed in accordance with all applicable federal, state and local laws, codes, ordinances, rules and regulations, including without limitation, the Americans With Disabilities Act of 1990, 42 U.S.C.A. 12101 et seq.

6. Lessee shall be responsible for obtaining all municipal and other governmental licenses or permits for the Work with copies furnished to Lessor prior to commencement of any construction.

7. Lessee shall furnish Lessor, for Lessor's approval, a copy of its schedule of the Work. Lessee shall perform the Work in accordance with the schedule approved by Lessor, and any changes in such schedule must be approved by Lessor in writing in advance.

8. Notwithstanding the status of the completion of the Work, Lessee's obligation for payment of Base Rent and other amounts due under the Lease shall commence on the Commencement Date provided in the Lease. Notwithstanding anything herein to the contrary, Lessor may, in Lessor's sole discretion, permit Lessee and Lessee's Contractors to enter the Premises prior to the Commencement Date in order to commence Work; provided, however, that Lessee agrees that such early entry or occupation of the Premises shall be governed by all of the terms and conditions of the Lease and this Agreement (including the insurance and indemnity requirements therein), as such terms and conditions are more specifically set forth in the Lease and this Agreement.

9. During construction, Lessor reserves the right to inspect the Work at any time upon reasonable notice to Lessee.

10. Lessee's Contractors shall keep the Premises reasonably clean at all times during the performance of the Work.

11. All Work must be performed in a good and workmanlike manner, free from defects in materials and workmanship.

12. If any materialman's, mechanic's, laborer's or any other liens for any work claimed to have been undertaken for Lessee or at Lessee's request is filed against the Premises, Lessee shall indemnify, defend and hold harmless Lessor from any such liens filed during the term of the Lease and shall, at Lessee's own expense, cause all such liens to be removed within ten (10) days after written notice from Lessor to Lessee of the filing thereof.

13. Lessee must obtain Lessor's reasonable approval that the Work has been completed in substantial accordance with the approved plans and specifications. Lessor shall receive copies of all Certificates of Occupancy and as-built drawings (electrical, mechanical, fire and architectural) prior to approving the Work.

14 All guarantees and warranties provided by Lessee's Contractors shall be issued to Lessee and, for Work which is or will at the termination of this Lease be Lessor's property, also to Lessor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first set forth above.

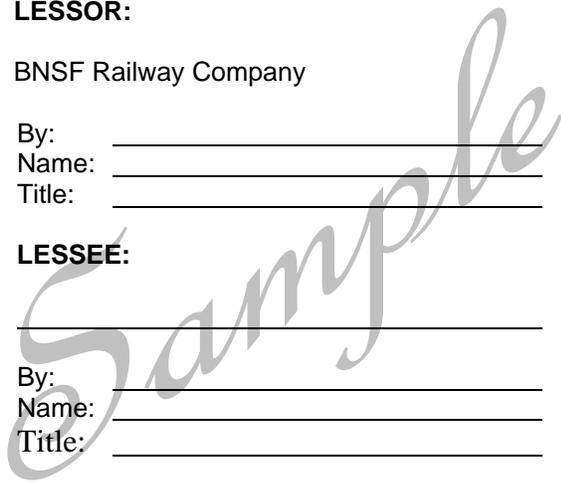
LESSOR:

BNSF Railway Company

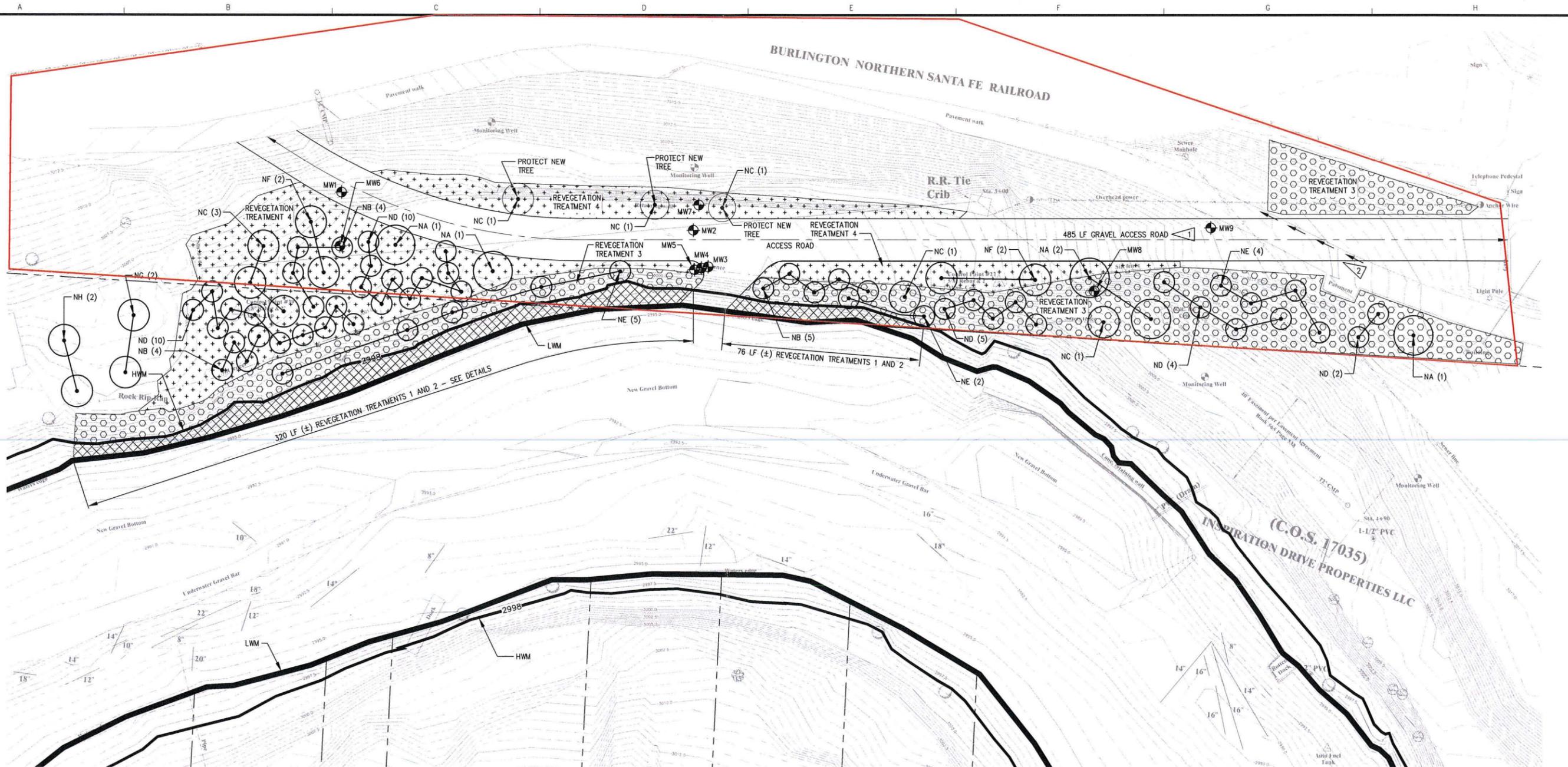
By: _____
Name: _____
Title: _____

LESSEE:

By: _____
Name: _____
Title: _____



Current Plan



GENERAL NOTES:

- SEE PROJECT SPECIFICATIONS FOR A LIST OF PRE-ORDERED MATERIALS THAT ARE OWNER SUPPLIED.
- SEE RESTORATION DETAILS FOR INFORMATION ON EACH RESTORATION TREATMENT.
- ALL RESTORATION WORK MUST BE PERFORMED BY AN EXPERIENCED AND APPROVED RESTORATION CONTRACTOR. SEE PROJECT SPECIFICATIONS FOR A LIST OF APPROVED RESTORATION CONTRACTORS.
- SEE BNSF YARD SITE PLAN FOR RELATIVE LOCATION.
- SEED MIX TO BE DISTRIBUTED OVER REVEGETATION TREATMENT AREAS 3 AND 4.
- REVEGETATION QUANTITIES INCLUDE AREAS ON SHEET R-2.

CONSTRUCTION NOTES:

- CONSTRUCT GRAVEL ACCESS ROAD. SEE TYPICAL SECTION.
- MAINTAIN DRAINAGE ALONG BIKE PATH.

PLANT LIST

NATIVE

TYPE	BOTANICAL NAME	COMMON NAME	QTY	SIZE
NA	PRUNUS VIRGINIANA	COMMON CHOKECHERRY	5	5 GAL
NB	ROSA WOODSH	WOODS ROSE	13	2 GAL
NC	AMELANCHIER ALNIFOLIA	SERVICEBERRY	8	7 GAL
ND	SYMPHORICARPOS ALBUS	SNOWBERRY	31	2 GAL
NE	POPULUS TREMULOIDES	ASPEN	11	5 GAL
NF	POPULUS BALSAMIFERA SUBSP. TRICHOCARPA	BLACK COTTONWOOD	4	7 GAL
NG	SYRINGA VULGARIS	LILACS	2	5 GAL
NH	CUPRESSACEAE JUNIPERUS	JUNIPER PINES	2	5 GAL

SEED MIX (TO COVER ± 23,200 SQ FT) (NOTE 6)

BOTANICAL NAME	COMMON NAME	SIZE
AGROPYRON CANINUM	BEARDED WHEATGRASS	SEED
ELYMUS CANADENSIS	CANADA WILDRYE	SEED
STIPA VIRIDULA	GREEN NEEDLEGRASS	SEED
DESCHAMPSIA CESPITOSA	TUFTED HAIRGRASS	SEED
AGROPYRON SMITHII	WESTERN WHEATGRASS	SEED
SOLIDAGO CANADENSIS	CANADA GOLDENROD	SEED
APOCYNUM ANDROSAEMIFOLIUM	SPREADING DOGBANE	SEED

SITE PLAN

SCALE: 1"=20'

Kennedy/Jenks Consultants
Engineers & Scientists

32001 32nd Ave S, Suite 100
Federal Way, Washington 98001

BNSF RAILWAY

WHITEFISH RIVER - LITTORAL ZONE AND EXTENDED LOWER REACH REMEDIAL ACTION (2013)
WHITEFISH, MONTANA

BNSF PROPERTY RESTORATION PLAN

SIGNED 3/22/13
EXPIRES 6/30/14



SCALE BAR:

0 1" / 0 25.4mm

IF THIS BAR IS NOT DIMENSION SHOWN, ADJUST SCALES ACCORDINGLY

ENGR: R. HAGLER
DRWN: B. HOFFER
CHKD: R. GUGLONDO
BNSF APPROVAL
BY: _____ DATE: _____

NO.	DATE	DESCRIPTION OF REVISIONS

BID ISSUE MARCH 2013

DRAWING NUMBER **R-1** OF

MEMORANDUM

#2013-049



To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

A handwritten signature in blue ink that reads "Chuck Stearns".

Re: Staff Report – Land Lease with BNSF for Whitefish Landing river access

Date: December 18, 2013

Introduction/History

Mayor Muhlfeld and I met this past summer on June 20th with Allen Stegman, General Director Environmental for BNSF, Barbara Ranf, State Governmental Affairs for BNSF, and Rob Hagler of Kennedy/Jenks Consultants, BNSF environmental consulting firm regarding BNSF's offer of a lease of land on the Whitefish River for use as a public river access point. BNSF wanted to offer the lease of this land, at no cost to the City, as a thank you to the community for enduring three plus years of river closures and river clean-up. Then a public dedication and ribbon cutting for the access point and celebration of the end of the river cleanup was held on August 1st – an article on this ceremony can be found at http://www.whitefishpilot.com/whitefishpilot/article_a6799bca-4e7f-5595-a693-6406bb160970.html .

Since that time, Mary and I have worked with BNSF representatives and attorneys on a lease of the land. There were many issues to work through because this lease was different than a normal BNSF lease where the city typically has to accept all of the legal conditions that BNSF requires. Most of these issues deal with insurance, liability, and indemnification. We were finally able to work through all of those issues to find a lease acceptable to the staff of both BNSF and the City of Whitefish.

Current Report

Attached is a lease agreement for 20 years, although it does allow BNSF to terminate the lease with 30 day's notice. There are some other less than desirable conditions in the lease, mostly dealing with insurance, liability, and indemnification, but we got BNSF to move on many of those issues as far as we can. We think that we can live with the current lease proposal which is Exhibit 1 to the attached resolution. BNSF does reserve the right to use the river landing for their necessary launches of motorized boats and barges associated with any cleanup work.

Financial Requirement

The City incurs no direct cost for this lease unless we initiate any improvements to the property. Also, BNSF Foundation has pledged \$25,000 for improvements at the landing (however, much of this grant may be required for a special BNSF insurance policy covering any improvements). Any city costs that we incur will be approved by the City Council in a budget or as approved by the Park Board and/or the City Council.

Recommendation

Staff respectfully recommends the City Council enact a Resolution approving a Definite Term Lease Agreement with BNSF Railway Company, for the Whitefish landing, a non-motorized boat launch, located along the Whitefish River, south of the BNSF Roundhouse, Line Segment 0036, Mile Post 1219.55, Whitefish, Montana.

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**COUNCIL APPOINTMENTS TO
VARIOUS BOARDS AND
COMMITTEES**

CITY OF WHITEFISH BOARDS AND COMMISSIONS
Standing and AdHoc Committees – WCC TITLE 2

WHITEFISH CITY-COUNTY PLANNING BOARD – WCC 11-7-4 - 2 YEAR TERMS – MEET 3RD THURSDAY

				TERM EXPIRATION DATE	
Chad Phillips	307 Wisconsin Ave	407-02478		12/31/2014	City Mayoral Appt
Ken Stein	509 E. 6 th Street	250-0599		12/31/2015	City Mayoral Appt
Zak Anderson	122 Dakota Ave	250-5256		12/31/2014	City Council Appt
Greg Gunderson	PO Box 1043	863-9947 (W)		12/31/2015	City Council Appt
Rick Blake	PO Box 700, WF	863-2201		12/31/2013	County Member
Dennis Konopatzke	2194 Houston Dr	261-1174		12/31/2013	County Member
Ole Netteberg (V-Chr)	5491 Hwy 93 S	862-3035, Cell # 261-8757		12/31/2014	County Member
Diane Smith	2060 Houston Dr	250-4328		12/31/2014	County Member

Member-At-Large – One Year Term, appointed by FCD or CCPB

Ken Meckel, Flathead Conservation District Rep. RESIGNED 12/31/2013 Member at Large

BOARD OF ADJUSTMENT - WCC 2-3-1 - (As needed – 1st Tuesday, 7:00 p.m.) – 3 YEAR TERMS
(4 Members constitutes a quorum)

Position #					TERM EXPIRATION DATE	
1.	Mike Kelley	6310 Locarno Dr, Unit G	863-2311 (O)	270-0530 (H)	12/31/2015	
2.	Norm Nelson	503 Somers Avenue	862-4574		12/31/2015	
3.	Herb Peschel	1412 W. Lakeshore Dr.	862-4503 (H)	250-4524 (C)	12/31/2014	Chairman
4.	Stewart Cardon	PO Box 1890, WF	249-4049		12/31/2014	
5.	Ralph Simpson	615 Kaeding Creek Rd	249-6678 (O)	862-8184 (H)	12/31/2014	Extra-territorial
6.	Scott Sorensen	285 Glenwood Road	862-3669		12/31/2015	Vice-Chairman
7.	Bick Smith	2451 Wolftail Pines	862-9779, 253-9779		12/31/2015	Extra-territorial

WHITEFISH LAKE & LAKESHORE PROTECTION COMMITTEE –WCC 13-4-1 - 3 YEAR TERMS
(2nd Wednesday; Planning & Building Department Conference Room)

City appointees – 2 minimum who own or reside on lakefront property

				TERM EXPIRATION DATE	
*Joe Malletta	1240 Birch Hill Dr.	862-6343		12/31/2016	City Lakefront owner
*Herb Peschel	1404 W. Lakeshore Dr.	862-4503 (H)		12/31/2015	City Lakefront owner
Scott Ringer	940 Dakota Ave	863-2001, 871-0393		12/31/2014	City
Ron Hauf	2834 Rest Haven Dr	862-1452 (C-270-7302)		12/31/2014	County Lakefront owner
Sharon Morrison	PO Box 1090	862-9600		12/31/2015	County Lakefront owner
Dennis Konopatzke	2194 Houston Drive	261-1174		12/31/2013	County Lakefront owner
Jeff Jensen	320 Blanchard Hollow	253-6854		12/31/2015	County Blanchard Lake
Greg Gunderson	PO Box 1043	863-9947 (W)		12/31/2014	Planning Board or other -2yr term

PARK BOARD – WCC 2-2-1 - 2 YEAR TERMS – Mavoral Appointments confirmed by Council (2nd Tuesdays @ 7 pm)

Councilor			TERM DATE	Mayor/Designee (Richard Hildner, Alternate)
Susan Schnee	1405 E. 2 nd Street	863-9856	5/01/2014	
Ron Brunk	130 E. 4 th St	862-6466, 862-6858	5/01/2014	
Laurel Grady	476 Aspen Court	212-6819	5/01/2014	
Doug Wise	1000 Birch Point Dr	862-1463, 407-0927	5/01/2015	President
Terri Dunn	6211 D Shiloh Ave	862-8276, 250-7182	5/01/2015	
Jim DeHerrera	339 Fairway Drive	407-730-2424	5/01/2015	

RESORT TAX MONITORING COMMITTEE - WCC 2-4-1 - 3 Year Terms – City Council Appointments Meet 3rd Wednesday-7AM

Position #			TERM EXPIRATION DATE	
1.	Councilor		May 31, 2014	Council Representative
2.	John Vail	1017 Creekview Dr	862-3562	May 31, 2014 Member at Large
3.	Julia Olivares	333 W. 6 th Street	862-6401	May 31, 2014 Member at Large
4.	Brian Averill	1476 Barkley Lane	250-2038	May 31, 2015 Member at Large
5.	Doug Reed, Whitefish Lake Golf Club Restaurant, <u>Chairman</u>	PO Box 1719	862-5285	May 31, 2015 Restaurant/Bar member
6.	Chris Schustrom,	504 Spokane Avenue	862-3440	May 31, 2016 Lodging member
7.	Trek Stephens	122 Central Ave	862-2271	May 31, 2016 Retail member- Secretary

HOUSING AUTHORITY – MCA 7-15-4431 - City Resident or Within a 10 mile radius – 5 YEAR TERMS – MAYORAL APPOINTMENTS

			TERM EXPIRATION DATE	
Ralph Ammondson Vice-Chairman	Apt 222 – Mountain View Manor (Resident) 100 E. 4 th Street	862-8160	12/31/2015	2 yr. Term
Laura E. Rutherford	PO Box 483, Whitefish Apt 107 - Mountain View Manor (Resident)	862-2401 100 E. 4 th Street	12/31/2014	2 yr. Term
Myrna Fleming	104 Railway Street	862-3568	12/31/2016	
John Middleton	6475 Hwy 93 S, Ste 17	406-862-7200	12/31/2015	
Bill Mulcahy	2 Granite Springs Trail, WF	730-2701	12/31/2018	
Spencer Weimar, Chairman	24 Iowa Avenue, WF	862-3687 (W)	12/31/2013	
Sandra McDonald	PO Box 4722	862-9182	12/31/2017	

WHITEFISH ARTS COUNCIL - Contact - Carol Atkinson, 404 Dakota Avenue, WF, 862-7591 Meets Quarterly

Council representative, _____ - appointed 1-6-2014

LIBRARY BOARD OF TRUSTEES – ORD 10-19, 5 YEAR TERMS, (Second Wednesday of the Month – 7:00 pm)

MAYORAL APPOINTMENTS

Chair: Michael Collins	PO Box 4026, WF	862-0652, 250-2536	6/30/2014
Vice Chair: Anne Shaw Moran	PO Box 4472, WF	862-7342	6/30/2016
Secretary: Alison Pomerantz	342 Plantation Dr, Kalispell	314-4882, 617-803-9697	6/30/2018, In School District, out of City
Treasurer: Mary L. Vail	PO Box 515, WF	862-3562	6/30/2015
Marge Fisher	750 W. 2 nd St. – Suite G, WF	862-1233	6/30/2017

SOLID WASTE BOARD – (Fourth Tuesday of month – noon meeting) 3 YEAR TERM

Greg Acton, Utilities Supervisor, City of Whitefish Expires **12-31-2013** – Appt by Commissioners

FLATHEAD COUNTY HEALTH BOARD – (Third Thursday or at least once quarterly) 1035 1st Ave W, Kalispell

Bill Burg Whitefish Expires 12-31-2015 – Appt by Commissioners 751-8101

FLATHEAD CONSERVATION DISTRICT BOARD – 3 YEAR TERMS - (Second & Fourth Monday of Month)

Ken Meckel - Resigned 1129 W. 7th St 862-5682 December 31, 2013

POLICE COMMISSION - WCC 2-5-1 - 3 YEAR TERMS – Mayoral Appointments confirmed by Council

			TERM EXPIRATION DATE
Ross Doty	2019 Ridgecrest Drive	730-2926	First Monday of May, 2016
Gene Gemignani	PO Box 5256	270-0447 (C) 752-2575 (W)	First Monday of May, 2015
Jim Trout	PO Box 695	863-2265 (W)	First Monday of May, 2014

BOARD OF APPEALS (International Building Codes) – meet as needed, terms not designated

Doug Rhodes	PO Box 1646	862-3529
John Constenius	210 Parkhill Dr	862-4818
Dave Perry	PO Box 731	862-6073
John Connors	PO Box 1643	862-6477
David Mentanko	2261 Cedar Lane	261-0066

WHITEFISH CONVENTION AND VISITOR BUREAU COMMITTEE – WCC 2-12-1 3 YEAR TERMS

(Meetings/second Monday every other month (even months); Rocky Mountain Lodge at 3 pm)

1	Rhonda Fitzgerald (Small Lodging Properties)	862-3440	412 Lupfer Avenue	May 31, 2015
2	Erica Coffman (Restaurant/Bar)	249-4035	121 W. 2 nd Street	May 31, 2015
3	Zak Anderson (Whitefish Lake Golf Course)	250-5256	122 Dakota Avenue	May 31, 2015
4	Bruce Haller (Dollar Rental Car)	892-0009 (W)	121 Idaho Avenue	May 31, 2014
5	Luke Walrath Alpine Theatre Project	862-9050 (W)	PO Box 1959, WF	May 31, 2014
6	Scott Ringer (Large Lodging Properties)	871-0393	CEO, The Lodge at Whitefish Lake, 1380 Wisconsin Ave, WF	May 31, 2016
7	Nick Polumbus (Whitefish Mountain Resort)	862-1955	Director of Marketing & Sales Whitefish Mountain Resort, PO Box 1400 WF	May 31, 2016
8	Barb Brant (Retail)	249-3484	1658 E 2 nd Street	May 31, 2014
9	Jake Cook	885-3650	630 Woodside Lane	May 31, 2016

COUNTY EMERGENCY MANAGEMENT COMMITTEE

Diane Smith 2060 Houston Drive 862-1379 Appointed 10-20-03

FLATHEAD REGIONAL WASTEWATER MANAGEMENT GROUP (FRWVG), (Created by County Commissioners)

Councilor John Anderson – appointed by Council 1-3-2012 City Manager Stearns – Staff Member/Alternate

MONTANA WEST ECONOMIC DEVELOPMENT BOARD OF DIRECTORS (4 Meetings, quarterly – 257-7711)

Council Representative Appointed by Council Councilor John Anderson, Alternate PO Box 158 755-5700 (O)
Appointed by Council 1-3-12

ARCHITECTURAL REVIEW COMMITTEE – WCC 2-10-1 - Terms – 3 years – 1st Tuesday - 8:45 a.m.

In Council Conference Room

1.	Duane Reisch	209 Fairway Drive	862-3025	May 31, 2016	Owens Markus Foods
2.	Kathryn Skemp, SCARB	6300 Locarno Dr., Unit K	262-424-1680	May 31, 2016	Architech
3.	Ian Collins	898 Blue Herron Dr, WF	863-9376, 270-7047	May 31, 2016	Architect in Training
4.	George Gardner	2339 Nordic Loop, WF	863-9321	May 31, 2014	Museum Planning Conslt.
5.	Scott Freudenberger	PO Box 4612	862-3600	May 31, 2014	
6.	Matthew Lawrance (V-Chr)	309 Kalispell Ave	508-472-8947, 862-8152 (W)	May 31, 2015	Architect in Training
7.	John Constenius (Chrm)	210 Park Hill Drive	862-4818	May 31, 2015	Licensed Architect*

Councilor, ex officio Council member; Alternate – Vacant

*Ordinance 03-26 includes provision to appoint others at the discretion of the Council, (if not 2 Licensed Architects, 1 Design Professional)

PEDESTRIAN & BICYCLE PATH ADVISORY COMMITTEE – WCC 2-8-1

Two-year terms, 1st Monday/month

(Minimum of 4 Whitefish City Limit residents required)

@ 8:00 AM Council Conference Room

Position # Term Expiration Date

1.	*Richard Hildner, Councilor	PO Box 158	862-2831	May 31, 2014
2.	*Mike Fitzgerald, Member at Large	412 Lupfer Avenue	862-7426 862-9977 (W)	May 31, 2015
3.	John Phelps, Extra-territorial Member at Large	615 Monegan Road	862-3333	May 31, 2014
4.	*Doug Reed, Resort Tax Representative	Whitefish Lake Golf Club Restaurant, PO Box 1719	862-5285	May 31, 2015
5.	*Jim DeHerrera, Member at Large	339 Fairway Drive	407-730-2424	May 31, 2014
6.	* Rob Brunk, Park Board Representative,	130 E. 4 th St,	862-6466, 862-6858	May 31, 2014
7.	*Hunter Homes, Member at Large (233 Woodland Pl)	PO Box 194	314-1417	May 31, 2015

Easement Negotiation Delegation - WCC 2-8-8

City Manager Stearns PO Box 158, WF 863-2406 (W) 863-2419 (F) City Manager

Doug Adams 214 Rusty Spur Trail, WF

TREE ADVISORY COMMITTEE – WCC 2-7-1 - Two-year terms, meet 2nd Tuesday - January, April, July, October, at 6:00 pm, before Park Board meets *(Minimum of 4 Whitefish City Limit residents required)*

Position # Term Expiration Date

1.	* Councilor			May 31, 2014
2.	*Terri Dunn, Park Board Representative,	6211 D Shiloh Ave	862-8276, 250-7182	May 31, 2014
3.	*Dan Cassidy, Member at Large	565 Somers Ave	862-0808	May 31, 2014
4.	Bruce Boody, Member at Large	301 E. 2nd St. #1B	862-4755	May 31, 2014
5.	*Matt Kennedy	806 Columbia Ave	471-5613	May 31, 2015
6.	*Tanya Island (824 E. 10 th St.)	PO Box 10931, Kalispell, MT 59904	253-6034	May 31, 2015
7.	*Tyler Hope	517 Somers Ave	270-9360	May 31, 2015

ICE RINK ADVISORY COMMITTEE – WCC 2-6-1 - Two-year terms, meet 1st Tuesday/monthly

(*Minimum of 6 Whitefish City Limit Residents required)

7:00 pm - Council Conference Room

Position #				Term Expiration Date
1.	*Frank Sweeney, Councilor	PO Box 158	863-4848 (O)	May 31, 2014
2.	*Carol Anderson, Open Skating Rep.	PO Box 2067	862-7699	May 31, 2015
3.	Kelly Davidson, Adult Hockey	585 Armory Rd		May 31, 2015
4.	*Gregg Esakoff, Figure Skating Assn.	810 Dakota Ave		May 31, 2015
5.	* Vacancy - Glacier Hockey Assn.			May 31, 2014
6.	*Mark Van Everen, Member at Large	4 Pine Ave	260-1204	May 31, 2015
7.	*Laurel Grady, Park Board Representative	476 Aspen Court	212-6819	May 31, 2015
8.	*Bailey Minnich, Curling Club Representative	902 Kalispell Ave	860-921-6936	May 31, 2014
9.	Donna Taylor, Member at Large (Blanchard Lake Rd)	PO Box 1947	862-4804	May 31, 2015

**WEED CONTROL ADVISORY COMMITTEE – WCC 2-11-1 – Two year terms, meet Last Wednesday/monthly, 3:00 pm
Parks & Recreation Dept**

No.	Position Specification (*Minimum of 5 Whitefish City Residents Required)	Expiration Date
1.	City Staff, City of Whitefish	863-2410 Continuous
2.	*(Mayor or Councilor) Richard Hildner, PO Box 158, WF	862-2831 5-31-2014
3.	*Member at Large – Life Noell, PO Box 5505, WF	212-0002 5-31-2015
4.	*Member at Large – Jake How, 11 Idaho Ave	862-8757 5-31-2015
5.	*Member at Large - Dave Ring, 429 Columbia Ave, WF	863-9221 5-31-2014
6.	*Member at Large - Jan Metzmaker, 915 Dakota Avenue, WF	862-6110, 862-7960 5-31-2014
7.	*Jim DeHerrera, Park Board Representative, 339 Fairway Drive	407-730-2424 5-31-2015

IMPACT FEE ADVISORY COMMITTEE – WCC 2-13-1 – Two year terms Per Ordinance 10-03 – Annual Meetings

1.	Development community	Bill Halama	235 Good Medicine Dr, WF	863-2301	12-30-2013
2.	Certified public accountant	Myra A. Appel, CPA	PO Box 4223, WF	862-4057	12-30-2014
3.	City Councilor				12-30-2013
4.	Finance Director	Rich Knapp	PO Box 158	863-2405	
5.	Member at Large	Don Kaltschmidt	230 JP Rd	862-2731 (W) 862-3665 (H)	12-30-2014

HWY 93W CORRIDOR PLAN STEERING COMMITTEE – RES 13-10, Disbands January 1, 2014 or earlier

Doug Reed, Resort or Recreation business owner in corridor, Whitefish Lake Restaurant, PO Box 1719, WF
 Cora Christensen, Commercial or Professional business owner in corridor, 750 W. 2nd St, Ste A, WF
 Anne Shaw Moran, Residential owner-occupied property owner, PO Box 4472, WF
 Ryan Zinke, residential owner-occupied property owner, 409 W. 2nd St, WF
 Jim Laidlaw, residential investment or multifamily property owner, 1230 Lion Mountain Dr, WF
 Ian Collins, WB-3 District property owner, 898 Blue Heron Dr, WF
 Nancy Woodruff, Community Member at Large, 545 Ramsey Ave, WF
 Chad Phillips, City-County Planning Board, City representative
 Ken Meckel, City-County Planning Board, County representative
 Ad hoc members: MDOT, Idaho Timber – Todd Featherly and Dave Taugher

AD HOC CEMETERY COMMITTEE, res 11-1-05 & 11-15, 13-02 SUNSETS 1-31-2015, or earlier

Meetings 3rd Thursday of each month, 2 to 4 pm, Whitefish Council Conference Room, 402 E. 2nd Street, 2nd Floor

Necile Lorang, Chair	PO Box 158, Whitefish	863-2402
Vanice Woodbeck, Secretary	PO Box 158, Whitefish	863-2401
Nina Laird	541 Columbia Ave, WF	862-2815
Bonnie Leahy	904 E. 10 th St., WF	862-1811
Charlie Abell	5 Woodland Pl, WF	862-2883
Ole Netteberg	5491 Hwy 93 S, WF	261-8757
Steve Thompson, Vice Chair	PO Box 4471, WF	862-3795

AD HOC WHITEFISH COMMUNITY WASTEWATER COMMITTEE – RES 12-15, to 12-31-2013; RES 13-13 to 1-31-2014

Ten (10) Voting Members:

Facilitators: Mike Koopal & Lori Curtis, WLI

1 - Mayor John Muhlfeld

2 – Councilor

3 – Flathead County Commissioner or designee, appointed by the Commissioners – County withdrew their participation 8-15-13

4 – Jan Metzmaker, Flathead Basin Commission Board Member

5 – Ryan Purdy, Lazy Bay area representative

6 – Jim Laidlaw, Lion Mountain area representative

7 – Ben Cavin, Carver Bay/East Lakeshore area representative

8 – Vacancy - Point of Pines area representative (advertised)

9 – Andy Feury, Community Member at Large, **Committee Chair**

10 – Denise Hanson, P.E., Community Member at Large

Up to nine (9) Ex-officio (non-voting) members:

1 – Rich Knapp, (City Manager designee)

2 – Greg Acton, (Public Works Department designee), Alternate – John Wilson

3 – Wendy Compton-Ring (Planning Department designee)

4 – Kate Cassidy, Flathead County Health Department

5 – Tom Cowan, Septic-system Engineer

6 – Carl Denny, M.D., Whitefish Water District

7 – Karen Reeves, Whitefish Lake Institute Committee Member

8 – Frank Sweeney, Whitefish Lake Institute Committee Member

REAL ESTATE COMMITTEE – Meets on as needed basis

Mayor John Muhlfeld

Councilor Frank Sweeney

City Manager Chuck Stearns

Assistant City Manager/Finance Director Rich Knapp

9-1-1 Administration Board – Mayor John Muhlfeld, PO Box 4293, 37 Idaho Ave, WF 250-9301

Alternate: Turner Askew, 3 Ridgecrest Drive, 862-6364 (O), 250-3330 (C) Appointed 1-3-2012

Insurance Committee - Ex Officio Members – City Manager and Two (2) Council Members

Chuck Stearns, City Manager

Councilor John Anderson, 755-5700 (O) appointed 1-3-2012

Councilor Frank Sweeney, 863-4848 (O) appointed 1-3-2012

Legacy Lands Advisory Committee

Mayor John Muhlfeld, PO Box 4293, 37 Idaho Ave, WF 250-9301, appointed 1-3-2012

Councilor John Anderson, PO Box 158, WF 755-5700 (O), appointed 1-3-2012 – Rec/Con Committee

Councilor Frank Sweeney, PO Box 158, WF 863-4848 (O), appointed 1-17-2012 – Whitefish Trail Operations Committee

Whitefish Lake Institute Board

Frank Sweeney, PO Box 158, WF 863-4848 (O) appointed 1-3-2012

Future City Hall Steering Ad Hoc Committee Res 11-57 Sunsets January 31, 2015, or earlier MAYORAL APPTS

Mayor John Muhlfeld, PO Box 4293, 37 Idaho Ave, WF 250-9301, appointed 1-3-2012

Councilor, appointed 1-3-2012

Appointments February 21, 2012:

Marcus Duffey, Representative from Whitefish Chamber of Commerce

Vice-Chair: Ian Collins, Representative from the Heart of Whitefish

Ross Anderson, Licensed Architect

George Gardner, Whitefish Citizen at Large

Mike Jenson, Whitefish Citizen at Large

Toby Scott, Whitefish Citizen at Large

Robert Blickenstaff, Whitefish Citizen at Large

Chuck Stearns, City Manager

Necile Lorang, Administrative Services Director/City Clerk

Wendy Compton-Ring, Senior Planner

Chair: Sherri Baccaro, Assistant to Public Works Director

Secretary - Vanice Woodbeck, Assistant City Clerk. (Ex-Officio)

Other City Staff – Ex Officio

Sue Schnee, Park Board Representative
 Ron Brunk, Park Board Representative
 Gregg Esakoff, Ice Rink Advisory Committee Representative
 Murray Craven, Ice Rink Advisory Committee Representative
 Mark Van Everen, Ice Rink Advisory Committee Representative, Alternate
 Flathead Valley Ski Education Foundation Representative
 Flathead Valley Ski Education Foundation Representative
 Member at Large
 Member at Large
 Councilor
 Councilor
 Karl Cozad, Parks and Recreation Director
 Andy Hergeshiemer, Recreation Facilities Manager

MAYOR/COUNCIL EXPIRATION DATES:

CITY JUDGE TERM: (4-Year Term)

Mayor John Muhlfeld	12/31/2015
Phillip B. Mitchell	12/31/2013
Bill Kahle	12/31/2013
Chris Hyatt	12/31/2013
John W. Anderson	12/31/2015
Richard Hildner	12/31/2015
Frank Sweeney	12/31/2015

Judge Brad Johnson Term ending 12/31/2013

12-3-2013

CHAPTER 2

BOARD OF PARK COMMISSIONERS¹

SECTION:

- 2-2-1: Board Created; Membership
- 2-2-2: Organization Of Board
- 2-2-3: Conduct Of Park Board Business
- 2-2-4: Powers And Duties
- 2-2-5: Contracts And Employment

2-2-1: **BOARD CREATED; MEMBERSHIP:** The board of park commissioners must be composed of the mayor, or the mayor's designee, and six (6) other persons to be appointed by the mayor, with the approval of the city council. The seven (7) persons to be so appointed shall have the same qualifications for the office of park commissioner as are required by Montana code 7-4-4301 for the office of mayor.

A. Term Of Office:

1. Except as provided in subsection A2 of this section, the term of office of each park commissioner shall be two (2) years from and after May 1 of the year in which he is appointed and until his successor is appointed and qualified.

2. Three (3) of the commissioners first appointed shall hold office for the period of one year from and after May 1 and until their successors are appointed and qualified.

B. Vacancy: Any park commissioner who shall refuse or neglect to attend three (3) meetings of the board between May 1 and April 30 of the following year shall be deemed to have vacated his office, and thereupon his successor may be appointed.

1. Charter, article II, section 2.02, #12.

- C. Compensation: No park commissioner shall receive compensation for his service rendered under the provisions of this chapter, but the actual and necessary expenses incurred by any member of the board while acting under the orders of the board in the transaction of any business in its behalf may be paid upon being allowed and audited by the board.
- D. Oath Of Office: Before entering upon the discharge of his duties, each park commissioner shall take and subscribe the oath provided by Montana code 2-16-211. The oath shall be filed in the office of the city clerk. (Ord. 96-15, 2-18-1997)

2-2-2: ORGANIZATION OF BOARD:

- A. On the second Tuesday in May in each year, the board of park commissioners shall meet and organize by electing one of their number president and one of their number vice president, who shall hold their offices, respectively, for the term of one year.
- B. The city clerk or the city clerk's designee shall be ex officio clerk of the board of park commissioners. (Ord. 96-15, 2-18-1997)

2-2-3: CONDUCT OF PARK BOARD BUSINESS:

- A. The board of park commissioners shall hold an annual meeting on the second Tuesday of May and a meeting at least once in each month in each year at such times as the board shall by rule prescribe. Special meetings may also be held at the call of the president or, in his absence, the vice president, upon giving to each member of the board at least twenty four (24) hours' notice in writing of the time and place of holding such meeting.
- B. A majority of the entire board shall be necessary to constitute a quorum for the transaction of the business of the board. (Ord. 96-15, 2-18-1997)

2-2-4: POWERS AND DUTIES:

- A. Officers: Except as provided in Montana code 7-16-4228(2), the president, and in the president's absence the vice president, shall

preside at all meetings of the board. (Ord. 96-15, 2-18-1997; amd. 2003 Code)

B. Park Board Minutes: The minutes of the meeting contained in the record book, when approved by the board, shall be prima facie evidence of the matters and things therein recited in any court of this state.

C. Park Board Powers And Duties:

1. The board of park commissioners shall have the management and control of all parks belonging to the city.

2. The board of park commissioners shall have the following powers and be charged with the following duties:

a. To lay out, establish, improve and maintain parkways, drives and walks in the parks of the city; and to determine when and what parks shall be opened to the public;

b. To plant, cultivate, maintain and improve all trees and other plants required to be planted, cultivated and maintained in the parks belonging to the city;

c. If directed by the city council, to plant, cultivate, maintain and improve all trees and other plants required to be planted, cultivated and maintained in the streets, avenues, boulevards and public places in the city and for that purpose to establish and maintain nurseries for the growth of trees and plants;

d. Upon receiving approval from the city council, to purchase or otherwise acquire, and sell or otherwise transfer, real property; to make plats thereof; and to file the same in the office of the city clerk;

e. To provide written comments and recommendations to the city council prior to any action by the city council to acquire or transfer land used, or to be used, for a city park;

f. To pay all obligations authorized to be incurred by the provisions of this part;

g. To exercise all other powers incident to the duties enjoined by the provisions of this part. (Ord. 96-15, 2-18-1997)

2-2-5: CONTRACTS AND EMPLOYMENT:

- A. The board of park commissioners has the following powers and duties:
1. To employ and discharge workers, laborers, engineers, foresters and others, and to fix their compensation; and
 2. To make all contracts necessary or convenient for carrying out any and all of the powers conferred and duties enjoined upon the board by this part; provided, however, that any contract having a term of more than five (5) years must be approved by the city council.
- B. All contracts made by the board must be in the name of the city and must be signed by the city clerk and by the president of the board or, in the president's absence, by the vice president of the board; provided, however, that any contract having a term of one year or less may be signed by the parks and recreation director.
- C. An order or resolution authorizing the making of any contract may not be passed or adopted except by a yea and nay vote, which must be recorded in full in the minutes by the city clerk.
- D. The board may elect to have all, or certain, personnel decisions made by the mayor, the city manager or the parks and recreation director pursuant to the policies and regulations governing other city personnel decisions. (Ord. 96-15, 2-18-1997)

CHAPTER 4

RESORT TAX MONITORING COMMITTEE

SECTION:

- 2-4-1: Committee Established
- 2-4-2: Purpose, Powers And Duties
- 2-4-3: Membership
- 2-4-4: Organization
- 2-4-5: Meetings, Rules And Regulations
- 2-4-6: Expenditures

2-4-1: **COMMITTEE ESTABLISHED:** There is hereby established a resort tax monitoring committee for the city, hereinafter referred to as the committee. (Ord. 01-07, 2-20-2001)

2-4-2: **PURPOSE, POWERS AND DUTIES:** The purpose of the committee is to monitor, review and advise the city council on the use of resort tax funds pursuant to title 3, chapter 3 of this code. The committee may also advise the city council on proposed changes to title 3, chapter 3 of this code. The committee shall report to the city council on matters of pertinence and interest related to the resort tax as the committee may deem appropriate or as the city council may request. The committee's powers shall be advisory only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of resort tax funds. (Ord. 01-07, 2-20-2001)

2-4-3: **MEMBERSHIP:**

- A. Appointment; Compensation: The committee shall have seven (7) members. Members shall be appointed by the city council. The city council shall attempt to appoint one member who is a lodging business owner, operator, or representative; one member who is a restaurant/bar owner, operator, or representative; one member who is a retail business owner, operator, or representative; and one

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City of Whitefish

business owner at large, who may, but need not, own one of the types of businesses listed above. Any member designated as a business owner, operator, or representative of one of the above listed business categories, as well as the business owner at large, shall do so in relation to an associated business located within the corporate boundaries of the city of Whitefish, although personal residency shall not be required. The city clerk shall make appropriate notation of a member's business category affiliation on the official committee roster. If, within the discretion of the city council, an individual appropriate to fill a vacancy in any of the above listed business categories is not identified after publication of a notice of position vacancy, the city council may make a general membership appointment. In such case, the city council shall attempt to make such business category appointment with the next available vacancy where an incumbent member has not applied for reappointment or the city council decides not to reappoint an incumbent member. One position shall be specified for the mayor or a city councilor. The remaining positions shall be general membership positions and shall require residency within the corporate boundaries of the city of Whitefish. Committee members shall receive no compensation.

- B. Terms; Positions: Committee terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. The terms of those appointees holding positions on the effective date of this chapter shall continue until the termination date listed below:

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
1	Mayor or councilor	May 31, 2008
2	Member	May 31, 2008
3	Member	May 31, 2008
4	Member	May 31, 2006
5	Member	May 31, 2006
6	Member	May 31, 2007
7	Member	May 31, 2007

Thereafter members appointed to each position shall serve for three (3) year terms; the first of such terms beginning on June 1 of the year in which the initial term for the position expires. At the discretion of the city council, members may be appointed for more than one term. (Ord. 06-14, 6-5-2006)

- C. **Removal Of Member:** A member of the committee serves at the pleasure of the city council and may be removed by majority vote of the same. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute grounds for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- D. **Vacancy:** Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. (Ord. 01-07, 2-20-2001)

2-4-4: **ORGANIZATION:** At its first meeting after June 1 of each year, the committee shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If both the chair and the vice chair are absent from a specific meeting, the attending members shall elect a chair pro tem for the meeting. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 01-07, 2-20-2001)

2-4-5: **MEETINGS, RULES AND REGULATIONS:** Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business or conduct any proceedings before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet as frequently as is necessary and convenient within the judgment of the committee, but shall meet not less than once every three (3) months. The committee shall decide the time, place and date of meetings. All meetings shall be open to the public. (Ord. 06-14, 6-5-2006)

2-4-6: **EXPENDITURES:** The committee shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 01-07, 2-20-2001)

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About

About Montana West Economic Development

Montana West Economic Development serves the Flathead Valley/Glacier Park Region in Northwestern Montana. We are a private, non-profit organization working in conjunction with Flathead County to promote economic diversity, job growth and healthy businesses. Over 50 private businesses and community organizations support Montana West in our endeavors. Some Recent Notable Results:

Secured a \$1.2 million grant from the Economic Development Administration for the purchase of property for a rail-served industrial park.

Assisted Montana Venture Partners and the City of Kalispell to bring FedEx to Old School Station.

Recruited WaveForm International to the Flathead and assisted them in securing an \$87,000 grant from the Montana Board of Research and Commercialization Technology.

Assisted in the attraction, expansion or retention of 40+ companies including:

- Western Building Center Truss Plant
- Hanson Trucking
- Pentana Group
- 4-D Reamers
- TeleTech
- Total Label USA
- McGowen Precision Barrel
- Mountain View Gardens
- Montana Sustainable Building Systems
- Montana Technical Solutions

Made 29 loans for over \$3 million to companies in cooperation with local lending institutions.

Programs:

Promote Flathead County as a desirable place to relocate or start a business with the One Valley, One Vision initiative

Entrepreneur-To-Entrepreneur Seminar-Monthly Program for business owners

County and State Demographic Statistics-Available at [Report Builder](#)

Established with partners: Flathead Tech, Flathead Manufacturers, PeerSpectives and Commercial Real Estate Roundtables

Actively recruiting businesses in Metal, Gun and Outdoor Product Manufacturing

Supporting the Sustainable Use of Forest Products in Manufacturing and Energy Production

Big Sky Trust Fund, EDA and Work Force Training Grant application assistance

Selected Flathead businesses assisted by Montana West Economic Development:

[Teletech](#) maintains growth trend and expands to 400+ employees with training and benefits for all employees.

[Total Label USA](#) increases to 40 well-paid employees and expanding facilities after relocating to Whitefish, MT.

[Avail Media](#) employs 15 with a payroll of over \$1 million while providing On Demand Content to a variety of clients.

[Midway Rental](#) Employees increase by 60% over a three year period, due in part to training grants.

[Creative Sales](#) provides a unique line of creative products at their manufacturing facility with injection molding machines and 18 employees.

[F.H. Stoltze Land and Lumber](#) received a Big Sky Trust Fund feasibility grant to study the benefits and challenges of installing a bio-mass to electricity co-generation plant in partnership with local energy suppliers.

[Algae Aqua-Culture Technologies](#) secured a \$10,000 Big Sky Trust Fund Grant and \$350,000 Department of Environmental Quality grant for development of an alternative energy production system.

[Sonju Industrial](#) excels at aerospace manufacturing and assembly.

[WaveForm International](#) makes cutting edge technology available to ophthalmologists and optometrists both nationally and internationally from their R&D facility in Kalispell.

[Montana Technical Solutions](#), a network management solution company, will expand their operations to the Flathead in 2011.

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 Vice-Chairman: Shane Jackola-Jackola Engineering & Architecture
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 Jeannie Luckey-Raymond James Financial Services
 Paul Wachholz -West Venture Properties
 Past-Chair: Ken Sugden-Flathead Electric Coop
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 Pierre Kaptanian-First National Bank of Montana
 Jane Karas-Flathead Valley Community College
 David Hergeshiemer-Jordahl Sitter, PLLC
 Pam Holmquist-Flathead County Commissioner
 John King-Three Rivers Bank
 Cindi Martin-Glacier International Airport
 Andy Miller-Global Emerging Technologies
 Jane Nolan-Community Action Partnership
 Bob Nystuen-Glacier Bank
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CHAPTER 10

ARCHITECTURAL REVIEW COMMITTEE

SECTION:

- 2-10-1: Committee Established
- 2-10-2: Purpose, Powers And Duties
- 2-10-3: Membership
- 2-10-4: Organization
- 2-10-5: Meetings, Rules And Regulations
- 2-10-6: Staff Supervision
- 2-10-7: Expenditures

2-10-1: **COMMITTEE ESTABLISHED:** There is hereby established an architectural review committee, hereinafter "committee". (Ord. 03-26, 9-15-2003)

2-10-2: **PURPOSE, POWERS AND DUTIES:**

- A. **Primary Purpose:** The primary purpose of the committee shall be to review and act on applications submitted to the committee by individuals or entities proposing to construct commercial, industrial, public or municipal buildings, or fiveplex or greater residential structures within the city of Whitefish zoning jurisdiction, as provided more fully in the city of Whitefish architectural review standards. Upon receipt of a formal application that has been determined by the committee or its staff, as appropriate, to be complete, the committee shall conduct a meeting regarding the proposed application, and its compliance with the city of Whitefish architectural review standards. The committee shall make one of the following decisions at the time of the meeting: to approve, to approve with conditions, to table the application pending submission of revisions or additional materials, or to deny the applicant's proposal. The committee's decision shall be announced at the meeting, and its decision, together with findings supporting its decision, shall be provided to the applicant, in writing, within five (5) working days of such meeting. The applicant may

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appeal a decision of the architectural review committee to the city council by delivering a written letter of appeal to the city manager within ten (10) days of the committee's issuance of its written decision. More information regarding the necessary content of an appeal, and the process before the city council, may be found in the Whitefish zoning jurisdiction regulations¹.

- B. Secondary Purpose: The secondary purpose of the committee shall be to make recommendations to the city's planning staff with respect to proposed amendments to the city of Whitefish architectural review standards, or the procedures utilized by the committee. (Ord. 03-26, 9-15-2003)

2-10-3: **MEMBERSHIP:**

- A. Appointment; Compensation: The committee shall have seven (7) members who are either residents of the Whitefish zoning jurisdiction area, employed or own a business in the city of Whitefish, or own property in the city of Whitefish. Members shall be appointed by the city council. Two (2) of the committee members shall be Montana licensed architects and one of the members shall be a licensed design professional (i.e., either architect, engineer or landscape architect). If, within the discretion of the city council, less than two (2) licensed architects or one licensed design professional, as described above, is identified after publication of a notice of position vacancy, the city council may make an appointment of an individual that is not a licensed architect or licensed design professional. No member of the committee shall concurrently serve on the Whitefish city council, the Whitefish city-county planning board or the Whitefish board of adjustment. No member of the committee with any interest in a project may sit in review of that project, or attempt to influence other members of the committee other than through the normal application and public meeting process. Committee members shall receive no compensation.
- B. Terms; Positions: Committee terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive. The initial term of members in each position shall begin on June 1, 2003, and terminate on the date specified below for each position:

1. See section 11-7-6 of this code.

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
1	Member	May 31, 2004
2	Member	May 31, 2004
3	Member	May 31, 2004
4	Member	May 31, 2005
5	Member	May 31, 2005
6	Member	May 31, 2006
7	Member	May 31, 2006

In making the initial appointments, the city council shall determine which appointees shall serve one, two (2) or three (3) year terms. Thereafter members appointed to each position shall serve for three (3) year terms. At the discretion of the city council, members may be appointed for more than one term.

- C. **Removal Of Member:** A member of the committee serves at the pleasure of the council and may be removed by a majority vote of the same. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute grounds for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- D. **Vacancy:** Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. (Ord. 03-26, 9-15-2003)

2-10-4: **ORGANIZATION:** The committee, at its first meeting after June 1 of each year, shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If both the chairperson and the vice chairperson are absent from a specific meeting, the attending members shall elect a chairperson pro tem for the meeting. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting.

The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 03-26, 9-15-2003)

2-10-5: **MEETINGS, RULES AND REGULATIONS:** Five (5) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business or conduct any proceedings before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet as frequently as is necessary in order to provide a timely decision with respect to all applications that it considers. The committee shall decide the time, place and date of meetings. All meetings shall be open to the public. (Ord. 03-26, 9-15-2003)

2-10-6: **STAFF SUPERVISION:** The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 03-26, 9-15-2003)

2-10-7: **EXPENDITURES:** The committee shall not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 03-26, 9-15-2003)

CHAPTER 8

PEDESTRIAN AND BICYCLE PATH ADVISORY COMMITTEE

SECTION:

- 2-8-1: Standing Committee Established
- 2-8-2: Purpose, Powers, Processes And Duties
- 2-8-3: Membership
- 2-8-4: Organization
- 2-8-5: Meetings; Rules And Regulations
- 2-8-6: Staff Supervision
- 2-8-7: No Expenditure Authorized
- 2-8-8: Easement Negotiators
- 2-8-9: Fish Trails Coordinators

2-8-1: **STANDING COMMITTEE ESTABLISHED:** There is hereby established a pedestrian and bicycle path advisory committee (hereinafter "committee"). (Ord. 05-30, 12-5-2005)

2-8-2: **PURPOSE, POWERS, PROCESSES AND DUTIES:** The purpose and duties of the committee are to provide advice and recommendations to the city council, park board of commissioners, pedestrian and bicycle path easement negotiators¹ (hereinafter "easement negotiators") and city staff on matters of pertinence and interest related to the development of pedestrian and bicycle trails pursuant to the Whitefish pedestrian and bicycle path master plan. The committee shall report its advice and recommendations primarily to the park board of commissioners and the easement negotiators. The committee shall act in an advisory capacity only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of public funds. The committee shall be entitled to conduct fundraising activities and expend any funds raised for purposes related to the city's pedestrian and bicycle paths. In conducting fundraising activities, the committee shall not be entitled to incur indebtedness that could be charged against the city. (Ord. 05-30, 12-5-2005)

1. See section 2-8-8 of this chapter.

2-8-3: **MEMBERSHIP:**

A. Appointment; Compensation: The committee shall have seven (7) members. Members shall be appointed by the city council. Not less than four (4) members shall reside within the corporate limits of the city. Three (3) members may reside within the Whitefish planning jurisdictional boundary. Members shall have maintained residency within specified boundary requirements for one year prior to appointment to the committee. The city council shall appoint members according to the following representation categories: one member who is also the mayor or a city councilor; one member who is also a member of the park board of commissioners; one member who is also a member of the resort tax monitoring committee; and four (4) members who are citizen members at large. The city manager shall serve on the committee in an ex officio capacity. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation. Contracted consultants and city staff, except as otherwise provided for by the city manager, shall not serve as members, but may assist and participate in the facilitation of committee business.

B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. The term for members serving pursuant to this chapter terminate on the date specified below for each position:

<u>Position Number</u>	<u>Representation Category</u>	<u>Expiration Date</u>
1	Mayor or councilor	May 31, 2007
2	Member at large	May 31, 2007
3	Member at large	May 31, 2007
4	Resort tax committee	May 31, 2006
5	Member at large	May 31, 2006
6	Park board	May 31, 2006
7	Member at large	May 31, 2006

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on June 1 of the

year in which the term for the position expires. At the discretion of the city council, members may be appointed for more than one term.

- C. **Removal Of Member:** A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- D. **Vacancy:** Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 05-30, 12-5-2005)

2-8-4: **ORGANIZATION:** The committee, at its first meeting after June 1 of each year, the committee shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 05-30, 12-5-2005)

2-8-5: **MEETINGS; RULES AND REGULATIONS:** Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the committee shall be held at least once every three (3) months or at the call of the chairperson or the easement negotiators, and at

such other times as the committee may determine. All meetings shall be open to the public. (Ord. 05-30, 12-5-2005)

2-8-6: **STAFF SUPERVISION:** The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 05-30, 12-5-2005)

2-8-7: **NO EXPENDITURES AUTHORIZED:** The committee shall have not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 05-30, 12-5-2005)

2-8-8: **EASEMENT NEGOTIATORS:**

- A. Negotiators Established: There are hereby established two (2) appointive positions to be known as the pedestrian and bicycle path easement negotiators (hereinafter "negotiators").
- B. Purpose, Powers And Duties: The purpose and duties of the negotiators are to represent the city in easement negotiations related to the development of pedestrian and bicycle trails pursuant to the Whitefish pedestrian and bicycle path master plan. The negotiators shall be the only individuals authorized to represent the city in trail easement negotiations. All agreements developed between the negotiators and property owners shall require approval by the city council to gain acceptance by the city.
- C. Membership: The city council shall appoint two (2) negotiators and designate a lead negotiator from among the two (2) appointments. Except for city employees, negotiators shall receive no compensation. Negotiators shall serve indefinite terms at the pleasure and discretion of the city council. Negotiators serving on the effective date of this chapter shall, within the discretion of the city council, continue in their respective positions.
- D. Lead Negotiator: The lead negotiator shall decide plans, methods used, offers tendered and concessions made in negotiating easement agreements. The lead negotiator is authorized to include other individuals in negotiation meetings if, in his discretion, such individuals would be helpful in developing an easement agreement. (Ord. 02-12, 4-1-2002)

2-8-9: **FISH TRAILS COORDINATORS:** There is hereby established the positions within the committee of "Fish Trails coordinators". There shall be three (3) Fish Trails coordinators appointed by the committee from among its members or from the two (2) easement negotiators (established by ordinance 02-12). Committee members and easement negotiators may serve as Fish Trails coordinators only so long as they remain members of the committee or appointed as easement negotiators. The terms for Fish Trails coordinators shall terminate on the date specified for each position.

<u>Position Number</u>	<u>Expiration Date</u>
1	May 31, 2006
2	May 31, 2006
3	May 31, 2006

Thereafter Fish Trails coordinators shall serve one year terms, the first of such terms beginning on June 1 of the year in which the term for the position expires. Coordinators may be appointed for more than one term. The parks and recreation director shall serve as an ex officio Fish Trails coordinator.

The Fish Trails coordinators shall endeavor to promote awareness of and enthusiasm for the Whitefish trails system. The Fish Trails coordinators shall, with the assistance of volunteers, be responsible for the following matters, and for any other matters that the committee assigns that are consistent with this chapter:

- A. Maintenance of the Fish Trails website;
- B. Publishing of the Fish Trails newsletter;
- C. Organizing events related to the city's trails system;
- D. Handling public relations for Fish Trails events and the city's trails system;
- E. Attracting and increasing Fish Trails membership as a method of fundraising;
- F. Attracting and directing volunteers to assist with various Fish Trails projects and activities; and

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G. Conducting fundraising efforts.

Fish Trails Coordinators may be removed, and vacancies may be filled, by the committee. Fish Trails coordinators shall make decisions by majority vote. Fish Trails coordinators shall be primarily advisory to the committee, and shall obtain committee approval of projects that it undertakes. All meetings shall be open to the public. The coordinators shall not make expenditures or disburse funds on behalf of the city. (Ord. 05-30, 12-5-2005)

CHAPTER 7

WHITEFISH TREE ADVISORY COMMITTEE

SECTION:

- 2-7-1: Committee Established
- 2-7-2: Purpose, Powers And Duties
- 2-7-3: Membership
- 2-7-4: Organization
- 2-7-5: Meetings, Rules And Regulations
- 2-7-6: Staff Supervision
- 2-7-7: Expenditures

2-7-1: **COMMITTEE ESTABLISHED:** There is hereby established a Whitefish tree advisory committee for the city, hereinafter referred to as the committee. (Ord. 02-19, 6-3-2002)

2-7-2: **PURPOSE, POWERS AND DUTIES:** The purpose and duties of the committee are to provide advice and recommendations to the city council, park board of commissioners and city staff on matters of pertinence and interest related to the city's urban forest. The committee shall report its advice and recommendations primarily to the park board of commissioners and city staff. The committee shall act in an advisory capacity only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of public funds. (Ord. 02-19, 6-3-2002)

2-7-3: **MEMBERSHIP:**

- A. **Appointment; Compensation:** The committee shall have seven (7) members. Members shall be appointed by the city council. Not less than four (4) members shall reside within the corporate limits of the city. Two (2) members may reside within the Whitefish planning jurisdictional boundary. Two (2) members who are practicing professional arborists, landscapers and landscape architects, who

also maintain a business within the Whitefish planning jurisdictional boundary, may serve without regard to residential standing. Members shall have maintained residency within specified boundary requirements for one year prior to appointment to the committee. The city council shall appoint members according to the following representation categories: one member who is also the mayor or a city councilor; one member who is also a member of the park board of commissioners; and five (5) members who are citizen members at large. The city council shall attempt to appoint up to two (2) members of the aforementioned five (5) members at large who are practicing professional arborists, landscapers or landscape architects. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation. Contracted consultants and city staff shall not serve as members, but may assist and participate in the facilitation of committee business.

- B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. Except for the positions specified for the mayor or a city councilor and the park board member, the committee existing at the time of enactment of this chapter shall determine by lot which members shall fill which positions. The initial terms for members serving pursuant to this chapter shall begin with the effective date of this chapter and terminate on the date specified below for each position:

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
1	Mayor or councilor	May 31, 2002
2	Park board	May 31, 2002
3	Member at large	May 31, 2002
4	Member at large	May 31, 2002
5	Member at large	May 31, 2003
6	Member at large	May 31, 2003
7	Member at large	May 31, 2003

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on June 1 of the year in which the initial term for the position expires. At the discretion of the city council, members may be appointed for more than one term.

- C. **Removal Of Member:** A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- D. **Vacancy:** Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 02-19, 6-3-2002)

2-7-4: **ORGANIZATION:** At its first meeting after June 1 of each year, the committee shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 02-19, 6-3-2002)

2-7-5: **MEETINGS, RULES AND REGULATIONS:** Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the committee shall be held at least once every three (3) months or at the call of the chair or the parks and recreation director, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 02-19, 6-3-2002)

2-7-6

2-7-7

2-7-6: **STAFF SUPERVISION:** The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 02-19, 6-3-2002)

2-7-7: **EXPENDITURES:** The committee shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 02-19, 6-3-2002)

MOUNTAIN TRAILS ICE RINK ADVISORY COMMITTEE

2-6-1: COMMITTEE ESTABLISHED:

There is hereby established a Mountain Trails Ice Rink advisory committee for the city, hereinafter referred to as the committee. (Ord. 02-09, 4-1-2002)

2-6-2: PURPOSE, POWERS AND DUTIES:

The purpose and duties of the committee are to provide input, advice and recommendations to the city council, park board of commissioners and city staff on matters of pertinence and interest related to the Mountain Trails Ice Rink, including associated buildings and grounds. Such input, advice and recommendations may include matters related to operations, maintenance and facility alterations related to ice skating activities. The committee shall report its input, advice and recommendations primarily to the park board of commissioners and city staff. The committee shall act in an advisory capacity only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit city projects and programs, the use of public funds or to authorize privately funded projects on public property. (Ord. 02-09, 4-1-2002)

2-6-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have nine (9) members. Members shall be appointed by the city council. Not less than six (6) members shall reside within the corporate limits of the city. Three (3) members may reside within the Whitefish planning jurisdictional boundary. Members shall have maintained residency within specified boundary requirements for one year prior to appointment to the committee. The city council shall appoint members according to the following representation categories: one member who is also the mayor or a city councilor; one member who is also a member of the park board of commissioners; one member representative of the patrons who use the ice rink during open skating periods and not affiliated with any of the other skating, hockey or curling groups with a designated committee member; one member recommended by the adult hockey group; one member recommended by the Whitefish Figure Skating Association; one member recommended by the Glacier Hockey Association; one member recommended by the Curling Club; and two (2) members who shall be public members at large and not affiliated with any of the other skating, hockey or curling groups with a designated committee member. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation. Contracted consultants and city staff shall not serve as members, but may assist and participate in the facilitation of committee business.

B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 9 inclusive of the members of the committee. The initial terms for members serving pursuant to this chapter shall begin upon appointment and terminate on the date specified below for each position:

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
1	Mayor or councilor	May 31, 2003
2	Open skating rep.	May 31, 2003
3	Adult hockey	May 31, 2003
4	Figure skating assn.	May 31, 2003
5	Glacier Hockey Assn.	May 31, 2004
6	Public member at large	May 31, 2004
7	Park board	May 31, 2004
8	Curling Club rep.	May 31, 2014
9	Public member at large	May 31, 2013

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on June 1 of the year in which the initial term for the position expires. At the discretion of the city council, members may be appointed for more than one term. (Ord. 12-08, 6-4-2012)

C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 02-09, 4-1-2002)

2-6-4: ORGANIZATION:

At its first meeting after June 1 of each year, the committee shall elect a chair, vice chair and

secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 02-09, 4-1-2002)

2-6-5: MEETINGS, RULES AND REGULATIONS:

Five (5) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the committee shall be held at least once every three (3) months or at the call of the chair or the parks and recreation director, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 12-08, 6-4-2012)

2-6-6: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. Pursuant to the city charter, all authority to appoint, suspend and remove employees is reserved to the city manager. (Ord. 02-09, 4-1-2002)

2-6-7: EXPENDITURES:

The committee shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 02-09, 4-1-2002)

CHAPTER 11

WEED CONTROL ADVISORY COMMITTEE

SECTION:

- 2-11-1: Established
- 2-11-2: Purpose
- 2-11-3: Membership; Terms
- 2-11-4: Organization
- 2-11-5: Meetings, Rules And Regulations
- 2-11-6: Enforcement Of Decisions

2-11-1: **ESTABLISHED:** There is hereby established a weed control advisory committee (the "committee") as a permanent city committee. (Ord. 06-15, 6-5-2006)

2-11-2: **PURPOSE:** The mission of the committee shall be to assist in identifying and reporting noxious weed infestations to the city's code enforcement officer, to develop recommendations to the city council for a permanent weed control strategy, to educate the public to create an increased awareness and knowledge of methods of controlling noxious weeds, and to advise city staff regarding the need for weed control on city owned properties. The committee shall have no independent authority to commit or spend city funds, or to direct city staff. (Ord. 06-15, 6-5-2006)

2-11-3: **MEMBERSHIP; TERMS:**

- A. Appointment; Compensation: The committee shall consist of seven (7) members, who shall be appointed by the city council, and who shall serve at the pleasure of the city council. One member shall be a city councilor. One member shall be a member of the city park board. One member shall be the city's code enforcement officer. Four (4) members shall be from the public and shall reside within the Whitefish zoning jurisdiction. The city clerk shall make appropriate

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notation of a member's category on the official committee roster. Committee members shall receive no compensation. Contracted consultants and city staff shall not serve as members, but may assist and participate in the facilitation of committee business.

- B. Term; Positions: Committee terms shall be two (2) years, except for the initial terms identified below, some of which shall be longer than two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee, which positions are currently filled as follows:

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
1	Code enforcement officer	Continuous
2	Mayor or councilor	May 31, 2007
3	Member at large	May 31, 2007
4	Member at large	May 31, 2007
5	Member at large	May 31, 2008
6	Member at large	May 31, 2008
7	Member at large	May 31, 2008

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on June 1 of the year in which the term for the position expires. At the discretion of the city council, members may be appointed for more than one term.

- C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedure of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chair or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting. Any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 06-15, 6-5-2006)

2-11-4: **ORGANIZATION:** At its first meeting after June 1 of each year, the committee shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 06-15, 6-5-2006)

2-11-5: **MEETINGS, RULES AND REGULATIONS:** Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the committee shall be held at least once every three (3) months or at the call of the chair and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 06-15, 6-5-2006)

2-11-6: **ENFORCEMENT OF DECISIONS:** The individual members of the committee shall not directly or personally contact members of the public concerning the need to control noxious weeds on their property, but shall work through the city's code enforcement officer to address individual noxious weed problems or infestations. Individual members of the committee may distribute informational material to members of the public, but all enforcement activity shall be funneled through the city's code enforcement officer. Enforcement decisions shall remain with the code enforcement officer, or his/her supervisor. (Ord. 06-15, 6-5-2006)

CHAPTER 13

IMPACT FEE ADVISORY COMMITTEE

SECTION:

- 2-13-1: Established
- 2-13-2: Purpose, Powers, And Duties
- 2-13-3: Membership
- 2-13-4: Organization
- 2-13-5: Meetings, Rules And Regulations
- 2-13-6: Staff Supervision
- 2-13-7: Expenditures

2-13-1: **ESTABLISHED:** There is hereby established a Whitefish impact fee advisory committee, hereinafter "committee". (Ord. 06-32, 11-20-2006)

2-13-2: **PURPOSE, POWERS, AND DUTIES:** As provided in section 7-6-1604, Montana Code Annotated, the purpose and duties of the committee are to review and monitor the process of calculating, assessing, and spending impact fees. The committee shall serve in an advisory capacity to the city council. Nothing in this chapter shall be construed to empower the committee to authorize or prohibit the use of public funds. (Ord. 06-32, 11-20-2006)

2-13-3: **MEMBERSHIP:**

- A. Appointment; Compensation: The committee shall have five (5) members. Members shall be appointed by the city council. At least one member shall be a representative of the development community, and shall reside or work within the Whitefish zoning jurisdiction. At least one member shall be a certified public accountant, and shall reside or work within the Whitefish zoning jurisdiction. One member shall be a city councilor. One member shall be the city finance director. One member shall be a member at large,

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but shall work within the Whitefish zoning jurisdiction. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation.

- B. Terms; Positions: Committee terms shall be for two (2) years. There are hereby created positions numbered 1 through 5 inclusive of the members of the committee. The initial term of the committee members shall be staggered, with positions 1 through 3 serving two (2) year terms, and positions 4 and 5 serving one year terms. The initial term for members serving pursuant to this chapter shall begin upon appointment and terminate on the date specified below for each position:

<u>Position Number</u>	<u>Representation Category</u>	<u>Initial Expiration Date</u>
1	Development community	December 31, 2009
2	Certified public accountant	December 31, 2009
3	City councilor	December 31, 2009
4	City finance director	December 31, 2008
5	Member at large	December 31, 2008

(Ord. 07-14, 6-4-2007)

- C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 06-32, 11-20-2006)

2-13-4: **ORGANIZATION:** The committee, at its first meeting after July 1 of each year, shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 06-32, 11-20-2006)

2-13-5: **MEETINGS, RULES AND REGULATIONS:** Three (3) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet at least annually, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 09-03, 2-2-2009)

2-13-6: **STAFF SUPERVISION:** The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 06-32, 11-20-2006)

2-13-7: **EXPENDITURES:** The committee shall not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 06-32, 11-20-2006)

Flathead Regional Wastewater Management Group

The goal of the FRWMG is to prepare a region wide strategic plan for wastewater management, including septic tank discharge, based upon sound science and engineering. The FRWMG meets monthly in a facilitated meeting during which the group reviews existing infrastructure, wastewater management techniques, and conveyance capability.

Next Meeting to Be Determined

Meeting Agendas
Meeting Minutes

March 8, 2011	March 8, 2011
February 8, 2011	February 8, 2011
January 11, 2011	January 11, 2011
December 14, 2010	December 14, 2010
November 9, 2010	November 9, 2010
October 12, 2010	October 12--Please see Power Point
September 14, 2010	September 14, 2010
August 10, 2010	August 10, 2010
July Meeting - Cancelled	
June 8, 2010	Field Trip - No Minutes
May 11, 2010	May 11, 2010
April 13, 2010	April 13, 2010

- Documents**
- [Treating Wastewater in the Flathead \(2007-2008\) with addendum added 2009](#)
 - [Flathead County Contract](#)
 - [FRWMG 12-14-10 Strategic Outline](#)
 - [Flathead Regional Wastewater Management Group Power point 10-12-10](#)
Jason Gildea(EPA) and Dean Yashan(DEQ) TMDL in Flathead Basin
 - [Draft Montana's Policy for Nutrient Trading Policy](#)
 - [Regional Wastewater Alternatives - Colorado 2007](#)
 - [Innovative Use of Bio-mass in Wastewater Treatment](#)
 - [May 2010 Billings Integrated Water Plan Presentation](#)
 - [September 2010 Billings Integrated Water Plan Presentation](#)
 - [Lake Tahoe Water Management Plan](#)

- Links**
- [Click HERE](#) for a link to the TMDL project in the Flathead Basin.

- Click [HERE](#) for the Montana Department of Environmental Quality (DEQ) - Final TMDLs
- Click [HERE](#) for Idaho, Washington, Montana Watershed
- Click [HERE](#) for Lake Pend Oreille Watershed / TMDL

INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into by and among the following Montana public agencies within the meaning of the Interlocal Cooperation Act:

Flathead County, hereinafter called "County";
The City of Columbia Falls, hereinafter called "Columbia Falls";
The City of Kalispell, hereinafter called "Kalispell";
The City of Whitefish, hereinafter called "Whitefish".

WHEREAS, Title 7, Chapter 11, Part 1, M.C.A., known as the "Interlocal Cooperation Act," permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities;

WHEREAS, said Act provides that an interlocal agreement may be authorized and approved by the governing body of each party to said contract;

WHEREAS, the Flathead County Sheriff's Office and each of the Cities Police Departments, as well as many other emergency response agencies, are in need of dispatch services;

WHEREAS, currently within Flathead County there are separate dispatch operations within the County and the three Cities;

WHEREAS, the aforesaid local governmental units have determined it most desirable and efficient to consolidate the dispatch of law enforcement and emergency response personnel into one operation and one staff serving all of the governmental entities;

WHEREAS, the parties to this agreement agree that a central administrative body composed of representatives of the signatories of this agreement should be established for the

purpose of administering and setting the policies for such a staff as well as to coordinate its work in light of the priority of need;

WHEREAS, the parties to this agreement agree that the administration of the County's Office of Emergency Services and the Flathead County Fire Service Area should be coordinated with dispatching emergency services; and

WHEREAS, the citizens of Flathead County approved a bond issue for funding for an Emergency Communications Center.

NOW THEREFORE, it is agreed by and among the parties as follows:

I.

ESTABLISHMENT OF FLATHEAD EMERGENCY COMMUNICATIONS CENTER

GOVERNING BOARD

There is hereby established a "Flathead Emergency Communications Center Board." Said body shall be referred to hereinafter as the "BOARD."

The BOARD is established as an administrative body for policy making and financial budget preparation and administration for the Flathead Emergency Communications Center (hereinafter, the Center). The BOARD shall be composed of six (6) members, as follows:

1. The Flathead County Sheriff;
2. A County Commissioner chosen by the Board of County Commissioners;
3. The County Attorney or other elected County officer; and
4. An elected official or designee from each of the cities of Kalispell, Whitefish and Columbia Falls.

Any expenses incurred by a member will be paid for by the governing body which said member represents.

The BOARD shall elect a Presiding Officer from its members, and shall conduct meetings on a quarterly basis. A special meeting of the BOARD may be called by the Presiding Officer or by two members upon two days' written notice to all members.

The BOARD shall adopt by-laws to govern its organization, internal affairs, meetings, and items of general administration in conformity with this agreement; such by-laws may be amended from time to time upon concurrence of four members of the BOARD. The BOARD shall follow the open meetings and public participation standards of a political subdivision of the state. Its financial statements shall be discrete and reasonably available for public scrutiny. The BOARD shall not act except at a meeting in which a quorum, consisting of a majority of the members, is present and upon the majority vote of those members present.

The BOARD shall appoint a committee within three months of the execution of this agreement to study funding issues and to search for funding mechanisms that are more appropriate and acceptable to the parties to this Agreement. The committee shall make its recommendations within two years of its formation.

II.

PURPOSE

The purpose of this agreement is to consolidate all dispatch services in Flathead County and the Cities in Flathead County into one operation and one staff in order to provide efficient service to all emergency responders and to coordinate the County's Office of Emergency Services and Flathead County Fire Service Area responsibilities with the dispatch center. The service will include receiving calls concerning governmental services outside of regular business hours which may not involve emergency response but do require timely governmental action, such as problems with governmental water and sewer facilities. The consolidated Center will result in better service for all emergency responders, thereby benefiting all citizens of the County and the Cities by facilitating more timely response of emergency responders for all citizens requiring such services.

III.

STAFF

The BOARD and the Board of Commissioners of Flathead County will jointly employ, by contract, a Director who shall work under the BOARD and work under the Board of Commissioners. Both the Board of Commissioners and the BOARD must agree to any termination of employment that might be initiated in regard to the Director during the term of the Director's contract. In the event that either the Board of Commissioners or the BOARD is not satisfied with the performance of the Director at the end of the contract term, the Director shall not be granted a new contract.

The Director shall hire and direct dispatch staff and technical staff (radio, IT and GIS) and shall be responsible for operation of the Center, under the supervision of the BOARD. The Director shall hire and direct staff to carry out the responsibilities of the County's Office of Emergency Services and the Flathead County Fire Service Area under the supervision of the Board of Commissioners.

The BOARD shall adopt administrative policies to govern its staff's rights, duties, salary schedules, fringe benefits, and such other matters as may be proper and necessary to the efficient and harmonious operation thereof. Dispatch and technical staff personnel shall be employees of the BOARD. The administrative policy adopted by the BOARD shall recognize and provide for all rights and duties as are provided by law for all public employees. In any mandatory matters relating to public employees, the laws applicable to the County shall govern. The County will contract with the BOARD to administer the personnel record-keeping functions and to allow the employees to join the County health insurance program. The BOARD will be responsible for all employer contributions and premiums for health insurance benefits provided to the employees.

The BOARD will also provide for Workers' Compensation coverage, Unemployment Insurance and general liability and errors and admissions insurance, retirement benefits, and all other benefits of the staff of the Emergency Dispatch Center.

The Director's responsibilities with regard to the staff hired to carry out the responsibilities of the County's Office of Emergency Services and the Flathead County Fire Service Area shall be carried out under County Personnel Policy. Those staff members will be County employees.

IV.

FINANCE

Prior to the 15th day of April of each year, the Director shall prepare an estimated overall budget for the Center for the following fiscal year; said budget shall include the income, costs and expenses of the Center and staff provided for herein.

The funds for all members received from the State pursuant to Section 10-4-302, M.C.A., will be budgeted by the BOARD and will be used for installing, operating, and improving the 9-1-1 emergency telephone system. The BOARD shall designate to each party served by the Center a proportionate share of the remainder of the funding for said budget based upon the population of each of the Cities and of the County outside of the Cities as determined in the latest United States census completed every ten years. In addition, the County will fund one-half of the salary of the Director and of an Office Assistant, including one-half of benefits, for provision of services in carrying out the County's responsibilities for the Office of Emergency Services and the Flathead County Fire Service Area.

The Flathead County Treasurer shall act as the Treasurer for the BOARD. Each party agrees to budget and to pay to the Flathead County Treasurer, under the provisions of the Local

Government Budget Act (Title 7, Chapter 6, Part 40, or successor legislation) the amount designated by the BOARD for Center operation.

V.

PROPERTY

The Center building will be owned by Flathead County. No rent will be charged to the other parties of this Agreement. Furniture and office equipment provided by the County with the Center will be owned by the County. All furniture, office equipment, automobiles, and major items of personal property purchased by the BOARD, and accumulated cash, shall remain the property of the BOARD as long as this agreement remains in effect.

The County shall be responsible for insuring the building and any personal property belonging to the County. The BOARD shall be responsible for insuring any personal property acquired by it under this Agreement.

The parties agree that staff hired to carry out the responsibilities of the County for the County's Office of Emergency Services and the Flathead County Fire Service Area may be housed in the Center. The BOARD and the County will share all maintenance costs for the building, including major maintenance items such as roof and furnace/boiler replacement, in the proportion of square footage allotted to staff carrying out dispatch functions and to staff carrying out the County's responsibilities for the Office of Emergency Services and the Flathead County Fire Service Area.

The withdrawal of a party from this agreement, pursuant to Paragraph IX, shall not result in any change of ownership of any property owned by the BOARD; any party, by withdrawing, shall waive any claim it might have to property owned by the BOARD. In the event that this agreement is terminated by mutual consent of the parties, any property then owned by the

BOARD shall either (i) be divided among the parties pursuant to an agreement reached by the parties at the time of termination, or in lieu of such agreement, (ii) be sold pursuant to the statutory provision then in effect with regard to the sale of County property. In the event of a sale, the proceeds shall be divided among the parties pursuant to an agreement reached by the parties at the time of termination or, in lieu of such agreement, by using the percentages used to determine the contributions of each party to the BOARD in its budget for its last year of operation.

VI.

COUNSEL

The Flathead County Attorney shall provide the BOARD with necessary legal advice and counsel as requested, at no extra cost to the BOARD or the City parties hereto.

VII.

PRIOR AGREEMENT

The parties hereto did, on March 15, 1999, file an Interlocal Services Agreement, and an Addendum thereto, establishing the "Enhanced 911 Emergency Coordination Center." Said agreement is by instant agreement terminated by the mutual consent of all parties.

VIII.

ESTABLISHMENT OF ADVISORY COMMITTEE

An advisory committee shall be formed and shall be composed of the following members:

1. one representative from Sheriff's Office;
2. one member from either police or fire from each participating city;
3. one rural fire representative to be appointed by the County Chiefs Association;
4. one appointee for the EMS community appointed by the City/County Health Board;
5. the dispatch supervisor;

6. up to 2 public at-large members to be appointed by the BOARD to serve two year terms.

The at-large positions shall be appointed by the BOARD from a list of applicants. The BOARD shall give notice of the availability of the positions by article in the newspaper, and seek applications therefore at least 30 days prior to filling the positions.

The Advisory Committee shall meet monthly and at such other times as the committee shall determine or when requested by the BOARD. The members shall elect a Chairperson who shall conduct the meetings and assume other functions as the committee shall determine.

The Advisory Committee shall adopt by-laws and shall provide advice and evaluation for the BOARD and the Director on the following:

1. Call-taking, selective call-transfer and dispatch procedures and policies.
2. Continuous quality improvement monitoring and review of Center performance.
3. Priorities, policies and procedures for E9-1-1 system enhancement, programming, implementation and equipment usage.
4. Administrative and operational policies and procedures of the Center.
5. New equipment proposals.
6. Any other matters on which the Director or the BOARD may request advice or evaluation.

IX.

TERM AND WITHDRAWAL OF A PARTY

After approval and appropriate filing, this agreement shall become effective and shall endure until terminated by law or by mutual agreement of the parties. A party may withdraw from this agreement only upon lawful resolution of the governing body of that party and service of written notice thereof on the remaining party or parties hereto at least 180 days prior to the first day of July of any year. This agreement will remain in full force and effect as to a

withdrawing party until the 30th day of June next following service of notice of the withdrawal of said party; the agreement shall remain in full force and effect as to all remaining parties until termination or withdrawal.

X.

TRANSITION PROVISION

The parties agree that the transition from the current dispatch operation to the consolidated operation will require substantial planning, including consultations with current staffs and their collective bargaining representatives. The parties therefore agree that the current operation will continue after the execution of this Agreement, under the Memorandum of Understanding executed by the 911 Administration Board, the Board of Commissioners, the Sheriff and the Interim Emergency Services Director.

The BOARD shall work closely with the Sheriff and the Interim Emergency Services Director to achieve a smooth transition. When the transition to the new building is complete, the BOARD will hire a Director under Section III of this Agreement.

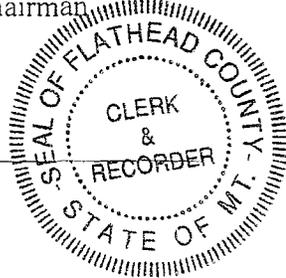
IN WITNESS WHEREOF, the parties execute this agreement effective this 20 day of April, 2009.

FLATHEAD COUNTY

By: Dale W. Layman
Dale W. Layman, Chairman

ATTEST:
By: Diana Kile
Diana Kile, Clerk

(seal)



CITY OF COLUMBIA FALLS

By: William F. Shaw
William F. Shaw, City Manager

ATTEST:
By: Susan M. Nicosia
Susan M. Nicosia, City Clerk

(seal)

* * * * *

STATE OF MONTANA)
 :SS
County of Flathead)

On this 27 day of April, 2009, before me, the undersigned Notary Public for the State of Montana, personally appeared CHARLES C. STEARNS and NECILE LORANG, known to me to be the City Manager and City Clerk, respectively, and acknowledged to me that the City of Whitefish executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

(seal)

Vanice Woodbeck
Printed Name: Vanice Woodbeck
Notary Public for the State of Montana
Residing at Whitefish
My commission expires: 2 23 2012

CHAPTER 9

INSURANCE COMMITTEE

SECTION:

- 2-9-1: Standing Committee Established
- 2-9-2: Definition
- 2-9-3: Purpose, Powers, And Duties
- 2-9-4: Membership
- 2-9-5: Organization
- 2-9-6: Meetings; Rules And Regulations
- 2-9-7: Supervision Of Staff
- 2-9-8: No Expenditure Authorized

2-9-1: **STANDING COMMITTEE ESTABLISHED:** There is hereby established an insurance committee, hereinafter "committee".
(Ord. 10-09, 4-19-2010)

2-9-2: **DEFINITION:**

HEALTH INSURANCE: Includes medical, vision, dental, prescription drugs, and life insurance. (Ord. 10-09, 4-19-2010)

2-9-3: **PURPOSE, POWERS, AND DUTIES:** The purpose and duties of the committee are to make decisions regarding the procurement of health insurance for city employees. As part of the budget process each year, the city council shall evaluate and determine the amount of funds that the city can contribute toward the cost of health insurance premiums for the following fiscal year. Such determination shall be based, in part, on the need to ensure that the city has competitive benefits for its employees. Thereafter, the insurance committee shall investigate, analyze, and determine the precise nature of health insurance benefits that the city will be capable of purchasing in the future. In conducting its investigation and analysis, the committee shall be

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City of Whitefish

empowered to consider the city's current plan, alternative plans, plan components, coverage levels, multi-jurisdictional insurance pools, self-insurance pools, and any other method of permitting the city to provide health insurance benefits for its employees at the cost determined by the city council. Coverage requiring premiums in excess of the council's funding level may be adopted, but only after an affirmative vote of the committee. Any such excess premiums shall be paid by the covered employees. The committee shall provide its final decision to the city council as soon as is practicable. (Ord. 10-09, 4-19-2010)

2-9-4: **MEMBERSHIP:**

- A. Appointment; Compensation: The committee shall have thirteen (13) members. Two (2) members shall be appointed by the Whitefish Police Protective Association from its membership. Two (2) members shall be appointed by the public works employees union, local no. 2943, from its membership. Two (2) members shall be appointed by the International Association Of Firefighters, local 3995, from its membership. The nonunion, nonexempt public works employees shall choose a member from among themselves. The city clerk's staff shall select a nonunion, nonexempt employee from among themselves. The building department employees shall select a nonunion, nonexempt employee from among themselves. The parks department employees shall select a nonunion, nonexempt employee from among themselves. The court clerk's staff shall select a nonunion, nonexempt employee from among themselves. The city department heads shall select two (2) members from among themselves. The committee shall also have three (3) ex officio, nonvoting members, which shall consist of two (2) city council members, selected by the city council, and the city manager. All appointments shall be made in writing, directed to the city clerk. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no additional compensation above that already provided by the city. Contracted consultants and other city staff shall not serve as members, but may assist and participate in the facilitation of committee business.
- B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 13 for voting members of the committee and positions numbered 14 through 16 for ex officio, nonvoting members. Seven (7) of the initial voting members, however, and one of the initial ex officio members, shall be appointed to one year terms, so that the expiration of the terms of

the committee members will be staggered. Where one entity or group is allowed two (2) appointments, that entity or group shall determine which of its appointees shall serve a one year term and which shall serve a two (2) year term. The initial term for members serving pursuant to this chapter shall begin with the effective date of this chapter and terminate on the date specified below for each position:

<u>Position Number</u>	<u>Representation Category</u>	<u>Initial Expiration Date</u>
Voting Members		
1	Police association	February 29, 2004
2	Police association	February 28, 2005
3	Public works union	February 29, 2004
4	Public works union	February 28, 2005
5	Firemen union	February 29, 2004
6	Firemen union	February 28, 2005
7	Public works, nonunion, nonexempt	February 29, 2004
8	City clerk's office, nonunion, nonexempt	February 28, 2005
9	Building department, nonunion, nonexempt	February 29, 2004
10	Parks department, nonunion, nonexempt	February 28, 2005
11	Court clerk's office, nonunion, nonexempt	February 29, 2004
12	Department director	February 28, 2005
13	Department director	February 29, 2004
Ex Officio Members		
14	Council member	February 28, 2005
15	Council member	February 29, 2004
16	City manager	Indefinite

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on July 1 of the year in which the initial term for the position expires.

- C. **Removal Of Member:** A member may be removed from the committee by a three-fifths ($\frac{3}{5}$) vote of the voting members of the committee for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the committee prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- D. **Vacancy:** If any member position on the committee becomes vacant, it shall be filled as soon as possible by the entity or group that originally appointed the position. Upon appointment to fill the vacancy, the appointing entity or group shall notify the city clerk in writing of such appointment. (Ord. 10-09, 4-19-2010)

2-9-5: **ORGANIZATION:** The committee, at its first meeting of each fiscal year, shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 10-09, 4-19-2010)

2-9-6: **MEETINGS; RULES AND REGULATIONS:** A simple majority of the appointed committee members shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet as needed. All meetings shall be open to the public. (Ord. 10-09, 4-19-2010)

2-9-7

2-9-8

2-9-7: **SUPERVISION OF STAFF:** The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 10-09, 4-19-2010)

2-9-8: **NO EXPENDITURE AUTHORIZED:** Other than the duties of the committee as outlined above, the committee shall not have any additional authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 10-09, 4-19-2010)

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City of Whitefish

MEMBERS OF INSURANCE COMMITTEE

Voting Member	Expiration Date	Name
Police Association	February 28, 2015	Shane Erickson
Police Association	February 29, 2012	Clint Peters
Public Works Union	February 29, 2012	Rob Goodman
Public Works Union	February 28, 2013	Mitch Wilson
Fireman Union	February 29, 2014	Scott Alexander
Fireman Union	February 28, 2015	Mike Zorn
Public Works, non-Union, non-exempt	February 29, 2014	Sherri Baccaro
City Clerk's Office Non-union, non-Exempt	February 28, 2015	Vanice Woodbeck
Building Dept, non-Union, non-exempt	February 29, 2014	Krista LaRoque
Parks Dept, non-Union, non-exempt	February 28, 2013	Jason Loveless
Court Clerk's Office, Non-union, non-Exempt.	February 29, 2014	Pam Cotton
Department Director	February 28, 2015	Karl Cozad
Department Director	February 28, 2014	Rich Knapp
EX-OFFICIO MEMBERS		
Council Member	February 28, 2013	Frank Sweeney
Council Member	February 28, 2014	John Anderson
City Manager	Indefinite	Chuck Stearns

RESOLUTION NO. 11- 28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE WHITEFISH LEGACY PARTNERS, INC. WITH RESPECT TO THE WHITEFISH TRAIL, RECEIPT OF THE WHITEFISH TRAIL GRANT FUND, AND ALLOCATION AND INVESTMENT OF DONATED FUNDS.

WHEREAS, the Montana Department of Natural Resources and Conservation and the Whitefish community developed an unprecedented partnership to plan, manage, and conserve 13,000 acres of State Trust Land in the Whitefish area; and

WHEREAS, following two years of study and public input, in 2004, the City of Whitefish with the Montana Board of Land Commissioners and Flathead County adopted the Whitefish Area School Trust Lands Neighborhood Plan (Plan); and

WHEREAS, in 2005, the City of Whitefish and Flathead Gateway Partners, now known as Whitefish Legacy Partners, Inc. signed a memorandum of understanding (MOU) to implement the Plan's recommendation for a recreational loop trail called the Whitefish Trail, formerly known as the "Trail Runs Through It;" and

WHEREAS, in 2008, the City and Whitefish Legacy Partners, Inc. established an advisory "Steering Committee," by each appointing two members; and

WHEREAS, the Steering Committee was charged with development and implementation of the first phase of the Whitefish Trail, from Lion Mountain to Beaver Lake Road, which was completed in 2010; and

WHEREAS, in 2010, the City, Whitefish Legacy Partners, Inc. Montana Department of Natural Resources and Conservation, Flathead County, and Montana Fish, Wildlife and Parks, entered into a MOU following the approval of the Plan by the Montana Board of Land Commissioners to develop a comprehensive implementation strategy to achieve three main goals in the Plan: enhanced revenue generation for Trust beneficiaries, expanded recreation opportunities, and increased conservation of Trust lands; and

WHEREAS, Whitefish Legacy Partners, Inc. applied for and were awarded a matching Recreational Trails Program grant of \$500,000.00 from the Montana State Parks Recreation Bureau for the planning, design, and construction costs of the Whitefish Trail, for the 2011-2014 grant term and have requested that the City co-sponsor the grant; and

WHEREAS, City staff recommends that the City Council approve the requested co-sponsorship of the Recreational Trails Program matching grant for the 2011-2014 grant period;

WHEREAS, by the proposed MOU, the City and Whitefish Legacy Partners, Inc. seek to reorganize the Steering Committee's structure and focus as the "Legacy Lands Advisory Committee," investing donated funds with the Whitefish Community Foundation to achieve the revenue generation, conservatory and recreation goals and trail vision of the Plan; and

WHEREAS, City staff recommends that the City Council approve the MOU with Whitefish Legacy Partners, Inc. creating the Legacy Lands Advisory Committee, responsible for the development of the Whitefish Trail, utilization of the Whitefish Trail Grant Fund, and investment of the donated funds with the Whitefish Community Foundation to accomplish the larger comprehensive objectives of the Neighborhood Plan.

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

Section 1: The co-sponsorship of the Whitefish Recreational Trails Program Grant Fund with Whitefish Legacy Partners, Inc. and the Memorandum of Understanding, attached as Exhibit "A," are hereby approved and the City Manager is authorized to execute the MOU on behalf of the City.

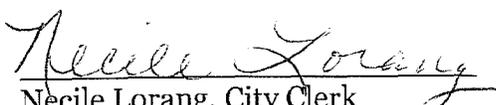
Section 2: This Resolution shall take effect immediately upon its adoption by the City Council and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5TH DAY OF JULY, 2011.



Michael Jensen, Mayor

ATTEST:



Necile Lorang, City Clerk

EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING

This Agreement, entered into this 6th day of July, 2011 by and between the City of Whitefish, a municipal corporation ("City"), and Whitefish Legacy Partners, Inc. ("WLP"), a Montana nonprofit corporation, with respect to the following facts:

A. In November 2004, the City, State of Montana (by and through the Montana Board of Land Commissioners) and Flathead County, adopted the Whitefish Area Trust Lands Neighborhood Plan (Neighborhood Plan) with respect to certain State Trust Lands near the City.

B. The City and WLP (fka Flathead Gateway Partners) have entered multiple agreements since 2005 to accomplish the purposes outlined in the Neighborhood Plan, the most prominent of which has been the development of the Whitefish Trail (fka "Trail Runs Through It").

C. In September 2008, the City and WLP/FGP authorized the establishment of an advisory "Steering Committee" comprised of two WLP-appointed members and two City-appointed members. The committee was charged with overseeing the development of the first phase of the Whitefish Trail (Lion Mountain to Beaver Lake Road), maintaining the City's Land Use License for the Trail with the State of Montana, and developing land conservation strategies on state and other lands. The first phase of the Whitefish Trail system was completed in 2010.

D. Since the primary task of the "Steering Committee" has been completed, the parties seek to reorganize the current committee structure with the Legacy Lands Advisory Committee, as proposed.

E. In December 2008, City, WLP and Michael Goguen entered a supplemental Agreement outlining parties' commitments and obligations. Mr. Goguen agreed to donate funds to achieve the objectives of the Neighborhood Plan, including but not limited to trail construction and maintenance; and acquiring conservation and recreation easements, or other interests. The funds were to be held by the City and disbursed subject to the approval of City and WLP, and were to be turned over by the City to a foundation dedicated to accomplishing the conservation/recreation objectives of the Neighborhood Plan. In addition, the parties agreed to earmark one million dollars to pay for conservation/recreation related transactions on State Trust Lands.

F. Instead of establishing a new foundation, WLP and City wish to use the philanthropic products and services available through the Whitefish Community Foundation, to carry out of the intent of the donor and best achieve the objectives of the December 2008 Agreement.

G. The parties now desire to take steps necessary to invest the donated funds with Whitefish Community Foundation and to establish a public/private advisory

committee to achieve the revenue generating, conservation, and recreation purposes of the Neighborhood Plan.

NOW THEREFORE, WLP and City agree as follows:

1. Allocation of Funds. City and WLP agree to establish and allocate the necessary fund(s) to accomplish the following objectives:

a. **Whitefish Trail System Support Fund:** This endowed fund will be established at the Whitefish Community Foundation with the purpose of providing a permanent annual revenue stream to support basic operations, maintenance and management of the Whitefish Trail system.

b. **Legacy Lands Transaction Fund:** This separate, segregated fund of at least one million dollars will be established at the Whitefish Community Foundation. The purpose of this fund is to cover costs associated with short term, long term and permanent recreation and conservation based transactions on key area lands. These transactions may include the purchase of trail easements, leases, or the purchase of development rights.

c. **Whitefish Trail Grant Fund:** The primary purpose of this allocation of funds is to ensure adequate funds are available to pay for basic planning, design, and construction costs through the term of the Recreational Trails Program (RTP) matching grant awarded in 2010 to WLP for the grant period of 2011 - 2014. The fund will be managed by the City of Whitefish and funds will be disbursed subject to the approval of City and WLP. At the expiration of the term of the RTP grant, the parties will decide how to allocate remaining funds, if any.

2. Legacy Lands Advisory Committee. City and WLP agree to revise the purpose, mission, and name of the Steering Committee, in order to implement other aspects of the Neighborhood Plan. The Steering Committee shall now be known as the "Legacy Lands Advisory Committee."

a. **Purpose:** To advise and assist City and WLP in achieving the recreation, conservation, and revenue goals of the Neighborhood Plan.

b. **Composition:** The City and WLP will each appoint two members to the Legacy Lands Advisory Committee. The City Council will appoint the City's two members who may be the Mayor and one Councilor or two Councilors. The WLP shall appoint the WLP's two members from its Board of Trustees.

c. **Responsibilities:**

i. Develop and implement an annual work plan, approved by City and WLP, to achieve the goals and objectives of the Neighborhood Plan.

ii. Assist in the development and implementation of the Neighborhood Plan, and sub-plans, including the "Trail Runs Through It" Master Plan,

and the proposed Beaver/Spencer/Swift Forest, Recreation and Conservation Management Plan.

iii. Engage the technical expertise from their respective staffs and the Montana Department of Natural Resources and Conservation, Montana Fish, Wildlife & Parks and other key stakeholders in its process.

iv. Advise and assist with strategies, proposals and transactions to implement other land conservation goals of the Neighborhood Plan and to protect watershed values for Whitefish.

v. Oversee and provide input on the planning, design, construction and management of the Whitefish Trail and related recreation facilities.

vi. Review and consider proposed projects within the Neighborhood Plan area.

vii. Meet monthly and establish a regular meeting day/date each month; making decisions by a majority vote of at least three of its members. All meetings shall be open to the public as provided by Montana law.

viii. Develop and adopt Legacy Lands Advisory Committee's working rules, policies and operating guidelines to define respective responsibilities among the public and private partners, with a clearly-defined method of resolving disputes between partner members.

ix. Partner members have no authority to obligate any partner to the expenditure of funds or to enter binding contractual obligations without the express, prior written consent of all partner members.

x. Legacy Lands Advisory Committee may form other standing and ad hoc working committees.

3. Whitefish Trail Operations Committee. Legacy Lands Advisory Committee will establish a four member Whitefish Trail Operations Committee (WTOC) made up of two current members of the Legacy Lands Advisory Committee (one City appointee and one WLP appointee), the City Director of Parks & Recreation, and the Executive Director of WLP, or its designee.

a. **Purpose:** The purpose of the WTOC will be to oversee the Whitefish Trail and advise and inform the Legacy Lands Advisory Committee on the planning, design, construction and management of the Whitefish Trail and related recreation facilities.

b. **Meetings:** The WTOC will meet monthly and establish a regular meeting day/date each month; making its decisions by a majority vote of at least three of its members. All meetings shall be open to the public as provided by Montana law.

4. Transaction Partnership: City and WLP will continue its long-standing

cooperative venture which optimizes the unique attributes each entity brings toward accomplishing the goals of the Neighborhood Plan.

a. **City Contribution:** The City's primary contribution to the Legacy Lands and Whitefish Trail projects shall be in the form of legal status as a municipality under Montana law, time, non-financial resources, and the professional talents of its staff. The City's standing as a municipal entity provides stability, predictability and access to public sector resources. The City may, but is not required to, contribute funds to the Legacy Lands/Whitefish Trail effort. No funds will be contributed by the City without specific City Council approval. The City shall be the primary applicant in any pre-application or application filed with the Montana Department of Natural Resources and Conservation to develop the Whitefish Trail or to conserve state trust lands. The City shall be responsible for providing appropriate public notice and conducting any necessary public hearings.

b. **WLP Contribution:** WLP shall also contribute the time and professional talents of its board, officers, and agents. In furtherance of such fundraising efforts, WLP shall at all times maintain its qualification with the Internal Revenue Service as a Section 501(c)(3) tax-exempt entity.

c. **Public/Private Collaboration:** City and WLP will develop a partnership agreement outlining the roles and responsibilities of each party in achieving the conservation and recreation objectives of the Neighborhood Plan.

5. Necessary Acts. Each party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

6. Counterparts. This Agreement may be executed in one or more identical counterparts, all of which shall together constitute one and the same instrument when each party has signed one such counterpart.

7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein.

8. Governing Law. The construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Montana.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the date set forth above.

CITY OF WHITEFISH

WHITEFISH LEGACY PARTNERS, INC.

By: 
Charles C. Stearns, City Manager

By: 
Lindsay Akey, Chair

EXHIBIT "A" - Page 4 of 4

RESOLUTION NO. 11-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ESTABLISHING THE FUTURE CITY HALL STEERING AD HOC COMMITTEE.

WHEREAS, the current City Hall building, located on Block 36, was built in 1917 and renovated in 1958; and

WHEREAS, over time the City Council identified the need for a new City Hall in order for the City to offer services in an effective and efficient manner. By March 1987, the need for a new City Hall was identified as a specific project of the master plan in the City of Whitefish Urban Renewal Plan with findings "that the age and floor plan of the current facility hinders the efficiency of services that the City provides to the public;" and

WHEREAS, in 2003 the City Council established a City Hall Construction Reserve Fund by Resolution No. 03-63 "to be restricted and used at such future time as it becomes necessary to significantly expand City Hall or construct a new City Hall." As directed, the City has deposited annually into the City Hall reserve fund available Tax Increment Funds ("TIF") so that when the time came to expand and/or construct City Hall, the City would have accumulated a significant portion of the necessary revenues; and

WHEREAS, the City conducted a future needs study and space needs analysis for a new City Hall in 2006 which resulted in a 2007 needs assessment calling for a new office space of approximately 18,000 square feet in size to accommodate all departments; and

WHEREAS, because the current City Hall lacked suitable space for all City departments, satellite offices are used for the Parks and Recreation Department and Planning & Building Department. In 2010 the city constructed the new Emergency Services Center for the Police Department, Fire Department; and Municipal Court; and

WHEREAS, the City Council held work sessions on November 1, 2010, and October 17, 2011, to consider projects, including a new City Hall, which could be paid for using TIF monies; and

WHEREAS, the City Council Real Estate Committee has met, researched and identified five locations in town for a possible site for the new City Hall and negotiated options to purchase property for a future City Hall site, which have been considered by the City Council; and

WHEREAS, at a regularly scheduled meeting on September 6, 2011, the City Council held a public hearing and invited public comment concerning the five options identified by the Real Estate Committee, and potential purchase and construction costs for the five options, but were unable to narrow the five proposed options, and as a result delayed making any site decision seeking further public comment; and

WHEREAS, the City sponsored a citizen engagement meeting on October 19, 2011, at the O'Shaughnessy Center, to seek public input and consideration of the need for a new City Hall and polled the participants concerning a suitable location and funding for a new City Hall to be built using TIF monies; and

WHEREAS, at the November 7, 2011 City Council meeting, Councilors discussed the advantages gained from the use of an ad hoc committee to assist the Council in selection of the future site, design, and architect for the new City Hall.

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

Section 1: There is hereby established a Future City Hall Steering ad hoc Committee (the "Committee").

Section 2: The general purpose of the Committee shall be to study, evaluate and recommend ideas and process for the location, design and architectural selection for the future City Hall to the City Council.

Section 3: The Committee shall consist of thirteen (13) individuals. The Mayor, with the consent and approval of the City Council, shall appoint the Mayor, one (1) City Councilor, four (4) City Hall employees, one (1) representative of the Whitefish Chamber of Commerce, one (1) representative of the Heart of Whitefish, one (1) licensed architect, and four (4) citizens of the City of Whitefish. City staff may be appointed as ex officio members. The Committee members shall select a Chairperson from the members of the Committee. The Committee shall appoint one member as Secretary of the Committee, who shall provide public notice, and keep minutes of all meetings and submit them to the City Clerk. Seven (7) members shall constitute a quorum. The Committee shall meet as often as necessary to accomplish its mission as described herein. The Committee shall cease to exist as provided in Section 4.

Section 4: The Committee shall begin its deliberations as soon as practical after creation of the Committee. The Committee shall formulate and submit to the City Council a written report, which report shall include recommendations and ideas for a new City Hall, identification of the recommended site, design, and architect with an explanation of the Committee's criteria in making its recommendations. The Committee shall be disbanded as of January 31, 2015, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

Section 5: A member of the Committee may be removed by the City Council, after a hearing for misconduct or nonperformance of duty. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute grounds for removal. Circumstances of the absences shall be considered by the City Council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the Chairperson of the Committee at least twenty-four (24) hours prior to any scheduled meeting.

Section 6: Any vacancy occurring on the Committee shall be filled in the same manner that the initial position was filled.

Section 7: The Committee shall not have authority to make any expenditure on behalf of the City or disburse any funds provided by the City or to obligate the City for any funds.

Section 8: The Committee shall have no authority to direct City staff with respect to any matter, but may request information and assistance from City staff.

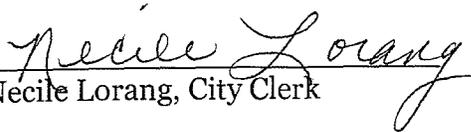
Section 9: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 21ST DAY OF NOVEMBER, 2011.



Michael Jensen, Mayor

ATTEST:



Necile Lorang, City Clerk

RESOLUTION NO. 13-30

A Resolution of the City Council of the City of Whitefish, Montana, authorizing the process to develop an amended Mountain Trail Park Master Plan and establishing the Mountain Trails Park Master Plan ad hoc Steering Committee.

WHEREAS, in 1984 the City of Whitefish acquired a 4.48 acre parcel, now known as the Mountain Trails Park, a gift from the Mountain Trails Saddle Club; and

WHEREAS, since its acquisition the Mountain Trails Park has been a popular community recreation area, with an ice rink facility, and miscellaneous buildings completed in 2003 and the Mountain Trails Master Plan was completed in 2004 and approved by the City Council on July 6, 2004; and

WHEREAS, at the September 10, 2013 City Park Board Meeting, due to its popularity and usage, the City Park Board and the City Parks and Recreation Department identified a need for an amended Master Plan for the use and future development of the Mountain Trails Park; and

WHEREAS, at the October 1, 2013 City Park Board meeting, the Park Board approved recommending the City Council establish a Mountain Trails Park Master Plan ad hoc Steering Committee (the "Committee") with the purpose to serve as the primary sounding board to work through the planning process with the current groups using the Mountain Trails Park and members of the public for an overall plan for the Mountain Trails Park and to report their findings to the City Park Board and City Council; and

WHEREAS, upon receipt of the Committee's findings, the City Park Board will conduct a public hearing, at which time the Committee will report its findings and recommendations and following public comment the Park Board will report its recommendations to the City Council for its consideration and action; and

WHEREAS, at the October 7, 2013 City Council Meeting, the City Council received an oral report from Parks and Recreation staff, and approved the establishment of an eleven-member Mountain Trails Park Master Plan ad hoc Steering Committee with Committee members from the City Council, Park Board, Ice Rink Committee representing different interest groups using the Ice Rink, Flathead Valley Ski Education Foundation and members from the general public; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to authorize the creation of the Mountain Trails Park Master Plan Steering Committee for the development of an overall plan for the Mountain Trails Park.

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

Section 1: There is hereby established the Mountain Trails Park ad hoc Master Plan Steering Committee.

Section 2: The general purpose of the Committee will be to serve as the primary sounding committee to work through the planning process with members of the public concerning the overall plan for the Mountain Trails Park, as depicted on Exhibit "A", and present the Committee's findings and report to the Whitefish Park Board, who will propose an overall plan for the Mountain Trails Park, and report their findings and recommendations to the Whitefish Park Board. The Whitefish Park Board will prepare a report for the City Council's consideration and approval.

Section 3: The Committee will prepare its findings and recommendations to the Whitefish Park Board, who will report its recommendations to the City Council for its consideration and action.

Section 4: The Committee will consist of eleven (11) individuals with representation as follows: Two City Councilors, two Park Board members, two Ice Rink Committee members representing different interest groups using the Ice Rink, two representatives from the Flathead Valley Ski Education Foundation, two "at large" community members without affiliation or association with present users of the Mountain Trails Park appointed by Mayor with City Council approval, and the Director of Parks, Recreation and Community Services or designee. The Committee members shall select a Chair from the members of the Committee. The Committee shall appoint one member as Secretary of the Committee, who shall keep minutes of all meetings and submit them to the City Clerk. Six (6) members shall constitute a quorum. The Committee shall meet as often as necessary to accomplish its general purpose, as described above. The Committee shall cease to exist as provided in Section 5.

Section 5: The Committee will begin its deliberations as soon as practical after creation of the Committee. The Committee shall be disbanded as of May 31, 2014, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

Section 6: A member of the Committee may be removed by the City Council, after a hearing for misconduct or nonperformance of duty. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute grounds for removal. The circumstances of the absences shall be considered by the City Council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the Chairperson of the Committee at least twenty-four (24) hours prior to any scheduled meeting.

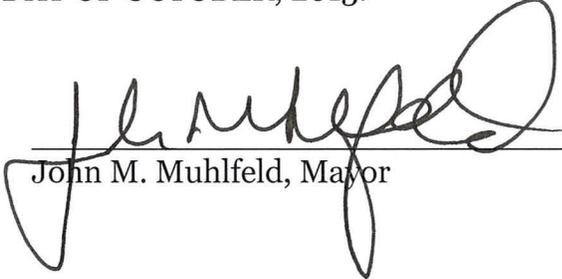
Section 7: Any vacancy occurring on the Committee will be filled in the same manner that the initial position was filled.

Section 8: The Committee will not have authority to make any expenditure on behalf of the City or disburse any funds provided by the City or to obligate the City for any funds.

Section 9: The Committee will have no authority to direct City staff with respect to any matter, but may request information and assistance from City staff.

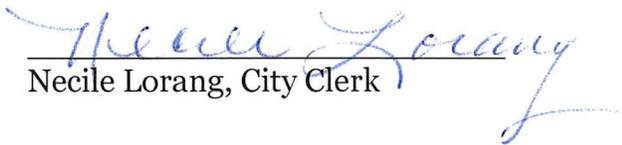
Section 10: This Resolution will take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 7TH DAY OF OCTOBER, 2013.



John M. Muhlfield, Mayor

ATTEST:



Necile Lorang, City Clerk

