CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, APRIL 21, 2014
5:00 TO 7:00 PM

1. Call to Order

2. 5:00 – 5:30 – Discussion of pending resignation of minutes taker for City Council meetings and minutes alternatives.

3. 5:30 – 6:00 P.M. **CLOSED EXECUTIVE SESSION**: City Attorney annual evaluation. Pursuant to §2-3-203(3) MCA, the presiding officer may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceeds the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

4. 6:00 – 7:00 P.M. **CLOSED EXECUTIVE SESSION**: City Manager annual evaluation. Pursuant to §2-3-203(3) MCA, the presiding officer may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceeds the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

5. Adjournment

Subject: Re: Minutes
From: Necile Lorang <nlorang@cityofwhitefish.org>
Date: 4/14/2014 2:45 PM
To: Necile Lorang <nlorang@cityofwhitefish.org>

Mayor and Council - I sent this question out on our statewide Municipal Clerks and Finance Officers list-serve - and received responses from 12 cities/towns. Of those twelve - 7 responded they did action minutes, including Kalispell, Great Falls and Bozeman - examples of those are attached.
I also received a response from Dan Clark, Director of MSU Local Government Center which is attached.
In addition, I have training materials from IIMC (International Institute of Municipal Clerks, which I have included herein, as well as excerpts from the Montana Municipal Officials Handbook, Roberts Rules, and a pamphlet from a course I attended called "A Guide for Effective Meetings.
Necile

On 4/9/2014 2:09 PM, Necile Lorang wrote:

> Greetings!
> I'm doing a little research on City Council Minutes. Can you let me know how you do it in your cities? And, if possible, send me a sample? I know the recommendation is to keep them brief - this has been a discussion at lots of meetings and clerk's institutes - - just wondered how you all get it done.
> Thanks for your time!
>
> Necile Lorang
>
> Necile Lorang, CMC
> City of Whitefish
> Administrative Services Director/City Clerk
> PO Box 158
> Whitefish, MT 59937
> 406-863-2402
> nlorang@cityofwhitefish.org

Subject: RE: Minutes
From: "Clark, Daniel" <daniel.clark@montana.edu>
Date: 4/9/2014 2:27 PM
To: "mmctfoa@sympa.montana.edu" <mmctfoa@sympa.montana.edu>

Necile,

When starting these projects, it is always helpful to start with a good foundation. I like to begin with the MCA and build out from there. It is important that your minute taking efforts are consistent with the law.

2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).

(2) Minutes must include without limitation:

(a) the date, time, and place of the meeting;

(b) a list of the individual members of the public body, agency, or organization who were in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record of votes by individual members for any votes taken.

(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

History: En. Sec. 3, Ch. 159, L. 1963; amd. Sec. 3, Ch. 567, L. 1977; R.C.M. 1947, 82-3403; amd. Sec. 1, Ch. 65, L. 2011

Hope this helps.

Dan

****
Dan Clark
Director
MSU Local Government Center
Culbertson Hall 235-A
P.O. Box 170535
Bozeman, MT 59717
Office: 406-994-6694
Cell: 406-570-4259
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email: daniel.clark@montana.edu
Website: msulocalgov.org
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The Montana State University Extension
is an ADA/EO/AA/Veteran's Preference
Employer and Provider of Educational Outreach

From: Necile Lorang [mailto:nlorang@cityofwhitefish.org]
Sent: Wednesday, April 09, 2014 2:10 PM
To: mmctfoa@sympa.montana.edu

Chart "F" is the policy on Uniform Minute Taking. The policy on Uniform Minute Taking was put in writing several years ago as a result of the many inconsistencies in minutes. There are 14 various commissions and ad hoc committees who were submitting different forms and lengths of minutes. This written policy has been satisfactory. It also makes it much easier for the Council to read and absorb the different commission minutes.

CHART F

UNIFORM MINUTE TAKING
Contents of Minutes

The first paragraph of the minutes must contain the following information:

1. The kind of meeting (regular, special, adjourned regular, adjourned special, recessed).
2. The name of the city and whether it is a City Council or Commission Meeting.
3. The date, time and place of the meeting.

The second paragraph must contain the name and title of the presiding officer or, in his absence, the name of the person who substituted for him; the names of all other Council members or commission members present; the names of those members absent. In Commissions, the names of staff liaisons present must also be included but in a separate paragraph. Do not include the names of others present although the names of petitioners present or the names of concerned citizens who spoke on a specific issue may be included under the agenda item.

The Council minutes must contain whether or not the Pledge of Allegiance to the Flag was given and who gave the Invocation. The Council minutes will then follow the agenda format.

The third paragraph of Commission minutes must contain whether the minutes of the previous meeting were approved, the date of that meeting and any corrections.

Include in the body of the minutes a separate paragraph for each subject matter. Number each subject matter or agenda item, as has been the practice in the Council Minute Format. Underline and use capital letters. Include in the minutes a record of what was done at the meeting and not what the members said. Enter statements as to how a motion may have been debated or amended before disposition to determine legislative intent or reasoning.

Include all points of order and appeals, whether sustained or lost, together with the reasons given by the chair for the ruling. When public hearings are held, enter the time the hearing is opened, name those persons appearing before the Council or Commission, and the time the hearing was closed.

MOTIONS

Include in the wording of each main motion the name of the mover, the seconder and the disposition of the motion (motion carried, defeated, tabled, amended, etc.). Motions must be in a separate paragraph and in capital letters. When a roll call vote is taken, enter the names of those voting reflecting the vote.

State the hour of adjournment in the last paragraph. The person recording the minutes must sign the minutes.

IIMC Technical Bulletins are designed to provide information on specific subjects useful to the Municipal Clerk's profession. IIMC welcomes reports, studies and additional information from Municipal Clerks who wish to share their knowledge and expertise with their associates.

Technical Bulletins are available to IIMC members for $6. Non-members - $18 (prepaid).

This Technical Bulletin was originally produced in 1988. It was updated in 1997.

International Institute of Municipal Clerks
1212 North San Dimas Canyon Rd.
San Dimas, CA 91773
Phone (909/592-4462 or 800/251-1639 message only)
FAX (909/592-1555)

Mina's Guide to Minute Taking

Principles, Standards & Practical Tools

Eli Mina

Training Materials from IIMC International Institute of Municipal Clerks

- Preserving the integrity of the organization's historical records
- Making it easy to retrieve minutes and track the history of motions and decisions
- Adding validity to the minutes (because consistent standards are followed, internal and external parties will see minutes as legitimate and genuine historical records)
- Reducing exposure to risk that may arise from having inappropriate details in minutes
- Creating an organizational incentive to develop standards for planning and running meetings (after all, it is hard to record good minutes in poorly run meetings)

Standards for Recording Substantive Details

Substantive details relate to the actual issues dealt with by the group. They are different from the procedural details, which relate to how decisions were made and how rules of order were used (see next section).

As a minimum, minutes must capture substantive decisions made, and actions taken by the group, at a duly convened meeting. As an option, the group may also include summaries of the discussions and thought processes that led to decisions.

A common dilemma is how much of the substantive discussions to record. Recording too much is problematic in various ways (see further). Recording too little may not give an adequate historical perspective on how decisions were reached.

Substantively, there are three types of minutes:

- Decision-only minutes
- Anecdotal minutes (decisions and discussion summaries)
- Verbatim minutes (word-for-word records of what was said)

Could consider going to this style of minutes

Decision-Only Minutes

Decision-only minutes exclude any discussion summaries and capture only what transpired at a meeting: decisions made, and actions authorized. Technically, this is the minimum that common books on rules of order require.

Some boards and councils require *decision-only* minutes for their own meetings, but require anecdotal minutes for committee and staff meetings, and may require verbatim minutes for special speeches, and some public hearings or portions thereof.

Decision-only minutes are the safer standard for closed meetings, (typically dealing with sensitive issues), since recording discussion details may expose the organization to risk (e.g.: if minutes are subpoenaed as evidence by a court of law).

Please note: Although decision-only minutes are shorter (and, in the case of closed meetings, less risky), they offer less historical value than anecdotal minutes.

This style is our current style of minutes.

Anecdotal Minutes

Anecdotal minutes are the recommended standard in most cases (with the possible exceptions of closed meetings and very formal meetings). Anecdotal minutes contain objective and concise point-form summaries of discussions, without attributing comments to individuals. Summaries are followed by decisions made, or motions voted on (if any).

Anecdotal minutes are a compromise between verbatim minutes (see next section) and decision-only minutes. Anecdotal minutes are shorter and less personally focused than verbatim minutes. Conversely, they go beyond recording only decisions and motions, and include *snapshots* (concise summaries) of the thought process that led to decisions. Such summaries are very valuable when researching an organization's history.

To record anecdotal minutes, the minute taker must listen to discussions and capture significant points made by the group. He or she should not record a brief comment, made by one person, and not pursued by the group. On the other hand, the minute taker should record an idea or concern reinforced by several

people or given some airtime. A point that was made several times needs only to be recorded once. The minute taker must capture the key concepts or ideas, and not be preoccupied with every word.

To help with the recording of anecdotal minutes, the meeting Chair should periodically summarize key points or record them on a flipchart. Alternatively, the group may allow the minute taker to repeat a summary for confirmation or correction.

For example, the Chair or the minute taker may say, "*Let me sum up the key points you made so far. The key points in favor of this idea are __, __ and __. The two main concerns are ___ and ___. The consensus is _____. The action item is that Jack will check with Management and report at the next meeting. Did I capture it correctly? Is anything missing?*"

The minute taker must never alter summaries according to his or her personal biases. Minutes must be a true and objective reflection of the group's deliberations and actions.

Sample 2.1 at the end of this chapter includes an illustration of how to convert a group's discussion into a concise, objective, organized and useful summary.

Verbatim Minutes

Verbatim minutes are a word-for-word record of *who said what* at a meeting (possibly omitting offensive language, repetitive phrases, broken sentences, and extraneous details).

Use verbatim minutes in exceptional circumstances only, for example:

- In some meetings, when the decision-making body considers certain statements or speeches significant enough to record verbatim
- In some public hearings, usually at the discretion of the decision-making body
- When it is legally required to have a verbatim record of a meeting or a portion of it
- When the group considers it prudent to record certain statements verbatim

Montana Municipal Officials Handbook

1.105 Minutes

- Council meeting minutes are required by law (2-3-212, MCA) and may one day be read in court to support or defend some claim against the city/town. Therefore, an accurate record of what the substance of all matters proposed, discussed or decided is essential.

- Usually the clerk takes minutes at the meeting. This can be done by hand or use of a recording device for later transcription.

- The clerk will later prepare the minutes of each meeting (regular, special, or public hearing). The minutes should be prepared as soon as is practical after each meeting.

- The minutes should start with a heading that includes the type of meeting, the place, and the date and time of the meeting.

- Minutes must list the members of the government who are present at the meeting, i.e., mayor, council members, clerk and department heads. A "sign in" sheet for those citizens attending is not required. A majority of the whole number of the members of the council constitutes a quorum and must be present to conduct business. If a quorum is not present, the meeting must be rescheduled.

- The minutes should follow the agenda of each meeting. A short description of the agenda items is helpful with only as much information as may be necessary for clarity. *A verbatim transcript of the discussions is not required.*

- All motions made by a member of the council require a second and a roll call vote. The mayor will call for the vote. The clerk records each council member's vote as aye, nay, abstain or absent.

  Example: Moved by council member Jones that . . . (body of the motion). Second by council member Smith. Motion passed, Record of the roll call votes. (See Attachment 2.5, Chapter II, Part 1 for a model voting record.)

- Prepare a sign-in sheet for those present at *public hearings*. The sign in sheet should include:
  1. Heading - reason for meeting, date and time
  2. Signature
  3. Printed Name
  4. Physical address

- Print the minutes on the minute paper. Pages must be sequentially numbered.

- Have someone proof read the draft minutes, for typos, understanding, clarity, etc.

- Minutes should be made available within a reasonable time after the meeting. Minutes circulated before approval by the council should be stamped or otherwise identified as ***DRAFT***, as they can be changed by the council (prior to approval). The minutes of the meeting do not need to be read aloud prior to approval because they are in the council packet prior to the meeting.

3.2 MEETING MINUTES

What to Include: *Robert's Rules of Order*, a manual for running nonprofit organizations, explains that minutes are a record of what was done at the meeting, not what was said. At a minimum, minutes should include:

1. Name and kind of meeting. Is it a regular board meeting, an annual meeting, a meeting of the housing committee or a special meeting. If it is a special meeting, attach a copy of the meeting notice given to members.
2. Date, place, and time that the meeting began and ended.
3. Names of the chair and secretary or their substitutes.
4. Names of voting members attending and whether a quorum was present. You may circulate a sign-in sheet and attach it to the minutes.
5. Names of guests and their subject matter.
6. Whether minutes from the previous meeting were approved or corrected.
7. Motions made. You must record:
   * the exact wording of the motion
   * who made the motion
   * the result of the vote
8. Reports. Record the name of the report, the name of the member presenting it, and any action taken on the report. If the report was in writing, attach it, or tell where it may be found. An oral report may be summarized briefly.
9. Other actions, assignments and deadlines, resolutions, and recommendations can be briefly recorded.
10. Secretary's signature once the minutes have been approved.

Summarizing Discussions

Some boards may opt to go beyond the basics and include additional items. For example, a summary of a discussion can give a more complete picture of the meeting. This can be helpful to members who could not attend the meeting and to those looking back at the historical record of the organization. Summaries, if included in the minutes, should be balanced and include major opposing viewpoints, even if they are not adopted.

What to Leave Out

The minutes are a factual record of business. Do not include:

* Opinions or judgments: Leave out statements like "a well done report" or "a heated discussion."
* Criticism or accolades: Criticism of members, good or bad, should not be included unless it takes the form of an official motion. Thanks or expressions of appreciation should only be included if there was a clear consensus of meeting participants. (For example, by applause.)
* Discussion: If the organization has opted to include discussion summaries, do not personalize it by recording the views of individuals.
* Extended rehashing of reports: Just hit the highlights or key facts, particularly if a written report is attached.

seat next to the chair, so as to be convenient for consultation in a low voice, but the chair should try to avoid checking with the parliamentarian too frequently or too obviously. After the parliamentarian has expressed an opinion on a point, the chair has the duty to make the final ruling and, in doing so, has the right to follow the advice of the parliamentarian, or to disregard it.

A member of an assembly who acts as its parliamentarian has the same duty as the presiding officer to maintain a position of impartiality, and therefore does not vote on any question except in the case of a ballot vote. He does not cast a deciding vote, even if his vote would affect the result, since that would interfere with the chair's prerogative of doing so. If a member feels that he cannot properly forego his right to vote in order to serve as parliamentarian, he should not accept that position.

Regarding the duties of the parliamentarian in connection with a convention, see also pages 602-603.

§47. MINUTES AND REPORTS OF OFFICERS

Minutes

The record of the proceedings of a deliberative assembly is usually called the *minutes*, or sometimes—particularly in legislative bodies—the *journal*. In an ordinary society, unless the minutes are to be published, they should contain mainly a record of what was *done* at the meeting, not what was *said* by the members. The minutes should never reflect the secretary's opinion, favorable or otherwise, on anything said or done.

CONTENT OF THE MINUTES. The *first paragraph* of the minutes should contain the following information (which

need not, however, be divided into numbered or separated items directly corresponding to those below):

1) the kind of meeting: regular, special, adjourned regular, or adjourned special;
2) the name of the society or assembly;
3) the date and time of the meeting, and the place, if it is not always the same;
4) the fact that the regular chairman and secretary were present or, in their absence, the names of the persons who substituted for them; and
5) whether the minutes of the previous meeting were read and approved—as read, or as corrected—the date of that meeting being given if it was other than a regular business meeting.

The body of the minutes should contain a *separate paragraph for each subject matter*, giving, in the case of all important motions, the name of the mover, and should show:

6) all main motions (**10**) or motions to bring a main question again before the assembly (pp. 75-79, and 33-36)—except, normally, any that were withdrawn *—stating:
   a) the wording in which each motion was adopted or otherwise disposed of (with the facts as to whether the motion may have been debated or amended

*There may be certain instances in which a main motion is withdrawn under circumstances that require some mention in the minutes. In such a case, only as much information should be included in the minutes as is needed to reflect the necessary details clearly. For example, if, at one meeting, a main motion was made *the* special order for the next meeting (p. 366), or a main motion was postponed after lengthy consideration to a meeting at which it was withdrawn by consent, action at the first meeting should always be recorded, and the withdrawal at the second meeting should be stated for completeness of the minutes.

before disposition being mentioned only parenthetically); and

b) the disposition of the motion, including—if it was *temporarily* disposed of (pp. 90–91, 335–336)—any primary and secondary amendment and all adhering secondary motions that were then pending;

7) secondary motions that were not lost or withdrawn, in cases where it is necessary to record them for completeness or clarity—for example, motions to *Recess* or to *Fix the Time to Which to Adjourn* (among the privileged motions), or motions to *Suspend the Rules* or grant a *Request to Be Excused from a Duty* (among the incidental motions), generally only alluding to the adoption of such motions, however, as ". . . the matter having been advanced in the agenda on motion of . . ." or ". . . a ballot vote having been ordered, the tellers . . .";

8) all notices of motions (pp. 118–120); and

9) all points of order and appeals, whether sustained or lost, together with the reasons given by the chair for his or her ruling.

The *last paragraph* should state:

10) the hour of adjournment.

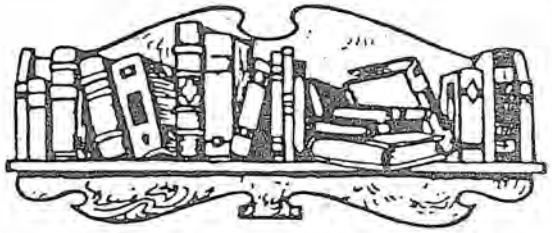
Additional rules and practices relating to the content of the minutes are the following:

- The name of the seconder of a motion should not be entered in the minutes unless ordered by the assembly.
- When a count has been ordered or the vote is by ballot, the number of votes on each side should be entered; and when the voting is by roll call, the names of those voting on each side and those answering "Present" should be entered. If members fail to respond on a roll call vote, enough of their names should be recorded as present to reflect that a quorum was present at the time of the vote. If the chair voted, no special mention of this fact is made in the minutes.
- The proceedings of a committee of the whole, or a quasi committee of the whole, should not be entered in the minutes, but the fact that the assembly went into committee of the whole (or into quasi committee) and the committee report should be recorded (see **51**).
- When a question is considered informally, the same information should be recorded as under the regular rules, since the only informality in the proceedings is in the debate.
- When a committee report is of great importance or should be recorded to show the legislative history of a measure, the assembly can order it "to be entered in the minutes," in which case the secretary copies it in full in the minutes.
- The name and subject of a guest speaker can be given, but no effort should be made to summarize his remarks.

THE SIGNATURE. Minutes should be signed by the secretary and can also be signed, if the assembly wishes, by the president. The words *Respectfully submitted*—although occasionally used—represent an older practice that is not essential in signing the minutes.

FORM OF THE MINUTES. The principles stated above are illustrated in the following model form for minutes:

A GUIDE FOR EFFECTIVE MEETINGS



PROFESSIONAL PARLIAMENTARY RESEARCH UNIT OF COLORADO

MINUTES

The minutes should contain what was done by the organization, not what was said by the members.

The first paragraph of the minutes should contain: the kind of meeting (regular, special, etc.); the name of the organization; the date and time of the meeting, and the place if it is not always the same; the fact that the regular presiding officer and the secretary were present or the names of the persons who substituted for them; and whether the minutes of the previous meeting were read and approved as read, or as corrected.

The body of the minutes should contain a separate paragraph for each subject matter: all main motions, worded as stated or amended, and whether adopted or defeated. The name of the mover may be included but not the name of the seconder.

Remarks of a speaker, or details of the program, should not be included.

The last paragraph should state the hour of adjournment.

Minutes should be signed with the name and title of the person writing them. "Respectfully submitted" and similar phrases should not be used.

The secretary should provide the president with a copy of the minutes of the previous meeting well in advance of the next meeting.

Minutes are the legal record of an organization. They should never be destroyed.

SAMPLE MINUTES

The regular meeting of the Centennial Club was called to order at 7:30 P.M. on Thursday, November 20, 19___. The president and the secretary were present. The minutes of the previous meeting were read and approved as corrected.

The financial statement showed a balance October 13 of $405.00; receipts, $94.00; disbursements, $38.00; balance, November 20, $461.00.

The report of the Executive Board contained a recommendation which, after amendment, was adopted as follows:

> That the Education Chairman be authorized to purchase seven copies of Robert's Rules of Order Newly Revised for the use of the members.

Mrs. Jones moved that the group contribute $50.00 to the Historical Society's fund for the establishment of a museum on local history. The motion was adopted.

The program consisted of a talk by Dr. John Peterson on "Rocks and Minerals of the Rocky Mountain Region."

The meeting adjourned at 9:10 P.M.

James Black
Secretary

Procedure Manual:

"A Council member has every right to express reasons for approving or objecting to any matter on the agenda. As a general rule, no reference to Council members' remarks is made in the minutes except where a Council member specifically requests his remarks be included in the minutes. Based on Roberts Rules of Order, the minutes need only record the actions taken by the Council. The school of thought is debates, arguments, and discussions of Council members should be kept from the minutes of Council proceedings. It is perfectly acceptable to expand the minutes if you believe the subject matter warrants additional coverage, however, in the majority of instances try to be brief. For those who want to review the meeting in its entirety, they can watch it on Channel 9, on the website, or request a DVD for a $15.00 fee."

Public hearings: you actually only need to state the person's name, address, and whether he/she is a proponent or opponent. Our public hearing comments are really short also.

Theresa White
City Clerk
201 First Avenue East
Kalispell, MT 59901
(406) 758-7756
www.kalispell.com

CITY OF KALISPELL
CITY COUNCIL MEETING AGENDA
TUESDAY - FEBRUARY 18, 2014 - 7:00 P.M.
CITY HALL COUNCIL CHAMBERS
201 FIRST AVENUE EAST

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

A. AGENDA APPROVAL

B. CONSENT AGENDA APPROVAL

All items listed on the Consent Agenda will be accepted by one motion. If a Council member desires to discuss an item separately, the item can be removed from the Consent Agenda by motion.

1. Council Minutes – Regular Meeting – February 3, 2014

2. Ordinance 1735 - Zone Change – West View Estates – 2nd Reading
   Ordinance 1735 amends the zoning on approximately 10 acres northeast of the intersection of West Reserve Drive and Stillwater Road from RA-1(residential apartment), to RA-2 (residential apartment/office). Ordinance 1735 passed unanimously on first reading February 3.

C. COMMITTEE REPORTS

D. PUBLIC COMMENT

Persons wishing to address the council on any issue not on the agenda are asked to do so at this time. Those addressing the council are requested to give their name and address for the record. Please see the last page of the agenda for Manner of Addressing the Council. (Comments shall be limited to three minutes)

E. REPORTS/RECOMMENDATIONS AND SUBSEQUENT COUNCIL ACTION

Persons wishing to address the council on individual agenda items will be asked to do so following staff reports. Please see the last page of the agenda for Manner of Addressing the Council. (Comments shall be limited to three minutes)

1. Resolution 5661 – Resolution of Intent & Call for Public Hearing – Wastewater Impact Fees
   Resolution 5661 schedules a public hearing for March 17th on proposed adjustments to the Wastewater System Impact Fees.

2. Resolution 5662 – Board of Investments Loan
   This resolution authorizes participation in the BOI loan program for $400,000.00 for the purchase of budgeted vehicles for the Public Works department.

3. Resolution 5663 – Preliminary Plat Extension – Silverbrook Estates Phase 2
This is a request for a second and final two-year extension of the preliminary plat for approximately 167 acres at the southwest corner of Highway 93 North and Church Drive.

4. Resolution 5664 – Urban Renewal Policies – West Side TIF District
This resolution establishes policies to ensure that funding efforts for the West Side-Core Area Tax Increment Finance District comply with the Urban Renewal Plan.

5. Board Appointments
- City-County Board of Health
- Impact Fee Committee
- Planning Board
- Solid Waste Board

F. MAYOR/COUNCIL/CITY MANAGER'S REPORTS (No Action)

G. ADJOURNMENT

FOR YOUR INFORMATION
Work Session – February 24, 2014 at 7:00 p.m. – Council Chambers
Next Regular Meeting – March 3, 2014 at 7:00 p.m. – Council Chambers

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify the City Clerk at 758-7756.

ADMINISTRATIVE CODE
Adopted July 1, 1991

Section 2-20 Manner of Addressing Council

a. Each person not a Council member shall address the Council, at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person's name and address in an audible tone of voice for the record, and unless further time is granted by the Council, shall limit the address to the Council to three minutes.

b. All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.

c. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the Council, without the permission of the Presiding Officer.

d. No question shall be asked of individuals except through the Presiding Officer.

PRINCIPLES FOR CIVIL DIALOGUE
Adopted by Resolution 5180 on February 5, 2007

- 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 in 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 & guidelines established for each meeting.

A REGULAR MEETING OF THE KALISPELL CITY COUNCIL WAS HELD AT 7:00 P.M., TUESDAY, FEBRUARY 18, 2014, IN THE COUNCIL CHAMBERS AT CITY HALL IN KALISPELL, MONTANA. MAYOR MARK JOHNSON PRESIDED. COUNCIL MEMBERS JIM ATKINSON, SANDY CARLSON, KARI GABRIEL, CHAD GRAHAM, PHIL GUIFFRIDA, TIM KLUESNER, AND WAYNE SAVERUD WERE PRESENT. COUNCIL MEMBER RANDY KENYON WAS ABSENT.

Also present: City Manager Doug Russell, City Attorney Charles Harball, City Clerk Theresa White, Police Chief Roger Nasset, Finance Director Rick Wills, Senior Planner Kevin LeClair, Community Development Manager Katharine Thompson, and Deputy City Clerk Judi Funk.

Mayor Johnson called the meeting to order and led the Pledge of Allegiance.

A. AGENDA APPROVAL

Guiffrida moved to approve the Agenda. The motion was seconded.

There was no discussion.

The motion carried unanimously upon vote with Kenyon absent.

B. CONSENT AGENDA APPROVAL

1. Council Minutes – Regular Meeting – February 3, 2014

2. Ordinance 1735 - Zone Change – West View Estates – 2nd Reading
   Ordinance 1735 amends the zoning on approximately 10 acres northeast of the intersection of West Reserve Drive and Stillwater Road from RA-1 (residential apartment), to RA-2 (residential apartment/office). Ordinance 1735 passed unanimously on first reading February 3.

Atkinson moved to approve the Consent Agenda. The motion was seconded.

There was no discussion.

The motion carried unanimously upon roll call vote with Kenyon absent.

C. COMMITTEE REPORTS

Russell gave an E911 Committee report.

D. PUBLIC COMMENT

None.

E. REPORTS/RECOMMENDATIONS AND SUBSEQUENT COUNCIL ACTION

E/1. RESOLUTION 5661 – RESOLUTION OF INTENT & CALL FOR PUBLIC HEARING – WASTEWATER IMPACT FEES

Resolution 5661 schedules a public hearing for March 17th on proposed adjustments to the Wastewater System Impact Fees.

Russell gave a report.

Public Comment

None.

Atkinson moved Resolution 5661, a resolution of intent to amend the impact fees for City of Kalispell Wastewater Utility Services pursuant to MCA 7-6-1601 through 7-6-1604, setting a public hearing and directing the city clerk to provide notice therefore. The motion was seconded.

Council Discussion

Guiffrida remarked he appreciates all of the work that staff and the Impact Fee Committee have done on this issue.

Kluesner and Mayor Johnson encouraged the public to participate in the hearing process as this is one of the most important issues facing the city.

The motion carried unanimously upon roll call vote with Kenyon absent.

E/2. RESOLUTION 5662 – BOARD OF INVESTMENTS LOAN

This resolution authorizes participation in the BOI loan program for $400,000.00 for the purchase of budgeted vehicles for the Public Works department.

Russell gave a report and staff answered questions.

Public Comment

None.

Saverud moved Resolution 5662, a resolution authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (Intercap Revolving Program), approving the form and terms of the loan agreement and authorizing the execution and delivery of documents related thereto. The motion was seconded.

Council Discussion

None.

The motion carried unanimously upon roll call vote with Kenyon absent.

E/3. RESOLUTION 5663 – PRELIMINARY PLAT EXTENSION – SILVERBROOK ESTATES PHASE 2

This is a request for a second and final two-year extension of the preliminary plat for approximately 167 acres at the southwest corner of Highway 93 North and Church Drive.

LeClair gave a report and answered questions.

Public Comment

Larry Sartain, representing Silverbrook Estates, requested councils' support of the extension.

Guiffrida moved Resolution 5663, a resolution approving a two-year extension to the preliminary plat of Silverbrook Estates Phase 2. The motion was seconded.

Council Discussion

None.

The motion carried unanimously upon roll call vote with Kenyon absent.

E/4. RESOLUTION 5664 – URBAN RENEWAL POLICIES – WEST SIDE TIF DISTRICT

This resolution establishes policies to ensure that funding efforts for the West Side-Core Area Tax Increment Finance District comply with the Urban Renewal Plan.

Thompson gave a report and answered questions.

Public Comment

None.

Atkinson moved Resolution 5664, a resolution formally adopting the "City of Kalispell West Side Urban Renewal – Core Area Tax Increment Financing District Policies, Procedures and Programs" as developed and recommended by the City of Kalispell Urban Renewal Agency. The motion was seconded.

Council Discussion

Guiffrida complimented staff and the Urban Renewal Agency on the work they have done developing these policies and the Core Area Plan.

The motion carried unanimously upon roll call vote with Kenyon absent.

E/5. BOARD APPOINTMENTS

- City-County Board of Health
- Impact Fee Committee
- Planning Board
- Solid Waste Board

Mayor Johnson recommended Duane Larson be reappointed to the Board of Health; Jim Cossitt to the Impact Fee Committee; Steve Lorch to the Planning Board; and Hank Olson be reappointed to the Solid Waste Board.

Saverud moved council accept the Mayor's recommendation and reappoint Duane Larson to the City-County Board of Health. The motion was seconded.

Public Comment

None.

Council Discussion

None.

The motion carried unanimously upon vote with Kenyon absent.

Atkinson moved council accept the Mayor's recommendation and appoint Jim Cossitt to the Impact Fee Committee. The motion was seconded.

Public Comment

None.

Council Discussion

Guiffrida and Kluesner commented they are not in support of this nomination.

Mayor Johnson remarked Cossitt contributed significantly to the Impact Fee Committee in the past and the council needs people to challenge them.

The motion carried upon roll call vote with Atkinson, Carlson, Gabriel, Saverud, and Mayor Johnson voting in favor, Graham, Guiffrida, and Kluesner voting against, and Kenyon absent. Saverud moved council accept the Mayor's recommendation and appoint Steve Lorch to the Planning Board. The motion was seconded.

Public Comment

None.

Council Discussion

None.

The motion carried unanimously upon vote with Kenyon absent.

Atkinson moved council accept the Mayor's recommendation and reappoint Hank Olson to the Solid Waste Board. The motion was seconded.

Public Comment

None.

Council Discussion

None.

The motion carried with Atkinson, Carlson, Gabriel, Graham, Guiffrida, Saverud, and Mayor Johnson voting in favor, Kluesner voting against, and Kenyon absent.

F. MAYOR/COUNCIL/CITY MANAGER REPORTS (No Action)

Russell noted upcoming work sessions will include budgets and downtown parking rates.

There was discussion regarding a trip to Washington D.C. to lobby for TIGER VI grant funds for the rail park. Mayor Johnson, Carlson, Gabriel, Graham, Guiffrida and Kluesner expressed interest in going.

Gabriel noted she would like to see a work session on the possibility of the county taking over dog licensing.

Guiffrida asked for specific financial information from the Kalispell Golf Association.

Mayor Johnson said he is trying to get some programming for Channel 9 to educate the public on human trafficking in Montana.

G. ADJOURN

The meeting was adjourned at 8:15 p.m.

Theresa White
City Clerk

Approved March 3, 2014

Subject: RE: Minutes
From: Stacy Ulmen <sulmen@BOZEMAN.NET>
Date: 4/9/2014 2:31 PM
To: "mmctfoa@sympa.montana.edu" <mmctfoa@sympa.montana.edu>

Hi Necile!
Here is my last set. Ours are time stamped to the video and audio. I followed the state law pertaining to the content that has to be in them. I do not do verbatim nor highlight individual statements but summarize instead. If someone wanted to hear more content, they just click on the link and it takes them to the video J

Hope these help!
Stacy

From: Necile Lorang [mailto:nlorang@cityofwhitefish.org]
Sent: Wednesday, April 09, 2014 2:10 PM
To: mmctfoa@sympa.montana.edu
Subject: Minutes

Greetings!
I'm doing a little research on City Council Minutes. Can you let me know how you do it in your cities? And, if possible, send me a sample? I know the recommendation is to keep them brief - this has been a discussion at lots of meetings and clerk's institutes - - just wondered how you all get it done.
Thanks for your time!

Necile Lorang

Necile Lorang, CMC
City of Whitefish
Administrative Services Director/City Clerk
PO Box 158
Whitefish, MT 59937
406-863-2402
nlorang@cityofwhitefish.org

All City of Bozeman emails are subject to the Right to Know provisions of Montana's
Constitution (Art. II, Sect. 9) and may be considered a "public record" per Sect. 2-6-202
and Sect. 2-6-401, Montana Code Annotated. As such, this email, its sender and receiver,
and the contents may be available for public disclosure and will be retained pursuant to the
City's record retention policies. Emails that contain confidential information related to
individual privacy may be protected from disclosure under law.

04-07-2014 City Commission Meeting Agenda

THE CITY COMMISSION MEETING OF BOZEMAN, MONTANA AGENDA

Monday, April 7, 2014

Table of Contents

A. **Call to Order – 5:00 p.m. –** Commission Room, City Hall, 121 North Rouse

B. **Pledge of Allegiance and a Moment of Silence**

C. **Changes to the Agenda**

D. **Minutes** – March 24, 2014

Consider the motion: *I move to approve the minutes from March 24, 2014 as submitted.*

E. **Consent**

1. Authorize Payment of Accounts Payable Claims (LaMeres)
2. Authorize the Director of Public Works to approve the Amended Plat of Lot 1, Block 4, Meadow Creek Phase 1 Major Subdivision Final Plat, Application P14002 (Cooper)
3. Authorize the Director of Public Works to approve the South University District Phase I Minor Subdivision Final Plat, Application P14014 (Cooper)
4. Authorize Cooperative Agreement between Bozeman Fire Department and the State of Montana Department of Natural Resources and Conservation Central Land Office, Bozeman Unit (Shrauger)
5. Authorize Findings of Fact and Order for the Amended Plat of Meadow Creek Phase 1 Major Subdivision Preliminary Plat, Application P13046 (Rogers)
6. Ratify the City Manager's signature on a planning and local technical assistance grant application to the U.S. Economic Development Administration, U.S. Department of Commerce (Fine)
7. Ratify the City Manager's signature on a Big Sky Trust Fund Category II Planning Project Grant Application (Fine)
8. Approve a special Beer and Wine Permit for Bridger Care to have a Non-Profit Fundraising Event (Goodwin)
9. Approve Resolution 4518 to Donate Equipment from the old Water Treatment Plant to the Town of White Sulphur Springs, Rural Water and the Montana Department of Environmental Quality (Woolard)
10. Award Bid to Stahly Engineering & Associates Inc., for the Lindley Park Recreational Building Tree Structural Assessment Project in the amount of $5,000 (Goehrung)
11. Provisionally Adopt Ordinance 1886 approving the Tandem Zone Map Amendment to amend the zoning designation of R-3 (Residential Medium Density District) to B-2 (Community Business District) on 0.446 acres, at 601 West Villard Street, Application Z13294 (Saunders)

Consider the motion: *I move to approve Consent Items E. 1-11 as submitted.*

F. **Public Comment -** Please state your name and address in an audible tone of voice for the record. This is the time for individuals to comment on matters falling within the purview of the Bozeman City Commission. There will also be an opportunity in conjunction with each agenda item for comments pertaining to that item. **Please limit your comments to three minutes.**

G. **Action Items**

1. Provisional Adoption of Ordinance 1885, ratifying the City Manager's signature on a purchase and sale agreement transferring ownership of the North Park property to Micropolitan Enterprises, LLC and Powder River Company, LLC (Fontenot)

Consider the motion: *Having conducted a public hearing, considered written and spoken public testimony, and based on the findings contained in this and other related staff memoranda, the content of Ordinance 1885 and findings articulated by the Commission during discussion, I hereby move to provisionally adopt Ordinance 1885 ratifying the City Manager's signature on the Agreement to Sell and Purchase Real Estate, the North Park property, with Micropolitan Enterprises, LLC and Powder River Company, LLC.*

2. Boulder Creek request to rezone approximately 0.67 acres from R-2, Residential Two Household Medium Density District to R-4, Residential High Density District; 0.21 acres from R-4, Residential High Density District to R-2, Residential Two Household Medium Density District; 0.15 acres from PLI, Public Lands and Institutions District to R-2, Residential Two Household Medium Density District and 1.35 acres from R-2, Residential Two Household Medium Density District to PLI, Public Lands and Institutions District for property generally located between Durston Road and W. Oak Street (as extended), east of Laurel Parkway and north of Annie Street (as extended), Application Z14030 (Riley)

Consider the motion: *Having reviewed and considered the application materials, public comment, the deliberations and recommendation of the Zoning Commission at the March 18, 2014 Zoning Commission meeting and all the information presented, I hereby adopt the findings presented in the staff report for application Z14030 and move to approve the zone map amendment with contingencies.*

3. Continuation of public hearing for Westbrook Zone Map Amendment, located northeast of the intersection of Durston Road and Laurel Parkway, Application Z13296 (Saunders)

Consider the motion: *I move that the public hearing for the Westbrook Zone Map Amendment be continued to April 14, 2014.*

4. Continuation of public hearing for Westbrook Major Subdivision Preliminary Plat, located northeast of the intersection of Durston Road and Laurel Parkway, Application P13047 (Saunders)

Consider the motion: *I move that the public hearing for the Westbrook Major Subdivision be continued to April 14, 2014.*

5. Resolution 4520, Declaring the intention to create Special Improvement District 718 for the purpose of undertaking certain local improvements to Story Street between South Church Avenue and South Tracy Avenue and financing the costs thereof (Hixson) *hearing date updated in Notice

Consider the motion: *I move to approve Resolution 4520 declaring it to be the City's intention to create Special Improvement District 718 for the purpose of financing local improvements to East Story Street between South Church Avenue and South Tracy Avenue.*

6. Resolution 4521, authorizing Allocation of up to $7,500,000 from the Trails, Open Space and Parks Bond Fund for a Bozeman Sports Park (Overton)

Consider the motion: *Having considered public comment, materials presented by staff, and the application and supporting documents from the Bozeman Soccer Education Foundation and the Gallatin Valley Lacrosse League, I hereby move to adopt Resolution 4521 providing Trails, Open Space and Parks Bond funding for the Bozeman Sports Park in a total amount not to exceed $7,500,000; allocating up to $2,100,000 for the acquisition of up to approximately 80 acres and allocating up to $2,500,000 for infrastructure improvements, with the remainder to be allocated for park development and construction as identified through a future park master plan.*

H. **FYI/Discussion**

I. **Adjournment**

City Commission meetings are open to all members of the public. If you have a disability that requires assistance, please contact our ADA Coordinator, James Goehrung, at 582-3232 (TDD 582-2301). Commission meetings are televised live on cable channel 20 and streamed live at www.bozeman.net. City Commission meetings are re-aired on cable Channel 20Wednesday at 4 p.m., Thursday at noon, Friday at 10 a.m. and Sunday at 2 p.m.

4/7/2014 5:00 PM

THE CITY COMMISSION MEETING OF BOZEMAN, MONTANA
MINUTES

Monday, March 17, 2014

A. Call to Order – 6 p.m. – Commission Room, City Hall, 121 North Rouse Avenue

Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Present
Commissioner - Chris Mehl: Present
Commissioner - Cynthia Andrus: Present
Commissioner - I-Ho Pomeroy: Present

Mayor pro tem Taylor called the meeting to order at 6 p.m.

B. Pledge of Allegiance and a Moment of Silence

C. Changes to the Agenda
None.

D. Authorize Absence of Mayor Krauss

Motion and Vote to authorize the absence of Mayor Krauss.

Commissioner - I-Ho Pomeroy: Motion
Commissioner - Cynthia Andrus: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve

The motion passed 4-0.

E. Minutes – February 24, 2014 and March 3, 2014 ← Video + Audio Stamp

Motion and Vote to approve the minutes of February 24th and March 3rd, 2014 as submitted.

Commissioner - Cynthia Andrus: Motion
Commissioner - Chris Mehl: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve
The motion passed 4-0.

F. Consent

1. Authorize Payment of Accounts Payable Claims (LaMeres)
2. Authorize Findings of Fact and Order for the South University District Phase 1 Minor Subdivision Preliminary Plat, Application P13048 (Krueger)
3. Authorize a Professional Services Agreement with Morrison Maierle for the 2014 Wastewater Collection System Facility Plan Update (Murray)
4. Authorize a Professional Services Agreement with Robyn Egloff Design, Inc. to Develop a Lawn Care and Riparian Area Best Management Practice Outreach and Education Campaign in Accordance with DEQ 319 Grant Contract 213031 (Heaston)
5. Approve placing the Trust for Public Lands Story Mill Community Park Proposal Application for Trails, Open Space and Parks Committee Bond Funding on the March 24, 2014 City Commission Agenda (Ulmen)
6. Approve Rules of Procedure for the Cemetery Advisory Board and the Trails, Open Space and Parks Committee (Brunckhorst)
7. Approve Resolution 4516, authorizing Change Order 7 for the Hyalite/Sourdough Water Treatment Plant Replacement Project (Murray)
8. Approve Renewing US Bank's Contract for Banking Services for the period of April 1, 2014 through April 1, 2016 (Clark)
9. Finally Adopt Ordinance 1882, approving the Hanson Zone Map Amendment to establish initial zoning designation of R-2 (Residential Two-Household Medium Density District) on 6.2076 acres at 4949 Durston Road, Application Z13240 (Rogers)
10. Finally Adopt Ordinance 1883, to amend the zoning map from B-1 (Neighborhood Business District) to R-2 (Residential Two-Household Medium Density District) on 6.1519 acres located at Lot 1 Block 4 Laurel Glen Subdivision, 964 Longbow Lane, Application Z13229 (Saunders)

06:02:16 PM Mayor pro tem Taylor opened public comment on consent items. Seeing none, he closed public comment.

Motion and Vote to approve Consent Items F. 1-10 as submitted.

Commissioner - Chris Mehl: Motion
Commissioner - I-Ho Pomeroy: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve

The motion passed 4-0.

G. Public Comment
Mayor pro tem Taylor opened public comment.

06:04:00 PM ***Reverend Glover Wagner, Public Comment***
Reverend Wagner of 2726 Goldenrod Lane spoke in favor of a non-discrimination ordinance for the city of Bozeman and provided details while he feels that way.

06:07:09 PM ***Rabbi Ed Stafman, Public Comment***
Rabbi Stafman of 515 West Cleveland represents Bozeman's Jewish congregation Beth Shalom and stands along with 29 religious leaders within the community speaking in favor of a non-discrimination ordinance.

06:10:13 PM ***Dan Lourie, Public Comment***
Mr. Lourie of 2948 B Warbler Way spoke in favor of a non-discrimination ordinance.

06:13:04 PM ***Rusty Strickler, Public Comment***
Mr. Strickler of 1019 Paisley Drive in Belgrade and Pastor of the Belgrade Community Church spoke in opposition to a non-discrimination ordinance.

06:15:01 PM ***Rocky Larocco, Public Comment***
Mr. Larocco of 161 Barnes Road, Belgrade, spoke in opposition to a non-discrimination ordinance.

06:17:29 PM ***Lindean Barnett Christenson, Public Comment***
Ms. Christenson of 1101 Bur Avenue and co-pastor of Christ the King Lutheran Church in Bozeman spoke in favor of a non-discrimination ordinance.

06:18:42 PM ***Jerry Johnson, Public Comment***
Mr. Johnson spoke in favor of a non-discrimination ordinance.

06:22:20 PM ***Cara Wilder, Public Comment***

Ms. Wilder of 1701 Driftwood Drive spoke in favor of a non-discrimination ordinance.

06:25:51 PM ***Laura Larocco, Public Comment***
Mrs. Larocco of 161 Barnes Road, Belgrade spoke in opposition to a non-discrimination ordinance.

06:29:03 PM ***Patrick Lawrence, Public Comment***
Mr. Lawrence of 910 South Black spoke in favor of a non-discrimination ordinance.

06:31:09 PM Public Comment Closed
Seeing no further comments, Mayor pro tem Taylor closed public comment.

H. Action Items

06:31:15 PM

1. Hacot Minor Subdivision Preliminary Plat to subdivide 5 acres into two lots generally located on the south side of the intersection of Haggerty Lane and Farmhouse Lane, Application P14001 *(Quasi-Judicial)* (Riley)

06:33:11 PM Doug Riley provided the staff presentation on this item.

06:35:38 PM Questions for staff.

06:36:12 PM **Chris Budeski with Madison Engineering provided the applicant presentation on this item.**

06:37:45 PM Mayor pro tem Taylor opened public Comment on this item. Seeing none, he closed public comment.

Motion that having reviewed and considered the application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application P14001 and move to approve the preliminary plat with conditions and subject to all applicable code provisions.

Commissioner - I-Ho Pomeroy: Motion
Commissioner - Cynthia Andrus: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve

The motion passed 4-0.

06:39:28 PM

2. Stuart Mill Conditional Use Permit to allow the construction of a micro brewery with tasting room and related site improvements on vacant property at 2876 N. 27th Avenue (across from Warbler Way), Application Z14030 *(Quasi-judicial)* (Riley)

06:39:43 PM Doug Riley provided the staff presentation for this item.

06:43:19 PM Questions for staff.
None.

06:43:31 PM **Todd Huff on behalf of Stuart Mill and Outlaw Brewing provided the applicant presentation**

06:44:32 PM Questions for the applicant.

06:44:47 PM Mayor pro tem Taylor opened public comment on this item. Seeing none, he closed public comment.

06:45:02 PM
Motion that having reviewed and considered the application materials, public comment, and all information presented, I hereby adopt the findings presented in the staff report for application Z140130 and move to approve the conditional use permit with conditions and subject to all applicable code provisions.

06:45:31 PM Discussion on the motion.

Vote on the motion.
Commissioner - Cynthia Andrus: Motion
Commissioner - Chris Mehl: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve
The motion passed 4-0.

06:46:52 PM
3. Dixson Preliminary Conditional Use Permit to allow two apartment buildings, each with five residential dwelling units on the ground floor (a conditional use in the B-2 Community Business zoning district) on two lots located at the southeast corner of Equestrian Lane and Gallatin Green Boulevard, Application Z13273 *(Quasi-Judicial)* (Krueger)

06:47:18 PM Brian Krueger provided the staff presentation on this item.

06:54:25 PM Questions for staff.

06:55:21 PM Brian Krueger spoke to Cr. Mehl's questions regarding LED technology.

06:58:27 PM Rick Hixson, City Engineer spoke to Cr. Mehl's questions regarding LED technology.

07:01:31 PM Cr. Mehl asked questions regarding parkland.

07:08:20 PM **Van Bryan with Studio Architects provided the applicant presentation on this item.**

07:09:13 PM Questions for the applicant.

07:11:26 PM Mayor pro tem Taylor opened public comment on this item.

07:11:42 PM ***Janet Hoopes, Public Comment***
Ms. Hoopes of 2241 Gallatin Green Blvd spoke to the narrowness of the road and said she feels there is a lack of parking on this street.

07:15:21 PM ***Jennifer Paul, Public Comment***
Ms. Paul of 2272 Gallatin Green Blvd, Unit B spoke in opposition to this application citing the possibility of lower property values.

07:18:55 PM Public Comment Closed.
Seeing no further comments, Mayor pro tem Taylor closed public comment.

07:19:10 PM **Van Bryan with Studio Architects spoke in rebuttal to the public testimony provided.**

07:20:23 PM Questions for the applicant.
07:20:52 PM Questions for staff.
07:21:02 PM Brian Krueger
07:21:29 PM Cr. Mehl asked further questions for staff.
07:22:23 PM Brian Krueger
07:23:43 PM Cr. Taylor asked further questions for staff.

07:25:24 PM
Motion that having reviewed and considered the application materials, public comment, and all of the information presented, I hereby adopt the findings presented in the staff report for application Z13273 and move to approve the conditional use permit with conditions and subject to all applicable code provisions.

07:25:53 PM Discussion on the motion.

07:28:46 PM **Vote on the motion.**

Commissioner - Chris Mehl: Motion
Commissioner - I-Ho Pomeroy: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve
The motion passed 4-0.

07:29:29 PM **Break**
Mayor pro tem Taylor called for a ten minute break.

07:41:46 PM **Back from Break**
Mayor pro tem Taylor called the meeting back to order from break.

07:42:05 PM

4. Saffron Restaurant Preliminary Conditional Use Permit to allow the sales of alcohol in an existing permitted restaurant (a conditional use in the B-2 Community Business zoning district), 1511 West Babcock Street, Application Z14004 *(Quasi-Judicial)* (Krueger)

07:42:17 PM Cr. Andrus recused herself from this item and left the room as she has a business relationship with the applicants, the Harris brothers.

07:42:41 PM Brian Krueger presented the staff presentation on this item.

07:49:26 PM Questions for staff.

07:52:09 PM ***Nick Harris provided the applicant presentation.***

07:53:38 PM ***Andleeb Dawood spoke further as the applicant for the restaurant.***

07:54:47 PM Mayor pro tem Taylor opened public comment. Seeing none, he closed public comment.

07:55:08 PM
Motion that having reviewed and considered the application materials, public comment, and all of the information presented, I hereby adopt the findings presented in the staff report for application Z14004 and move to approve the conditional use permit with conditions and subject to all applicable code provisions.

07:55:51 PM Discussion on the motion.

07:57:53 PM **Vote on the motion.**
Commissioner - I-Ho Pomeroy: Motion
Commissioner - Chris Mehl: 2nd

Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Recused
Commissioner - I-Ho Pomeroy: Approve
The motion passed 3-0.

07:58:20 PM

5. Amendment to the Fiscal Year 2015 Transportation Impact Fee Capital Improvement Program (CIP) to add the widening of Cottonwood Road from Fallon Street to Alpha Drive and to move improvements to Baxter Lane (Project SIF02) to be a scheduled item in Fiscal Year 2015 (Saunders)

Chris Saunders provided the staff presentation on this item.

08:03:51 PM Cr. Mehl asked questions of staff.
08:04:06 PM Anna Rosenberry, Administrative Services Director answered questions.
08:05:16 PM Mayor pro tem Taylor asked questions of staff.
08:05:39 PM Rick Hixson, City Engineer answered questions.
08:06:23 PM Mayor pro tem Taylor continued questions for staff.
08:07:32 PM Mayor pro tem Taylor opened public comment.

08:07:49 PM
Motion that having heard and considered the evidence and public testimony, I find the addition of the expansion of 0.4 miles of Cottonwood Road from Alpha Drive to Fallon Street consistent with the requirements of the impact fee program. Therefore, I move to add these system improvements to the Fiscal Year 2015 Transportation Capital Improvements Program list and provide for its funding in the estimated amount of $1,926,000.

08:08:27 PM Discussion on the motion.

08:09:39 PM
Commissioner - Cynthia Andrus: Motion
Commissioner - Chris Mehl: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve
The motion passed 4-0.

08:09:54 PM
Motion and Vote that having heard and considered the evidence and public testimony, I move that improvements to Baxter Lane (Project SIF02) be changed

from unscheduled to a scheduled project in the Fiscal Year 2015 Transportation Capital Improvements Program with the project description and funding amounts to remain as presently written, having found that this change is timely and appropriate.
Commissioner - Cynthia Andrus: Motion
Commissioner - Chris Mehl: 2nd
Mayor - Jeff Krauss: Absent
Deputy Mayor - Carson Taylor: Approve
Commissioner - Chris Mehl: Approve
Commissioner - Cynthia Andrus: Approve
Commissioner - I-Ho Pomeroy: Approve
The motion passed 4-0.

I. FYI/Discussion

None.

J. Adjournment 08:11:37 PM

Carson Taylor
Carson Taylor, Deputy Mayor

ATTEST:
Aimee Brunckhorst
Aimee Brunckhorst, Deputy City Clerk

PREPARED BY:
Aimee Brunckhorst
Aimee Brunckhorst, Deputy City Clerk

Approved on March 24, 2014

Regular City Commission Meeting Great Falls Mayor Winters presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL: City Commissioners present: Michael Winters, Bob Jones, Bill Bronson, Fred Burow and Bob Kelly. Also present were the City Manager and Deputy City Manager; City Attorney; Directors of Fiscal Services and Planning and Community Development; Police Chief; and the City Clerk.

PROCLAMATIONS: Mayor Winters read proclamations for Boys & Girls Club Week and Women's History Month.

***** Action Minutes of the Great Falls City Commission. Please refer to the audio/video recording of this meeting for additional detail. *****

NEIGHBORHOOD COUNCILS

1. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports or announcements from representatives of Neighborhood Councils.

CONSENT AGENDA

2. Minutes, March 4, 2014, Special Commission meeting.
3. Minutes, March 4, 2014, Commission meeting.
4. Total expenditures of $2,264,747 for the period of February 22, 2014, through March 12, 2014, to include claims over $5,000, in the amount of $2,034,314.
5. Contracts list.
6. Lien release list.
7. Set public hearing for April 1, 2014, on Resolution 10063, to Establish Land Development Application Fees.
8. Set public hearing for April 1, 2014, on Resolution 10064, to Establish Rates in Accordance with Title 15 of the Official Code of the City of Great Falls (OCCGF) relating to Permit Fees and Plan Review Fees for Building, Plumbing, Mechanical, Electrical and Sign Permits.
9. Set public hearing for April 1, 2014, on Resolution 10065, Revising Fee Schedule for Information Requests to the City Attorney's Office, Superseding Resolution 9503.

Commissioner Burow moved, seconded by Commissioner Kelly, that the City Commission approve the Consent Agenda as presented.

3/18/2014

Mayor Winters asked if there was any discussion amongst the Commissioners or comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

BOARDS & COMMISSIONS

10. REAPPOINTMENT, GOLF ADVISORY BOARD.

Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission reappoint Mark Johnson as a non-league representative for a three-year term through March 31, 2017.

Mayor Winters asked if there was any discussion amongst the Commissioners or comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

11. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

There were no miscellaneous reports and announcements from representatives of Boards and Commissions.

PUBLIC HEARINGS

12. RESOLUTION 10057, ESTABLISH FEES FOR ARREST RECORD BACKGROUND CHECKS AT THE POLICE DEPARTMENT.

Police Chief Dave Bowen reported that the Great Falls Police Department currently conducts arrest record background checks for applicants seeking employment. The vast majority of these background checks are conducted for applicants seeking employment with government entities residing outside the jurisdiction of the City of Great Falls. Government agencies employ background investigators to conduct these checks on prospective employees which require checks with the local municipalities. Many of these requests are received through the mail and others are brought in by local investigators en mass. This arrest record check requires staff time to process and return the applications. On average 900 arrest record checks are performed annually by Police Department staff. The recommended fee for this service is $15.

Mayor Winters declared the public hearing open.

No one spoke in support of or in opposition to Resolution 10057.

Mayor Winters closed the public hearing and asked the will of the Commission.

Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission adopt Resolution 10057.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Burow noted that the same fee would apply to non-governmental agencies or

anyone requesting this service.

Mayor Winters asked if there were any comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

13. LOT 5, BLOCK 1, DIVISION ADDITION, IN THE NE¼, SECTION 2, T20N, R3E, P.M.M. – ASI ELDERLY HOUSING DEVELOPMENT - VOYAGER APARTMENTS.

A. RESOLUTION 10068, TO ANNEX SAID PROPERTY.

B. ORDINANCE 3098, TO ASSIGN CITY ZONING TO SAID PROPERTY.

Planning and Community Development Director Craig Raymond reported that this is the public hearing to consider Resolution 10068 to annex and Ordinance 3098 to assign City zoning to the Voyager Apartments, legally described as Lot 5, Block 1, Division Addition to the City of Great Falls, Montana.

At the conclusion of a public hearing held on October 23, 2012, the Planning Advisory Board recommended the City Commission approve the annexation of Voyager Apartments, and the Zoning Commission recommended the City Commission assign a zoning classification of R-6 Multi-family High Density to the property being annexed.

Subsequently, the City Commission accepted the ordinance on first reading and scheduled a public hearing for December 4, 2012, to consider annexation and zoning. At that time the applicant and property owner desired to vacate that hearing and instead proposed passage of a Resolution of Intent to Annex. Resolution of Intention 10001 was adopted by the City Commission.

The developer is prepared to move forward due to successfully receiving different means of financing. Annexation into the City with R-6 Multi-Family High Density zoning would allow the applicant to acquire the ±3.02 acre property from the current property owner and develop a proposed 38-unit accessible, affordable, senior independent rental housing development. In addition to the 32 one-bedroom and 6 two-bedroom apartments, the project will feature common areas including a dining room, kitchen, community rooms, a library, a computer room, and exercise space. While this would not be permanently-staffed like an assisted living facility, individual disabled or frail elderly residents may receive assistance with everyday living from home helpers.

Mayor Winters declared the public hearing open.

Speaking in support of Resolution 10068 and Ordinance 3098 was:

Jana Cooper, TD&H Engineering, 1800 River Drive N, representing ASI Elderly Housing Development, reported that the project is being developed by Accessible Space, Inc., which is one of the nation's premier non-profit developers and operators of accessible, affordable, service enriched housing for people with physical disabilities including the frail elderly. ASI

successfully applied for HOME funds and low income housing tax credits. The proposed project consists of a 38-unit affordable, accessible, low-income senior housing development that is age restricted to 55 and older. Ms. Cooper also reported that the developer will be responsible for improvements to Division Road and water and sewer extensions necessary to serve the project. ASI thinks this is a great addition to the Great Falls community and will fill a need for an important, underserved population.

No one spoke in opposition to Resolution 10068 and Ordinance 3098.

Mayor Winters closed the public hearing and asked the will of the Commission.

Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10068 and approve the Annexation Agreement all pertaining to ASI Elderly Housing Development.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Burow received confirmation that ASI will be responsible for paying the infrastructure costs associated with the project.

Motion carried 5-0.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission adopt Ordinance 3098.

Mayor Winters asked if there was any further discussion. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

14. COMMUNITY NEED HEARING FOR SOROPTIMIST VILLAGE SENIOR HOUSING, 2400 13TH AVENUE SOUTH.

Planning and Community Development Director Craig Raymond reported that this public hearing is to take public comment on whether the Soroptimist Village meets a community need. Pursuant to state statutes, public hearing notices were published in the Great Falls Tribune on February 28, 2014 and March 14, 2014. Soroptimist Village is a non-profit organization which provides long term affordable housing for low and very low income seniors and the disabled. This group has undertaken significant efforts to rehabilitate the facility and has committed to maintaining the apartments as affordable housing for 46 more years.

No action is required by the City Commission except to conduct the public hearing.

Mayor Winters declared the public hearing open.

Julie Stiteler, homeWORD, Inc., 1535 Liberty Lane, Missoula, reported that Soroptimist Village is an existing property that has been serving the residents of Great Falls for 47 years. This project is a significant renovation of Soroptimist Village. Senior housing is important to Great

Falls and meets an exigent community need, as illustrated by the previous agenda item. She commented that the fact that new developers want to develop senior housing in Great Falls indicates that there is a significant need. She also pointed out that the Consolidated Plan indicates that as well. She provided a handout to the Commission with additional details.

Ms. Stiteler concluded that this renovation is very necessary for maintaining the existing housing as affordable and safe for senior residents in Great Falls and Cascade County.

Commissioner Bronson commented that this is a wonderful project and a great asset to the community.

There being no one else to address the Commission, Mayor Winters closed the public hearing.

OLD BUSINESS

NEW BUSINESS

15. CDBG AND HOME PROGRAM PROPOSED USE OF FUNDS AND PUBLIC HEARING DATE FOR HUD REQUIRED 2014/2015 ANNUAL ACTIONPLAN.

Planning and Community Development Director Craig Raymond reported that this item relates to the recommendations from the Community Development Council (CDC) on the proposed use of funds for the 2014/2015 CDBG and HOME programs. The request is to take any public comment and set the final public hearing for April 15, 2014.

At the work session his evening, the CDC made its recommendations after hearing requests for funds from all eligible applicants for the $780,010 in anticipated public service, public facility and affordable housing grants. As always, the CDC took a thoughtful approach to prioritizing funding applications. The CDC also recommended an award of $207,000 to Neighborhood Housing Services, Inc.

Commissioner Kelly moved, seconded by Commissioner Jones, that the City Commission accept the proposed use of funds for the 2014/2015 Community Development Block Grant Program and HOME Program for inclusion in the Annual Action Plan and set the public hearing for April 15, 2014.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Burow commented that he supports the recommendations, but wasn't in favor of the allocation to Paris Gibson Center. He would rather see that allocation go to elderly or needy families.

Mayor Winters asked if there were any comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

ORDINANCES/RESOLUTIONS

16. RESOLUTION 10061, RELATING TO $2,350,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014A.

Fiscal Services Director Melissa Kinzler reported that on December 17, 2013, the City Commission adopted Resolution 10045, establishing the terms, conditions and documentation for a private, negotiated sale of up to $2,750,000 in General Obligation Refunding Bonds (Refunding Bonds) for the refunding of General Obligation Bonds, Series 2004, for the soccer park bonds, and General Obligation Bonds, Series 2007, for the swimming pool bonds.

Resolution 10061 will determine the form and details, authorize the execution and delivery, and the levying of taxes for the payment of a private, negotiated sale of $2,350,000 in General Obligation Refunding Bonds, Series 2014A.

The net present value of debt service savings is $211,995.

Commissioner Burow moved, seconded by Commissioner Kelly, that the City Commission adopt Resolution 10061.

Mayor Winters asked if there was any discussion amongst the Commissioners or comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

17. RESOLUTION 10062, RELATING TO $1,065,000 LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS (TAXABLE), SERIES 2014B.

Fiscal Services Director Melissa Kinzler reported that on December 17, 2013, the City Commission adopted Resolution 10046, establishing the terms, conditions and documentation for a negotiated sale of up to $1,200,000 for the refunding of the General Obligation Refunding Note, Series 2005.

Resolution 10062 will authorize the issuance of the bonds, determine the form and details, authorize the execution and delivery of a negotiated sale of up to $1,070,000 in Limited Tax General Obligation Refunding Bonds.

The interest rates of the Series 2014B bonds result in a net present value savings of $13,154.93.

Commissioner Kelly moved, seconded by Commissioner Jones, that the City Commission adopt Resolution 10062.

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Kelly commented that he is familiar with the processes involved with issuing and refunding bonds. He expressed kudos to Director Kinzler for her level of comprehension of the intricacies of the market, these processes for refinance and refunding, and for the money she saved the City.

Mayor Winters asked if there were any comments from the public.

Ron Gessaman, 1006 36th Avenue NE, commented that he believes the critics deserve some credit for the savings.

There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 5-0.

PETITIONS AND COMMUNICATIONS

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

A. John Hubbard, 615 7th Avenue South, displayed a photograph that included Charles Russell with his grandfather, Cal Hubbard, along with others in front of what used to be the Silver Dollar Bar. He also discussed finding the purple heart issued to his father and interesting information about his grandfather.

B. Michael Witsoe, 510 5th Street South, discussed the same photograph and related newspaper article. He announced that it was Charles Russell Week in Great Falls. Mr. Witsoe read a portion of an article in today's *Tribune* regarding public access and Sunshine Week.

C. Ron Gessaman, 1006 36th Avenue NE, also read portions of recent *Tribune* articles regarding delinquent parking tickets and time limits. He also noted that the agenda meeting minutes refer to the word "allow" versus "shall" serve with regard to the recently adopted resolution regarding appointments to boards and commissions.

CITY MANAGER

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon reported that staff met yesterday to discuss the upcoming budget process, and looked at each other's service priorities. There will be a realignment of City goals. There are areas where fees are necessary in order to cover the costs. There will be ongoing discussions about priorities, reinvesting in the City and, particularly, capital investment.

CITY COMMISSION

20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

In response to comments about transparency and City government, Mayor Winters announced that in the past four years no one has been ejected from the Commission Chambers, and no one has been denied an interview or time with City staff, City Manager or City Commission.

21. COMMISSION INITIATIVES.

There were no Commission initiatives.

3/18/2014

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioners Burow and Jones, to adjourn the regular meeting of March 18, 2014, at 7:55 p.m.**

Motion carried 5-0.

Mayor Michael J. Winters

City Clerk Lisa Kunz

Minutes Approved: April 1, 2014

3/18/2014

CITY OF WHITEFISH

CITY ATTORNEY CONFIDENTIAL EVALUATION

DATE: _____

1. General Performance:
   Has Mary done a good job of implementing City Council policy and accomplishing Council's objectives?

   ☐ Unsatisfactory
   ☐ Needs Improvement
   ☐ Acceptable
   ☐ Very good
   ☐ Excellent

   Comments: _____
   _____
   _____
   _____
   _____

2. Interaction with the public:
   Is Mary's interaction with the public befitting that of a City Attorney? Is he respected and developing a beneficial relationship with the Community?

   ☐ Unsatisfactory
   ☐ Needs Improvement
   ☐ Acceptable
   ☐ Very good
   ☐ Excellent

   Comments: _____
   _____
   _____
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   _____

3. Ordinances and Policies:
   Does Mary do a good job of preparing City ordinances, contracts, and policies? Does she negotiate, prepare, and present effective ordinances and contracts?

   ☐ Unsatisfactory
   ☐ Needs Improvement
   ☐ Acceptable
   ☐ Very good
   ☐ Excellent

Comments:_____
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4. Organizational Skills:
Does Mary present clear, well written and well articulated information to the City Council and the public for decision making? Does he keep the City Council well informed? Does he have a good command of information?

- □ Unsatisfactory
- □ Needs Improvement
- □ Acceptable
- □ Very good
- □ Excellent

Comments: _____
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5. Staff Interaction:
Does Mary seem to have a healthy and effective rapport with staff in general? Is communication open and effective?

- □ Unsatisfactory
- □ Needs Improvement
- □ Acceptable
- □ Very good
- □ Excellent

Comments: _____
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6. Problem solving and decision making:
Does Mary have appropriate problem solving skills and use them to assist the Council effectively? Does she make good decisions and exhibit good judgment that supports the Council's policy objectives?

- □ Unsatisfactory
- □ Needs Improvement
- □ Acceptable
- □ Very good
- □ Excellent

Comments: _____
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7. Accountability:
Is Mary accountable for her actions? Does she take responsibility for the consequences of her recommendations and actions?

- □ Unsatisfactory
- □ Needs Improvement
- □ Acceptable
- □ Very good
- □ Excellent

Comments: _____
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8. Does Mary provide effective recommendations to Mayor and Council when dealing with policy matters while also providing viable alternatives as needed from which to choose?

- □ Unsatisfactory
- □ Needs Improvement
- □ Acceptable
- □ Very good
- □ Excellent

Comments: _____
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9. Does Mary maintain effective relationships with City boards and committees and other governmental entities such as State agencies, County government, school district, etc?

- □ Unsatisfactory
- □ Needs Improvement
- □ Acceptable
- □ Very good
- □ Excellent

Comments: _____

10. What things do you most appreciate that Mary as City Attorney is doing?

Comments: _____

11. Overall Job Performance and any other matters not specifically identified above.

Comments: _____

CITY OF WHITEFISH
CITY MANAGER CONFIDENTIAL EVALUATION
DATE: _____

1. General Performance:
   Has Chuck done a good job of implementing City Council policy and accomplishing Council's objectives?

   ☐ Unsatisfactory
   ☐ Needs Improvement
   ☐ Acceptable
   ☐ Very good
   ☐ Excellent

   Comments: _____
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2. Interaction with the public:
   Is Chuck's interaction with the public befitting that of a City Manager? Is he respected and developing a beneficial relationship with the Community?

   ☐ Unsatisfactory
   ☐ Needs Improvement
   ☐ Acceptable
   ☐ Very good
   ☐ Excellent

   Comments: _____
   _____
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   _____

3. Enforcement of Ordinances and Policies:
   Does Chuck do a good job of enforcing and causing the enforcement of City ordinances, contracts, and policies? Does he negotiate, prepare, and present effective ordinances and contracts?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments:_____
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4. Organizational Skills:
Does Chuck present clear, well written and well articulated information to the City Council and the public for decision making? Does he keep the City Council well informed? Does he have a good command of information?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____
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5. Staff Management:
Does staff morale seem appropriate? Does Chuck seem to have a healthy and effective rapport with his staff in general? Is communication open and effective?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____
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6. Budget Administration:
Does Chuck manage the City's resources well? Does he prepare and administer the budget well? Does he provide clear information and choices to Council for their deliberations?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____
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7. Problem solving and decision making:
Does Chuck have appropriate problem solving skills and use them to assist the Council effectively? Does he make good decisions and exhibit good judgment that supports the Council's policy objectives?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____
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8. Accountability:
Is Chuck accountable for his actions? Does he take responsibility for the consequences of his recommendations and actions?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____

9. Does Chuck provide effective recommendations to Mayor and Council when dealing with policy matters while also providing viable alternatives as needed from which to choose?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____

10. Does Chuck maintain effective relationships with other governmental entities such as State agencies, County government, school district, etc?

- ☐ Unsatisfactory
- ☐ Needs Improvement
- ☐ Acceptable
- ☐ Very good
- ☐ Excellent

Comments: _____

11. What things do you most appreciate that Chuck as City Manager is doing?

Comments: _____

12. Overall Job Performance and any other matters not specifically identified above.

Comments: _____

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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, April 21, 2014, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 14-05. Resolution numbers start with 14-10.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

5) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
   a) Minutes from the April 7, 2014 Council regular meeting (p. 66)
   b) Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-2 to identify private postal services and shipping services as a permitted use in the Secondary Business District (WB-2) (2nd Reading) (p.82)
   c) Ordinance No. 14-04; An Ordinance approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on the easterly 690-feet of Tract 3ABO a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel (2nd Reading) (p. 90)
   d) Consideration of approving an amendment to the Declaration of Condominium Covenants, Conditions, and Restrictions for River Crossing Condominiums River Crossing Condominiums (p. 95)
   e) Consideration of approving the Second Amendment to Declaration of Condominium Covenants, Conditions, and Restrictions for the Whitefish Lake Lodge Condominiums Under the Montana Unit Ownership Act (p.104)
   f) Consideration of approving application from White Cloud Design on behalf of Melinda and Kevin Johnson for Whitefish Lake Lakeshore Permit (#WLP-14-W13) at 815 Delrey Road for installation of dry-set stone stairs, low voltage pathway lighting, placement of 24 cubic yards of gravel, and pruning of mature trees subject to 25 conditions (p.115)

6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
   a) Consideration of a request by Larix LLC on behalf of the Center for Native Plants for a sign variance for size and architectural embellishments for their property at 5805 Highway 93 South (p. 136)

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
   a) Resolution No. 14-___; A Resolution authorizing the City Manager to submit an application to the Montana Department of Commerce for TSEP and DNRC-RRGL grant funding associated with the 2104 Infiltration and Inflow Mitigation Project (p.162)
   b) Consideration of directing staff to prepare a resolution to increase the no parking zones on 6th Street, Flint Street, Geddes Avenue, Jennings Avenue, and Good Avenue (p.167)

8) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor or Council? (p.176)
   b) Other items arising between April 16th and April 21st
   c) Review preliminary FY15 budget schedule and set dates for budget work sessions and public hearing on preliminary budget (p.181)
   d) Resolution No. 14-___; A Resolution establishing annual goals for the city (p.182)

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

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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April 16, 2014

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

Mayor Muhlfeld and City Councilors:

Monday, April 21, 2014 City Council Agenda Report

There will be a work session beginning at 5:00 p.m. for a discussion of minutes taking for City Council meetings followed by executive sessions for the annual evaluations of the City Attorney and City Manager. Food will be provided.

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

CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

a) Minutes from the April 7, 2014 Council regular meeting (p. 66)
b) Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-2 to identify private postal services and shipping services as a permitted use in the Secondary Business District (WB-2) (2nd Reading) (p.82)
c) Ordinance No. 14-04; An Ordinance approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on the easterly 690-feet of Tract 3ABO a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel (2nd Reading) (p. 90)
d) Consideration of approving an amendment to the Declaration of Condominium Covenants, Conditions, and Restrictions for River Crossing Condominiums River Crossing Condominiums (p. 95)
e) Consideration of approving the Second Amendment to Declaration of Condominium Covenants, Conditions, and Restrictions for the Whitefish Lake Lodge Condominiums Under the Montana Unit Ownership Act (p. 104)
f) Consideration of approving application from White Cloud Design on behalf of Melinda and Kevin Johnson for Whitefish Lake Lakeshore Permit (#WLP-14-W13) at 815 Delrey Road for installation of dry-set stone stairs, low voltage pathway lighting, placement of 24 cubic yards of gravel, and pruning of mature trees subject to 25 conditions (p. 115)

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

Item a is an administrative matter, item b is a legislative matter, and items c – f are quasi-judicial matters.

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

a) Consideration of a request by Larix LLC on behalf of the Center for Native Plants for a sign variance for size and architectural embellishments for their property at 5805 Highway 93 South (p. 136)

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

Larix LLC, on behalf of the Center for Native Plants, is requesting a variance to install a freestanding sign along the frontage of their property at 5805 Highway 93 S. The copy area is proposed to be 46 square feet per side of the sign. The total sign is 129 square feet per side and 10-feet tall from finished grade (8-feet from the centerline of the adjacent right-of-way[1]). The sign will be setback 5-feet from the property line, which, because of the wide right-of-way, is 75-feet from the edge of highway pavement.

There is a full staff report with maps, pictures, findings and a recommendation in the packet.

RECOMMENDATION: Staff finds that the conditions for granting relief from the code set forth in Section 11-7-7 are met or not applicable. Staff respectfully recommends the Council adopt the findings in staff report WZV-14-01 and **approve** the variance as requested subject to the following condition of approval:

Conditions:

1. The total sign area be reduced to meet the 50% architectural embellishments standard and in no case shall the architectural embellishments exceed an additional 25 square feet per side.

2. Relief from the strict provisions of the code is to be construed specifically and narrowly. No further relief is granted nor implied.

3. A sign permit shall be submitted by applicants and once approved, applicant will pay the sign permit fee.

This item is a quasi-judicial matter.

[1] Freestanding sign height is measured from the centerline of the adjacent right of-way.

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

a) Resolution No. 14-___; A Resolution authorizing the City Manager to submit an application to the Montana Department of Commerce for TSEP and DNRC-RRGL grant funding associated with the 2104 Infiltration and Inflow Mitigation Project (p. 162)

From Public Works Director John Wilson's staff report:

The City retained Anderson Montgomery Consulting Engineers (AMCE) in 2012 to provide planning, grant writing and engineering services for the Wastewater Facility Improvements Project. While the ultimate focus of this project is to design and construct a new wastewater treatment plant, that facility is but one part of the City's overall wastewater system. Efficient operation of the wastewater collection system is crucial to future plans for capital improvements at the wastewater treatment plant. An important aspect of efficient operations is effective mitigation of infiltration and inflow.

Toward that end, AMCE and the Public Works Department have prepared a Preliminary Engineering Report (PER) and applied for grants to support the 2104 Infiltration and Inflow Mitigation Project. Applications to the Treasure State Endowment Program (TSEP) and Department of Natural Resource and Conservation Renewable Resource Grant and Loan (RRGL) program must be submitted to the Montana Department of Commerce next week.

The City Council conducted a Public Hearing regarding this project on April 7th. The recommended action at this time is to adopt the attached resolution, committing to certain terms and authorizing the City Manager to submit the grant application.

A copy of the proposed project budget is attached in the packet. This budget provides for a total funding package of $1,141,000 including $125,000 in grant funding from RRGL, $500,000 from TSEP, a low interest loan from the State Revolving Fund (SRF) in the amount of $402,300, and $113,700 in local matching funds. Funding would occur in FY 2016.

By adopting this resolution, the City Council commits to providing grant matching funds in the amount of $516,000, no earlier than FY 2016.

RECOMMENDATION: Staff respectfully recommends the City Council adopt the attached resolution, thereby committing to abide by grant program requirements, to provide matching funds, and authorizing the City Manager to submit the grant application.

This item is a legislative matter.

b) Consideration of directing staff to prepare a resolution to increase the no parking zones on 6th Street, Flint Street, Geddes Avenue, Jennings Avenue, and Good Avenue (p.167)

From Public Works Director John Wilson's staff report:

The Public Works Department is proposing No Parking zones along all or portions of West 6th Street, West 5th Street (aka North Street), Geddes Avenue, Jennings Avenue, West 3rd Street and Good Avenue, between Baker Avenue and West 2nd Street, as was intended when these streets were designed and as was discussed with the neighborhood and City Council prior to construction of the recent 6th and Geddes Street Project.

A drawing illustrating the proposed No Parking zones and one small loading zone is attached, along with a notice of this proposal which was mailed to property owners and residents along the route and a November 2013 memo on a related subject.

As you will recall, the City reconstructed the roadway and utilities along this route between Baker Avenue and West 2nd Street during the summers of 2012 and 2013. During the design process, at various neighborhood and City Council meetings, we discussed the lack of right of way and the need for No Parking zones all along the route, except where the width of right of way enabled parking along 6th Street in the vicinity of Lupfer Avenue.

The need was understood, No Parking signs were included on the construction plans, and the contractor installed many signs in the course of construction. Unfortunately, the Public Works Department overlooked the requirement for specific action by the City Council in order to establish enforceable limits. Several No Parking signs were removed between West 5th Street and West 2nd Street over the winter because those restrictions were not enforceable.

Staff recommends the following areas be designated as No Parking zones at this time:

- Both sides of West 6th Street from the west edge of the Baker Avenue right of way to points 40 feet west,
- The north side of West 6th Street, starting at a point 10 feet west of the projected west edge of the Lupfer Avenue right of way and ending at a point 95 feet to the east,
- Both sides of West 5th Street (aka North Street) between Flint and Geddes Avenues,
- Both sides of Geddes Avenue between West 5th Street (aka North Street) and West 4th Street,
- Both sides of Jennings Avenue between West 4th Street and West 3rd Street,
- Both sides of West 3rd Street east of the projected west edge of Jennings Avenue, and
- Both sides of Good Avenue, excluding a section on the east side of the road between 2 points located 100 and 180 feet north of the south edge of the West 3rd Street right of way.

Staff further recommends designating a 30 Minute Loading Zone on the east side of Good Avenue between 2 points located 100 and 180 feet north of the south edge of the West 3rd Street right of way.

The recommended No Parking zones will help ensure safe passage for traffic and emergency vehicles and will enable snow removal in a more efficient and effective manner. The recommended Loading Zone is intended to support loading and unloading needs for Power Sports West, a retail and repair shop which has operated at this location for many years.

RECOMMENDATION: Staff respectfully recommends the City Council direct staff to prepare a resolution for their consideration at the May 5th City Council meeting. That resolution would establish enforceable No Parking zones and a 30 minute Loading Zone along all or portions of West 6th Street, West 5th Street (aka North Street), Geddes Avenue, Jennings Avenue, West 3rd Street and Good Avenue, between Baker Avenue and West 2nd Street, as described above.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 176)
b) Other items arising between April 16th and April 21st
c) Review preliminary FY15 budget schedule and set dates for budget work sessions and public hearing on preliminary budget (p. 181)

The current draft of the FY15 budget schedule is contained in the packet. Staff would like the City Council to confirm and approve the two dates for budget work sessions (May 27th and June 9th) and set the date for the hearing and action on the FY15 Preliminary Budget for the City Council meeting on June 16th.

RECOMMENDATION: Staff respectfully recommends the City Council confirm and approve the two dates for budget work sessions for May 27th and June 9th and set the date for the hearing on the FY15 Preliminary Budget for the City Council meeting on June 16th.

This item is a legislative matter.

d) Resolution No. 14-___; A Resolution establishing annual goals for the city (p. 182)

Since 1999, the Mayor and City Council have met in annual retreats or work sessions with the City Manager to discuss and establish short and long term goals. These goals are important in order to prepare the annual budget and work plan for the subsequent fiscal year.

Mayor Muhlfeld and City Council members, met in a work session on April 7, 2014 with the City Manager, Assistant City Manager/Finance Director, and some Department Directors to review and set priorities among the choices for goals. In that work session, the Mayor and City Council established ten short term goals, four long term goals, seven on-going goals, and seven additional goals generated by and for the city's staff.

Until the budget is established, it is difficult to quantify the cost of resources for these goals. Most of the initial costs incurred for the goals will be city staff time to research, evaluate, and make recommendations on options for the Mayor and City Council. Ultimately, many of these projects involve capital and operating budgets to implement. As options are presented to the Mayor and City Council in the future, these options will typically have cost estimates prepared at that time.

RECOMMENDATION: City staff respectfully recommends that the City Council approve the resolution establishing short and long term goals.

This item is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

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

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
April 7, 2014
7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Hildner, Feury, Barberis and Frandsen. Councilor Anderson was absent. City Staff present were City Manager Stearns, City Clerk Lorang, Assistant City Manager/Finance Director Swisher, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Planner II Minnich, Public Works Director Wilson, Parks and Recreation Superintendent/Interim Director Loveless, Police Chief Dial, and Fire Chief Kennelly. Approximately 60 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Don Spivey to lead the audience in the Pledge of Allegiance.

3. COMMUNICATIONS FROM THE PUBLIC

–(This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Chris Schustrom, 504 Spokane Avenue, thanked the City for their commitment to avoiding aquatic invasive species by helping to fund the Coram check station. He is a board member of Trout Unlimited and they have also committed to funding $3000 toward that effort this year.

Rhonda Fitzgerald, 412 Lupfer Avenue, said it is time for Farmer's Market again and the application is online for applicants. She thanked the City for their support and said the Farmer's Market is a success because of their partnership. She said the new restrooms at the O'Shaughnessy will be a nice addition. She said the Police Department is so helpful with clearing the parking area and the Fire Department comes and bring their shiny truck so the kids can spray the hose. It is in its 11th year and is a great event, but it couldn't happen without their support. She thanked them.

Bradley Joseph Tutsch, 114 Wisconsin Avenue, said he is a vet who has two honorable discharges. He said he is 54 years old and has post traumatic stress disorder and bi-polar issues. He said he represents the Veteran's Administration and possibly, the Army. He would like the police report on his incident. He has requested the report from the City Police Department and the City Prosecutor Caleb, but Caleb wasn't very helpful. He feels he has the rights to those reports.

4. COMMUNICATIONS FROM VOLUNTEER BOARDS

4a. Annual review and consideration of approval for Whitefish Convention and Visitor Bureau marketing plan and lodging tax budget for FY15 (p.20)

Councilor Frandsen recused herself from this issue due to a conflict of interest.

Erica Coffman, Chair of the Whitefish Convention and Visitor Bureau (WCVB), said they were here tonight to present the Fiscal Year 2015 Budget and Marketing Plan. She introduced the Board

members: Rhonda Fitzgerald, Nick Polumbus, Luke Walrath, Jake Cook, Zak Anderson, Bruce Haller, Barb Brandt and Scott Ringer. She recognized Jan Metzmaker as their Founding Director and Director for over seven years. She thanked Jan for her service. She introduced Dylan Boyle, the new Whitefish Convention and Visitor Bureau Director.

Dylan Boyle, Director, represented the WCVB and said State Law requires the WCVB to present and receive City approval of their Marketing Plan and Public Budget for FY15. He said they promote Whitefish as a charming small town that provides exhilaration by day and relaxation by night. He said they target markets in Chicago, Minneapolis, Seattle and Portland where they attend ski and trade shows. He said they have a plan to reach almost 13 million targeted viewers through their paid advertising. They plan on a ¼ million visitors to their website. In 2013 they reached over 500 million people. He said they were the first to sponsor local Olympic Team-member Maggie Voisen, and the town of Whitefish has received a lot of press because of her story. There is a new web portal called "Where the Locals Go, Montana." It was a public relationships partnership with the Montana Office of Tourism. Their target ads are outperforming the media standards and it translates into real economic growth for Whitefish. He said 558,000 non-resident travelers spent at least one night in Whitefish. He said Whitefish Mountain broke its previous record with over 345,000 skier visits this year. The Marketing Plan and Public Budget has been included in tonight's Council packet and he requests Council approval.

Mayor Muhlfeld asked and Dylan Boyle said the tax collections were down 7% in October, and 5% in September due to the closing of Glacier National Park. Councilor Sweeney said the report cites some of the challenges in marketing—lack of creative pricing for air access and transportation challenges. He said he thinks they need to focus on this. Dylan Boyle said there is a new local organization, AERO (Airline Enhancement and Retention Organization), chaired by Paul Johannsen, and the goal is to have a fund to utilize grants and local fundraising for a revenue base to get airlines to provide more service to the Flathead Valley. He noted that there are new seasonal flights to Portland and Los Angeles.

Councilor Sweeney offered a motion, seconded by Councilor Hildner, to approve the Whitefish Convention and Visitor Bureau Marketing Plan and Public Budget for FY15. The motion passed unanimously, with Councilor Frandsen abstaining per her recusal.

(see more Volunteer Board Reports on the next page)

5. 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)

5a. Minutes from the March 17, 2014 Council regular meeting (p. 55)

5b. Consideration of approving application from Curt Trillium Shores LLC for Whitefish Lake Lakeshore Variance (#WLV-14-W03) to add a 100' floating walkway to the end of an existing dock.at 434 Dakota Avenue subject to 12 conditions (p. 63)

Councilor Hildner offered a correction on 7th page of the minutes, 4th paragraph, to state that Councilor Hildner said the amount had gone up $60,000, not $600,000.

Councilor Sweeney offered a motion, seconded by Councilor Frandsen, to approve the Consent Agenda as amended. The motion passed unanimously.

4. continued - CONTINUATION OF VOLUNTEER BOARD REPORTS

Councilor Frandsen, reporting on the Whitefish Arts Council, said that on May 15 and June 13 there are two more opera events and the public is invited to attend. She said the Whitefish Arts Council is opening up a conversation with arts groups on May 20, so if there are questions please contact Carol Atkinson.

Councilor Frandsen reported on the Montana West Economic activities and said they are participating in the AERO campaign and FCEDA is making a $100,000 pledge and asking local businesses to contribute to that fund. FCEDA is looking at applying for grant money.

Councilor Hildner said the Park Board discussed improvements to the Ice Den. It will be a continuing effort to put all of the pieces together. They may have a work session with the various user groups. He said the Bike/Ped committee met and received reports from Karin Hilding and Chuck Stearns who both attended the "Building Active Communities" seminar. He said there is a slight hold up on the Skye Park Bridge project due to an easement issue with the adjoining property owner.

Mayor Muhlfeld asked and City Manager Stearns said the Skye Park Bridge project got involved with a pump station down there because of the bridge landing. To work on the lift station the City will have to encroach on the neighbor's land when while working on the project. The neighbor doesn't want to grant an easement, but has suggested an exchange of land for part of the right-of-way adjacent to his property on Birch Point Drive. Mayor Muhlfeld asked if it would delay construction and Public Works Director Wilson said he hopes they'll have enough information to move ahead after the next Council meeting.

Chief Dial said the 911 Committee met to talk again about the budget and a followup meeting is scheduled for next week. He said they asked the staff to pare down their budget requests. Proposed increases include money the Board has no control over due to increased worker's comp, insurance and contracted salary raises. He said the facility has been running for about 4 years and maintenance needs are coming up. He said that about 75% of their phone calls are from cell phones and there is an organization called Smart 911 which allows people to set up a profile on their smart phones. He talked to Mike Pence and representatives from the County and it looks like the funding source issue will come before the public in the fall for a vote. He said it is important to find a viable way to fund this so that Whitefish, Kalispell and Columbia Falls are not being double taxed on 911 services.

Chad Goodwin, from the Whitefish Skating Club and Skating Academy, said he is on the rink advisory board at the Ice Den. He said they have looked at how they can enhance the Stumptown Ice Den. He noted that City Manager Stearns stated concerns in last year's budget message about continued subsidies for the Ice Den and his concern regarding lack of capital improvements. The advisory committee has looked at possible ways to get improvements without having to use tax dollars. The Skating Club hired consultants to look at the mechanical equipment of the ice rink to see if it is capable of running year around and determined that up to 1.5 million gallons of water could be saved with a cooling evaporator. Approximately $180,000 would buy a cooling evaporator and a low E ceiling. They are trying to raise the funds. He started with the program in 2011 and there were 25 members and a 6.5 month season. Now they have Glacier Skate Academy with expanded programs and competitive programs including power skating programs and learn-to-skate programs. They held a 3-week summer camp and hosted an average of 75 students each week. He said two of the families who attended their camp actually bought homes in Whitefish because of the camp.

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

6a. Consideration of a request from Elk Highlands, LLC for a two year extension to Wapiti Woods final plat (p. 93)

Senior Planner Compton-Ring said the preliminary plat was approved by the Whitefish City Council on August 17, 2009. In 2012, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires August 17, 2014. Several letters were received with concerns and late last Friday the applicant asked to withdraw the request until he could talk with the neighbors. Neighbors were advised of the requested postponement.

Councilor Hildner asked if they will run into time constraints and Mayor Muhlfeld said the other extension lasts until August. Councilor Sweeney asked that the applicant and neighbors be notified to understand that they may run up against the August 17, 2014 deadline if they wait until July to make the presentation.

Councilor Sweeney offered a motion, seconded by Councilor Feury, to continue this to the first meeting in July and to keep the public hearing open.

Mayor Muhlfeld opened the public hearing. No one wished to speak. Mayor Muhlfeld said, with Council approval, the public hearing will be continued to the July 7, 2014 meeting.

The motion passed unanimously.

6b. Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-3 to identify private postal services and shipping services as a conditional use in the Secondary Business District (WB-2) (First Reading) (p.121)

Planner Compton-Ring said that at the City Council meeting on March 17, 2014, the Council tabled the text amendment for 'shipping and packaging services' as a conditional use in the WB-2. The Council directed staff to develop more robust findings in order to support the text amendment and change the use to 'private postal services and shipping services' to be consistent with other areas of the zoning regulations. Tonight's staff report in the packet includes the Council Proposal to add the following conditional use to §11-2K-3:

<u>Private postal services and shipping services,</u> along with the substantiating findings. In conclusion the staff found it is in the best interest of the City of Whitefish to amend the Secondary Business District (WB-2) to add 'private postal services and shipping services' as a conditional use.

Mayor Muhlfeld opened the public hearing.

Attorney Sean Frampton said he represents Bill Halama and the UPS store. He learned that there is another shipping and packaging store that was approved for the mall, so it seems fundamentally unfair to approve a new store and then to question the rights of the UPS store. It is the same zone, the same street, and only 1/8 of a mile away. He said he doesn't believe the grandfathering policy exists in this

situation. If anything, the grandfathered rights should go with the UPS store and their investment. He said the mall is grandfathered, but he doesn't think grandfathering is for a new business to come into town.

Karen Baker, with the Whitefish Chamber, said the Chamber voted at their last meeting to encourage the Council to legitimize the rights of the UPS store to exist in the new location with no extra costs.

Richard Hamm, 2330 Dillon Road, said he had questions about conditional uses. He gets his mail at the Pack, Ship and Post at the UPS store and it doesn't seem fair to him. He wondered what was left to settle this situation. Mayor Muhlfeld said he thought the Council would address those questions in their comments.

Mayre Flowers, Citizens for a Better Flathead (CBF), said she has spoken to them on this issue previously. She said CBF recognizes that the UPS store is caught in a difficult situation and the Council is trying to come up with a fair decision. She said CBF proposes amending the ordinance and findings in a more legitimate way than the current proposed ordinance and findings of fact. She referenced her email she had sent to the City late this afternoon, copies of which have been distributed to the Council; with the proposed findings. CBF questions the finding that this service is an "auto oriented business." She said that Kintla Copy, downtown, provides shipping services. The issue is not whether this is an automobile oriented use, the issue is whether it is an acceptable use in the WB-2. It isn't, but she thinks there are other reasons for justifying it. She said her premise is based on Council's findings related to their adoption of Ordinance 11-05 back in May of 2011; especially three of them she thought appropriate for the decision before them tonight. She thought it was important that they recognize in their findings that they are allowing a non-conforming use to apply for consideration as a conforming conditional use. She said this is the unfortunate result of a staff error and that needs to be included in their findings.

Pete Olson, 216 Spencer Trail, and UPS store owner said he listens to people who talk before the Council who have no idea what they do at the UPS store. He suggested that they come down and visit the business. He said they have dragged him and his wife through the dirt for nothing and he is fed up. They are in the same zone they have been in for 22 years. He said the people in this town support them. He said they didn't think they were doing anything wrong. He thanked them.

Rebecca Norton, 530 Scott Avenue, said this is a very unfortunate situation. She is sorry the owners felt like they were run through the wringer. She said sometimes people deliberately misinterpret the rules. She said they have rules that people have to follow. She wished there was a way to address those concerns as well. She said sometimes there is a disregard from the community and the way they follow the rules. She said sometimes people ask for forgiveness instead of permission and that bugs her.

Rhonda Fitzgerald, 412 Lupfer Avenue, said she too regrets that a zoning change has become about a specific person or business. She said things can happen in the Mountain Mall that can't happen anywhere else and she thinks the community needs to understand that. She said this is about allowed uses in the WB-2 zone. She said the findings by Mayre Flowers are a good solution for them. She has a lot of trouble with stating that a business is appropriate in the WB-2 if it is auto-served. She said the businesses in the commercial core are all dependent upon vehicle access and parking. She said the new findings provide a good compromise and will allow everyone to move forward.

Brad Stoghill, 180 McDowell Dr., owner of the Bigfork UPS Store and a franchisee for the state of Montana, said Pete and Patty are dear to his heart. They moved to Whitefish from Wisconsin because they loved the community. This is not a new business, it has been here for 22 years and they are ranked second in Montana for sales. He said they didn't mean to do anything wrong—they thought they did everything right.

Don Kaltschmidt, 230 JP Road, said as a fellow business owner he stood in support of the staff recommendation for approval of this request. He understands the goal to not exceed the standards of the WB-2 zone. He said this business requires more than automobile access—it requires access for large carrier trucks. He said space downtown is precious and this business needs to be in the WB-2 and not the downtown district. He asked them to approve it.

Mayor Muhlfeld closed the public hearing.

Councilor Sweeney offered a motion to approve Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-3 to identify private postal services and shipping services as a conditional use in the Secondary Business District (WB-2) (First Reading) but without the existing findings of fact in the staff report. He would like to review the proposed findings of fact from Citizens for a Better Flathead, stating that automobile traffic is not a differentiating rationale.

Mayor Muhlfeld said they have to have findings of fact in place.

The motion died for lack of second.

Councilor Hildner said it is important to get to resolution tonight. Councilor Hildner said he would like this to be a permitted use. He finds it consistent with the Growth Policy. Mayor Muhlfeld asked and the Council agreed that they need to work through the findings of fact.

Councilor Frandsen suggested that on page 2 of 6 in the Staff Report WZTA 14-03 (packet page 124), second paragraph, strike the whole sentence that reads "A 'private postal services and shipping services' use is an auto-oriented service use with primary access by automobile and parking provided on site." On that same page in Finding #1, strike the portion of the first sentence starting with because and ending with automobiles, so that paragraph of Finding #1 reads: "The proposed amendment is in accordance with the Growth Policy, it promotes diversification and promotes the existing uses of the neighborhood." Councilor Sweeney said that in Finding #8 on page 5 of 6 of the Staff Report WZTA 14-03 (page 127 of the packet), strike the first sentence that deals with auto-oriented service; so that paragraph of Finding #8 reads: "The proposed code amendment is not related to the particular suitability of the property for the particular use is not applicable to this code amendment because it pertains more to site development than community wide zoning regulations."

Councilor Hildner offered a motion, seconded by Councilor Barberis, to approve Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-2 to identify private postal services and shipping services as a permitted use in the Secondary Business District (WB-2) (First Reading), subject to the revised findings of fact as discussed during this evening's meeting.

Manager Stearns said they would be giving direction for Attorney VanBuskirk to change the ordinance to include the revisions for the second reading.

The motion passed unanimously.

6c. Ordinance No. 14-04; An Ordinance approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on 4.156 acres of a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel (First Reading) (Staff Report WPUD 14-01) (p. 168)

Senior Planner Compton-Ring said Larry Lambert, on behalf of Lambert Hotels, is requesting a planned unit development (PUD) and a conditional use permit (CUP) in order to develop a hotel at 6340 Highway 93 S. The three-story hotel is proposed to have 76 rooms with 82 on-site parking spaces. The project consists of one parcel with two zoning designations. The eastern half is WB-2 (Secondary Business District) and western half is WLR (One-Family Limited Residential District). There are two Growth Policy designations on the project. The eastern half is General Commercial and western half is Suburban Residential. Since the footprint of the building exceeds 15,000 square feet, the applicant is also required to obtain a Conditional Use Permit. These requests are being reviewed together, as the review criteria are nearly the same.

The applicant is proposing to exceed the maximum building height, blend the zoning designations to push the WB-2 zone to the eastern edge of the Baker Avenue extension and only overlay the PUD on the portion of property between Highway 93 S and the Baker Avenue extension. In exchange for the building height zoning deviation, the applicant is proposing to dedicate right-of-way through the property to facilitate the future Baker Avenue extension. This right-of-way dedication will connect with the right-of-way recently dedicated by the Dear Tracs subdivision to the north.

No development plans are proposed for the remainder of the property. The applicant has shown a possible future building area behind the hotel, but any future development will require an amended PUD. In addition, the applicant has no immediate plans for the residential property to the west of Baker Avenue, but the applicant doesn't want to encumber the residential property with the PUD overlay.

The Whitefish City-County Planning Board held a public hearing on March 20, 2014 to consider the request. Following the hearing, the Planning Board recommended approval of the above referenced PUD/CUP, subject to twelve conditions as contained in the staff report and adopted the staff report as findings of fact (4-1, Phillips voting in opposition; Anderson and Gunderson were absent).

At the public hearing, the applicant spoke on behalf of the project. Also, four members of the public spoke at the hearing. One was in support of the application. The other three had concerns with the requested height of the building, the additional commercial property and the proposed Baker Avenue extension alignment. As proposed, the Baker Avenue right-of-way would cross Park Knoll Lane near the bottom of a hill that comes out of the Park Knoll neighborhood. It was pointed out that the street crossing might be safer if the road was further to the east.

Due to the public comments regarding the future alignment of Baker Avenue extension, staff has included a copy of the South Whitefish Transportation Plan map (adopted 2/2000) on page 222 and Transportation Plan map (adopted 2/2010) on page 221. Senior Planner Compton-Ring reviewed the conditions for approval and said that all Fire Department standards need to be met. The Big Box

building standards need to be met, along with approval from the Architectural Review Committee (ARC). A parking plan needs to be submitted. Any further development of the lot will need an additional PUD. An 80 foot right-of-way shall be dedicated to the City before issuing a building permit.

The applicant submitted an official application to the Architectural Review Committee (ARC), which was reviewed on April 1st. The application was tabled in order for the applicant to address certain material issues. The applicant has worked with the Committee to work within the guidelines and progress has been made. Concerns have been voiced by a couple of member regarding the height; however if the applicant receives approval from the Council regarding the height, the ARC is OK with the mass and scale and the look of the materials.

Councilor Sweeney asked and Planner Compton-Ring said the parking is in the residential area and the building will be in the commercial section. Councilor Frandsen asked and Planner Compton-Ring showed where the zoning line is on the map – near the location of the existing sewer line. Councilor Sweeney asked and Director Wilson said the proposed alignment is the least obtrusive at this point. Councilor Hildner asked where the stormwater outlet is and Director Wilson said that hasn't been proposed yet. Councilor Frandsen asked and Chief Kennelly said they have had three meetings and have come up with adaptations for access. Councilor Frandsen asked if there would be any adverse implications of requiring them to stay at 43 feet and Mayor Muhlfeld said the applicant could answer that question.

Mayor Muhlfeld opened the public hearing.

Larry Lambert, President of Lambert Hotels Corporation, thanked them for the opportunity to submit this application for Council's consideration. He appreciates all of the help they've received from the City staff. He said they want to build a 76-room Hampton Suite Inn. They are requesting a variance to bring the building up to 45 feet, but their actual design is just under 43 feet tall. They are asking for additional WB-2 zoning up to the right-of-way. They don't want to touch the WLR zoning because it makes a nice buffer between the hotel and the Park Knoll Estates. They have worked closely with the ARC committee and the designs they've chosen fit with the architectural designs that already exist in Whitefish. Their goal was to break up the mass of the building. The hotel is about 300 feet from the highway and the storm water run-off area is about the size of the existing Wendy's. He said they want to do a lot of landscaping to make an impressive entrance. He said the right-of-way is located to match the existing right-of-way on an adjacent property. In regards to the proposed Baker Avenue extension, they are trying to avoid a cross road at the base of the steep road from Park Knoll Estates.

He noted that about 12% of the roofline is above 40 feet. Approximately 56% of the building is between 35-40 feet and 31% is under 35 feet. He said they talked to the Fire Department about ease of getting on the roof, so they made a full-sized room where the fire fighters could walk right out on to the roof. That is the reason a portion of the building is 42 feet high. He said they will employ 18-20 people and they believe they will bring a lot of people into Whitefish. He said they will have some conference space and thinks it will increase visitor use. They estimate that they will bring in over $100,000 in taxes for Whitefish annually. He showed images of other buildings in town that are 41' tall. The Pine Lodge on Spokane Avenue has four stories and is probably over 40'. The high school is at 41' and has a solid roof line. Their proposed hotel is 18,000 square feet and has an articulated roof line. He said portions of Whitefish Lake Lodge are over 50 feet, but they've done a great job of breaking up the massing. He showed their design concept and how it matches existing architectural looks in Whitefish. He said they have to start by July 1, 2014 due to a 1031 exchange process, and their bank loan is dependent on getting

the commercial zoning. He said they want to help address the right-of-way concern off the Park Knoll hill. He introduced Matthew Sease, General Manager, who will run the building when it opens.

Matthew Sease, 226 Lake Drive, Bozeman, said he moved to Columbia Falls in 2008, but couldn't find a job, so he moved to Bozeman and began working for Lambert Hotels. He said that he and Mr. Lambert are very involved with tourism committees in the State and the communities in which they live. He said a project like this benefits the economy, puts people to work and brings out the best in the community. He is looking forward to coming back to the Flathead Valley.

Jan Metzmaker, 915 Dakota Avenue, said she is not opposed to a new hotel. When she was the director of the WCVB they talked to many hoteliers. She is opposed to the height amendment because it defines their town. She wondered how they can say that the tallest building in the neighborhood (the hotel) would fit in the neighborhood. She said once they make an amendment to building heights then other buildings will want to push the community height limitations. She said the additional rooms will increase traffic on the Highway 93 corridor. She challenged the idea that they couldn't build a beautiful building without height variances. She asked about the PUD and said they mentioned office spaces and commercial uses. She wondered if the City would have control over this area or whether it would become another strip mall. She asked them not to approve the additional height.

Don Spivey, 117 Park Knoll Lane, said he was representing the Park Knoll Homeowner's Association. He said they don't have a problem with the hotel; they had a problem with the proposed location of Baker Avenue where it crosses Park Knoll Lane. He said it doesn't make sense to have Baker Avenue intersect Park Knoll Lane at the base of the hill. The road should be moved east to be as close as possible to the current zoning boundary. He said the PUD overlay includes converting the land to commercial and aligning the right-of-way easement. He said it could easily be moved closer to the highway and would relieve the safety issues. He asked them to hold in abeyance the right-of-way until they really figure out the location of the Baker Avenue extension. He urged them to change the PUD process a bit in their decision tonight.

Rebecca Norton, 530 Scott Avenue, said this is the first time she has heard about high ground water and she was worried about whether the hotel would displace water to other properties. She agreed with Don Spivey that the City should decide where they are going to put the road extension before they approve this. She doesn't see any reason to go beyond the existing height restrictions. She said Chad Phillips, an architect on the Planning Board offered some suggestions that would lower the height, but that wasn't done. She said all of the nearby businesses are single story businesses. She said they need to work to tie in the downtown scale and cuteness with the strip. If they allow huge buildings they won't be able to draw in other low-level buildings. She said it is better for the community if they adhere to the City's existing height standards.

Mayor Muhlfeld closed the public hearing.

Councilor Frandsen asked and Director Wilson said the reason that the road layout is scrambled on the property for Baker Avenue is to work around property owners who don't want to give up their property. He said JP Road was the target, but maybe the goal is just to meet Park Knoll Lane. Councilor Sweeney asked if this was a spot that could be used for eventual alignment of Baker Avenue and Director Wilson said the Park Knoll people won't work with the City if it comes in at the steep pitch of the hill. Director Wilson said the initial target was the west line of the church property. He said they might be able to work with their design engineers to look at avoiding the steep pitch on Park Hill Drive.

He said he doesn't know if they'll ever get Baker Avenue out to JP Road. He said it is important that they make a choice that will have some chance in the future, but they don't have any money for building roads and there are many other easements that would be required, so he doesn't see this as happening in his career. He said they need to move this road to the southeast. He said he can ask some engineers to look at a curved alignment for the road.

Manager Stearns said if they move Hampton Inn easement and want to curve the road, then it runs into the Morris' property and they aren't willing to give an easement. He said they have to look at which is tougher to get. Director Wilson said they may be able to re-grade the Park Knoll Road to also alleviate this problem. Councilor Hildner asked the applicant about the location of the ½ acre right-of-way and what affect it would have if they moved it to the east. Lambert said the biggest hurdle would be their time constraint if they would have to move the easement. He said it might be more reasonable to put a jog in this right-of-way and to divert it away from Mr. Darwin Lee's property. He said there is a condition to work it out with the Public Works, and they could do that in a timely manner. Director Wilson said another challenge is that they would leave an odd-shaped property that is of no use to the applicant.

Councilor Hildner said he has concerns about the height requirement and whether they stick to 35 feet. He said if 42 feet is sufficient they should limit it to 42 feet to prevent these things from growing. He suggested that they add Condition #13 so that the area between Highway 93 west to the front of the proposed hotel be dedicated on the plat as open space so it could not be developed later.

Councilor Frandsen said she is not opposed to a height extension of 42 feet, but she was disappointed to hear that over 50% of the building is over 35 feet. She asked and Larry Lambert said 68% of the building is between 35-40 feet tall. Frandsen said she hates to extend a zone out into an area that has no immediate plans, so she wouldn't be in favor of a zone extension. Councilor Barberis said she is also opposed to the zone extension and the height variance.

Councilor Sweeney said they need to take the height variance under scrutiny, but with the topography here he thinks they would be less happy with a flat line roof than the additional height. It is set back from the highway and backs into a steep hill so he thinks it will be less noticeable. He said he does have problems with the alignment of the Baker Avenue extension. He thinks this is a good project and he would like to be able to figure out how to get this thing done.

Mayor Muhlfeld asked about the conversion of the portion of the property from WLR to WB-2 and asked how important it is to the applicant, because, typically, a zone change request ties to a defined use. Lambert said they need the additional zoning for the building they have. The extra 1.25 acre is not an integral part of their project and they don't have any plans to do anything with it. He said they may need to add a little more parking, though, and they would like to have that option open to them. Mayor Muhlfeld asked if a surface parking lot was allowed under the WLR and Planning and Building Director Taylor said it wouldn't be a permitted use in the WLR. Lambert said that if they are told during the permitting process that they need an additional 10 parking spaces then they have no place to put it. Councilor Sweeney asked about parking requirements and Planner Compton-Ring said it is one space per room and one space per two employees on the maximum shift.

Mayor Muhlfeld asked if there was a way to avoid the steep pitch on Park Knoll Lane and Director Wilson said he wasn't sure exactly where it was. Don Spivey said he could show them exactly where the slope was. He suggested that they approve the zoning extension that would cover the parking,

but initiate a study on where the right-of-way is going. Manager Stearns said that the Deer Tracs people have put utilities in their property so they aren't going to want to move their road dedication.

Councilor Feury offered a motion, seconded by Councilor Sweeney, to approve Ordinance No. 14-04; An Ordinance approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on 4.156 acres of a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel subject to 12 Conditions of Approval. (First Reading)

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #13 to dedicate the storm water pond area as open space. The amendment passed unanimously.

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #14 to amend the western boundary of the WB-2 zone to the western boundary of the parking lot for the WB-2 extension. The amendment passed unanimously.

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #15 to amend the 80' right-of-way to state that the location would not be specified at this time, and to deed restrict the property between the western boundary of the WB-2 zone and what is shown as the western boundary of the right-of-way maintaining the existing WLR. (Clerk's note – the remaining westerly portion of the property remains WLR).

Councilor Feury said he worked on the Southern Whitefish Transportation Plan and there are a lot of issues, even giving the northern alignment that could take care of the problem on Park Knoll Road. He said this amendment allows Mr. Lambert to move forward without having to specify where the road easement will be located, and it gives the City a dedicated right-of-way for the future. Manager Stearns asked if a plat note was better than a deed restriction because the plat note exists on the plat. City Attorney VanBuskirk said both documents would be recorded so either would work.

The amendment passed unanimously.

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #16 to amend Section 3 of the Ordinance to state the Council approves the commercial use for development of a 42' tall hotel. The amendment passed unanimously.

Planner Compton-Ring said they probably need to remove condition #11 if they are adding #15. Attorney VanBuskirk said they could incorporate condition #15 into #11 and the Councilors agreed. Councilor Frandsen asked about the stormwater drainage and Director Wilson said the applicant knows they have to submit a storm drainage plan for approval from Public Works.

The original motion, as amended, passed 4-1 with Councilor Barberis voting in opposition.

6d. City's proposed applications to the 2015 Legislature for TSEP and DNRC grants for a wastewater system project to diminish groundwater and stormwater inflow and infiltration into the wastewater system collection pipes (p. 224)

Director Wilson said the City retained Anderson Montgomery Consulting Engineers (AMCE) in 2012 to provide planning, grant writing and engineering services for the Wastewater Facility Improvements Project. While the ultimate focus of this project is to design and construct a new

wastewater treatment plant, that facility is but one part of the City's overall wastewater system. Efficient operation of the wastewater collection system is crucial to the future plans for the treatment plant and an important aspect of that efficiency is a need to reduce the infiltration and inflow of clear water.

Toward that end, AMCE and the Public Works Department have prepared a Preliminary Engineering Report (PER) and applied for grants in support of the Whitefish Wastewater Infiltration and Inflow Mitigation Project. These grant applications will be submitted to the Treasure State Endowment Program (TSEP) and the Department of Natural Resource and Conservation Renewable Resource Grant and Loan Program (RRGL) in May. The Public Hearing tonight allows staff to present the PER findings and recommendations to the City Council and general public.

Director Wilson said the need is to reduce clear water coming into the collection system and reaching the wastewater treatment plant. Treatment plants are made to treat strong wastewater and the more diluted it is the less efficient the system is. He said they have to hydrologically handle the increased flow. Reducing clear water flow is a good financial step before they build the new treatment plant. The most cost effective improvements have to do with leaking manholes. They have several solutions: to line the manhole with a curative epoxy liner, to replace the cracked chimneys and to re-seal them. Some manholes are in drainage ditches and this causes major in-flow issues. They will divert stormwater away from the manholes and seal the incoming sewer pipes which will also reduce clear water inflow. Environmental impact is a required part of the application. The estimated project cost is $1,141,000. The funding will come from a TSEP Grant, a DNRC Grant, a Low Interest Loan and Local Reserves. They don't expect a rate increase as part of this project.

He said there are several areas they want to look at including Birch Point, City Beach, Iron Horse, Sun Crest and River Lakes. He reviewed the project schedule and said they hope to make these improvements in the summer of 2015. He said that there is no action required at this time. A Resolution authorizing the applications will be on the April 21st meeting agenda.

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

7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

7a. Consideration of awarding a construction contract for the East 2nd Street reconstruction and trail project (two motions) (p. 235)

Director Wilson reported that the Public Works Department opened construction bids for Phase II of the East 2nd Street Reconstruction Project on March 27th. Staff recommends the City Council approve a funding package for remaining work on the project and authorize the City Manager to execute a construction contract with the low bidder, Knife River Construction, in the amount of $2,020,020. He said there was a $3000 spread on a $2 million bid, which was excellent, but he noted that they are spending the Resort Tax down. Work is scheduled to begin in early June and be completed by the end of October.

Staff recommends the project be constructed with a combination of Resort Tax funds, CTEP grant money and Stormwater funds. The Resort Tax Fund has approximately $2,170,000 available through the construction period. This is a conservative estimate based on balances in the current Resort

Tax budget plus anticipated revenue in FY 2015. The CTEP grant program will contribute $132,000 toward the trail construction, giving a potential total of $2,302,000 from those two sources.

Outstanding obligations for this project include payment for the recently completed Phase I construction, the balance of our engineering services contract, reimbursement to CenturyLink for the relocation of their telephone infrastructure, plus the proposed contract with Knife River for Phase II construction; all for a total of $2,330,450 without providing for contingencies.

This leaves the City with obligations exceeding Resort Tax and CTEP resources by about $28,450. To rely on only these two funds would also drain the Infrastructure portion of Resort Tax fund through June 2015, leaving no money to start design on the West 7th Street project. In any event, the status of the Resort Tax fund appears to be such that construction on West 7th Street project must wait until after 2015.

The Stormwater Fund cash balance is expected to be over $750,000 at the end of this fiscal year, without this allocation, and $55,000 in additional revenue is predicted for FY 2015. Public Works therefore recommends the following funding package for remaining payments to be made on the East 2nd Street Reconstruction Project, including Phase I and Phase II construction contracts, engineering services, and reimbursement to private utility companies for relocating their infrastructure. These obligations total $2,330,450 plus contingencies.

That recommendation includes $1,850,000 from the Resort Tax Fund, $350,000 from the Stormwater Fund and $132,000 from the CTEP grant program, with contingencies to be covered by the Resort Tax Fund. These resources total $2,332,000 without providing for contingencies. This proposal includes revenue from the FY 2015 Resort Tax Fund Budget which has not been approved. A summary of this information is attached in spreadsheet form.

Councilor Hildner offered a motion, seconded by Councilor Frandsen, to approve a funding package for the remaining work on the East 2nd Street Reconstruction project to include $1,850,000 from the Resort Tax Fund, $350,000 from the Stormwater Fund and $132,000 from the CTEP grant program, with contingencies to be covered by the Resort Tax Fund. The motion passed unanimously.

Councilor Sweeney offered a motion, seconded by Councilor Barberis, to approve a construction contract for Phase II of the East 2nd Street Reconstruction Project to Knife River Construction in the amount of $2,020,020, contingent upon approval by the CTEP grant program. The motion passed unanimously.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 243)
8b. Other items arising between April 2nd and April 7th
8c. Resolution No. 14-08; A Resolution approving a Real Estate Purchase and Sale Agreement with respect to Lots 13, 14, 15, 16, 17, and 18, of Block 58, of Whitefish, Montana (p. 266)

Manager Stearns said several years ago, when the City budgeted for the possible dredging of Riverside Pond in Riverside Park, the Mayor and City Council members had more concerns about Riverside Pond beyond just dredging. There were concerns about algae in the pond and possible

aeration options, possible ways to improve the storm drainage outflow from the pond to the river, noxious weeds around the pond, and ownership of the pond because it was known that BNSF owned some land under the pond. Since that time, staff has worked on a number of these areas and had discussions with BNSF about the possible purchase of their land under part of Riverside Pond.

Riverside Pond (see attached maps) is not really an original pond, but a storm drainage detention pond which takes much of the street runoff from downtown and the east side and lets stormwater accumulate there and sediment settle out before flowing into the Whitefish River. As he understands it, the pond was constructed a number of years, possibly by the Montana Department of Highways, for the storm drainage runoff of Hwy 93 South.

Over the past year, the Real Estate advisors of Mayor Muhlfeld, Frank Sweeney, Rich Knapp, and Manager Stearns have discussed the acquisition of the lots from BNSF as they knew it was property that BNSF did not really want. At first we thought BNSF might just give the City the lots in order to rid themselves of the lots, much of which are under water or encumbered by Riverside Pond and to rid themselves of possible liability concerns. However, when we contacted them and they investigated the six lots, they felt that the two northernmost lots had enough value to sell them. After some discussions and negotiations, they responded with the following offer for all six lots:

2 Lots = 6,500 SF @ $8.00/SF = $52,000
Remaining 4 Lots = $2,500 (under water or the slope to the water)
Administrative Fee = $2,000
Total = $56,500

BNSF would not give up mineral rights, but if they did any mineral extraction it would be 100 feet below the surface. The final agreement conditions that the City maintains the lands for municipal or public purposes. Funding would come from the TIF fund as parkland acquisition. Real Estate advisors Mayor Muhlfeld, Councilor Sweeney, along with staff feels that this proposal is a very good deal given that most people think that this land is already part of Riverside Park. If you look at the attached LIDAR map, you can see that the existing trail goes through lots 16 and 17. The six lots are 19,500 square feet or .45 acres, so the purchase price is $2.90 per square foot or $9,416.66 per lot overall.

Councilor Frandsen offered a motion, seconded by Councilor Barberis to adopt a Resolution approving a Real Estate Purchase and Sale Agreement with respect to Lots 13, 14, 15, 16, 17, and 18, of Block 58, of Whitefish, Montana.

Councilor Sweeney said one of his concerns with the agreement with BNSF was that they were difficult and he felt they were overreaching. He said the City has used this as parkland for years, so he is willing to move forward. He thinks that the City and BNSF had a lot in common but they asked for some strange conditions of the sale.

The motion passed unanimously.

8d. Consideration of approving a revised Interlocal Agreement with the Whitefish Housing Authority to revise the Payment-In-Lieu-of-Taxes (PILT) procedures (p. 272)

Manager Stearns said that last November, the City Council approved a request from the Whitefish Housing Authority (WHA) regarding appropriating an amount equal to the Payment-In-Lieu-

of-Taxes (PILT) which the WHA pays to the City for Mountain View Manor. WHA requested that, given the federal cutbacks in their funding, they would continue to pay the City the PILT money, but asked that the City appropriate an equal amount in their annual appropriations and return that amount to the WHA for use in their programs. The City Council approved that request last November 18th and a copy of the minutes from that meeting are in the packet.

Since that meeting, Manager Stearns has drafted, Mary VanBuskirk has reviewed, and the WHA Board has approved a revised Interlocal Agreement which is contained in the packet. The only changes made to the agreement were to revise the PILT provisions in Section 4 and to change the name of WHA's Executive Director.

The City would be returning approximately $6,900.00 per year to the WHA in addition to the one-time payment of their amount in arrears of $38,717.30 as of January 1. The $6,900 per year formerly went into the General Fund.

Councilor Feury offered a motion, seconded by Councilor Hildner, to approve a revised Interlocal Agreement with the Whitefish Housing Authority to revise the Payment-In-Lieu-of-Taxes (PILT) procedures. The motion passed unanimously.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Resolution No. 14-09; A Resolution in support of the proposed amendment to ARM 12.11.645 pertaining to the Whitefish River before the Fish, Wildlife and Parks Commission of the State of Montana (p. 279)

Councilor Hildner offered a motion, seconded by Councilor Frandsen, to approve Resolution No. 14-09; A Resolution in support of the proposed amendment to ARM 12.11.645 pertaining to the Whitefish River before the Fish, Wildlife and Parks Commission of the State of Montana.

Councilor Hildner said that the former Council asked the FWP for this approval and it will now go to a public hearing. He said he hopes FWP will see it as an enhancement to the amenities of Whitefish.

The motion passed unanimously.

9b. Letter from Flathead Basin Commission regarding funding for Aquatic Invasive Species (AIS) (p. 321)

Mayor Muhlfeld said the letter thanked the Council for their part in the AIS check station in Coram.

Councilor Comments:

Councilor Hildner asked if there was anything they could do to help the Vet with any documents he was asking for and Attorney VanBuskirk said she would contact the prosecutor's office and request that all public documents be turned over.

Mayor Muhlfeld asked if Chad Goodwin, from the ice rink, was coordinating his efforts with other entities. He appreciated that they have made a big effort toward fundraising. Manager Stearns said the Park Board said they won't go forward until they have all of the money for the evaporator cooler and low E ceiling. Parks Superintendent Loveless said this group is working agressively and they are bringing an amended proposal to the Park Board tomorrow. Mayor Muhlfeld said there will be additional cost to the City for staff and maintenance if they stay open for a longer season and that needs to be covered, too. The City has been subsidizing the Ice Den for years now and he doesn't want to see that grow. He hoped that was being articulated back to that committee. Manager Stearns said the proposal for summer rink use with this group is that the property would be leased just to them under a private ice rental concept. Councilor Sweeney said the club proposed a set of upgrades that would be supported by public contributions. They have never suggested to the Parks Board that there would be a guarantee of the Ice Den being open in the summer. The group hopes to eliminate the need for the City to have to subsidize the Ice Den at all.

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 10:55 p.m.

_____
Mayor Muhlfeld

_____
Jane Latus Emmert, Recording Secretary

Attest:

_____
Necile Lorang, City Clerk

ORDINANCE NO. 14-03

An Ordinance of the City Council of the City of Whitefish, Montana, amending Zoning Regulations in Whitefish City Code Section 11-2K-2 to identify private postal services and shipping services as a permitted use in the Secondary Business District (WB-2).

WHEREAS, the City of Whitefish initiated an effort to define and identify "business services" as a permitted use in the Secondary Business District (WB-2), and amend the definition of personal services and professional services in Section 11-9-2 of the Whitefish City Code; and

WHEREAS, in response to the proposal to amend WB-2 Secondary Business District and Section 11-9-2 of the Whitefish City Code, the Whitefish Planning and Building Department prepared Staff Report WZTA-14-03, dated February 13, 2014; and

WHEREAS, at a lawfully noticed public hearing on February 20, 2014, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Staff Report WZTA-14-03, invited public comment, and thereafter voted to recommend approval of the proposed text amendments; and

WHEREAS, at a lawfully noticed public hearing on March 3, 2014, the Whitefish City Council received an oral report from Planning staff, reviewed Staff Report WZTA-14-03, invited public comment, and thereafter voted to direct staff to come back to the next City Council meeting with an option for shipping and packaging services as a conditional use in the WB-2 District; and

WHEREAS, at a lawfully noticed public hearing on March 17, 2014, the Whitefish City Council received an oral report from Planning staff, reviewed the proposed findings of fact, invited public comment, and thereafter voted to table the proposed text amendment until the next meeting; and

WHEREAS, at a lawfully notice public hearing on April 7, 2014, the Whitefish City Council received an oral report from Planning staff, reviewed the Addendum to Staff Report WTZA 14-03 dated April 1, 2014, invited public comment and thereafter voted to approve a text amendment to identify private postal and shipping services as a permitted use with a revised Addendum as findings of fact; and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to adopt the text amendment and revised findings of fact.

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 hereby adopted as Findings of Fact.

Section 2: Staff Report WZTA-14-03 and its Addendum, dated April 1, 2014, are hereby adopted as Findings of Fact.

Section 3: An amendment to Whitefish City Code WB-2 Secondary Business District, Permitted Uses, Section 11-2K-2, as provided below, with the insertion shown underlined, is hereby adopted:

• Private postal services and shipping services.

Section 4: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

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, THIS _____ DAY OF _____, 2014.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

ADDENDUM to STAFF REPORT WTZA 14-03
PROPOSED CODE AMENDMENT
TITLE 11, CHAPTER 2K: SECONDARY BUSINESS DISTRICT
April 14, 2014

This is an addendum to staff report WZTA 14-03 to the Whitefish City Council amending the permitted uses in the Secondary Business District (WB-2) following the April 7, 2014 City Council hearing.

BACKGROUND:

The Planning Board held a public hearing on February 20, 2014 and recommended approval of a text amendment to add 'business services' to the WB-2 list of permitted uses along with a definition for 'business services'.

At the City Council meeting on March 3, 2014, the Council did not recommend approval of a new definition of 'business services' nor add it as a permitted use to the WB-2 (Secondary Business District). Instead the Council directed staff to come back to the March 17th meeting 'with an alternative option for shipping and packaging services as a conditional use in the WB-2 zone.'

At the City Council meeting on March 17, 2014, the Council tabled the text amendment for 'shipping and packaging services' as a conditional use in the WB-2. The Council directed staff to develop more robust findings in order to support the text amendment and change the use to 'private postal services and shipping services' to be consistent with other areas of the zoning regulations.

At the City Council meeting on April 7, 2014, the Council voted to approve the text amendment for 'shipping and packaging services' as a permitted use in the WB-2 and revised the Addendum and Findings of Fact.

COUNCIL PROPOSAL:

Add the following permitted use to §11-2K-2:

- <u>Private postal services and shipping services.</u>

FINDINGS OF FACT:

The proposed changes shall be evaluated based on the criteria for consideration for amendments to the provisions of the Zoning Regulations per §11-7-12E.

1. Zoning Regulations Must Be:
   a. Made in Accordance with a Growth Policy

The Whitefish City-County Growth Policy was adopted in 2007 and addresses many aspects of development and growth in our community. The proposed text amendment is within the WB-2 zoning designation which is consistent with the General/Highway Commercial land use designation. The General/Highway Commercial land use designation is described as:

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

Many of the goals and policies support the proposed text amendment including the following:

Land Use:

5. Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development.

7. Plan for healthy, efficient, and visually attractive corridors along major transportation routes through the community.

Economic Development:

3. Seek ways to diversify the local base economy with compatible business and industries such that the character and qualities of Whitefish are protected.

The 'private postal services and shipping services' use is a use that fits the character and quality of the WB-2 neighborhood.

Finding 1: The proposed amendment is in accordance with the Growth Policy because it promotes a diversification of the economy, and it promotes uses that preserve the character of the neighborhood.

b. Designed to:

i. Secure safety from fire and other dangers

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The

review of securing the public from fire and other dangers is reviewed either at the time of building permit and/or subdivision.

Finding 2: The proposed code amendment is unrelated to securing safety from fire and other dangers because it is legislative request and not a site specific request.

ii. Promote public health, public safety and general welfare

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of public health, public safety and general welfare is mostly reviewed either at the time of building permit and/or subdivision – through the building code and/or other development standards.

The proposed use promotes general welfare by adding a compatible use within the WB-2 zoning district.

Finding 3: The proposed code amendment promotes public health, public safety and general welfare because it is providing an additional compatible use within the zoning district.

iii. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of transportation, water, sewer, schools, parks and other requirements are reviewed either at the time of building permit and/or subdivision.

Finding 4: The proposed code amendment has no impact on the adequate provision of transportation, water, sewerage, schools, parks and other public requirements because it is legislative request and not a site specific request.

2. In the adoption of zoning regulations, the city shall consider:

a. Reasonable provision of adequate light and air

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of reasonable provision of adequate light and air is reviewed at the time of building permit.

Finding 5: The proposed code amendment is unrelated to reasonable provisions of adequate light and air because it is legislative request and not a site specific request.

b. The effect on motorized and nonmotorized transportation systems

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of effect on motorized and nonmotorized transportation systems is reviewed at the time of building permit and/or subdivision.

Finding 6: The proposed code amendment has no impact on motorized and nonmotorized transportation systems because it is legislative request and not a site specific request.

c. Promotion of compatible urban growth

The purpose and intent of the WB-2 zoning district states the following:

> "The WB-2 district is intended to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to highways or arterial streets and may be located in business corridors or islands."

The 'private postal services and shipping services' use is a service that has a need for parking areas and proximity to highways or arterials streets. The proposed use promotes compatible urban growth.

Finding 7: The proposed code amendment promotes compatible urban growth because it implements the purpose and intent of the WB-2 zoning district.

d. The character of the district and its particular suitability of the property for the particular uses

'Private postal services and shipping services' is a use that is suitable for the character of the WB-2 zoning district.

The particular suitability of the property for the particular use portion of the criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. This review would either occur during the time of a zoning compliance permit, a business license or other land use review and not at the time of the legislative action.

Finding 8. The proposed code amendment is not related to the particular suitability of the property for the particular use is not applicable to this code amendment because it pertains more to site development than community wide zoning regulations.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and

Finding 9: The proposed code amendment does not affect the value of buildings because it is legislative request and not a site specific request.

f. That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other.

Finding 10: The proposed code amendment does not affect historical uses and established use patterns and recent changes in use trends because it is legislative request and not a site specific request.

ADDITIONAL FINDINGS:

Finding 11: Staff finds the considerations in Section 11-7-12(E) are either met or are not applicable;

Finding 12: Whereas, legal public notice according to the Whitefish City Code was published in the *Daily Interlake* on February 5, 2014;

Finding 13: Whereas, staff sent a notice February 5, 2014 to twenty-three (23) reviewing agencies, departments and other service providers regarding the zoning regulation update.

Finding 14: Whereas, the City-County Planning Board held a public hearing on February 20, 2014 and recommended approval of adding 'business services' to as a permitted use in the WB-2 zone and added a definition of 'business services' in the zoning regulations.

Finding 15: Whereas, at the March 3, 2014 public hearing, the Council directed staff to create a 'shipping and packaging services' use to be a Conditional Use within the WB-2 (Secondary Business District).

Finding 16: Whereas, at the March 17, 2014 public hearing, the Council directed staff to develop more robust findings and amend the proposed Conditional Use to 'private postal services and shipping services' in order to be more consistent with other zoning districts.

Finding 17: Whereas, at the April 7, 2014 public hearing, the Council amended the Ordinance to provide 'private postal services and shipping services' as a Permitted Use and revised the Addendum as findings of fact.

RECOMMENDATION:

We find it is in the best interest of the City of Whitefish to amend the Secondary Business District (WB-2) to add 'private postal services and shipping services' as a permitted use.

ORDINANCE NO. 14-04

An Ordinance of the City Council of the City of Whitefish, Montana, approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on the easterly 690-feet of Tract 3ABO a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel.

WHEREAS, Larry Lambert of Lambert Hotels seeks approval of a commercial Planned Unit Development (PUD) Overlay including a Conditional Use Permit (CUP) and zoning deviations for 4.156 acres of a 5.766 acre parcel at 6340 Highway 93 South (Tract 3ABO in S1, T30N, R22W) for development of a 76-room, 45-foot tall hotel, and 82 off-street parking spaces; and

WHEREAS, the PUD application includes a request for a zoning deviation for a 45-foot building height from the maximum height of 35-feet from the natural grade in the WB-2 zoning district; and

WHEREAS, the PUD application includes a request for a CUP for the proposed 20,030 square foot building in excess of 15,000 square foot standard in the WB-2 zoning district; and

WHEREAS, in exchange for the zoning deviations, the applicant proposes to provide the dedication of an 80-foot Baker Avenue extension, as planned in the 2007 Whitefish Transportation Plan; and

WHEREAS, in response to the applicant's request, the City Planning and Building Department prepared Staff Report No. WPUD 14-01, dated March 13, 2014, reviewed the proposed PUD, prepared findings, subject to twelve (12) conditions as contained in the staff report, and recommended that the PUD be approved; and

WHEREAS, following adjacent landowner notice, at a lawfully noticed public hearing on March 20, 2014, the Whitefish City-County Planning Board considered the proposed PUD and staff report, received public input, and thereafter recommended approval of the proposed PUD, subject to twelve (12) conditions of approval, attached as Exhibit "A", and adopted the staff report as findings of fact; and

WHEREAS, at a lawfully noticed public hearing on April 7, 2014, the Whitefish City Council received Staff Report No. WPUD 14-01 and an oral report from staff, received public input, discussed and revised the proposed PUD, CUP and zoning deviations, findings and added three additional conditions of approval; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the revised PUD, CUP and zoning deviations, subject to fourteen (14) conditions of approval; and

WHEREAS, the revised PUD, CUP and zoning deviations to the WB-2 zoning district, subject to fifteen (15) conditions of approval, will be compatible with and conform to the Whitefish City-County Growth Policy and the City of Whitefish Zoning Regulations, 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 No. WPUD 14-01.

Section 3: The City Council hereby approves the revised commercial Planned Unit Development Overlay, Conditional Use Permit and zoning deviations, for development of a 76-room, 42-foot tall hotel on the easterly portion of Tract 3ABO, a 5.766 acre parcel at 6340 Highway 93 South (S1, T30N, R22W), as depicted on Exhibit "B", subject to the fifteen (15) conditions of approval shown on Exhibit "A", attached hereto and incorporated herein by reference.

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" to Ordinance No. 14-04
Conditions of Approval

1. Except as amended by these conditions, the development of the planned unit development shall be in substantial conformance with the approved site plan and elevations that govern the general location of buildings, landscaping, building height and improvements and labeled as "approved plans" by the City Council.

2. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the City of Whitefish Planning 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, including signage to direct equipment and workers.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public road, including procedures remove soil and construction debris from road 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. (Engineering Standards, Appendix K)

3. Prior to any 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, sidewalks, 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, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (Engineering Standards, Chapter 1)

4. 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. (Engineering Standards, Chapter 7)

5. The site and building shall meet all Fire Department standards for hydrants, access and the building itself. (IFC)

6. All 'big box' site design standards shall be met with this project including: parking lot landscaping, pedestrian lanes, bicycle parking, SNOW bus stop, if needed, and screening service, loading and refuse areas. (Finding 5, §3.8.1, Architectural Review Standards)

7. All 'big box' building design standards shall be met with this project including: building equipment, blank wall limitations, use of materials and entryways. (Finding 5, §3.8.2, Architectural Review Standards)

8. Architectural review and approval shall be obtained prior to submitting an application for a building permit. (§11-3-3B, WCC)

9. A parking plan shall be submitted that meets the parking requirements "1 space per guestroom or suite; plus 1 space for every 2 employees per maximum shift". (§11-6-2B, WCC)

10. Any further development of this lot shall require an amended PUD permit. Future site plans shall carefully integrate existing healthy trees.

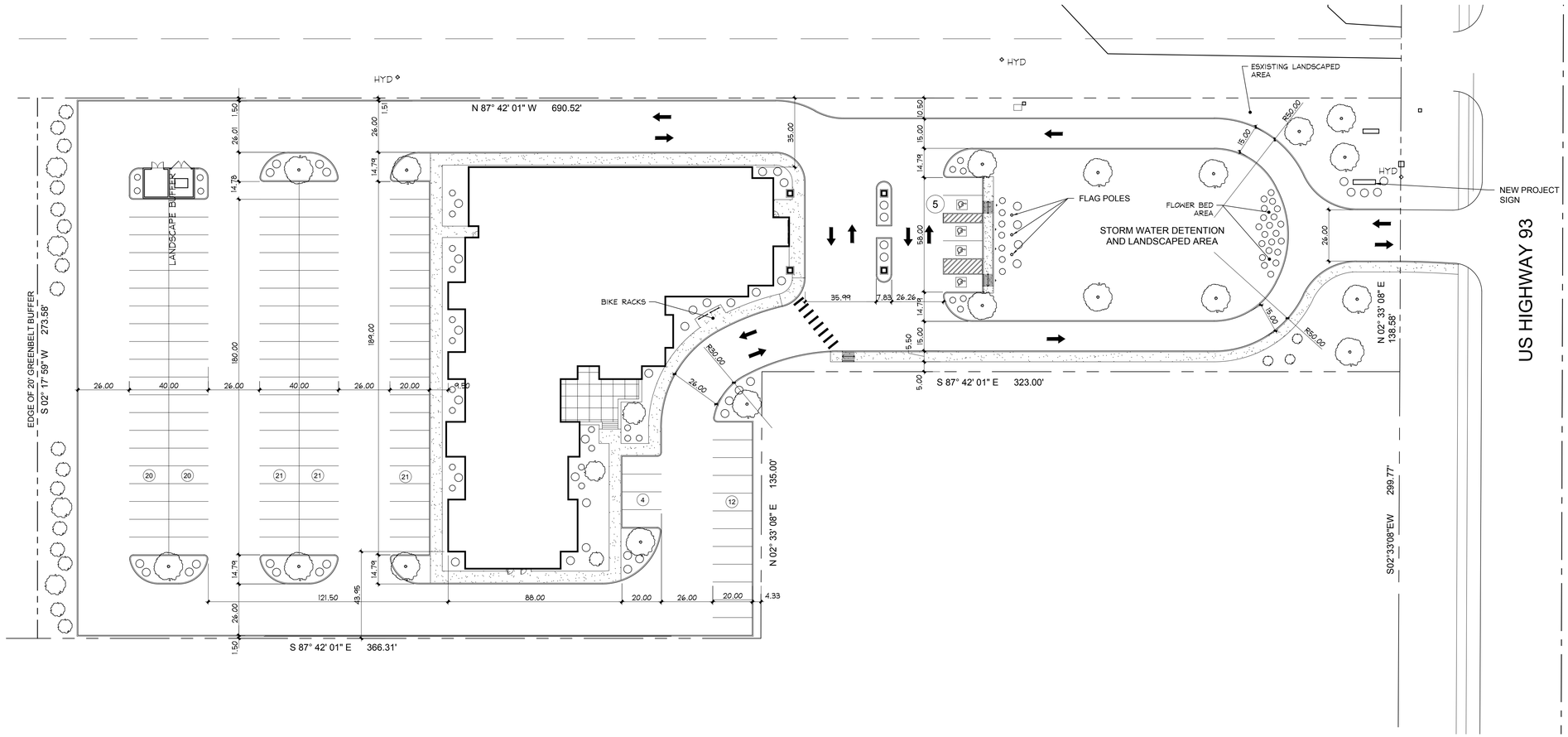
11. An 80-foot right-of-way for Baker Avenue extension in a location identified by the Public Works Director shall be dedicated to the City of Whitefish prior to submitting a building permit application and subject to a deed restriction.

12. The proposed project area adjacent to the Highway 93 South property lines shall be landscaped and designed as an attractive, high quality streetscape providing open space and stormwater facility between the hotel and the front property line.

13. The Planned Unit Development shall only extend to the west to include the parking area planned for the project.

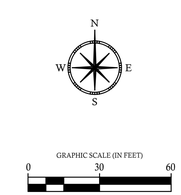
14. No portion of the building shall exceed 42-feet in height.

15. This approval is valid for three years from the date of City Council approval. (§11-2S-9C, WCC)



LEGAL DESCRIPTION - EXTENT OF PROPERTY TO BE INCLUDED WITHIN THE P.U.D.

Commencing at the True Point of Beginning, the northeast property corner, and along the northern boundary N 87° 42' 01" W a distance of 690.52 feet; thence S 02° 17' 59" W a distance of 273.58 feet; Thence S 87° 42' 01" E a distance of 366.31 feet; thence N 02° 33' 08" E a distance of 135.00 feet; thence S 87° 42' 01" E a distance of 323.00 feet; to the westerly boundary of U.S. Highway No 93; thence N 02° 33' 08" E and along said westerly boundary a distance of 138.58 feet to the point of beginning.



ISSUE FOR REVIEW - NOT FOR CONSTRUCTION

HAMPTON INN & SUITES

6340 HIGHWAY 93 S
WHITEFISH, MT

APEC Engineering
kalispell, montana
www.apec-mt.com
406.755.1333

JOB NUMBER: 120320
DRAWN BY: KL
DATE: 4 / 14 / 2014
REVISIONS:
X
X
X
X
X

P.U.D. SITE PLAN

1" = 30'

C

1

Chuck Stearns

From: Mary VanBuskirk <mvanbuskirk@cityofwhitefish.org>
Sent: Monday, April 14, 2014 1:07 PM
To: 'Lori Miller'
Cc: 'Chuck Stearns'; 'Necile Lorang'; 'Keni L. Hopkins'
Subject: River Crossing Lot 4
Attachments: Amendment To The CCRs.pdf

Lori: Your proposed Amendment to the Declaration of Condominium CCRs for River Crossing Condominiums have been reviewed, look fine, and will appear on the City Council's April 21st consent agenda for the City's approval. We'll let you know the outcome following the City Council meeting. Mary

From: Lori Miller [mailto:lori@morrisonframpton.com]
Sent: Tuesday, April 08, 2014 4:16 PM
To: 'Mary VanBuskirk'; Necile Lorang
Subject: RE: River Crossing Lot 4

Good afternoon Mary. Attached is the document that we propose to record to un-declare 4 units and declare 1 unit on Lot 4 of River Crossing Subdivision. The Department of Revenue has already reviewed this and given their preliminary approval, and I understand that we also need your review and approval. Please let me know if you have any questions.

Necile, can you please let me know what I need to do to get this on the consent agenda?

Thanks so much.

Lori B. Miller
Morrison and Frampton, PLLP
341 Central Ave
Whitefish, MT 59937
(406) 862-9600
(406) 862-9611 (fax)
email: lori@morrisonframpton.com
visit us: www.morrisonframpton.com

Return to:
Morrison and Frampton, PLLP
341 Central Ave.
Whitefish, MT 59937

COPY

AMENDMENT TO THE
DECLARATION OF CONDOMINIUM COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RIVER CROSSING CONDOMINIUMS

THIS Amendment to the Declaration of Condominium Covenants, Conditions, and Restrictions of River Crossing Condominiums is made this 4th day of April, 2014.

W I T N E S S E T H:

WHEREAS, Grant E. Compton and Diane M. Compton (collectively "Compton") own Units 4A, 4B, 4C and 4D, which are located on the real property described on Exhibit A hereto (the "Property"), which is a portion of the River Crossing Condominiums (the "Condominium");

WHEREAS, the Condominium is subject to a Declaration of Condominium Covenants, Conditions and Restrictions of River Crossing Condominiums, dated July 27, 2007 and recorded July 27, 2007 in the records office of the County Recorder for Flathead County Montana under Document No. 200700022707, as amended by the First Amendment to the Declaration of Condominium Covenants, Conditions, and Restrictions of River Crossing Condominiums dated April 27,2011 and recorded April 27, 2011, in the records office of the County Recorder for Flathead County Montana under Document No. 201100008752 and the First Amendment to the Declaration of Condominium Covenants, Conditions, and Restrictions of River Crossing Condominiums dated April 17, 2013 and recorded May 8, 2013 in the records office of the County Recorder for Flathead County Montana under Document No. 201300011202 (collectively the "2007 Declaration");

WHEREAS, Compton wish to amend the 2007 Declaration, as set forth herein;

WHEREAS, the Condominium is also subject to the First Restatement of the Declaration of Covenants, Conditions, and Restrictions for River Crossing Condominiums dated the 7th day of June, 2013 and recorded July 17, 2013 in the records office of the County Recorder for Flathead County Montana under Document No. 201300017475 (the "2013 Declaration");

WHEREAS, the 2013 Declaration authorizes Compton to unilaterally execute this Amendment, Compton are the successors in interest to the Declarant as to the Property and have acquired all of the initial Declarant's rights to declare or undeclare Unit(s) on the Property; and

WHEREAS, each and all of the covenants, conditions and restrictions set forth below are for the benefit of the Condominium and for the benefit of the owners of the Units within the Condominium and shall inure to the benefit of the Condominium and its owners and shall pass with the Condominium, and apply to and bind successors in interest and any owner(s) of the Condominium.

NOW, THEREFOR, Compton hereby amend the 2007 Declaration as follows:

1. Defined Terms. Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the 2007 Declaration.

2. Background. The 2007 Declaration declared on the Property two Buildings with two Units in each Building as follows:

Unit 4A, Building No. 437/439 Assessor No. 0012666
Unit 4B, Building No. 437/439 Assessor No. 0012667
Unit 4C, Building No. 441/443 Assessor No. 0012668
Unit 4D, Building No. 441/442 Assessor No. 0012669

These Buildings were never built. Now, Compton intend to build a two story single family residence on the Property, with a total square feet of 4,360 and limited common areas of 657 square feet. Since Units 4A, 4B, 4C, and 4D were never built they need to be removed, and the single family residence, Unit 4/Building 441 needs to be declared to be the condominium form of ownership pursuant to the Montana Unit Ownership Act.

3. Annexation and De-Annexation. The Property, and Building 441, and Unit 4, as identified on the attached Exhibit B and Exhibit C, are declared part of the River Crossing Condominiums and subject to the Montana Unit Ownership Act. Units 4A, 4B, 4C and 4D as identified on the 2007 Declaration Exhibit A are declared not part of the River Crossing Condominiums and not part of the Montana Unit Ownership Act.

4. Percentages of Interest in Common Elements. The Percentages of Interest in Common Elements is amended as follows:

Building	Unit No.	Percent
429/431	3A	20%
429/431	3B	20%
433/435	3C	20%

433/435	3D	20%
441	4	20%

IN WITNESS WHEREOF, we have hereunto set our hands the day and year first above written.

x Grant E. Compton
Grant E. Compton

x Diane M. Compton
Diane M. Compton

STATE OF Montana)
:ss
County of Flathead)

This instrument was acknowledged before me on this 4th day of April, 2014, by Grant E. Compton and Diane M. Compton.

x Sherri McGaugh

River Crossing Condominiums Owners Association, Inc.

x Grant E. Compton
Grant E. Compton, President

STATE OF Montana)
:ss
County of Flathead)

This instrument was acknowledged before me on this 4th day of April, 2014, by Grant E. Compton as President of the River Crossing Condominiums Owners Association, Inc.

x Sherri McGaugh

Exhibit A

Unit No. 4 of River Crossing Condominiums, a residential condominium, according to the Declaration of Unit Ownership of River Crossing Condominiums, recorded July 27, 2007, as Document #200700022707, records of Flathead County, Montana, and any amendments thereto.

Together with any common elements appurtenant thereto as described in the Declaration of Unit Ownership and any amendments thereto.

Located on the following described tract of land:

Lot 4 of RIVER CROSSING SUBDIVISION, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

bce STRUCTURAL | BEAUDETTE CONSULTING ENGINEERS, INC.

www.bceweb.com

131 WEST MAIN ST.
MISSOULA, MT 59802
TEL: 406.721.7315
FAX: 406.542.8955

450 CORP. DR., #112
KALISPELL, MT 59901
TEL: 406.752.5675
FAX: 406.752.5677

1289 STONERIDGE DR.
SUITE #1A
BOZEMAN, MT 59718
TEL: 406.556.8600
FAX: 406.556.8608

ENGINEER'S STATEMENT

Pursuant to Montana Code Annotated 70–23–306, the undersigned states as follows:

1. I am an engineer, Licensed and registered in the State of Montana.
2. I have reviewed the floor plans recorded in conjunction with this Declaration.
3. The floor plans are an accurate copy of the plans filed with and approved by the City of Whitefish building officials having jurisdiction to issue building permits.

By: _____

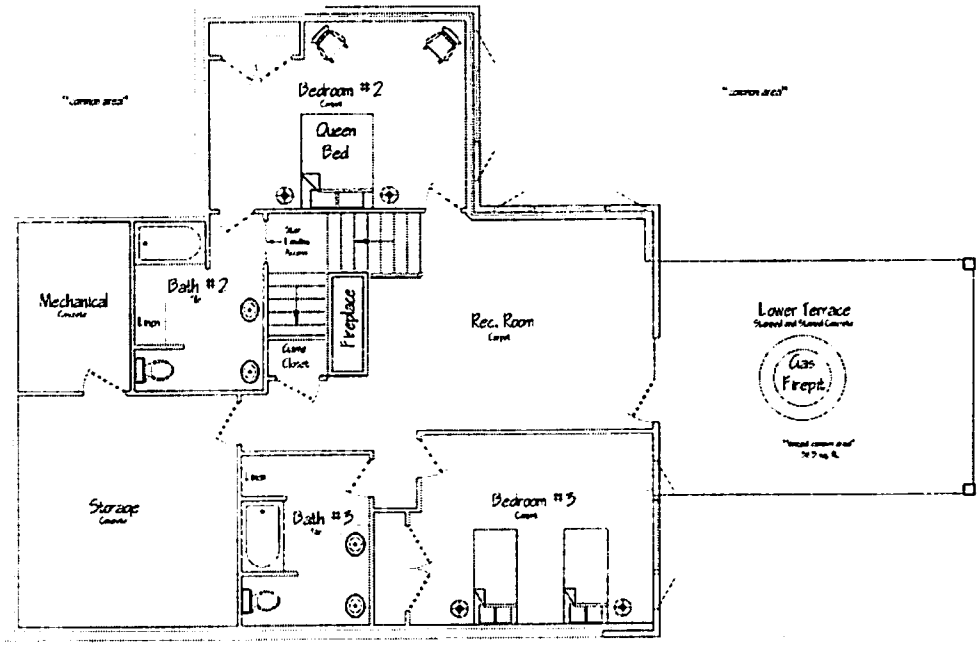
STATE OF MONTANA)
:ss.
County of Flathead

Acknowledged before me this 10 day of March, 2014 by Chris Schlegel of Beaudette Consulting Engineers.

ALYSSA BARDO
NOTARY PUBLIC for the
State of Montana
Residing at Columbia Falls, Montana
My Commission Expires
March 05, 2017

Notary Public for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____ 20__

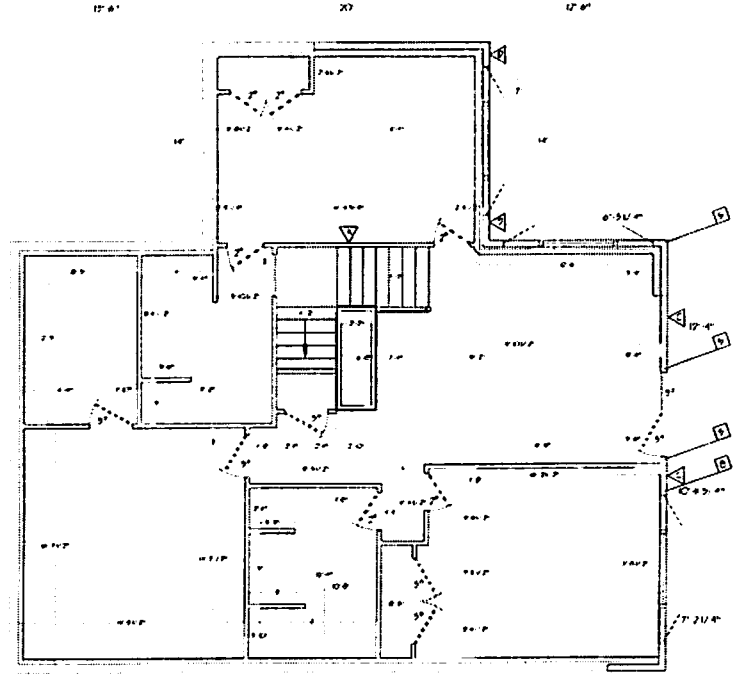
EXHIBIT
B



Lower Level Plan

1/4" = 1'-0"

Lot 4 - River Crossing Subdivision in
SE 1/4 NW 1/4 sec. 36, T.31N., R.22W.
P., M., Flathead County Montana



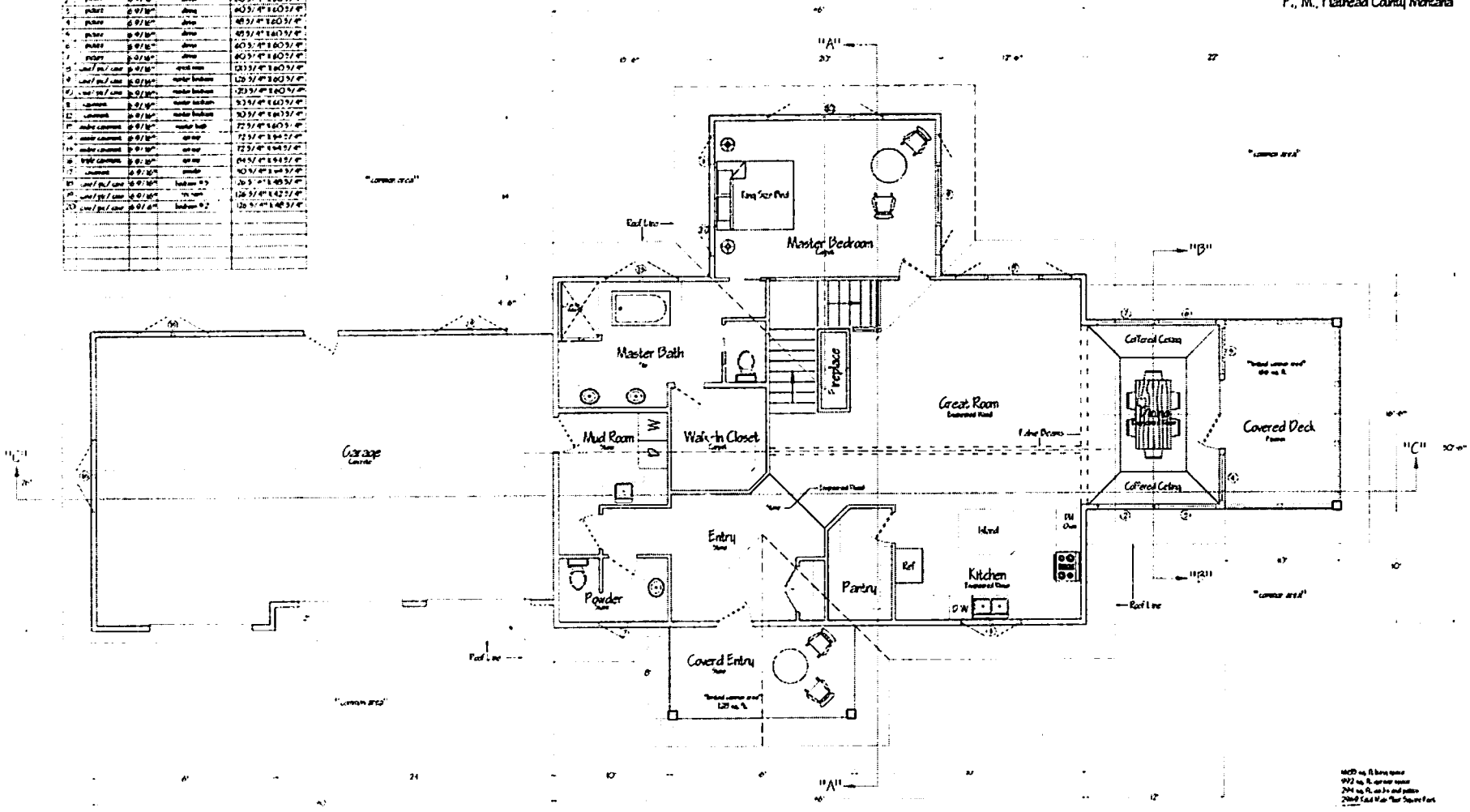
Lower Level Shear Wall Plan

Duty Construction

Compton Residence
Unit 4

Page No.
A-2

Lot 4 - River Crossing Subdivision in
SE 1/4 NW 1/4 sec. 36, T.31N., R.22W.
P., M., Flathead County Montana



Window Schedule

#	Type	Jamb	Location	Rough Opening
1	double casement	6 9/16"	[illegible]	60 5/4" X 94 5/4"
2	picture	6 9/16"	dining	60 5/4" X 60 5/4"
3	picture	6 9/16"	dining	60 5/4" X 60 5/4"
4	picture	6 9/16"	dining	48 5/4" X 60 5/4"
5	picture	6 9/16"	dining	48 5/4" X 60 5/4"
6	picture	6 9/16"	dining	60 5/4" X 60 5/4"
7	picture	6 9/16"	dining	60 5/4" X 60 5/4"
8	cove / pic / cove	6 9/16"	great room	120 5/4" X 60 5/4"
9	cove / pic / cove	6 9/16"	master bedroom	126 5/4" X 60 5/4"
10	cove / pic / cove	6 9/16"	master bedroom	120 5/4" X 60 5/4"
11	casement	6 9/16"	master bedroom	50 5/4" X 60 5/4"
12	casement	6 9/16"	master bedroom	50 5/4" X 60 5/4"
13	double casement	6 9/16"	master bath	72 5/4" X 60 5/4"
14	double casement	6 9/16"	[illegible]	72 5/4" X 94 5/4"
15	double casement	6 9/16"	[illegible]	72 5/4" X 94 5/4"
16	triple casement	6 9/16"	[illegible]	84 5/4" X 94 5/4"
17	casement	6 9/16"	powder	50 5/4" X 94 5/4"
18	cove / pic / cove	6 9/16"	bedroom #3	126 5/4" X 48 5/4"
19	cove / pic / cove	6 9/16"	[illegible]	126 5/4" X 42 5/4"
20	cove / pic / cove	6 9/16"	bedroom #2	126 5/4" X 48 5/4"

Main Floor Plan
1/4" - 1'-0"

Duty Construction

Compton Residence
Unit 4

Page No.
A-1

RIVER CROSSING SUBDIVISION

LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 31 NORTH, RANGE 22 WEST, PRINCIPAL MERIDIAN, MONTANA, FLATHEAD COUNTY, MONTANA

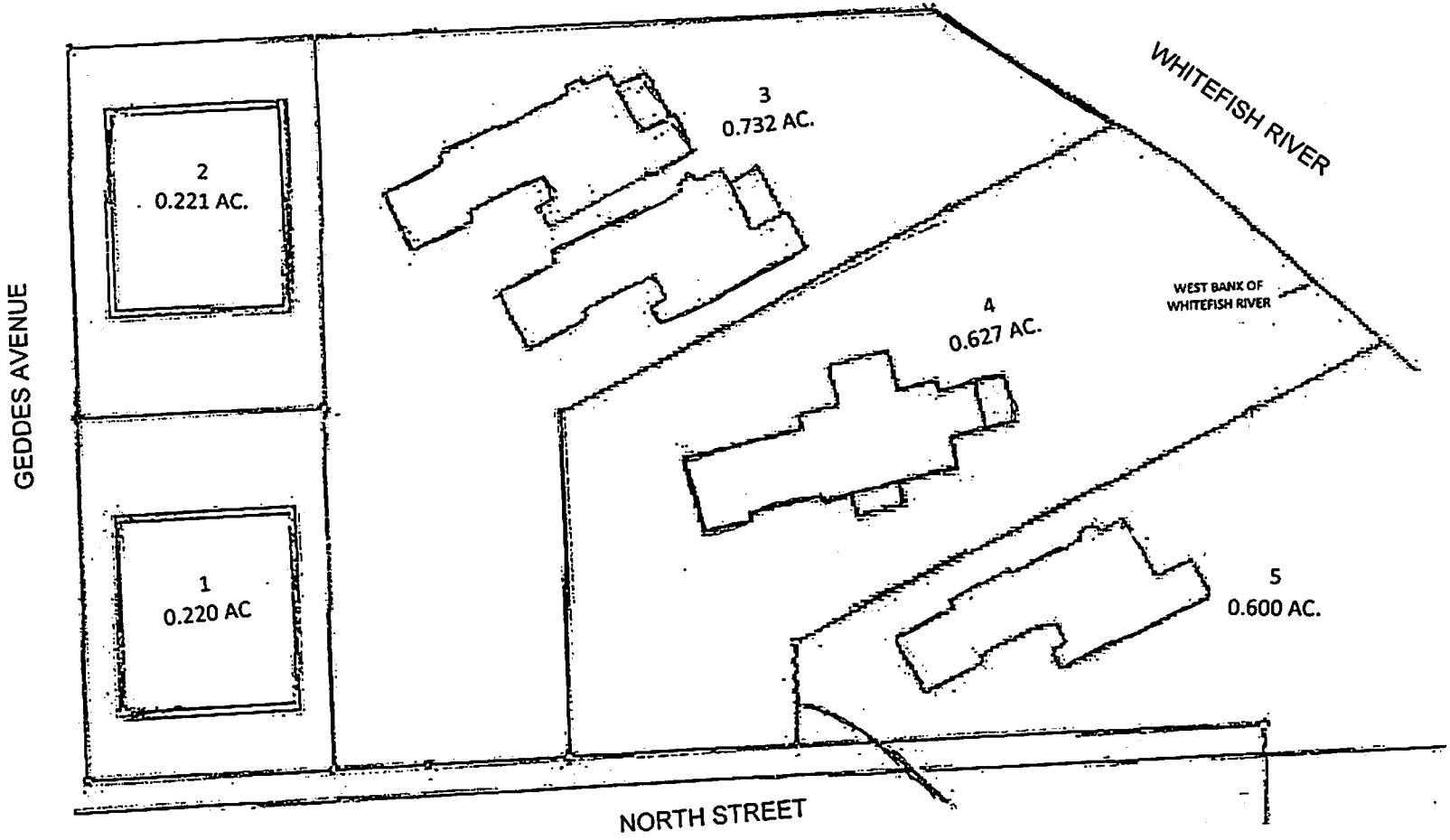


EXHIBIT C

Chuck Stearns

From: Mary VanBuskirk <mvanbuskirk@cityofwhitefish.org>
Sent: Monday, April 14, 2014 1:21 PM
To: whitefishlakelodgehoa@gmail.com
Cc: 'Chuck Stearns'; 'Necile Lorang'; 'Wendy Compton-Ring'
Subject: Whitefish Lake Lodge HOA Declaration Amendment
Attachments: WFLL Declaration and Covenants.pdf; MX-3100N_20140408_164558.pdf

Jane: The proposed Second Amendment to the Declaration of Condominium of Whitefish Lake Lodge Condominiums has been reviewed, looks fine, and will appear on the City Council's April 21st consent agenda for the City's approval. We'll let you know the outcome following the City Council meeting. Mary

---

From: WLL HOA Accounting Office [mailto:whitefishlakelodgehoa@gmail.com]
Sent: Tuesday, April 08, 2014 3:28 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Whitefish Lake Lodge HOA Declaration Amendment

Thanks for your help Wendy...attached you should find the document required for the City Attorney's review. The referenced section of the old document, Article III, MEETINGS AND MEMBERS, Section 3 can be found on pg 33 of this pdf document. Let me know if you need anything further. Jane.

Whitefish Lake Lodge HOA
Jane Mues, Accounting Dept.
PO Box 4969
Whitefish, MT 59937

406-862-1126

SECOND AMENDMENT TO DECLARATION OF CONDOMINIUM OF WHITEFISH LAKE LODGE CONDOMINIUMS UNDER THE MONTANA UNIT OWNERSHIP ACT

This Second Amendment is made to the Declaration of Condominium of Whitefish Lake Lodge Condominiums under the Montana Unit Ownership Act recorded under Reception No. 9127614260 on October 3, 1991, as amended from time to time.

WHEREAS, the Declaration provides in Article X, Amendments and Removal or Partition that it may be amended by the members of the homeowners association in the same manner and procedure as set forth in the Bylaws for amending the Bylaws with the additional consent of the Declarant and the City of Whitefish;

WHEREAS, the Bylaws are attached to the recorded Declaration as an exhibit;

WHEREAS, the Bylaws provide that they may be amended with the affirmative vote of members holding 75% of the voting rights;

WHEREAS, the Bylaws also provide that voting on any issue may be done by mail; and

WHEREAS, the Board of Directors of the Whitefish Lake Lodge Homeowners Association has received a mailed written vote approval from greater than 75% of its members approving an amendment of the Bylaws and authorizing the Board of Directors to amend the Declaration of Whitefish Lake Lodge to reflect an amendment of its attached Bylaws which are the Bylaws of the Association;

THEREFORE, by and through the Board of Directors of the Whitefish Lake Lodge Homeowners Association with approval of the City of Whitefish and Declarant, the following amendments are hereby made to the Declaration of Condominium of Whitefish Lake Condominiums by amending the Bylaws of the Homeowners Association attached to the Declaration as Exhibit "G" as follows:

1. Article III, MEETINGS AND MEMBERS, Section 3 is hereby amended to read as follows to change the annual meeting date:

   There shall be an annual meeting of voting members of the Association on a Saturday in the month of June each year at a time and place designated in written notice thereof mailed to voting members by the Board of Directors at least thirty (30) days prior to the date of said meeting. With said notice shall be mailed, and at the annual meeting the Board of Directors shall present, a written statement to each voting member of the financial condition of the

Association, itemizing receipts and disbursements for the preceding financial year with the allocation thereof to each unit.

2. Article IV, Board of Directors, Section 4 shall be amended to read as follows to change meeting dates:

A regular meeting of the Board of Directors shall be held immediately after the adjournment of each annual meeting of members. The Board of Directors shall designate, by resolution, a regular meeting of the Board of Directors shall also be held annually on any day in the month of October. This Bylaw shall be the only notice required for such regular meeting.

DATED this 15th day of February, 2014.

BOARD OF DIRECTORS OF
WHITEFISH LAKE LODGE

By: _____
Steve Allan

By: _____
Joe Godsey

By: _____
Scott Sickels

By: Trisha Chilcutt
Trisha Chilcutt

By: _____
Marci Olson

STATE OF MONTANA)
:ss
County of Flathead)

On this 15TH day of FEBRUARY, 2014, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared STEVE ALLAN, JOE GODSEY, SCOTT SICKELS, TRISHA CHILCUTT, and MARCI OLSON, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

CHERYL VONLINDERN NOTARY PUBLIC for the State of Montana Residing at Whitefish, MT My Commission Expires November 3, 2015

(SEAL)

Printed Name: CHERYL VONLINDERN
Notary Public for the State of Montana
Residing in Whitefish
My Commission expires: 11/3/15

CITY OF WHITEFISH APPROVAL

Pursuant to the paragraph in the Declaration that "No amendment hereto shall be valid or binding until approved by the City of Whitefish, through its Council", the City of Whitefish hereby gives its approval to the amendments, by execution hereof by its authorized agent.

DATED _____.

CITY OF WHITEFISH

By: _____

DECLARANT APPROVAL

NDI, INC., the assignee and successor in interest of P & D Land Enterprises, a joint venture, the Declarant for the Whitefish Lake Lodge hereby gives its approval to the above amendments.

NDI, INC.

By: _____
President

STATE OF _____)
:ss
County of _____)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared

_____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

_____
Printed Name: _____
Notary Public for the State of _____
Residing in _____
(SEAL) My Commission expires: _____

STATE OF _____)
:ss
County of _____)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared _____, known to me to be the persons whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

_____
Printed Name: _____
Notary Public for the State of _____
Residing in _____
(SEAL) My Commission expires: _____

Whitefish Lake Lodge HOA

P. O. Box 4969

Whitefish, MT 59937

Office Manager: Jane Mues

Board of Directors:

Steve Allan – President

Joe Godsey – Vice President

Scott Sickels – Treasurer

Trisha Chilcutt – Homeowner Liasion

Marci Olson – Rental Pool Liasion

Marci Olson

760-777-1166

marciolson@olson2u.com

Association, itemizing receipts and disbursements for the preceding financial year with the allocation thereof to each unit.

2. Article IV, Board of Directors, Section 4 shall be amended to read as follows to change meeting dates:

A regular meeting of the Board of Directors shall be held immediately after the adjournment of each annual meeting of members. The Board of Directors shall designate, by resolution, a regular meeting of the Board of Directors shall also be held annually on any day in the month of October. This Bylaw shall be the only notice required for such regular meeting.

DATED this 18 day of February, 2014.

BOARD OF DIRECTORS OF
WHITEFISH LAKE LODGE

By: _____
Steve Allan

By: _____
Joe Godsey

By: _____
Scott Sickels

By: _____
Trisha Chilcutt

By: Marci Olson
Marci Olson

STATE OF MONTANA)
:ss
County of Flathead)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared STEVE ALLAN, JOE GODSEY, SCOTT SICKELS, TRISHA CHILCUTT, and MARCI OLSON, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

ACKNOWLEDGMENT

State of California
County of San Diego)

On Feb. 18, 2014 before me, Linda K. Shepner
(insert name and title of the officer)

personally appeared Mara Olson
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

LINDA K. SHEPNER
Commission # 1891184
Notary Public - California
San Diego County
My Comm. Expires May 27, 2014

Signature Linda K. Shepner (Seal)

Association, itemizing receipts and disbursements for the preceding financial year with the allocation thereof to each unit.

2. Article IV, Board of Directors, Section 4 shall be amended to read as follows to change meeting dates:

A regular meeting of the Board of Directors shall be held immediately after the adjournment of each annual meeting of members. The Board of Directors shall designate, by resolution, a regular meeting of the Board of Directors shall also be held annually on any day in the month of October. This Bylaw shall be the only notice required for such regular meeting.

DATED this 19 day of February, 2013.

BOARD OF DIRECTORS OF
WHITEFISH LAKE LODGE

By: _____
[redacted]

By: Joseph C. Godsey
Joe Godsey

By: _____
[redacted]s

By: _____
T[redacted]utt

By: _____
M[redacted]n

STATE OF ~~MONTANA~~ Virginia)
City of Richmond :ss
~~County of Flathead~~)

On this 19th day of February, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared [redacted], JOE GODSEY, [redacted], [redacted] and [redacted], known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

JAMES CHASE PEAK
NOTARY PUBLIC 7576588
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DECEMBER 31, 2017

(SEAL)

Printed Name: James Chase Peak
Notary Public for the State of Virginia
Residing in Richmond
My Commission expires: December 31, 2017

CITY OF WHITEFISH APPROVAL

Pursuant to the paragraph in the Declaration that "No amendment hereto shall be valid or binding until approved by the City of Whitefish, through its Council", the City of Whitefish hereby gives its approval to the amendments, by execution hereof by its authorized agent.

DATED _____.

CITY OF WHITEFISH

By: _____

DECLARANT APPROVAL

NDI, INC., the assignee and successor in interest of P & D Land Enterprises, a joint venture, the Declarant for the Whitefish Lake Lodge hereby gives its approval to the above amendments.

NDI, INC.

By: _____
President

STATE OF _____)
:ss
County of _____)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared

_____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

_____
Printed Name: _____
Notary Public for the State of _____
Residing in _____
(SEAL) My Commission expires: _____

STATE OF _____)
:ss
County of _____)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared _____, known to me to be the persons whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

_____
Printed Name: _____
Notary Public for the State of _____
Residing in _____
(SEAL) My Commission expires: _____

MELINDA & KEVIN JOHNSON
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-14-W13
APRIL 21, 2014

Owner:	Melinda & Kevin Johnson
Mailing Address:	35 Mission Trail Road Woodside, CA 94062
Telephone Number:	650.440.3300
Applicant:	White Cloud Design
Mailing Address:	PO Box 67 Whitefish, MT 59937
Telephone Number:	406.863.2828
Contractor:	May Lawn & Home Care
Mailing Address:	P.O. Box 4296 Whitefish, MT 59937
Telephone Number:	406.261.9515
Property Legal Description:	Tract 3D in Section 5, Township 31N, Range 22W
Property Address:	815 Delrey Road
Lake:	Whitefish Lake
Lake Frontage:	307' per COS 17219
Project Description:	Installation of dry-set stone stairs, Low Voltage Pathway Lighting, placement of 24 cubic yards of gravel, and pruning of mature trees.

Proposal: The applicant is proposing multiple projects within the Lakeshore Protection Zone. The first is the installation of 7 dry-set stone steps. The stone steps will be approximately 4 feet wide, and total approximately 32.9 square feet of constructed area. The stairs will connect the existing gravel beach to the existing trail system. The second activity is the addition of 24 cubic yards of gravel to the existing gravel beach and existing gravel trails. Approximately 17 cubic yards of the proposed gravel will be applied to the existing gravel beach, and the remaining 7 cubic yards will be added to the existing gravel trails to widen the paths to a maximum 4 feet wide. The gravel material will be a minimum ¾ inch and a maximum 1 ½ inch diameter, and will be washed free from fines. The third activity is the installation of five (5) low voltage pathway lights. Although the submitted application states 9 lights will be installed, only 5 of the lights are shown to be within the lakeshore protection zone. The final activity proposed is the pruning of 17 mature trees. The applicant is proposing to only prune trees which are over 25 feet tall or greater, and will only remove branches on the lower 30% of the tree's height. This is consistent with the lakeshore regulation section on preservation of healthy trees.

The dry set stone stairs will be approximately 32.9 square feet of constructed area. There is an existing dock and gangway located on the subject property which was approved under permit WLP-09-W25 for 573 square feet of constructed area. The final constructed area of the proposed project and existing dock will be 605.9 square feet.

Frontage and allowable constructed area: The property has 306 feet of lake frontage and is eligible for 2,448 square feet of constructed area.

Existing Constructed Area: The property currently has a 573 square foot dock which was approved under permit WLP-09-W25 in 2009.

Conclusion: The proposed work complies with Section 13-3-1 General Construction Standards of the Whitefish Lake and Lakeshore Protection Regulations.

Recommendation: The Whitefish Planning Department staff and the Whitefish Lakeshore Protection Committee recommend approval of the requested lakeshore construction permit to the Whitefish City Council subject to the following conditions:

Recommended Conditions of Approval:

1. This permit is valid for a period of one year from the date of issuance. Upon completion of the work, please contact the Planning Department at 406-863-2410 for final inspection.
2. The Lakeshore Protection Zone shall be defined as the lake, lake bed, and all land within 20 horizontal feet of the average high water line at 3,000.79'.
3. The proposed project dimensions specified on the application project drawing shall not be exceeded. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.
4. Temporary storage of vehicles, trailers, equipment, or construction materials in the lakeshore protection zone is prohibited.
5. The natural protective armament of the lakeshore and lakebed must be preserved whenever possible. Following installation, the lakeshore and lakebed shall be returned to its condition prior to construction.
6. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.
7. All work shall be done when the lake is at low pool and the construction site is dry.
8. Any existing or disturbed areas inside the lakeshore zone may be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department. Application of fertilizer is permitted only in minimal amounts to establish new plantings.

Walkway & Stone Steps

9. The stone stairs and walking path shall have a maximum width of four feet (4') and shall be designed to provide access only.
10. The stone stairs shall be located as shown on the application project drawing. The stone/rock used

shall be free of silts, sands or fines.

11. Stairways and walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area.
12. Cultured or natural stone or rock shall be used for the proposed work within the lakeshore protection zone. The stones or rock to be used shall be dry set.
13. Clean, washed gravel may be used in setting the steps and path but cannot be used to modify existing terrain.
14. Rock may be handpicked from the immediate lakeshore but removal of said rock shall only be allowed if a solid armament of rock remains in place. The removal of any rock which exposes silts, sands or fines is prohibited.

Pathway Lights

15. Low voltage pathway lighting, no greater than two feet (2') in height may be permitted. Lighting shall be downcast, shielded and dark skies compliant.

Tree Pruning

16. The removed limbs from the trees shall not be allowed to fall into or come in contact with the lake during removal.
17. All of the debris from pruning shall be immediately removed from the lakeshore protection zone.
18. A tree on which all limbs have been removed over a height of 25 feet and over 40% of trunk height, shall require the planning and maintenance of a future replacement tree in accordance with the lakeshore regulations.

Walkway & Beach Gravel Application

19. Application of gravel shall be permitted one time only to supplement a stable gravel beach. Reapplication of gravel where it washed away, silted in or re-vegetated over time prohibited.
20. Application of gravel is allowed only where the predominant existing surface is gravel.
21. All fill shall be clean, washed gravel of three-fourths inch (¾") to one and one-half (1 ½") diameter, free of silts, sands and fine materials. Gravel type and color shall approximate that existing on the adjacent lakeshore.
22. Maximum fill depth is four inches (4") to six inches (6").
23. The volume of fill shall not exceed one (1) cubic yard per eight (8) linear feet of lake frontage.
24. Placement of gravel directly into the lake is prohibited.
25. Any fill/gravel material over the approved amount shall be completely removed from the lakeshore protection zone.

Report by: Bailey Minnich

WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF April 9, 2014

The meeting was called to order at 6:01pm by Chairman Herb Peschel.

MEMBERS PRESENT:

- Herb Peschel, Ron Hauf, Greg Gunderson (via phone), Jeff Jensen, Sharon Morrison, Joe Malletta (via phone) and Koel Abell. Bailey Minnich and Dave Taylor of the Whitefish Planning Office was also present.

MEMBERS ABSENT: Scott Ringer

ADDITIONS/CORRECTIONS TO TONIGHT'S AGENDA: none

GENERAL PUBLIC COMMENT: none

ADOPTION of MINUTES from LAST MEETING:

- Minutes of March 12, 2014 were reviewed; motion to adopt by Sharon Morrison, seconded by Ron Hauf. All in favor and motion carried.

NEW BUSINESS

WLP-14-W04 – Patrick Moore – Dock
[Present: Cory Izett, Applicant's Representative]

Discussion:
Staff explained this application was tabled at the last meeting due to insufficient information. Staff presented the proposed project a second time and described the additional information submitted by the applicant after last month's meeting. The property is located at 2528 E. Lakeshore Drive. The application is for the installation of a floating 'F' shaped EZ dock. The applicant had submitted a new site plan showing the dock to scale, documentation of the calculations for constructed area, and indicated the previous dock has already been removed and is no longer on the property.

Motions:

- Sharon Morrison motioned to recommend approval of the permit application. Jeff Jensen seconded. No further discussion. Motion was approved unanimously 7-0.

WLP-14-W06 – Chris Clark – Dock and Shore Station
[Present: Dave Stephens, Applicant's Representative]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. The property is located at 940 Birch Point Drive. The application is for the installation of a floating 'L' shaped EZ dock, with 2 Max ports and a shore station with no cover. Staff explained that since the shore station would not have a cover, it does not get calculated into the constructed area allowance. If the applicant wished to install a cover in the future, they would need to apply for

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an amended permit. Also, it was noted that there was mistake on staff's draft permit regarding the proposed ports – EZ port should instead be Max port. Following staff's presentation, the board discussed the submitted application and differences between published dock calculations and actual EZ dock calculations.

Motions:

- Sharon Morrison motioned to recommend approval of the permit application. Ron Hauf seconded. No further discussion. Motion was approved unanimously 7-0.

WLP-14-W07 – Rory Sailer – Shore Station
[Present: Dave Stephens, Applicant's Representative]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. The property is located at 1356 W. Lakeshore Drive. The application is for the installation of a shore station with no cover. Staff explained that since the shore station would not have a cover, it does not get calculated into the constructed area allowance. If the applicant wished to install a cover in the future, they would need to apply for an amended permit. Following staff's presentation, it was mentioned that the applicant appears to have a mooring buoy associated with the subject property. There may be potential issues with the buoy being a lakeshore violation, or it could be non-conforming – installed prior to the lakeshore regulations. The applicant's representative said he would contact the applicant about the buoy's history. The Board discussed adding a condition regarding the buoy but ultimately directed staff to contact the applicant instead.

Motions:

- Sharon Morrison motioned to recommend approval of the permit application with a direction to staff to contact the applicant regarding the possible grandfathering of the buoy. Koel Abell seconded. No further discussion. Motion was approved unanimously 7-0.

WLP-14-W08 – Kalpakis – Dock, EZ ports, Shore Station
[Present: Cory Izett, Applicant's Representative]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. The property is located at 2404 Carver Bay Road. The application is for the installation of a floating 'F' shaped EZ dock with 2 ports and a shore station with a cover. Also, it was noted that there was mistake on staff's draft permit regarding the proposed ports – EZ port should instead be Max port. The applicant mentioned the dock would be slightly off-center from the middle of the subject property but would still comply with the setbacks established for docks in the lakeshore regulations. Following staff's presentation, the board discussed why the applicant is requesting to max out the dock length. The applicant stated they have the constructed area allowance and they are within the regulations so they would prefer to have the most they could apply for.

Motions:

- Ron Hauf motioned to recommend approval of the permit application. Jeff Jensen seconded. No further discussion. Motion was approved unanimously 7-0.

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WLP-14-W09 – Ched Lyman – Dock and Shore Station
[Present: Cory Izett, Applicant's Representative]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. The property is located off Carver Bay Road but does not have a physical address at this time. It located directly next door to the previously discussed permit for Kalpakis. The application is for the installation of a floating 'E' shaped EZ dock and a shore station with no cover. Staff explained that since the shore station would not have a cover, it does not get calculated into the constructed area allowance. If the applicant wished to install a cover in the future, they would need to apply for an amended permit. However, the proposed dock will max out the allowable constructed area for the subject property so the applicant would not be permitted to apply for a cover. Following staff's presentation, the board discussed the actual owner applying for permit. It appears that the Flathead County GIS information is incorrect, and MGK Trust should be removed from the draft permit.

Motions:

- Ron Hauf motioned to recommend approval of the permit application. Sharon Morrison seconded. No further discussion. Motion was approved unanimously 7-0.

WLP-14-W13 – Melinda and Kevin Johnson – Gravel, Stone Stairs, Pathway Lighting, Pruning
[Present: Johnny McDonald - White Cloud Design, Applicant's Representative]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. The property is located at 815 Delrey Road. The application is for the installation of dry-set stones stairs, low voltage pathway lights, addition of 24 cubic yards of gravel, and the pruning of mature trees. Staff explained at 17 cubic yards of the gravel would be installed on the existing gravel beach and the remaining 7 cubic yards would be placed on the existing gravel trails to widen the trails to a maximum width of 4 feet. Additionally 9 pathway lights were included in the application, although only 5 of the lights are proposed within the lakeshore protection zone. Following staff's presentation, the board discussed how the gravel would be applied to the shoreline. The applicant indicated it would all be placed by hand, no machinery would be utilized for the work. Also discussed was the clearing of brush in the lakeshore protection zone. Staff explained that vegetation less than 3 inches in diameter does not need a permit to remove.

Motions:

- Jeff Jensen motioned to recommend approval of the permit application. Ron Hauf seconded. Sharon Morrison questioned the removal of the dead tree, but staff explained the dead tree was located outside of the protection zone. Motion was approved unanimously 7-0.

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WLV-14-W10 – Lodge at Whitefish Lake – Major Variance for Marina Expansion – additional boat slips, gangway extension, and constructed area below high water line coverage allowance

[Present: Sean Averill – Applicant, Nikki Bond – Applicant's Representative]

Discussion:

Staff began with a presentation of the proposed project and draft variance report. The property is located at 1380 Wisconsin Avenue. The applicant is requesting a variance to 18 additional boat slips, extend the existing marina an additional 19.46 feet, and increase the amount of constructed area below the high water line to 12,381 square feet. The proposed variance would be to three sections of the regulations: §13-3-1(L)(7)(g) regarding the number of slips permitted for a public marina based on lakeshore frontage, §13-3-1(L)(7)(b) regarding the maximum length of the dock extending over the water, and §13-3-1(L)(7)(f) regarding the amount of constructed surface permitted below the mean annual high water line for a public marina. Staff explained the criteria for review of a variance request highlighting the history between the Lodge and the City of Whitefish, the relevant lakeshore construction permits which have been approved and denied since the original 1990 approval, potential alternatives the applicant has available, the overall determination of public benefit, and potential conditions which could be added to the permit if the committee chooses to approve the request. Staff's determination was that the variance request did not meet the criteria for approval, and recommends approval of the 9 slips based on lakeshore frontage but denial of the additional variance request. The applicant and their representative spoke following staff and submitted additional information regarding the depth of water at the slip locations. A copy of the report was presented to staff at the meeting. The applicant's representative discussed that based on the historical data, 49 of the current slips have less than 4 feet of water depth, and with the additional 9 slips that would bump the number up to 60% of the total slips having less than 4 feet of water depth. The applicant would be willing to do more depth assessments this summer if that remains a concern. The applicant also had a concern regarding staff's finding about the reasonable cost for the average citizen, and that the financial aspect is typically not a consideration for a variance request. The number of citizens interested in the lottery slips have always been higher than the number of slips available, so the applicant claims there is a need for the additional slips. They are requesting all 18 of the proposed slips will be for public use in the lottery category or the day use category. Board discussion followed with concerns regarding the use of the proposed slips for a public benefit. Again the applicant stated all the slips would be for the public use; the number of long-term lease slips would not be modified. Also discussed was the environmental impact of the additional slips and the extension. Ron Hauf mentioned that he had spoken to Mike Koopal with the Whitefish Lake Institute. (Staff followed up with Mike on 4/10 following the committee meeting.) Mike's comment was that if the Committee approved the 9 new slips then he recommended the dock extension also be approved in order to push the majority of the slips further into the lake and minimize the amount of prop wash. However, Mike's comment is based on the scientific data which they acquired during the 2007 study of the City Beach area and the number of boats going in and out of the Lake. Herb Peschel asked about approving the 9 boat slips and the extension only. Staff explained that the applicant would still require a variance to the constructed area allowance below high water in order to construct the new extension, but it could be a smaller variance request. Jeff Jensen commented that he would like to approve all 18 of the proposed slips for the public's benefit and he would recommend approval of the entire variance request. Greg Gunderson commented that he agrees with Ron's comments regarding

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the environmental impacts of the proposed request and that he feels the public benefit outweighs the environmental impacts. Sharon Morrison questioned attaching conditions to the variance and asked about certifications that the boats are clean (no invasive species attached). Some discussion of possible ways to comply with a request of that nature including involving Fish, Wildlife and Parks. Also discussion occurred on the creation of a no wake zone 200 feet past the end of the dock. Koel Abell asked staff about the previous after-the-fact permits for the dock, the previous denial of a dock extension in 2004, and the float house constructed area calculations. He also stated that he did not agree with the dock extension as there are a number of large rocks and sandbars in the bay area. Joe Malletta indicated that he was against any recommendation other than staff's findings and report.

Motion:

- Joe Malletta motioned to recommend approval of staff's report and findings. Motion failed due to lack of second.
- Greg Gunderson motioned to recommend approval of the full variance request – all 18 boat slips, the extension in to the lake, and the constructed area allowance below the high water line. Jeff Jensen seconded. Further discussion occurred on the addition of conditions regarding no wake zones past the end of the dock. Motion was approved with a 4-3 vote (Joe Malletta, Koel Abell, and Herb Peschel opposed).
- Sharon Morrison made a friendly amendment to the original motion to add two conditions to the variance request: 1) Per the lakeshore regulations, the applicant shall install a no wake zone 100 feet into Whitefish Lake from the end of the dock; 2) The applicant shall contact Fish, Wildlife, and Parks and the Department of Natural Resources and Conservation to apply for an additional 100 feet no wake zone, for a total no wake zone of 200 feet from the end of the marina dock. Motion was approved with 5-1 vote (Koel Abell opposed, Joe Malletta absent from last vote).

OLD BUSINESS

Staff explained that there were two emergency water line repair permits issued since the last committee meeting. Those are administrative permits with no committee meeting. Also, staff has an application for tree removal on Blanchard Lake which is on hold since the applicant has not provided a site plan of the trees and sizes to be removed.

Jeff Jensen mentioned that he would not be present at the next Committee meeting.

ADJOURNMENT

Motion to adjourn the meeting was made and seconded. All approved and motion passed. The meeting was adjourned at 8:10 pm.

NEXT MEETING

May 14th, 2014 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

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MELINDA & KEVIN JOHNSON
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-14-W13
APRIL 2, 2014

Owner:	Melinda & Kevin Johnson
Mailing Address:	35 Mission Trail Road Woodside, CA 94062
Telephone Number:	650.440.3300
Applicant:	White Cloud Design
Mailing Address:	PO Box 67 Whitefish, MT 59937
Telephone Number:	406.863.2828
Contractor:	May Lawn & Home Care
Mailing Address:	P.O. Box 4296 Whitefish, MT 59937
Telephone Number:	406.261.9515
Property Legal Description:	Tract 3D in Section 5, Township 31N, Range 22W
Property Address:	815 Delrey Road
Lake:	Whitefish Lake
Lake Frontage:	307' per COS 17219
Project Description:	Installation of dry-set stone stairs, Low Voltage Pathway Lighting, placement of 24 cubic yards of gravel, and pruning of mature trees.

Proposal: The applicant is proposing multiple projects within the Lakeshore Protection Zone. The first is the installation of 7 dry-set stone steps. The stone steps will be approximately 4 feet wide, and total approximately 32.9 square feet of constructed area. The stairs will connect the existing gravel beach to the existing trail system. The second activity is the addition of 24 cubic yards of gravel to the existing gravel beach and existing gravel trails. Approximately 17 cubic yards of the proposed gravel will be applied to the existing gravel beach, and the remaining 7 cubic yards will be added to the existing gravel trails to widen the paths to a maximum 4 feet wide. The gravel material will be a minimum ¾ inch and a maximum 1 ½ inch diameter, and will be washed free from fines. The third activity is the installation of five (5) low voltage pathway lights. Although the submitted application states 9 lights will be installed, only 5 of the lights are shown to be within the lakeshore protection zone. The final activity proposed is the pruning of 17 mature trees. The applicant is proposing to only prune trees which are over 25 feet tall or greater, and will only remove branches on the lower 30% of the tree's height. This is consistent with the lakeshore regulation section on preservation of healthy trees.

The dry set stone stairs will be approximately 32.9 square feet of constructed area. There is an existing dock and gangway located on the subject property which was approved under permit WLP-09-W25 for 573 square feet of constructed area. The final constructed area of the proposed project and existing dock will be 605.9 square feet.

Frontage and allowable constructed area: The property has 306 feet of lake frontage and is eligible for 2,448 square feet of constructed area.

Existing Constructed Area: The property currently has a 573 square foot dock which was approved under permit WLP-09-W25 in 2009.

Conclusion: The proposed work complies with Section 13-3-1 General Construction Standards of the Whitefish Lake and Lakeshore Protection Regulations.

Recommendation: The Whitefish Planning Department staff recommends the Whitefish Lakeshore Protection Committee recommend approval of the requested lakeshore construction permit to the Whitefish City Council subject to the following conditions:

Recommended Conditions of Approval:

1. This permit is valid for a period of one year from the date of issuance. Upon completion of the work, please contact the Planning Department at 406-863-2410 for final inspection.
2. The Lakeshore Protection Zone shall be defined as the lake, lake bed, and all land within 20 horizontal feet of the average high water line at 3,000.79'.
3. The proposed project dimensions specified on the application project drawing shall not be exceeded. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.
4. Temporary storage of vehicles, trailers, equipment, or construction materials in the lakeshore protection zone is prohibited.
5. The natural protective armament of the lakeshore and lakebed must be preserved whenever possible. Following installation, the lakeshore and lakebed shall be returned to its condition prior to construction.
6. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.
7. All work shall be done when the lake is at low pool and the construction site is dry.
8. Any existing or disturbed areas inside the lakeshore zone may be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department. Application of fertilizer is permitted only in minimal amounts to establish new plantings.

Walkway & Stone Steps

9. The stone stairs and walking path shall have a maximum width of four feet (4') and shall be designed to provide access only.
10. The stone stairs shall be located as shown on the application project drawing. The stone/rock used

shall be free of silts, sands or fines.

11. Stairways and walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area.
12. Cultured or natural stone or rock shall be used for the proposed work within the lakeshore protection zone. The stones or rock to be used shall be dry set.
13. Clean, washed gravel may be used in setting the steps and path but cannot be used to modify existing terrain.
14. Rock may be handpicked from the immediate lakeshore but removal of said rock shall only be allowed if a solid armament of rock remains in place. The removal of any rock which exposes silts, sands or fines is prohibited.

Pathway Lights

15. Low voltage pathway lighting, no greater than two feet (2') in height may be permitted. Lighting shall be downcast, shielded and dark skies compliant.

Tree Pruning

16. The removed limbs from the trees shall not be allowed to fall into or come in contact with the lake during removal.
17. All of the debris from pruning shall be immediately removed from the lakeshore protection zone.
18. A tree on which all limbs have been removed over a height of 25 feet and over 40% of trunk height, shall require the planning and maintenance of a future replacement tree in accordance with the lakeshore regulations.

Walkway & Beach Gravel Application

19. Application of gravel shall be permitted one time only to supplement a stable gravel beach. Reapplication of gravel where it washed away, silted in or re-vegetated over time prohibited.
20. Application of gravel is allowed only where the predominant existing surface is gravel.
21. All fill shall be clean, washed gravel of three-fourths inch (¾") to one and one-half (1 ½") diameter, free of silts, sands and fine materials. Gravel type and color shall approximate that existing on the adjacent lakeshore.
22. Maximum fill depth is four inches (4") to six inches (6").
23. The volume of fill shall not exceed one (1) cubic yard per eight (8) linear feet of lake frontage.
24. Placement of gravel directly into the lake is prohibited.
25. Any fill/gravel material over the approved amount shall be completely removed from the lakeshore protection zone.

Report by: Bailey Minnich

WHITEFISH, BLANCHARD & LOST COON LAKE
Lakeshore Construction Permit Application

A permit is required for any work, construction, demolition, dock/shore station/buoy installation, and landscaping or shoreline modification in the lake and lakeshore protection zone - an area extending 20 horizontal feet landward from mean high water of 3,000.79' msl (NAVD 1988) for Whitefish Lake, 3,144.80' msl (NAVAD 1988) for Blanchard Lake and 3,104' msl (NAVD 1988) for Lost Coon Lake. Please fill in all information, sign and pay the appropriate fees. In order to be on the next Lakeshore Protection Committee Meeting agenda the completed application must be submitted a minimum of **3 weeks** prior to the next regularly scheduled meeting and all required information must be provided in order to be deemed complete and scheduled for the next meeting date. The Committee meets on the second Wednesday of every month. An incomplete application will not be accepted.

Submit Application To:

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

OWNER

Name MELINDA + KEVIN JOHNSON Phone 650-440-3300
Mail Address 35 MISSION TRAIL ROAD
City, State, Zip WOODSIDE, CA. 94062
Project address (if other than above)

APPLICANT (If Other Than Owner)

Name WHITE WOOD DESIGN Phone 863-2828
Mail Address BOX 67
City, State, Zip WHITEFISH, MT. 59937

Email address (staff reports are sent via email): WHITEWOODDESIGN@YAHOO.COM

How many feet of the lake frontage do you own? 306.89'

Legal Description (available from annual property tax notice)
Lot/Tract#: 19 Section: 14 Township 31N Range: 22W
Subdivision Name: TRACT 3D

CONTRACTOR: MAY LAWN & HOME CARE
Mail Address: BOX 4296 WHITEFISH, MT. 59937
PHONE#: 406-261-9515

FEES:

Administrative Permit (no committee meeting) (waterlines, dead trees, buoys, burning, etc)	$75
Administrative Permit (w/ committee meeting) (docks under 60', shore stations)	$255
✓ **Standard Permit** (construction, rip rap, stairs, dredging, filling, excavation, clearing, machinery operations)	$350 base fee (1 activity) $140 each additional activity *(Activity is defined as a separate component or project that by itself would require a permit)*
Variance – Minor	$490/variance – added to standard permit fee Supplemental Application Required
Variance – Major	$1,400/variance – added to standard permit fee Supplemental Application Required
"After-the-Fact" Permit	4 times the normal fee

03-25-14 A10:51 IN

1. Nature of the Proposed Work (describe what you propose to build, demolish, or install. Give dimensions, material and list heavy equipment, if any to be used).

• SEE ATTACHED.

2. Describe any Environmental Impacts (e.g. impacts on water quality or fish and wildlife habitat, increased sedimentation, etc.). Explain what measures will be taken to alleviate these impacts.

• NONE

3. Describe existing improvements on the property within the lakeshore protection zone along with the square footage of each such as an existing dock, stairs, deck or patio and when they were constructed, if known, or the permit number.

DOCK

3. If a variance is requested in addition to this permit, specify the reasons or conditions which require or warrant the variance on a separate variance form. An additional fee is required for a variance request. What is the variance proposal?

NONE

4. The following Project Information must be included.

Is VICINITY MAP attached? ✓
Is a "to scale" SITE PLAN attached? ✓
Is a "to scale" PROJECT DRAWING attached? ✓
Are at least 3 PHOTOS of work site attached? ✓

1 photo of property from lake, 2 photos showing lakeshore protection zone from property boundary towards other property boundary, i.e., from north property line across to south property line, and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boat house, stairs, etc)

I hereby state that the statements contained herein and the materials attached hereto are a true and complete statement of all proposed work and its effects (or probable effects) on the lake and lakeshore and that I have answered all questions in the application. The signing of this application signifies approval for City Planning staff to be present on the property for routine monitoring and inspection during the approval and development process.

Owners Signature (May be signed by applicant but authorization letter from owner must be attached.) Date: 3/24/14

Print Name: Kevin P. B. Johnson

All work will be inspected for conformity with permit. The permit is valid for one year from date of approval. The permit can be renewed by the governing body upon request.

WhiteCloudDesign
LANDSCAPE DESIGN

JOHNNY MCDONALD
P.O. BOX 67
150 RAILWAY ST. WHITEFISH, MT
WWW.WHITECLOUDDESIGN.COM
JOHNNY@WHITECLOUDDESIGN.COM
OFFICE: 406.863.2828 CELL: 406.261.2827

Support Document for Johnson Residence Lakeshore Application

3-25-14

1. Nature of the Proposed Work (describe what you propose to build, demolish or install. Give dimensions, materials and list heavy equipment, if any to be used.

- Install 7 dry set Chief Cliff Stone Steps from existing beach to existing trail. Steps to be 4' wide. (32.9 s.f. of coverage).

- Retain Staircase sides with Native Lake Stone as shown on plan. All work to be done by hand. See Project Drawing for detail.

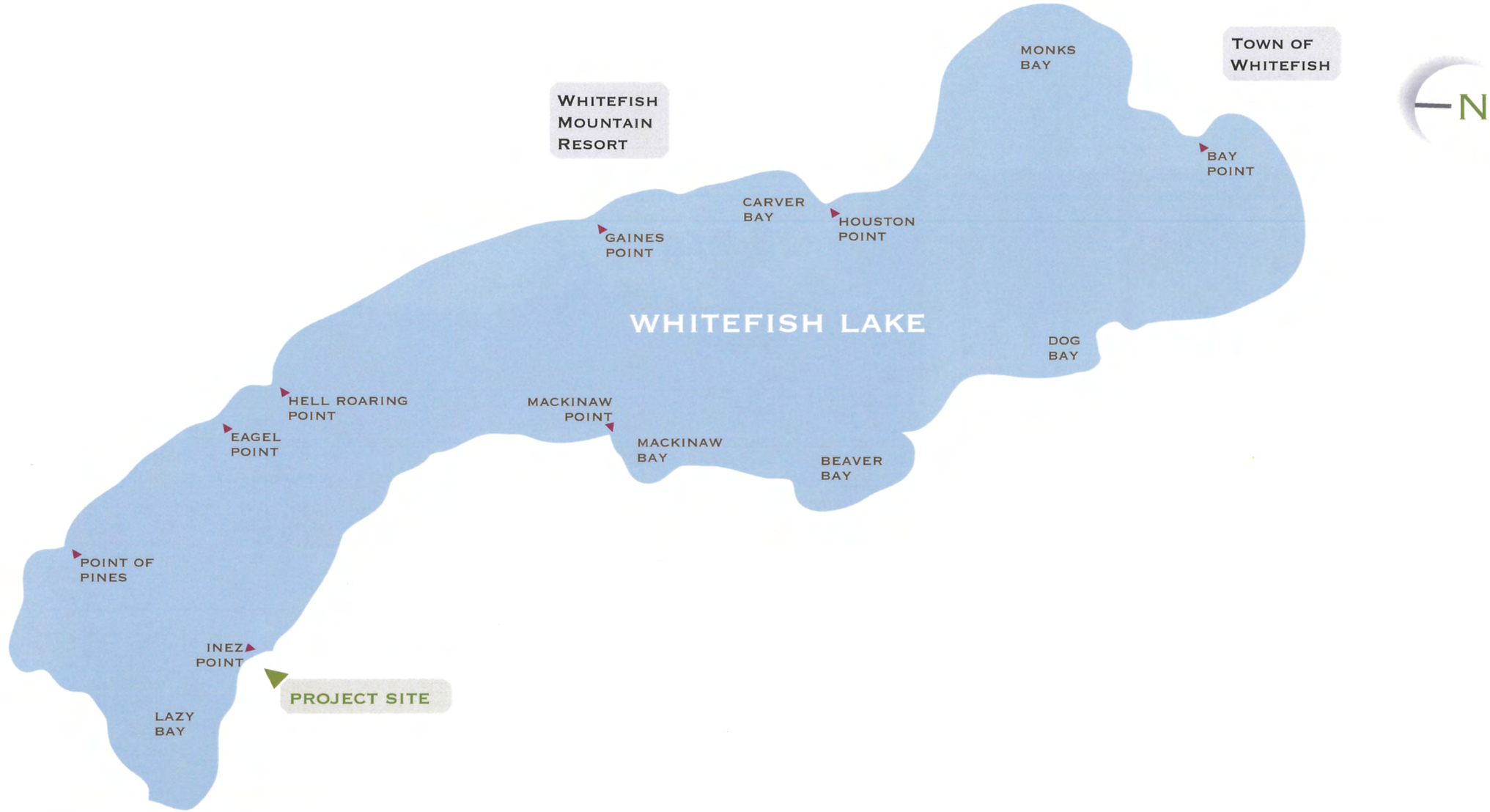
•Apply 17 C.Y. of 3/4-1 1/2" gravel to existing beach, where beach is currently dominantly gravel.

•Widen the existing trails to a maximum of 4' and add 7 C.Y. of 3/4" to 1 1/2" gravel (86 S.F.).

•Install 9 Low Voltage Pathway lights. All wire to be #12 direct burial wire.

- Prune up 17 Existing Mature Evergreen Trees

- Clean up and remove deadfall in LPZ - to include trees blown down in wind storm



ELEVATED White Cloud LANDSCAPE DESIGN

LAKESHORE PERMITTING

MARCH 25, 2014

JOHNSON RESIDENCE

815 DEL REY ROAD | S5, T31 N, R22 W, TRACK 3D LOT 11

WHITEFISH, MONTANA

Index of Sheets

1 Site Plan

2 Lakeshore Section

3 Existing Site Photos

4 Tree Pruning

LAKESHORE | LOOKING NORTH FROM BEACH

JOHNNY MCDONALD
P.O.Box 67 | 150 RAILWAY ST
WHITEFISH, MT 59937
OFFICE: 406.863.2828
CELL: 406.863.2827

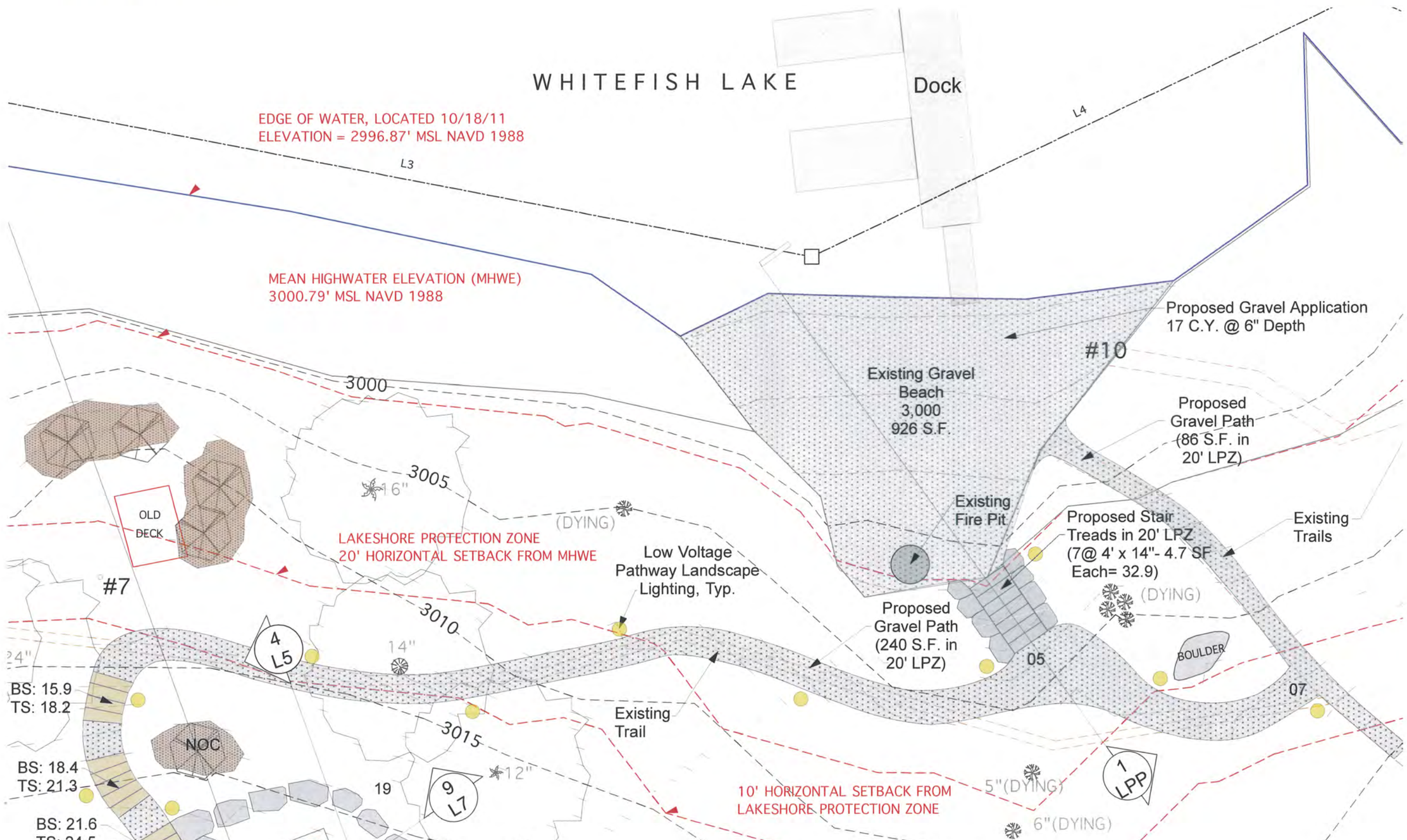
JOHNSON RESIDENCE
WHITEFISH, MONTANA
2014

N

INDEX OF SHEETS

Lakeshore Protection | Site Plan

Scale: 1"=10'



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Johnson Residence
Whitefish, Montana
2014

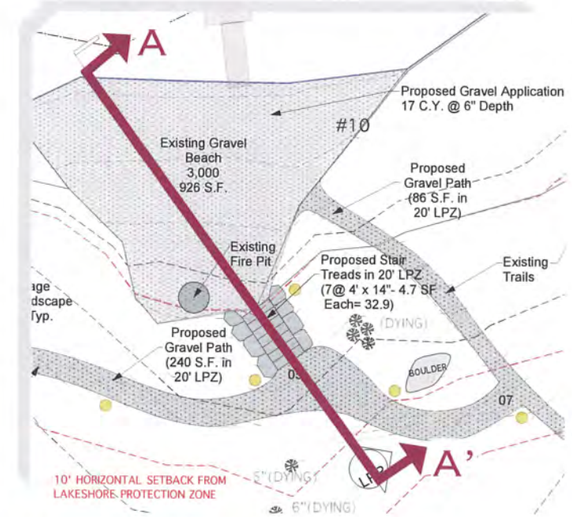
Johnny McDonald
P.O.Box 67 | 150 Railway St
Whitefish, MT 59937
Office: 406.863.2828
Cell: 406.863.2827

Whitefish Cloud Landscape Design

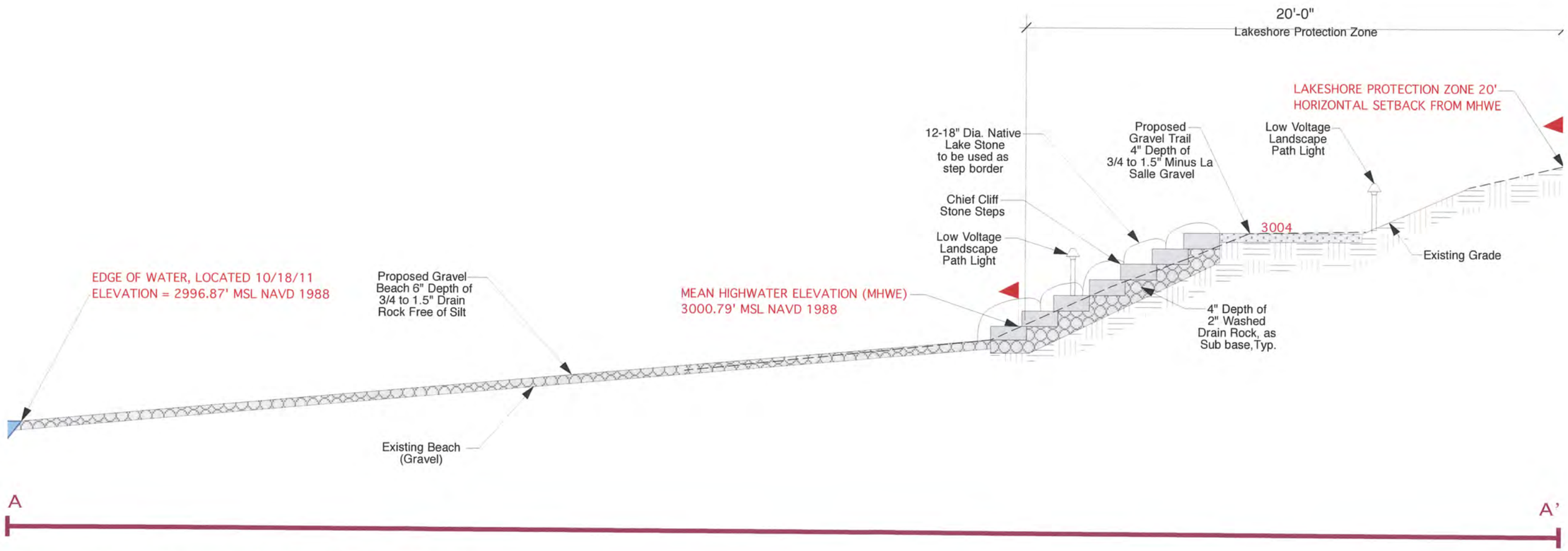
SITE PLAN

1

Lakeshore Protection | Section



SECTION CUT A TO A'



LAKESHORE SECTION | NORTH TO SOUTH

SCALE: 1/4" = 1'

N

JOHNSON RESIDENCE
WHITEFISH, MONTANA
2014

JOHNNY MCDONALD
P.O.BOX 67 | 150 RAILWAY ST
WHITEFISH, MT 59937
OFFICE: 406.863.2828
CELL: 406.863.2827

White Cloud
LANDSCAPE DESIGN
ELEVATED

SECTION

2

Lakeshore Protection | Existing Site Photos

LAKESHORE | LOOKING NORTH FROM BEACH

LAKESHORE | LOOKING NORTHWEST FROM BANK

PROPOSED STEPS LOCATION | LOOKING NORTH-EAST FROM BANK

LAKESHORE PANORAMA | LOOKING SOUTH FROM DOCK (PHOTO DISTORTION PRESENT)

N

Johnson Residence
Whitefish, Montana
2014

Johnny McDonald
P.O.Box 67 | 150 Railway St
Whitefish, MT 59937
Office: 406.863.2828
Cell: 406.863.2827

Whitecloud Landscape Design
Elevated

Existing Site Photos

Proposed Tree Pruning

Overview

To increase views of the lake from the home, minimal tree pruning is proposed. Pruning will follow Lakeshore Protection Regulations and branches will only be removed on the lower thirty percent of the trees' height. Pruning will also only occur on trees with a height of twenty-five feet or greater. Two areas have been designated for tree pruning:

THE HOUSE FOOTPRINT VIEW

- 8 trees flagged

THE POINT

- 9 trees flagged

NOTE | Photographs unable to designate all marked trees. Full analysis of proposal will need to be performed on site.

HOUSE FOOTPRINT VIEW | LOOKING NORTH

THE POINT | LOOKING NORTH

N

JOHNSON RESIDENCE
WHITEFISH, MONTANA
2014

JOHNNY MCDONALD
P.O.BOX 67 | 150 RAILWAY ST
WHITEFISH, MT 59937
OFFICE: 406.863.2828
CELL: 406.863.2827

White Cloud
LANDSCAPE DESIGN
ELEVATED

TREE PRUNING

4

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LARIX llc
SIGN VARIANCE REQUEST
STAFF REPORT #WZV-14-01
April 21, 2014

This is a report to the Whitefish City Council for a variance from the sign regulation requirements of the Whitefish Zoning Regulations. This request is scheduled for a public hearing before the Whitefish City Council on Monday, April 21, 2014 at 7:10 p.m.

A. NATURE OF REQUEST:

Larix llc, on behalf of the Center for Native Plants, is requesting a variance to install a freestanding sign along the frontage of their property at 5805 Highway 93 S. The copy area is proposed to be 46 square feet per side of the sign. The total sign is 129 square feet per side and 10-feet tall from finished grade (8-feet from the centerline of the adjacent right-of-way[1]). The sign will be setback 5-feet from the property line, which, because of the wide right-of-way, is 75-feet from the edge of highway pavement.

The variance request is to:

- Size (height and area) of the Sign
- Architectural Embellishments[2]

Sign Measurement and Allowable Signage:
The subject site is located within the Residential Sign District. The total allowable signage and proposed signage for 5805 Highway 93 S is as follows:

	Sign Code Requirements	Request
Wall signs	• One sign maximum • Total 2 square feet	No Change

[1] Freestanding sign height is measured from the centerline of the adjacent right of-way.

[2] The sign ordinance also allows up to 50% of the sign area for architectural embellishments and 25% of the height for architectural embellishments.

	Sign Code Requirements	Request
Freestanding signs	• 1 sign maximum • Total 10 square feet (copy area) • 4 feet tall • Architectural Embellishments: height – an additional 1-foot sign area – an additional 5 square feet (not copy area)	• 1 sign • 46 square feet of copy per side = 92 square feet total • 129 square feet for the sign per side = 258 square feet (280% of sign copy area) • 10-feet from final grade; 8-feet from adjacent r.o.w.

A copy of the applicant's response to the variance criteria is attached.

B. OWNER:

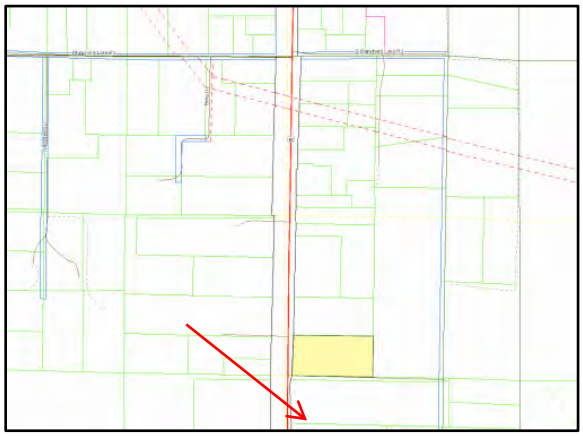
Larix llc
Greg Gunderson, David Noftsinger, Andrew Beltz
PO Box 1043
Whitefish, MT 59937

APPLICANT:

Center for Native Plants
PO Box 1043
Whitefish, MT 59937

C. LOCATION OF PROPERTY:

The property is located at 5605 Highway 93 S and can be legally described as Tract 3A, Section 13 Township 30 North Range 22 West, P.M.M., Flathead County.



D. ZONING AND SIGN DISTRICT:

The property is within the Whitefish Planning Jurisdiction, zoned Flathead County SAG-5 (Suburban Agriculture District) and is located within the Residential Sign District.

E. PUBLIC NOTICE:

Staff placed a legal in the paper on April 2, 2014 and mailed an adjacent land owner notice for parcels within 150-feet on March 27, 2014. As of the writing of this report, no comments were received.

F. EVALUATION OF THE REQUEST:

The criteria set forth in Section 11-7-7 of the City of Whitefish Zoning Jurisdiction Regulations for the review of variances provides no variance shall be granted unless the City Council finds all the following conditions are met or the conditions are found to be not pertinent to the particular case:

1. Strict compliance with the terms of these regulations will:

a. Limit the reasonable use of the property

The proposed use of the property, a retail nursery, is permitted in the County SAG-5 zoning. The applicant has reasonable use of the property whether or not the variance is granted. Limiting the size of a sign to advertise the use on the property is not limiting the reasonable use of the property. This criterion does not apply.

b. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

As pointed out in the application, most of the signs along this corridor exceed the Residential Sign District standards. Signs were either installed before the City applied the Residential Sign District to the planning jurisdiction in 2005 and meet the County requirements or were installed afterward with a valid sign permit or were installed without a sign permit and are in violation of the City's sign ordinance.

The Residential Sign District was applied to all areas outside the city limits when the City first obtained the planning jurisdiction. It was anticipated this district would remain in place until such time as the City was able to either create a sign specific district or evaluate applying one of the existing sign districts once a Whitefish specific zoning district was applied. An example of this was for the area at Highway 40 and Dillon/Conn Roads, where the City created the WBSD zoning and also created a complimentary sign district. However, no other areas within the Planning Jurisdiction were rezoned nor were any sign districts evaluated to be applied to these areas.

This property owner is not able to enjoy the same signage as neighboring businesses.

2. The hardship is the result of lot size, shape, topography or other circumstances over which the applicant has no control.

This variance request is not based on a hardship related to lot size, shape or topography, but is related to the City not exerting its full control over the

planning jurisdiction pending the outcome of litigation with the County and the applicant has no control over this.

3. The hardship is peculiar to the applicant's property.

This hardship is not peculiar to this property but to areas outside the city limits that permit limited commercial uses but have a Residential Sign District. It is only peculiar to this lot at this time because the applicant is opening a business and needs adequate signage to advertise to the travelling public.

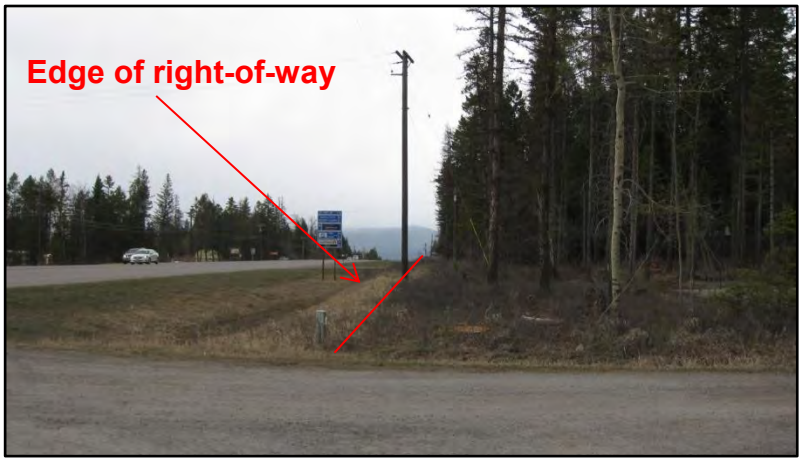
4. The hardship was not created by the applicant.

The hardship was not created by the applicant. The applicant simply has a desire to open a business in a zone that limits the size of the permitted signs.

5. The hardship is not economic (when a reasonable or viable alternative exists).

The applicant is not claiming an economic hardship.

6. Granting the variance will not adversely affect the neighboring properties or the public.



Granting this sign variance will not adversely affect the neighboring properties because the location and size of the sign does not block other signs in its vicinity, the applicant is implementing dark sky compliant lighting for the sign and the sign is setback 75-feet from the edge of pavement.

7. The variance requested is the minimum variance that will alleviate the hardship.

This is a difficult criterion to evaluate for signage. There is no true standard to measure 'adequate signage.' The sign regulations attempt to regulate sign clutter by limiting signage, but as described earlier in this report, the Residential Sign District wasn't intended to be a final sign district for

commercial uses but simply a holding place until a corridor study, final zoning and sign standards were applied. This work has not happened, as such, staff recommended the applicant look to the sign standards associated with the WBSD, as they were standards reviewed and approved by the Council for highway application.

The Business Service District standards are:

- 8-feet tall
- 50-square feet per face

While the sign, as shown, is 10-feet from the final grade, the sign is 8-feet from the centerline of the adjacent right-of-way. The copy area and the height meet these standards. The remainder of the sign exceeds the maximum allowed architectural embellishments for the WBSD, but the Council could consider the application as submitted. If the applicant were to apply the 50% architectural embellishment, the overall sign would be 75 square feet versus the proposed 129 square feet.

If the applicant were not subject to the city sign standards, but the County sign regulations, the County would permit the following signage:

- 28-feet tall
- 40 square feet per face

The County regulations are silent on architectural embellishments.

Finally, the applicant has worked with a sign professional to determine the size of the sign based on the width of the right-of-way and the speed of the vehicles travelling on the highway.

8. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

The request will enable this business owner to have commercial signage for a commercial use that is permitted in the SAG-5. As described previously in this report, there are many businesses along this corridor with nonconforming signs that pre-date the City's planning jurisdiction. Granting this variance would permit this property owner to tastefully advertise their business in a legal way.

G. STAFF ANALYSIS:

Staff is satisfied with the height and sign area proposed by the applicant. We find this matches up well with the Business Service Sign District, which is also along a state highway. However, we are concerned with the total sign area.

It exceeds what would be permitted in the City sign regulations for a 50% 'architectural embellishment'. We recommend the applicant reduce the overall sign area to line up with the Business Service District standard of 75 square feet or 50% of proposed copy area on the proposed sign. While the area of the sign next to the copy area would make for an attractive sign, it's quite large and is excessive for this Sign District. The sign regulations are intended to have the following effects (§11-5-3B):

1. Recognize that signs are a necessary means of useful communication for the convenience of the public.

4. Promote signs that are an appropriate scale and integrated with surrounding buildings and landscape to further the community's desire for quality development and compatibility within each sign district.

5. Promote clear views of the natural surroundings by minimizing visual clutter and reducing the competition for airspace.

Reducing the overall sign area would better align with these effects of the Sign Regulations. Below is a comparison of the applicant's proposal and the other Sign Districts along the highways, including the County sign standards.

	Applicant's Proposal	**Business Service District**	**Highway District**	**Flathead County (SAG-5)**
Number of Signs	*1*	2	3	1
Copy Area (per side)	*46 s.f.*	50 s.f.	37.5 s.f.	40 s.f.
Sign Area (per side)	*129 s.f.*	75 s.f.	56.25 s.f.	unregulated
Height	*10-feet (8-feet from centerline)*	8-feet	10-feet (from centerline)	28-feet

H. FINDINGS OF FACT:

Finding 1: The property is located in the Whitefish planning jurisdiction and is addressed as 5805 Highway 93 S.

Finding 2: The property is zoned Flathead County SAG-5 (Suburban Agriculture).

Finding 3: The property is located within the Residential Sign District.

Finding 4: City sign regulations allow the following signage at 5805 Highway 93 S:

- 1 sign maximum
- Total 10 square feet
- 4 feet tall

Finding 6: Strict compliance with the terms of the regulations will not limit reasonable use of the property because the application has reasonable use of the property whether or not the variance is granted.

Finding 7: Strict compliance with the terms of the regulations will deprive the applicant of rights enjoyed by other properties similarly situated in the same district because many of the businesses along the corridor have larger existing signs that pre-date the current sign regulations.

Finding 8: The hardship is not a result of lot size, shape or topography, but is a result of other circumstances over which the applicant has no control because the City has not developed a corridor plan for this area that would result in a review of the sign regulations applied to this area.

Finding 9: The hardship is not peculiar to the applicant's property because it is a situation related to the entire corridor.

Finding 10: The hardship was not created by the applicant because the zoning was in place when the applicant purchased the property.

Finding 11: The applicant is not claiming an economic hardship, but simply wants to enjoy the rights and privileges of their neighbors.

Finding 12: Granting the variance will not adversely affect neighboring properties or the public because the location and size of the sign does not block other signs in its vicinity, the applicant is implementing dark sky compliant lighting for the sign and the sign is setback 75-feet from the edge of pavement.

Finding 13: Granting the variance for the copy area and the height is the minimum needed to alleviate the hardship because they are using the Business Service District sign district as a model for their size, they have evaluated the sign dimensions based on the highway speeds and location off the paved right-of-way.

Finding 14: The applicant has not shown that the total sign area of the proposed sign is necessary to alleviate the hardship of the sign regulations on this piece of property.

Finding 15: Granting the variance will not confer a special privilege that is denied other similar properties in the district because the sign will be similarly sized to existing nonconforming signs in the neighborhood.

I. RECOMMENDATION

Staff finds that the conditions for granting relief from the code set forth in Section 11-7-7 are met or not applicable. Staff recommends the Council adopt the findings in staff report WZV-14-01 and **approve** the variance as requested subject to the following condition of approval:

Conditions:

1. The total sign area be reduced to meet the 50% architectural embellishments standard and in no case shall the architectural embellishments exceed an additional 25 square feet per side.

2. Relief from the strict provisions of the code is to be construed specifically and narrowly. No further relief is granted nor implied.

3. A sign permit shall be submitted by applicants and once approved, applicant will pay the sign permit fee.

ALTERNATIVE APPROVAL:

If the Council felt the applicant had provided their burden of proof that a hardship exists and wish to grant the variance for the sign as submitted by the applicant. The Council would need to eliminate condition #1, revise Finding of Fact 13 and delete Finding of Fact 14.

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 Larix llc on behalf of the Center for Native Plants is requesting approval of a sign variance to install a freestanding sign along the highway frontage that exceeds the standards in the zoning regulations. The property is being developed as a native plant nursery, is zoned SAG-5 (Flathead County Suburban Agriculture) and is located within the Residential sign district. The property is located at 5805 Highway 93 S and is legally known as Tract 3A in S13-T30N-R22W.

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

Monday, April 21, 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 drawing of the proposed sign. 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 hearing. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, April 14, 2014, will be included in the packets to the City Council. Comments received after the deadline will be summarized to the City Council at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

TO: crs@hungryhorsenews.com

PLEASE PUBLISH THE FOLLOWING LEGAL NOTICE ONCE ON April 2nd

PLEASE BILL: City of Whitefish

Do not publish above this line

WHITEFISH CITY COUNCIL
NOTICE OF PUBLIC HEARING

At the regular meeting of the Whitefish City Council on Monday, April 21, 2014 at 7:10 pm, the Council will hold a public hearing on the item listed below. The City Council meets in Whitefish City Council Chambers, Whitefish, Montana.

1. A sign variance request by Larix llc on behalf of the Center for Native Plants to construct a freestanding sign along the highway frontage. The property is located within the Residential Sign District and is addressed at 5805 Highway 93 S. (WZV 14-01) Compton-Ring

Documents pertaining to this agenda item are available for review at the Whitefish Planning & Building Department, 510 Railway Street, Whitefish, Montana 59937 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: *wcompton-ring@cityofwhitefish.org*. For questions or further information regarding this request, phone 406-863-2410.

WHITEFISH CITY COUNCIL
John Muhlfeld, Mayor

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

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

VARIANCE APPLICATION

FEE ATTACHED $ 860.00
(Nonrefundable)

Variances are granted only when specific conditions can be met. Applicants are advised to carefully read this application packet in its entirety before completing the form. The Board of Adjustment/City Council cannot approve a variance request unless, in their judgment, each of the eight (8) criteria are either met or are not pertinent to the specific application. As such, applicants are advised to pay special attention to the portion of the application seeking explanations as to how the applicant believes the criteria are either met or are not pertinent to the specific application.

Please be aware the application fee cannot be refunded if the request is denied.

INSTRUCTIONS:

- ☐ A pre-application meeting with city staff is required. Date of pre-application meeting: February 18, 2014
- ☐ Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department a minimum of **forty five (45) days prior** to the Board of Adjustment or City Council meeting at which this application will be heard.
- ☐ Staff will notice property owners within 150-feet of the subject property and place a legal notice in the *Whitefish Pilot* concerning the variance request prior to the public hearing.
- ☐ The regularly scheduled meeting of the Board of Adjustment is the first Tuesday of each month at 6:00 PM in the City Council Chambers at 402 E 2nd Street.
- ☐ Sign variance requests, heard by the City Council, are the first and third Mondays of the month at 7:10 PM in the City Council Chambers at 402 E. 2nd Street.
- ☐ Decisions of the Board of Adjustment/City Council are final unless appealed to District Court.

A. PROJECT INFORMATION:

Project Address: 5605 Hwy. 93 S., Whitefish, MT 59937

Assessor's Tract No.(s) 0029200 Lot No(s) Tract 1 of COS #15454
Block # _____ Subdivision Name _____
Section 13 Township 30 Range 22

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish staff to be present on the property for routine monitoring and inspection during the approval and development process.

Owner's Signature[1] — Date: 3/3/14

Larix, LLC (Greg Gunderson, David Noftsinger, Andrew Beltz)

Print Name

Applicant's Signature — Date: 3/3/14

Center for Native Plants

Print Name

Representative's Signature — Date

Print Name

APPLICATION CONTENTS:

Attached **ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

____ Variance Application – **8 copies**

____ Written description how the project meets the criteria in Section D – **8 copies**

____ Site Plan, drawn to scale, which shows in detail the lot dimensions, property lines and pin location. Identify the front rear and sides of your property. Show the location of all existing structures and their location relative to the property lines. Identify all easements and their location – **8 copies**

____ Reduced copy of the site plan not to exceed 11" x 17" – **1 copy**

____ Show the location of your requested variance requirement, including dimensions and location relative to the front, side or rear yards – **8 copies**

____ Certified adjacent owners list for properties within 150-feet of subject site

____ Any other additional information requested during the pre-application process

SIGN VARIANCE:

✓ Variance Application – **1 copy**

✓ Written description how the project meets the criteria in Section D – **1 copy**

✓ A diagram, drawing or picture of the proposed or subject sign, along with its dimensions, method of mounting the sign to the ground or wall, the overall height measured from the natural grade of the ground and the landscaping plan relevant to the sign – **1 copy**

✓ Plot plan of the property showing the location of the proposed or subject sign – **1 copy**

[1] May be signed by the applicant or representative, authorization letter from owner must be attached. If there are multiple owners, a letter authorizing one owner to be the authorized representative for all must be included

✓ Description of the materials to be used to construct the proposed sign – **1 copy**

✓ Diagrams and written description of the lighting plan for the proposed sign – **1 copy**

✓ Electronic version of entire application such as .pdf

___ Any other additional information requested during the pre-application process

When all application materials are submitted to the Planning & Building Department, the application will be scheduled for public hearing before the Board of Adjustment or City Council depending on the variance request.

B. OWNER(S) OF RECORD:

Name: Larix, LLC (Greg Gunderson, David Noftsinger, Andrew Beltz) Phone: 406-862-4225

Mailing Address: PO Box 1043

City, State, Zip: Whitefish, MT 59937

Email: g3planning@gmail.com

APPLICANT (if different than above):

Name: Center for Native Plants Phone: 406-862-4225

Mailing Address: PO Box 1043

City, State, Zip: Whitefish, MT 59937

Email: greg@forestoration.org

TECHNICAL/PROFESSIONAL:

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

C. NATURE OF THE VARIANCE REQUEST:

We are requesting a sign variance in order to have a larger sign than what is allowed in the residential sign district regulations. We are also requesting permission to have appropriately shielded lighting of our sign.

PRESENT USE OF THE PROPERTY: native plant nursery

D. FINDINGS: "No variance shall be granted unless the Board finds all the following conditions are met or found to be not pertinent to the particular case." Respond to the following requirements.

1. Strict compliance with the terms of these regulations will: Please see attachment:

   a. Limit the reasonable use of the property and

   b. Deprive the applicant of rights enjoyed by other properties similarly situated in the district.

2. The hardship is the result of lot size, shape, topography or other circumstances over which the applicant has no control.

3. The hardship is peculiar to the applicant's property.

4. The hardship was not created by the applicant.

5. The hardship is not economic (when a reasonable or viable alternative exists).

6. Granting the variance will not adversely affect the neighboring properties or the public.

7. The variance requested is the minimum variance which will alleviate the hardship.

8. Granting the variance will not confer a special privilege that is denied other similar properties in the district.

Flathead County GIS
800 South Main Street
Kalispell, MT 59901
Phone (406) 758-5540

Adjacent Ownership List Request Form

Must be filled out by the Planning Office, Surveyor, or Engineer

SUBJECT PROPERTY OWNER	Larix, LLC (Greg Gunderson, David Noftsinger, Andrew Beltz)
SUBJECT PROPERTY ASSESSOR #	0029200
SUBJECT PROPERTY LEGAL DESCRIPTION	
SEC-TOWNSHIP-RANGE	
BUFFER FOOTAGE	150-feet
CONTACT PERSON	
CONTACT PHONE #	
TODAY'S DATE	
SPECIAL HANDLING INSTRUCTIONS	
PLANNER, SURVEYOR OR ENGINEER SIGNATURE	

Orders can be submitted in the GIS office, via mail or email (gis_ownership@flathead.mt.gov). Incomplete forms will not be accepted.

Certified Ownership List – completed 1 week from time of order	$75.00
Certified Ownership List Rush – completed 24 to 48 hours from time of order	$150.00

Revised 12-31-13

Center for Native Plants Sign Variance Application

D. Findings

1.a. Strict compliance with the terms of these regulations will limit the reasonable use of the property:

We are opening a retail native plant nursery in May of this year, which is an allowed commercial use in our zoning district (SAG-5). In order to operate a retail business, it must be possible for motorists on Hwy. 93 to recognize, slow down, and safely access our business. This requires a sign that is visible to motorists traveling 65 mph. However, our location has been included in the residential sign district, which allows a total of 10 square feet for all sign faces. This equates to 5 square feet for each face of the sign, which should be situated perpendicular to the highway (a significant amount of data is available on perpendicular vs. parallel sign placement).

Due to the highway department right-of-way, the nearest edge of our sign must be situated 75' off the shoulder stripe of the highway. A 5 sq. ft. sign located 75' off of the highway would be illegible for motorists, and would result in potential traffic hazards as motorists either drive past unaware or attempt to quickly brake and enter the property.

1.b. Strict compliance with the terms of these regulations will deprive the applicant of rights enjoyed by other properties similarly situated in the district:

The vast majority of businesses located in the "donut" along Hwy. 93 S. have signs that do not conform to the residential sign district. This list includes Montana Coffee Traders, Alpine Veterinary Clinic, Whitefish Plastic Surgery, The Potting Shed, The Bridge Natural Medicine, Stumptown Anglers, Big Sky Propeller, Hill Bros. Auto Body, May Lawn & Home Care, Headwaters Church, Hillside Church, Safeguard Storage, Embroidery & Chiropractor business, Affordable Automotive, Forthofer Custom Knives, and Rocky Mountain Lumber Company. These businesses violate the residential sign district regulations in a variety of manners, including too large, too tall, too many, choice of materials, and incorporating any form of lighting (both internally illuminated and externally illuminated signs exist).

2. The hardship is the result of lot size, shape, topography or other circumstances over which the applicant has no control:

The hardship is due to a combination of factors, including the posted speed limit on Hwy. 93, the width of the right-of-way, and the inclusion of this area in the residential sign district. The very nature of the residential sign district is at odds with the commercial nature of Hwy. 93 South. Section 11-5-6-4 Residential Districts begins: "The character of development in this area is residential with limited home based businesses or limited nonresidential uses. The primary orientation is to the neighborhoods and its residents with a strong emphasis on pedestrians.." This does not match up with the existing character of this location. Coffee roasting, plastic surgery, mini-storage, greenhouse nurseries, propeller shops, fly fishing shops, medical facilities, athletic training centers, and lumber companies demonstrate a large spectrum of nonresidential uses. In addition, there are no pedestrian facilities south of Hwy. 40. Even if the time comes when a bike path is constructed, it will only exist on one side of the highway, and will be utilized for recreational riding or perhaps commuting, but not to access commercial businesses.

3. The hardship is peculiar to the applicant's property:

The hardship is peculiar to our property because over 90% of existing businesses in this area have non-conforming signs. These businesses have escaped the hardship by ignoring the rules. It does not appear that the City has pursued any enforcement of the sign code in this zone.

An additional consideration is that many of the existing signs are much closer to the highway than ours will be located. We do not know if the right-of-way is narrower in some areas, if the highway is situated closer to one side of the ROW, or if businesses have placed their signs within the ROW, but most existing signs are significantly closer to the pavement than ours will be. Due to our 75' distance, it requires more square footage to be visible.

4. The hardship was not created by the applicant:

We purchased our five acre property based on the appropriate zoning and location in relation to our customer base. We were not aware at the time of purchase of the residential sign overlay for this area. The difficulty is compounded by the current dispute over jurisdiction of the "donut." County regulations would allow us to have multiple times the amount of square footage.

5. The hardship is not economic (when a reasonable or viable alternative exists):

The hardship ultimately comes down to public safety. *Section 11-5-3: Applicability and Effect, B. Effect, #1* states, "The effect of these regulations is (to) recognize that signs are a necessary means of useful communication for the convenience of the public." Having a visible sign is necessary for the public to identify our business. If the general public cannot see our sign while traveling at highway speeds, it creates a public safety hazard. *B. Effect, #2* states "Protect the public from hazardous conditions..." Having a sign that is too small and too far away creates an equally hazardous condition for motorists. People attempting to visit our business will inevitably have to "hit the brakes" and/or make unsafe lane changes as they see our sign at the last possible second.

6. Granting the variance will not adversely affect the neighboring properties or the public:

Our sign as designed will be aesthetically pleasing and integrated into the landscape. The nearest homesites on the east side of the highway are at least 500 feet away from the sign location, with many trees and other obstacles obscuring the view. The properties across the highway to the west are commercial businesses (with non-conforming signs). Due to the significant distance off the pavement, the sign will not obscure the vision of motorists, create distractions, or conflict with traffic signals or warning signs.

7. The variance requested is the minimum variance which will alleviate the hardship:

The design that we are presenting is the minimum that we feel will be legible for motorists on the highway. In our pre-application meeting with the city planners, staff suggested that the business service district sign zone would be appropriate for our location. The sign design that we are presenting fits within the criteria for that sign district. We have invested significant resources in "branding" our company with a professional logo, text, and color scheme. The trillium flower logo is a critical piece of our branding and we feel must be a component of the sign. The "clear space" around the logo and text is also a critical component. The reclaimed barnwood monument-style base would be aesthetically pleasing while providing a strong visual foundation for the signboard. The total height would not exceed eight feet above grade as measured from the centerline of the highway. Lighting would meet all the criteria as described in the sign ordinance.

8. Granting the variance will not confer a special privilege that is denied other similar properties in the district:

As noted, the vast majority of commercial properties in this area have signs that do not conform to the residential sign district. The two other nursery & landscape businesses in our corridor already have non-conforming signs. We have 330' of highway frontage. All of our buildings are set back several hundred feet from the property line. Our highway frontage is maintained in a natural condition with mature trees and attractive vegetation. Our sign will be the only built structure, and will be no closer than 75' to the highway.

Center for Native Plants proposed highway sign details:

Method of mounting the sign to the ground:

The internal structure of the sign would consist of pressure treated 8”x8” posts that would be sunk 4 feet deep into the ground, extending 8 feet above highway grade. 2” x 4” cross bracing would connect the 8”x8”s. The entire structure would be wrapped in stained and sealed natural wood, running vertically. The steel sign panels would be attached to the wooden structure.

Overall height measured from the natural grade of the ground:

The overall height of our sign would be 8 feet above highway grade. Currently this is 10 feet above natural grade. We have considered raising the natural grade to meet the highway grade.

Landscaping plan:

This is a natural area, with low-lying vegetation consisting primarily of snowberry, serviceberry, and Oregon grape. We plan to augment the natural vegetation with the addition of native perennial wildflowers.

Description of the materials to be used to construct the proposed sign:

The internal structure of the sign would consist of pressure treated 8”x8” posts that would be sunk 4 feet deep into the ground, extending 8 feet above highway grade. 2” x 4” cross bracing would connect the 8”x8”s. The entire structure would be wrapped in stained and sealed natural wood, running vertically. The steel sign panels would be attached to the wooden structure.

Diagrams and written description of the lighting plan for the proposed sign:

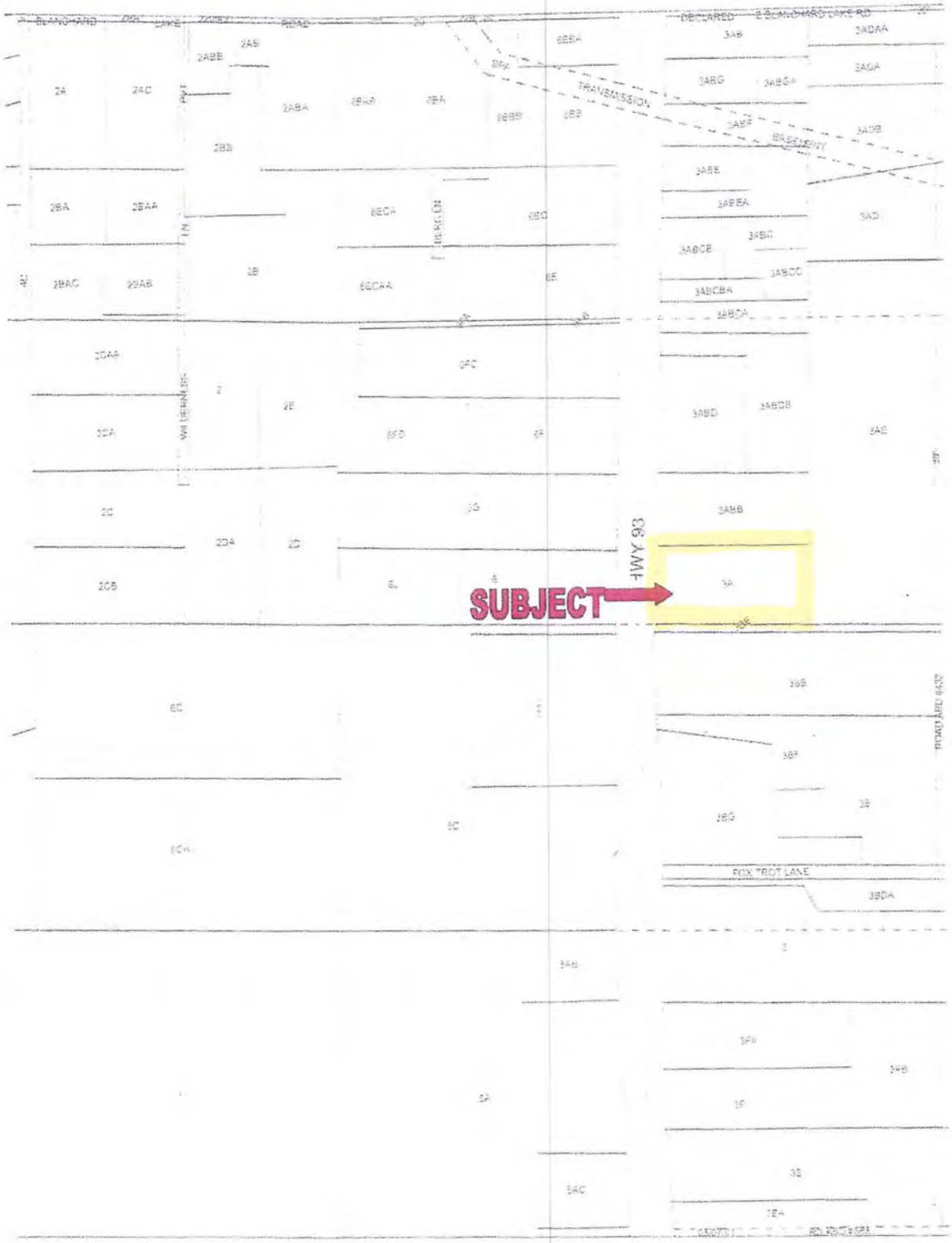
We feel that the best way to avoid light pollution and unnecessary glare would be to have back-lit LED lighting that would shine through the cutout letters. However, according to the City sign regulations this form of lighting is not allowed. Our alternative lighting plan would be to have two overhead lights on each side, one centered over the logo and one centered over the text. These lights would extend outward from the sign, so that they could shine downward and back onto the sign panels. The lighting would be shielded to prevent misdirected glare.

30 22

SCALE 1" = 400'

USE OF FLATHEAD COUNTY AND IS NOT NECESSARILY AN ACCURATE
TRACTS OF RECORD. THEIR BOUNDARIES OR EASEMENTS AND ROADWAYS.

"This plat is provided solely for the purpose of assisting in locating the land and the Company assumes no liability for any variations with the actual survey and/or plat." First Title of Montana



3A-0029200 1AAA-0980805

BY: SANDS SURVEYING, INC.
2 VILLAGE LOOP
KALISPELL, MT. 59901
PH: (406) 755-6481

JOB NO: 38203
DATE: JULY 31, 2002
FOR: CRAIG HOWELL
OWNER: RODNEY D. BRANDT
HEIDI K. BRANDT
EDNA MAE ASTROPE
REVOCABLE TRUST

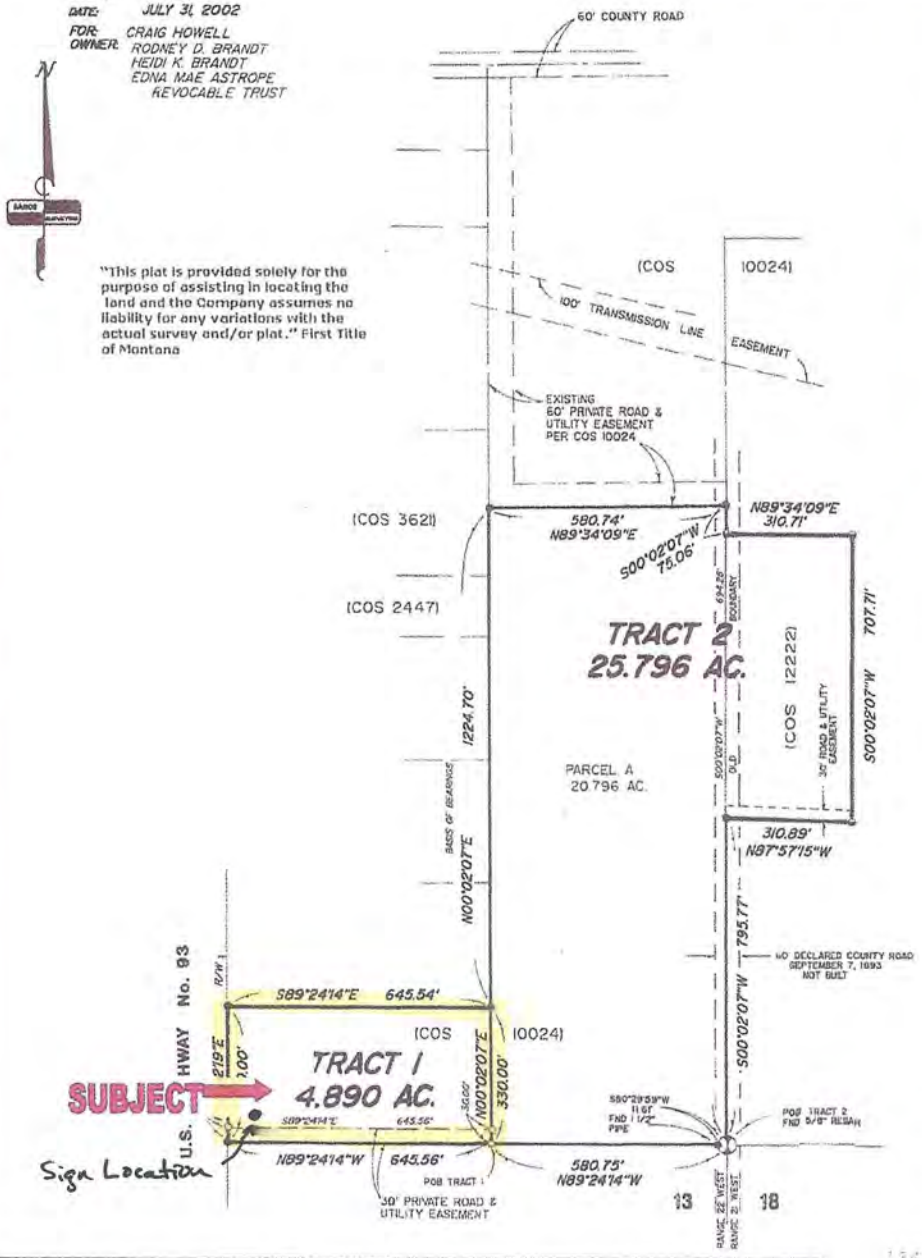
GOV'T LOTS 1 & 2 SEC. 18 T.30N., R.21W., and the NE 1/4

CERTIFICATE OF SURVEY

SEC. 13, T.30N., R.22W., P.M., M., FLATHEAD CO.

SCALE 1" = 200'

"This plat is provided solely for the purpose of assisting in locating the land and the Company assumes no liability for any variations with the actual survey and/or plat." First Title of Montana



PURPOSE OF SURVEY: BOUNDARY LINE ADJUSTMENT

TWO TRACTS OF LAND SITUATED, LYING, AND BEING IN GOVERNMENT LOTS 1 AND 2 OF SECTION 18, TOWNSHIP 30 NORTH, RANGE 21 WEST, P.M., M., FLATHEAD COUNTY, MONTANA, AND IN THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 22 WEST, P.M., M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

TRACT 1:

Commencing at the East Quarter corner of Section 13, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana, which is a found iron pin; Thence N89°24'14"W and along the south boundary of the Northeast Quarter of Section 13 a distance of 580.75 feet to a set iron pin and THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED: Thence continuing along said south boundary N89°24'14"W 645.56 feet to a found iron pin on the easterly R/W of U.S. Highway No. 93; Thence along said R/W N00°02'19"E 330.00 feet; Thence leaving said R/W S89°24'14"E 645.54 feet; Thence S00°02'07"W 330.00 feet to the point of beginning and containing 4.890 ACRES; Subject to and together with all appurtenant easements of record. Subject to and together with a 30 foot private road and utility easement as shown hereon.

TRACT 2:

BEGINNING at the East Quarter corner of Section 13, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana, which is a found iron pin; Thence N89°24'14"W and along the south boundary of the Northeast Quarter of Section 13 a distance of 580.75 feet to a set iron pin; Thence leaving said south boundary N00°02'07"E 1954.70 feet to a found iron pin; Thence N89°34'09"E 580.74 feet to a found iron pin on the west boundary of said Section 13; Thence along said east boundary S00°02'07"W 75.06 feet to a found iron pin; Thence leaving said east boundary N89°34'09"E 310.71 feet to a found iron pin; Thence S00°02'07"W 707.71 feet to a found iron pin; Thence N87°57'15"W 310.89 feet to a found iron pin on the west boundary of said Section 13; Thence along said east boundary S00°02'07"W 795.77 feet to the point of beginning and containing 25.796 ACRES; Subject to and together with all appurtenant easements of record. Together with a 30 foot private road and utility easement as shown hereon.

PARCEL A (Being added to and made a part of Tract 2)

BEGINNING at the East Quarter corner of Section 13, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana, which is a found iron pin; Thence N89°24'14"W and along the south boundary of the Northeast Quarter of Section 13 a distance of 580.75 feet to a set iron pin; Thence leaving said south boundary N00°02'07"E 1954.70 feet to a found iron pin; Thence N89°34'09"E 580.74 feet to a found iron pin on the east boundary of said Section 13; Thence along said east boundary S00°02'07"W 1945.33 feet to the point of beginning and containing 20.796 ACRES; Subject to and together with all appurtenant easements of record.

Tract 1 is exempt from D.E.Q. review pursuant to Section 76.4.125 (2) (d) (iii): "THE REMAINDER IS 1 ACRE OR LARGER AND HAS AN INDIVIDUAL SEWAGE SYSTEM THAT WAS CONSTRUCTED PRIOR TO APRIL 29, 1993, AND IF REQUIRED WHEN INSTALLED, WAS APPROVED PURSUANT TO LOCAL REGULATIONS OR THIS CHAPTER."

RELOCATE COMMON BOUNDARIES

I HEREBY CERTIFY THAT THE PURPOSE OF THIS DIVISION OF LAND IS TO RELOCATE COMMON BOUNDARY LINES BETWEEN ADJOINING PROPERTIES, AND NO ADDITIONAL PARCELS ARE HEREBY CREATED; THEREFORE, THIS DIVISION OF LAND IS EXEMPT FROM REVIEW AS A SUBDIVISION PURSUANT TO SECTION 76-3-207(1)(a), M.C.A.

Craig Howell
Rodney D. Brandt
Heidi K. Brandt

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS

On this 5th day of Dec, 2002, before me, a Notary Public for the State of Montana, personally appeared: Rodney D. Brandt & Heidi K. Brandt and known to me to be the person(s) whose name(s) are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Notary Public for the State of Montana
Residing at Kalispell
My Commission expires

STATE OF OREGON)
COUNTY of) SS

On this 6th day of December, 2002, before me, a Notary Public for the State of Oregon, personally appeared Craig Howell and known to me to be the person(s) whose name(s) are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Notary Public for the State of Oregon
Residing at Klamath Falls, Oregon
My commission expires

OFFICIAL SEAL
JUSTIN D. HOLLOWAY
NOTARY PUBLIC-OREGON
COMMISSION NO. 360871
MY COMMISSION EXPIRES APR 14, 2004

LEGEND

1. SEC. COR. (AS NOTED)
2. 1/4 CORNER (AS NOTED)
3. CENTER SECTION (AS NOTED)
4. 1/16 CORNER (AS NOTED)
5. FOUND 1/2" REBAR BY 7975-S (UNLESS NOTED)
6. SET 1/2" X 24" REBAR WITH 1 1/4" PLASTIC CAP, STAMPED: SANDS, 7975-S
7. FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED 7688

CERTIFICATE OF SURVEYOR

THOMAS E. SANDS
REGISTRATION NO. 7975-S

APPROVED: 10/30, 2002

EXAMINING LAND SURVEYOR REG. No. 7688

STATE OF MONTANA
COUNTY OF FLATHEAD SS

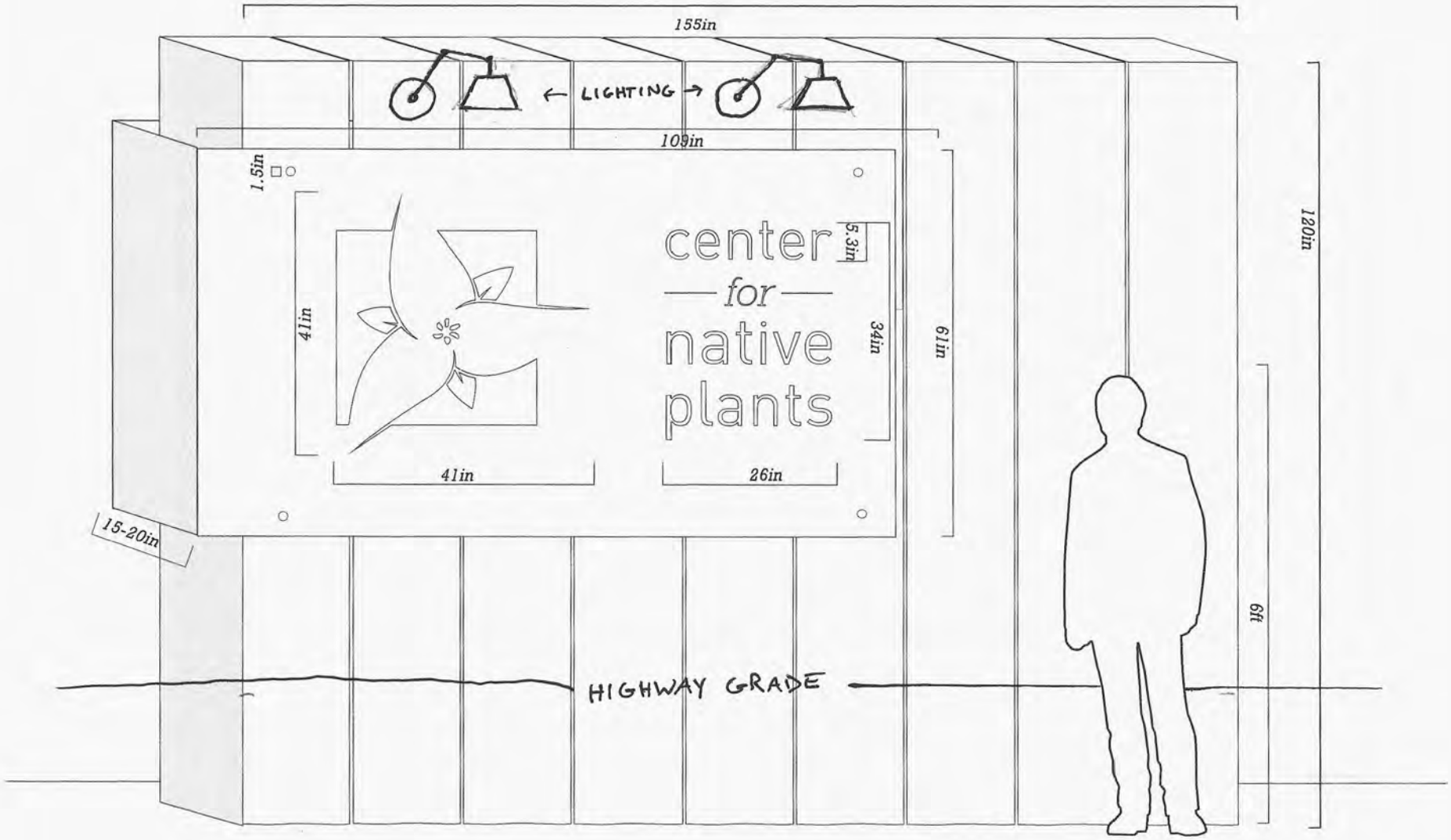
FILED ON THE 12 DAY OF JAN, 2003 A.D.
AT 4:14 O'CLOCK P M
Paul Robinson
CLERK & RECORDER
BY
DEPUTY

INSTRUMENT REC. No. 2003010126140

SHEET 1 OF 1 SHEETS

CERTIFICATE OF SURVEY No. 15454

5635 HIGHWAY 93 S
HIGHWAY 93
Tract = 3A
Tract = 3BE
NO NAME
Sign Location
N
S
E
W
0
40
80
160
240
320
Feet


155in
LIGHTING
109in
1.5in
5.3in
center
for
native
plants
41in
34in
61in
120in
41in
26in
15-20in
6ft
HIGHWAY GRADE

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RESOLUTION NO. 14 -__

A Resolution of the City Council of the City of Whitefish, Montana, authorizing the City Manager to submit an application to the Montana Department of Commerce for TSEP and DNRC-RRGL grant funding associated with the 2104 Infiltration and Inflow Mitigation Project.

WHEREAS, the City of Whitefish is applying to the Montana Department of Commerce for financial assistance from the Treasure State Endowment Program (TSEP) and the Montana Department of Natural Resources and Conservation – Renewable Resource Grant Program (RRGL) to design and construct improvements to the City's wastewater collection system;

WHEREAS, the City of Whitefish has the legal jurisdiction and authority to construct, finance, operate, and maintain the City's wastewater treatment and collection system;

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

Section 1: That the City of Whitefish agrees to comply with all State laws and regulations and the requirements described in the TSEP and DNRC-RRG Application Guidelines and those that are described in the TSEP Project Administration Manual;

Section 2: That the City of Whitefish commits to provide local matching funds as proposed in the TSEP and DNRC applications for the 2104 Infiltration and Inflow Mitigation Project; and

Section 3: That Charles C. Stearns, City Manager is authorized to submit this application to the Montana Department of Commerce, on behalf of City of Whitefish, to act on its behalf and to provide such additional information as may be required.

Section 4: That 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 COUNDIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS ____ DAY OF _____, 2014.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

April 15, 2014

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Authorize a TSEP and DNRC-RRGL Grant Application for the 2014 Infiltration and Inflow Mitigation Project

Introduction/History

The City retained Anderson Montgomery Consulting Engineers (AMCE) in 2012 to provide planning, grant writing and engineering services for the Wastewater Facility Improvements Project. While the ultimate focus of this project is to design and construct a new wastewater treatment plant, that facility is but one part of the City's overall wastewater system. Efficient operation of the wastewater collection system is crucial to future plans for capital improvements at the wastewater treatment plant. An important aspect of efficient operations is effective mitigation of infiltration and inflow.

Current Report

Toward that end, AMCE and the Public Works Department have prepared a Preliminary Engineering Report (PER) and applied for grants to support the 2104 Infiltration and Inflow Mitigation Project. Applications to the Treasure State Endowment Program (TSEP) and Department of Natural Resource and Conservation Renewable Resource Grant and Loan (RRGL) program must be submitted to the Montana Department of Commerce next week.

The City Council conducted a Public Hearing regarding this project on April 7th. The recommended action at this time is to adopt the attached resolution, committing to certain terms and authorizing the City Manager to submit the grant application.

A copy of the proposed project budget is attached. This budget provides for a total funding package of $1,141,000 including $125,000 in grant funding from RRGL, $500,000 from TSEP, a low interest loan from the State Revolving Fund (SRF) in the amount of $402,300, and $113,700 in local matching funds. Funding would occur in FY 2016.

Financial Requirement

By adopting this resolution, the City Council commits to providing grant matching funds in the amount of $516,000, no earlier than FY 2016.

Recommendation

We respectfully recommend the City Council adopt the attached resolution, thereby committing to abide by grant program requirements, to provide matching funds, and authorizing the City Manager to submit the grant application.

Sincerely,

John C. Wilson
Public Works Director

Whitefish I&I Mitigation Project							
River Lakes; Suncrest, Iron Horse							
Project Budget							
City of Whitefish	**SOURCE**	**SOURCE**	**SOURCE**	**SOURCE**	***April-14***		
ADMIN/FINANCIAL COSTS	**RRGL**	**TSEP**	**SRF**	**Local Res.**	**TOTAL**		
Personnel Costs	$0	$0	$0	$0	$0		
Office Costs	$0	$0	$0	$0	$0		
Professional Services- Project Administration (General and Funding Agency)	$0	$11,000	$11,000	$0	$22,000		
Legal Costs	$0	$0	$0	$0	$0		
Audit Fees	$0	$0	$0	$0	$0		
Travel & Training	$0	$0	$0	$0	$0		
Loan Fees	$0	$0	$0	$0	$0		
Loan Reserves	$0	$0	$0	$27,000	$27,000		
Interim Interest	$0	$0	$0	$0	$0		
Bond Cost	$0	$0	$0	$9,000	$9,000		
CIP Preparation	$0	$0	$0	$0	$0		
TOTAL ADMIN/FIN. COSTS	$0	$11,000	$11,000	$36,000	$58,000		
					5.1%		
ACTIVITY COSTS:	**RRGL**	**TSEP**	**SRF**	**Local Res.**	**TOTAL**		
ROW - Easements	$0	$0	$0	$0	$0		
Final Engineering Design	$50,000	$29,150	$0	$0	$79,150		
Construction Inspection	$0	$0	$79,150	$0	$79,150		
Construction	$75,000	$459,850	$312,150	$0	$847,000		
Contingency	$0	$0	$0	$77,700	$77,700		
TOTAL ACTIVITY COSTS	$125,000	$489,000	$391,300	$77,700	$1,083,000		
					94.9%		
TOTAL PROJECT COSTS	**$125,000**	**$500,000**	**$402,300**	**$113,700**	**$1,141,000**		
Percentage of TPC	*11%*	*44%*	*35%*	*10%*	*100%*		
			O&M Impact		**Debt**		
% Grant Funding	*54.8%*		$0.00		**Service**	**20-year SRF loan**	
			$0.00		$402,300	***3% I=***	0.0672
	EDU's:	4207	***$0.00***	*O&M/month*	$27,034.56	4207	EDU's
					$6.43	12	months
TPC/2 =	$570,500				*$0.54*	*Debt Svc.*	
	-$70,500				*$0.13*	*25% Coverage*	
	$530,350				***$0.67***	*Total Debt Service*	
						Estimated	
					$0.67	**User Rate Increase**	

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P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

April 15, 2014

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Staff Recommendation Regarding No Parking Zones Along the Route of the 6th and Geddes Street Reconstruction Project

Introduction/History

The Public Works Department is proposing No Parking zones along all or portions of West 6th Street, West 5th Street (aka North Street), Geddes Avenue, Jennings Avenue, West 3rd Street and Good Avenue, between Baker Avenue and West 2nd Street, as was intended when these streets were designed and as was discussed with the neighborhood and City Council prior to construction of the recent 6th and Geddes Street Project.

A drawing illustrating the proposed No Parking zones and one small loading zone is attached, along with a notice of this proposal which was mailed to property owners and residents along the route and a November 2013 memo on a related subject.

We recommend the City Council direct staff to prepare a resolution to be considered at the May 5th City Council meeting.

Current Report

As you will recall, the City reconstructed the roadway and utilities along this route between Baker Avenue and West 2nd Street during the summers of 2012 and 2013. During the design process, at various neighborhood and City Council meetings, we discussed the lack of right of way and the need for No Parking zones all along the route, except where the width of right of way enabled parking along 6th Street in the vicinity of Lupfer Avenue.

The need was understood, No Parking signs were included on the construction plans, and the contractor installed many signs in the course of construction. Unfortunately, the Public Works Department overlooked the requirement for specific action by the City Council in order to establish enforceable limits. Several No Parking signs were removed between West 5th Street and West 2nd Street over the winter because those restrictions were not enforceable.

Staff recommends the following areas be designated as No Parking zones at this time:

- Both sides of West 6th Street from the west edge of the Baker Avenue right of way to points 40 feet west,
- The north side of West 6th Street, starting at a point 10 feet west of the projected west edge of the Lupfer Avenue right of way and ending at a point 95 feet to the east,
- Both sides of West 5th Street (aka North Street) between Flint and Geddes Avenues,
- Both sides of Geddes Avenue between West 5th Street (aka North Street) and West 4th Street,
- Both sides of Jennings Avenue between West 4th Street and West 3rd Street,
- Both sides of West 3rd Street east of the projected west edge of Jennings Avenue, and
- Both sides of Good Avenue, excluding a section on the east side of the road between 2 points located 100 and 180 feet north of the south edge of the West 3rd Street right of way.

Staff further recommends designating a 30 Minute Loading Zone on the east side of Good Avenue between 2 points located 100 and 180 feet north of the south edge of the West 3rd Street right of way.

The recommended No Parking zones will help ensure safe passage for traffic and emergency vehicles and will enable snow removal in a more efficient and effective manner. The recommended Loading Zone is intended to support loading and unloading needs for Power Sports West, a retail and repair shop which has operated at this location for many years.

Financial Requirement

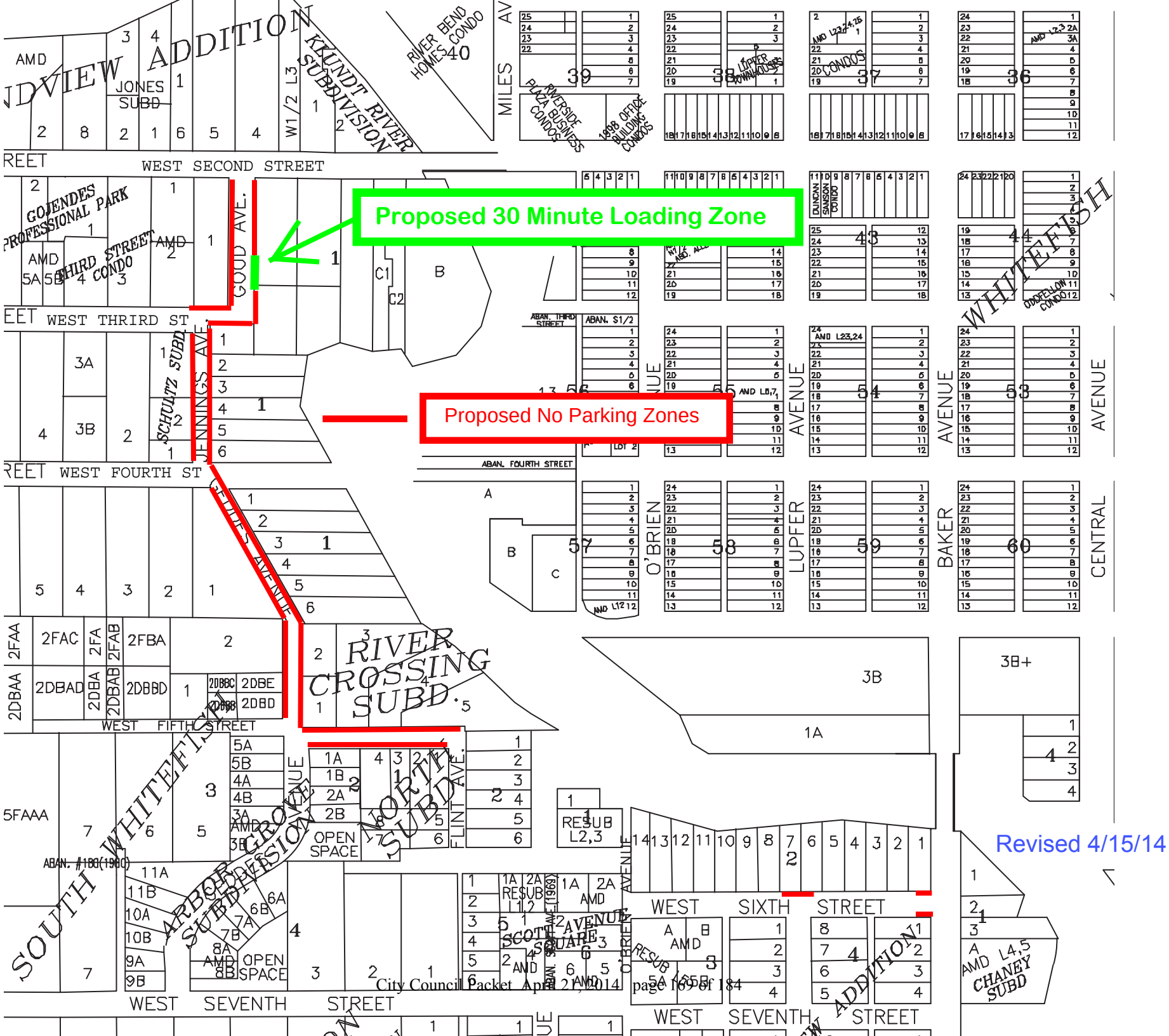
The cost to install the necessary No Parking signs will be well under $1000. The work will be performed by the Public Works Department. Many poles are already in place and the signs removed over the winter months are stored at the City Shops. Any remaining costs will be paid out of the Street Fund.

Recommendation

We respectfully recommend the City Council direct staff to prepare a resolution for their consideration at the May 5th City Council meeting. That resolution would establish enforceable No Parking zones and a 30 minute Loading Zone along all or portions of West 6th Street, West 5th Street (aka North Street), Geddes Avenue, Jennings Avenue, West 3rd Street and Good Avenue, between Baker Avenue and West 2nd Street, as described above.

Sincerely,

John C. Wilson
Public Works Director


Proposed 30 Minute Loading Zone
Proposed No Parking Zones
Revised 4/15/14
WEST SECOND STREET
WEST THRIRD ST
WEST FOURTH ST
WEST FIFTH STREET
WEST SIXTH STREET
WEST SEVENTH STREET
GOOD AVE.
JENNINGS AVE.
FLINT AVE.
O'BRIEN AVENUE
LUPFER AVENUE
BAKER AVENUE
CENTRAL AVENUE
WHITEFISH
RIVER CROSSING SUBD.
NORTH SUBD.
SOUTH WHITEFISH
ARBOR GROVE SUBDIVISION
KLUNDT RIVER SUBDIVISION
GOJENDES PROFESSIONAL PARK
THIRD STREET CONDO
SCHULTZ SUBD.
RIVER BEND HOMES CONDO
RIVERSIDE PLAZA BUSINESS CONDOS
1998 OFFICE BUILDING CONDOS
LUPFER TOWNHOUSES
CONDOS
DUNCAN SAMSON CONDO
ODDFELLOW CONDO
SCOTT AVENUE SQUARE
CHANEY SUBD
OPEN SPACE
RESUB L2,3
RESUB L1,2
RESUB L5,5
ABAN. THIRD STREET
ABAN. FOURTH STREET
ABAN. #180(1980)
ABAN. S1/2
AMD L23,24
AMD L6,7
AMD L12
AMD L4,5
AMD L2,3
AMD L2,3,24,25
W1/2 L3
JONES SUBD
AMD
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C2
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April 15, 2014

Dear Resident:

This letter is to let you know a proposal to create No Parking zones along all or portions of West 6th Street, West 5th Street (aka North Street), Geddes Avenue, Jennings Avenue, West 3rd Street and Good Avenue, between Baker Avenue and West 2nd Street, will be considered at the next City Council meeting on April 21st.

A drawing illustrating the proposed No Parking zones and one small loading zone is attached. The meeting will begin at 7:10 p.m. at City Hall and the public is invited to attend.

As you will recall, the City reconstructed the roadway and utilities along this route between Baker Avenue and West 2nd Street during the summers of 2012 and 2013. During the design process, at various neighborhood and City Council meetings, we discussed the lack of right of way and the need for No Parking zones all along the route, except where the width of right of way enabled parking along 6th Street in the vicinity of Lupfer Avenue.

The need was understood, No Parking signs were included on the construction plans, and the contractor installed many signs in the course of construction. Unfortunately, the Public Works Department overlooked the requirement for specific action by the City Council in order to establish enforceable limits. You may have noticed several No Parking signs were removed between West 5th Street and West 2nd Street over the winter because those restrictions were not enforceable.

The City Council will consider a proposal on Monday, April 21st, to officially establish these No Parking zones as planned. Anyone who wishes to comment on the proposal is invited to speak at the start of the meeting. Those who prefer may provide written comments to the Public Works Department before 5:00 p.m. on the day of the meeting. Written comments may be hand delivered to City Hall, mailed to P.O. Box 158 in Whitefish, or emailed to publicworks@cityofwhitefish.org. Copies of all correspondence will be provided to the City Council.

Please feel free to contact me if you have any questions by stopping into City Hall, emailing me at jwilson@cityofwhitefish.org, or by calling me at 863.2455.

Thank You

John C. Wilson
Public Works Director

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P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

November 6, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Designate No Parking Zones
Along the Route of the 6th and Geddes Street Reconstruction Project

Introduction/History
Following the recent completion of the 6th and Geddes Street Reconstruction Project, the Public Works Department is recommending the City Council officially designate No Parking zones along certain portions of 6th Street, O'Brien Avenue and Flint Street, as shown on the attached drawing.

Current Report
The route connecting Baker Avenue with West 2nd Street (running along West 6th Street, O'Brien Avenue, Flint Avenue, North Street (a.k.a. West 5th Street), Geddes Avenue, Jennings Avenue, West 3rd Street and Good Avenue) was recently reconstructed. The public right of way is narrow all along this route and the new roadway includes curb and gutter where none existed before. As a result, the roadway is too narrow to reasonably accommodate on-street parking. Although other road segments along this route may benefit from parking restrictions in the future, the greatest need at this time is in the area with steeper grades and tight curves described below and shown on the attached drawing.

Staff recommends the following areas be designated as No Parking zones at this time:

- The north side of West Sixth Street from a point 150 west of Lupfer Avenue to Flint Avenue,
- The south side of West Sixth Street from Lupfer Avenue to Flint Avenue,
- Both sides of O'Brien Avenue between 265 West Sixth Street and 310 West Sixth Street, a distance of approximately 160 feet and

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- Both sides of Flint Avenue, as well as the road radii at the intersection of Flint and North Street.

The recommended No Parking zones will help ensure the safe passage for traffic and emergency vehicles and will enable snow removal in a more efficient and effective manner.

Financial Requirement

The cost to install the necessary No Parking signs in the recommended zones is approximately $500. The work would be performed by the Public Works crews and the cost would be paid out of the Street Fund.

Recommendation

We respectfully recommend the City Council adopt the attached resolution to establish enforceable No Parking zones on portions of West 6th Street, O'Brien Avenue and Flint Avenue, as described.

Sincerely,

John C. Wilson
Public Works Director

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8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

8a. Resolution No. 13-37; A Resolution establishing "No Parking" Zones on portions of West Sixth Street, O'Brien Avenue and Flint Street (6th and Geddes reconstruction project) (p. 251)

[redacted] Director Wilson said he would like to hear the Council's concerns or recommendations for modifications on the no parking zones.

Councilor Mitchell said the major concern he heard from the neighbors is their loss of parking. Director Wilson said Bonnie Hannigan made a comment on Railway Street, which is also a narrow street. Councilor Mitchell said from O'Brien east on W. 6th they should allow parking on both sides and on Flint they could take out one side. That would address the neighbors' issues. Councilor Sweeney said he agrees that the streets are narrow. He said on Railway he knows the streets are narrow and yet there is parking on both sides. He asked and Director Wilson said W. 6th is 21 feet and Railway is 28 feet according to Bonnie Hannigan's measurements. Councilor Sweeney said if they allowed parking on one side then they would have the same driving width they have on Railway Street. Councilor Hildner said Chief Kennelley talked about access for fire apparatus. Chief Kennelley said they can't make the narrow turn with the fire equipment so any parking in the turn area prevents the emergency vehicle from turning. Snow adds to the concern. He said they wouldn't have an issue if there was parking on the south side as long as it was back from the intersection at the bottom of the hill. Director Wilson said if the Council wants to change things he has some suggestions. He said the resolution is written with 3 restrictions. If they change the 2nd one regarding the south side it could read, "Staff recommends no parking on the south side of West 6th Street within 50 feet of the intersection at O'Brien and Flint and 185 feet from the intersection at Lupfer Avenue." Councilor Mitchell asked and Director Wilson said 185 feet would be required on Lupfer Avenue because of the steep hill, especially during winter conditions. Councilor Sweeney said he has a hard time visualizing the need for 185 feet. Director Wilson said allowing parking on one side on the narrow hill would be dangerous.

Cheryl Sausen, 310 W. 6th Street, said there is a steep hill down W. 6th from Lupfer, but no one parks there. She said the changes would make sense.

Julia Olivares, 333 W. 6th Street, said plowing has been a problem on their road. She is concerned about parking because the plow leaves a big berm as they come off Flint Street. She said they are going to have more problems with just snow this year because of the narrowed street. She said the plow needs to get all of the snow out so it doesn't narrow the road more.

Director Wilson said he could minimize the impact to the neighborhood and allow more parking except near the intersections, and he drew a map to show the Councilors. He said the snowplow crews will need to take more care here since the road is narrow. Manager Stearns said they can pass the resolution modified to the map that was presented by Director Wilson tonight.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve Resolution No. 13-37; A Resolution establishing "No Parking" Zones on portions of West Sixth Street, O'Brien Avenue and Flint Street (6th and Geddes reconstruction project) with the resolution modified to the map that was presented by Director Wilson tonight so there is no parking on the

south side of West 6th Street within 50 feet of the intersection at O'Brien and Flint and 185 feet from the intersection at Lupfer Avenue."

The motion passed unanimously.

8b. Consideration of Amendment #3 to engineering consulting and design contract with Anderson-Montgomery Consulting Engineers for the Wastewater System Improvements Project (p. 260)

Director Wilson said the City entered in to a consultant contract with Anderson-Montgomery Consulting Engineers in October 2012 for the Wastewater System Improvements Project. This long term contract will involve several amendments over the coming years as staff works through optimization of existing facilities, application and negotiation for a new wastewater discharge permit, long range planning and ultimately design and construction of major wastewater treatment plant upgrades to comply with new nutrient removal standards.

They need to address an influent issue and recommend an amendment to that consultant contract in the amount of $62,499 for survey, engineering design and construction phase services, as necessary to extend the sewer force main serving the JP Road lift station.

The sewer force main in question is the discharge line for the JP Road sewer pump station, which serves all properties within the City limits south of the Pizza Hut. The JP Road force main discharges directly into Cell No. 1 near the southwest corner of the wastewater lagoon system, while all other sewage enters the plant by means of the River Interceptor and flows through the screening facility at the northwest corner of the plant.

The City has experienced significant maintenance problems in our current operations due to rags, hair and debris entering the lagoons from the JP Road force main. This project will redirect flow from the JP Road sewer force main to the headworks and screening facility, where they can capture rags and debris before they enter the lagoons and also set the stage for continuing improvements. Staff proposes to design the force main extension over the winter months, advertise for bids in June and construct the project in the summer of 2014.

The proposed amendment will increase the amount of the consultant contract for the Wastewater System Improvements Project by $62,499, for a total contract amount of $428,210. Funds for this amendment are included in the adopted FY14 Wastewater Budget.

Councilor Hildner asked and Director Wilson said rags come through and clog up the system and there are several businesses that could cause it including the senior living area, the hospital and every business south of Pizza Hut. They will talk to the businesses out there to see if they can help with this issue, too.

Councilor Kahle offered a motion, seconded by Councilor Anderson, to approve Amendment #3 to the engineering consulting and design contract with Anderson-Montgomery Consulting Engineers for the Wastewater System Improvements Project in the amount of $62,499.

Councilor Mitchell asked if it would be cheaper to do a screening facility down by the sewer ponds. Director Wilson said it wouldn't be much cheaper because the screens are significant mechanical

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MANAGER REPORT

April 16, 2014

RESORT TAX

Resort Tax collections for February were $147,568 which is 5.26% or $7,370 higher than the February, 2013 figure of $140,198. For the year to date, we are 5.5% or $78,136 higher than last year at this time. A chart and graph of Resort Tax collections is attached to this report in the packet.

PARKS AND RECREATION OBTAINS A $20,000 GRANT FROM NATIONAL RECREATION AND PARKS ASSOCIATION

Maria Butts, Recreation Coordinator for the Parks and Recreation Department wrote and obtained a $20,000 grant from the National Recreation and Parks Association (NRPA) to help offset the staffing costs of the After School program and Summer Day Camp, to enhance our healthy foods program, and to promote healthy lifestyles within our community. It will also allow us, through our partnership with the school district, to open a second Summer Foods program site, which is supported through the Farm to School Community Garden. The grant, in addition to the $20,000, provides us with $2,000 in educational materials and a $1,200 stipend for Maria to attend a one day training in Reston, Virginia on May 14th.

WASTEWATER TREATMENT PLANT FLOWS – RESULTS OF INFLOW AND INFILTRATION WORK DONE TWO YEARS AGO

Our Utilities Superintendent, Greg Acton, sent me a graph of our wastewater treatment plant flows in recent years for my use in another meeting. I have included this chart in the packet with this report. I felt that this chart would be useful and interesting for the Mayor and City Council to see as it highlights the results of the inflow and infiltration work that we did in 2011. The flows for 2012 and especially 2013 show much lower flows, especially during the runoff months of April and May (and somewhat in June as well).

RECENT WALL STREET JOURNAL ARTICLE ON RESURGENT SALES OF VACATION OR SECOND HOMES

I read a recent article in the Wall Street Journal about national sales trends in both volume and median sales price for vacation or second home sales. This article, along with the Realty Trac article about Whitefish being the best value for ski resort second homes that we received earlier this year, gives a little optimism about the future for vacation home sales in Whitefish. The sales price information is also important as we going into the property tax reappraisal cycle at the next legislature. However, this national sales price information is not necessarily very meaningful for our local prices. Yet, the article provided different information about the national market for vacation or second homes than I have heard in a while, so I thought I would share the article with you.

MEETINGS

Mostly budget meetings during the last two weeks or other internal meetings.

UPCOMING SPECIAL EVENTS

REMINDERS

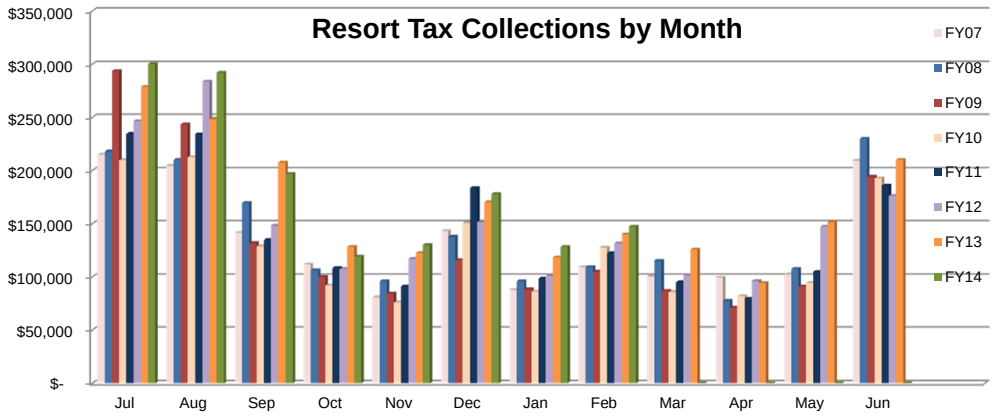
City Hall closed on Friday, April 18th for the Good Friday holiday.

Respectfully submitted,

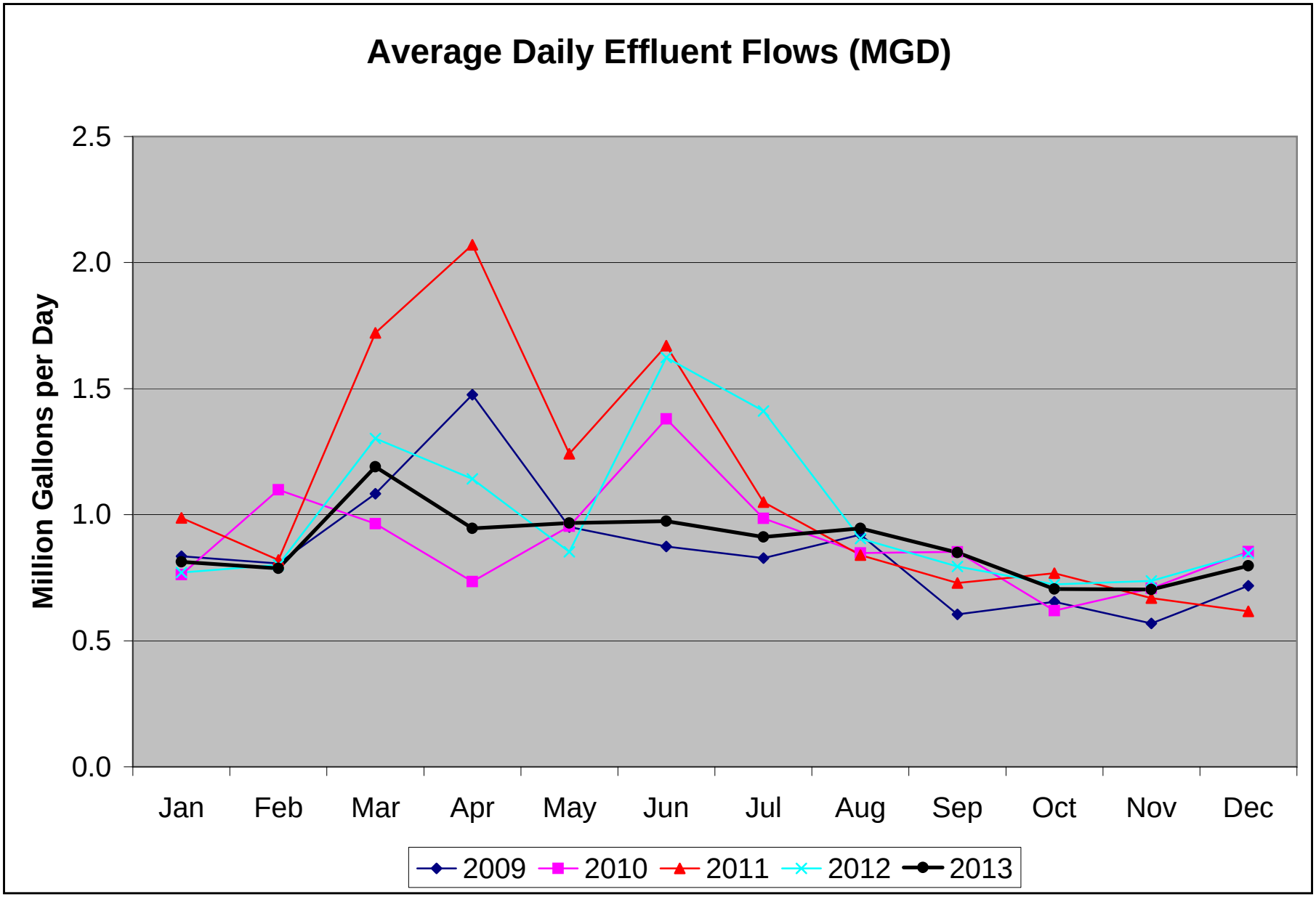
Chuck Stearns, City Manager

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
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
					Compared to Prv Yr			
Total FY11	**$ 274,688**	**$ 651,321**	**$ 747,615**	**$ 1,673,624**	or	**8.72%**	**$ 38,004**	**$ 1,711,629**
FY10 vs FY11	12.0%	15.5%	2.4%	8.7%		**$ 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%	12.4%	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%	-1.9%	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%	5.9%	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%	13.44%	625	177,085
					Compared to Prv Yr			
Total FY12	**$ 314,731**	**$ 679,063**	**$ 816,110**	**$ 1,809,903**	or	**8.1%**	**$ 20,785**	**$ 1,830,688**
FY11 vs FY12	15%	4%	9%	8%		**$ 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%	8.3%	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%	11.9%	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%	14.9%	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%	8.6%		
					Compared to Prv Yr			
Total FY13	**$ 345,570**	**$ 758,018**	**$ 893,617**	**$ 1,997,205**	or	**10.35%**	**$ 4,520**	**$ 1,640,183**
FY12 vs FY13	10%	12%	9%	10%		**$ 187,301**	TaxableSalesFY13	$ 105,116,040
Jul-13	81,828	98,642	120,028	300,497	8%		488	300,986
Aug-13	77,809	108,131	106,422	292,362	18%		496	292,858
Sep-13	50,377	77,416	69,328	197,120	-5%	7.4%	434	197,555
Oct-13	16,851	48,015	54,271	119,137	-7%		434	119,571
Nov-13	6,831	47,701	75,780	130,312	6%		434	130,746
Dec-13	21,782	64,884	91,585	178,251	5%	1.5%	25,945	204,196
Jan-14	16,848	54,481	56,839	128,169	8%		0	128,169
Feb-14	22,323	58,758	66,487	147,568	5%		1,213	148,781
Mar-14	-	-	-	-				
Apr-14	-	-	-	-				
May-14	-	-	-	-				
Jun-14	-	-	-	-				
Total FY14	**$ 294,649**	**$ 558,028**	**$ 640,740**	**$ 1,493,417**	**YTD Compared to Last Year**		**$ 29,445**	**$ 1,522,862**
YTD vs Last Year	13.7%	4.8%	2.7%	5.5%		**5.52%**		
FY14 % of Collections	20%	37%	43%			**$ 78,134**	TaxableSalesFY14	$ 78,600,892
Grand Total	**$ 4,559,877**	**$ 9,516,895**	**$ 11,504,540**	**$ 25,581,312**			**$ 772,413**	**$ 19,510,104**
% of Total Collections	18%	37%	45%				3.0%	Average *i* since '96



Total Taxable Sales Since 1996	$ 1,346,384,863
Total Collected	$ 26,927,697
5% Admin	$ 1,346,385
Public Portion	$ 25,581,312


Average Daily Effluent Flows (MGD)
Million Gallons per Day
2.5
2.0
1.5
1.0
0.5
0.0
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Dec
2009
2010
2011
2012
2013

U.S. NEWS

'Wealth Effect' Drives Vacation-Home Sales

By Kris Hudson

Sales of vacation homes are surging again, the result of rising wealth in higher-income households and renewed confidence in the housing market.

The number of second homes acquired for part-time personal use jumped 30% last year to 717,000 homes, according to an annual survey by the National Association of Realtors. The gain was the largest since the association started tracking second-home sales in 2003.

Although the number of second homes sold last year is well short of the high point of nearly 1.1 million in 2006, last year's jump signals a rapidly changing sentiment about the value of residential real estate, which just a few years ago was considered a poor investment amid the broad market bust.

Economists note that the vacation-home market was a beneficiary of last year's big gains in the stock market and rising home values, bringing buyers more wealth and confidence. The S&P 500 index of stocks posted a 30% increase last year, its largest since 1997. The median price of an existing home rose by 11.5%, the largest gain since 2005, according to the Realtors group.

That combination gives rise to the classic "wealth effect" in which people feel more wealthy and therefore more willing to spend. More households also sought to diversify by transferring gains from stocks and other investments into real estate.

Rising prices and favorable currency-exchange rates spurred Calgary residents Sherry and Phillip Hickey to buy a second home in Mesa, Ariz., last year to escape the Canadian winters. The couple, represented by Realtor Kris Anderson at Your Premier Team at RE/Max Excalibur, spent $357,500 on a three-bedroom, three-bathroom home where they intend to spend roughly five months a year.

"We just saw that things were looking better in the Phoenix market and prices were going up," Ms. Hickey said. "We wanted to get in before they went up too high and to make use of the Canadian dollar at par" with the U.S. dollar at the time.

Ms. Hickey, 56 years old, and her husband, 63, who own a small business in concrete forming, spent several decades of savings on the purchase.

"The housing market is in full-blown recovery mode," said Joseph LaVorgna, chief U.S. economist for Deutsche Bank Securities. "People are much more confident in the sector as a long-term investment [as shown by] their decision to purchase an extraordinarily discretionary item, a second home."

Overall, vacation homes accounted for 13% of U.S. home sales last year, up from 11% in 2012, according to the Realtor association survey. Their median price last year was $168,700, up 12.5% from 2012.

Regionally, the South accounted for most vacation home sales last year—41%—likely due to its mild weather. Next was the West, with 28%; the Northeast, with 18%; and the Midwest, with 14%.

"The market definitely picked up for vacation homes in the Tampa Bay area overall last year," said Tony Baroni, who leads five real-estate agents at Keller Williams Realty in the Tampa Bay, Fla., area. "Our market had gone down so much [in price] that, even when it started recovering, buyers still felt like it was a great value."

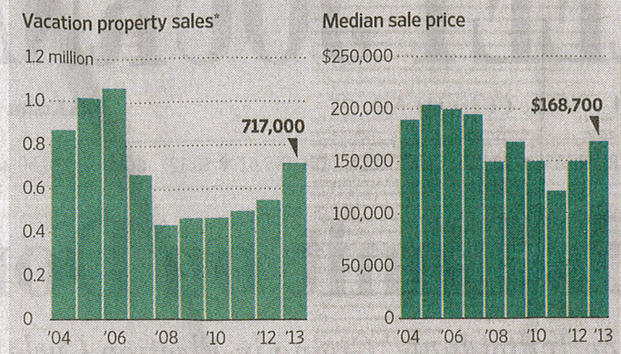
The second-home surge also underscores a disparity in the market. More-affluent, move-up buyers trading into their second- or third-generation home have carried the U.S. real-estate market in recent years as would-be first-time buyers have been hobbled by strict mortgage-qualification standards.

Also, several measures show that household wealth reached new heights last year. Pay gains have favored better earners; U.S. Census Bureau data show that the top 60% of U.S. earners saw household income rise by 2.3% or more in 2012 while the bottom 40% saw gains of less than 1.8%.

Meanwhile, the Realtor association's survey, which covered 2,008 households, also found that second-home purchases by investors declined last year by 8.5% to an estimated 1.1 million. Such a drop has been widely forecast as home prices rise and the number of foreclosed and distressed properties declines. The survey doesn't include purchases by large, institutional investors.

For Recreational Use Only

Sales of U.S. vacation homes rebounded strongly in 2013 amid the stock-market boom, shaking off several years of sluggishness.



*New and existing homes

Source: National Association of Realtors

The Wall Street Journal

Bloomberg News

The South was the top region for vacation-home sales in 2013, a showing bolstered by Florida. Here, a luxury condo building in Miami Beach.

City of Whitefish, MT
Budget Calendar
FY2015

Feb 11	Asst. City Manager/Finance Director begins reformatting budget spreadsheets, updating historical budget data, and estimating final year end revenues and expenditures for FY15.
Feb 25	Department Directors to submit individual updated 5 year Capital Improvement Plans to Administrative Assistant to the Public Works Director.
Feb 28	Finance Director to submit newly compiled 5 year Capital Improvement Plan to City Manager.
Mar 3	Assistant City Manager/Finance Director submits budget preparation instructions and materials to all Department Heads.
March 17	City Manager meets with Mayor and Council members in groups to get preliminary comments on budget.
Mar 27	All Department Heads submit estimates of expenditures and revenues to the Assistant City Manager/Finance Director.
March 31	Optional notice deadline for City Council or Municipal Judge to submit request for an adjustment in Municipal Judge's compensation other than automatic cost of living.
April 7	City Council approval of Capital Improvement Program. (Need to update for FY15)
May 1	City Manager to provide Municipal Judge with proposed "status quo" Municipal Court Budget.
May 6	Assistant City Manager/Finance Director produces budget document and distributes to Mayor and Council.
May 15	Municipal Judge's deadline to submit his Municipal Court budget proposal. (Ordinance)
May 27	Budget Meeting - City Manager presents proposed budget to Mayor & City Council. Department Directors other than Public Works present budget requests.
Jun 9	Budget Meeting – Public Works and Municipal Court present budgets
Jun 3 or 16	Preliminary Public Hearing and City Council adopts Preliminary Budget
Jul 1	City begins fiscal year using proposed budget as approved by the City Council.
Aug 4	DOR to submit Certified Taxable Value.
Aug 6 & 13	Advertise notice of public hearing on budget for August 18, 2013.
Aug 18	Public hearing on budget. Final budget adopted by resolution.

Bold denotes deadlines

RESOLUTION NO. 14-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ESTABLISHING ANNUAL GOALS FOR THE CITY.

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

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

WHEREAS, the Mayor and City Council met in a work session with the City Manager on April 7, 2014 to establish short term, long term, and on-going goals for items needing more than two years to accomplish; and

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

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

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

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

Mayor/Council Short Term Goals (no particular order)	Mayor/Council Longer Term Goals (no particular order)	Mayor/Council Ongoing Goals (no particular order)	Staff Goals (no particular order)
Hwy 93 South Corridor Plan	Riverside Park protection and improvement for erosion	Economic Development – Public-Private Partnerships and targeted business assistance	MDT – Hwy 93 west project
Downtown Parking	Whitefish River waterway development and improvement	BNSF – cleanup of CECRA site, maintain good relationship on all issues	Explore extent of waivers for utility contracts
City Hall planning	Open space funding	Whitefish Trail - work with Whitefish Legacy Partners	Long Term Financial Planning and Sustainability
Depot Park Phase II Redevelopment – including new restrooms at O'Shaughnessy Center	Climate Action Plan	Water quality improvements and projects (AIS, water rights, City Beach, Stormwater pond improvements)	Green Initiatives
Whitefish Lake – Retail uses – licensing and/or zoning		Affordable Housing	Recycling Improvements
New Cemetery development		Growth Policy Implementation Items	Maintenance Programs for City Facilities
Begin review of zoning code – district by district		Code Enforcement	Planning – in house priorities and text amendments
Stoltze Conservation Easement – completion and funding			
Wisconsin Avenue Corridor Study			
Birch Point Quiet Zone			

MEMORANDUM

#2014-013

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – City Council Goals

Date: April 9, 2014

Introduction/History

Since 1999, the Mayor and City Council have met in annual retreats or work sessions with the City Manager to discuss and establish short and long term goals. These goals are important in order to prepare the annual budget and work plan for the subsequent fiscal year.

Current Report

Mayor Muhlfeld and City Council members, met in a work session on April 7, 2014 with the City Manager, Assistant City Manager/Finance Director, and some Department Directors to review and set priorities among the choices for goals. In that work session, the Mayor and City Council established ten short term goals, four long term goals, seven on-going goals, and seven additional goals generated by and for the city's staff.

Financial Requirement

Until the budget is established, it is difficult to quantify the cost of resources for these goals. Most of the initial costs incurred for the goals will be city staff time to research, evaluate, and make recommendations on options for the Mayor and City Council. Ultimately, many of these projects involve capital and operating budgets to implement. As options are presented to the Mayor and City Council in the future, these options will typically have cost estimates prepared at that time.

Recommendation

City staff respectfully recommends that the City Council approve the resolution establishing short and long term goals.

The following pages were handed out at the City Council meeting the night of the meeting. They are included here as an addendum to the packet.

received 4-21-14 City Clerk's office

Subject: Comments for April 21st Council Meeting regarding WB-2 Zone Text Changes
From: Mayre Flowers <flowers@digisys.net>
Date: 4/20/2014 10:19 PM
To: Andy Feury <afeury@cityofwhitefish.org>, Frank Sweeney <fsweeney@cityofwhitefish.org>, Jen Frandsen <jfrandsen@cityofwhitefish.org>, John Anderson <janderson@cityofwhitefish.org>, John Muhlfeld <jmuhlfeld@riverdesigngroup.net>, Pam Barberis <pbarberis@cityofwhitefish.org>, Richard Hildner <rhildner@cityofwhitefish.org>, City of Whitefish <nlorang@cityofwhitefish.org>
CC: Mayre Flowers <flowers@digisys.net>, Mayre Flowers <Mayre@flatheadcitizens.org>

Dear Council Members---I hope that you have had time to review in full the comments that Citizens for a Better Flathead submitted at your last council meeting regarding the need to adopt clear and defensible findings in your decision on the zone text amendment for the WB-2 Zone.

We have reviewed the once again revised ordinance and findings of fact that are in your April 21st meeting packet for a first reading of this ordinance. **We find that this staff report and its findings are still woefully inadequate for this decision.** As such this report and its findings fail to provide the city a sound basis to defend itself if its decision was to be challenged in the future or if another business was to come before you and ask for a zone change to allow their use to occur in the WB-2 zone. Based on the vague and unsubstantiated criteria and findings found in the proposed staff report and ordinance before you, adopting it only invites other businesses to now ask to locate in the WB-2 District given the way these findings have been drafted, which should not be a desirable outcome.

I urge you to review the findings that you adopted in your decision in 2011 attached below. After months and months of community debate, you adopted findings to support very limited zoning text changes to the WB-2 zone in 2011. The findings adopted in 2011 are much more robust and address clearly that the changes were made to correct past deficiencies in the city processes that allowed a proliferation of illegal uses to occur. See pages 56-59.
attached

Here again you have a similar situation with an unfortunate and unintended planning staff error, which allowed a postal and packaging service business use to locate to a building in the WB-2 zone not zoned for this use. Your desire to find a fair and balanced resolution to this situation requires that you carefully consider the findings ---which are the legal basis for your decision ---and ensure that they don't simply invite additional businesses to request relocation to this zone based on the vague and unsubstantiated findings currently proposed for uses appropriate for the WB-2 zone by this staff report.

I have attached below our comments to the staff report and ordinance using Microsoft word track changes tools to highlight our comments to the proposed staff report and ordinance. This method I hope will clearly point out where changes are needed.

Finally attached is a clean copy of just the findings of facts, which we have proposed for you to consider based on those in your 2011 decision and augmented with additional findings from the Whitefish Growth Policy and Whitefish Downtown Master Plan.

There is no deadline for your decision on a zone text change. Don't be pressured. Please take the time necessary to make a sound decision.

Please confirm that you have received this email and its three attachments.

Sincerely,
Mayre Flowers
Citizens for a Better Flathead
PO Box 771, Kalispell, MT 59903

Attachments:

Pages from 2011-05-02.packet.pdf - Adobe Acrobat.pdf	2.5 MB
CBF Changes recomended to ADDENDUM to STAFF REPORT WTZA 14-03 V2mf4-20-2014.docx	143 KB
Revised Findings of Facts recommended by CBF V1mf4-20-2014.docx	154 KB

created by allowing Walgreens. No solution to address future Walgreen-type uses was presented by the Stakeholder Committee.

- Tobacco Products Stores and Tattoo Shops have recently approached the city to locate in the WB-2, and were told that the WB-2 zone does not allow such uses. Tattoos are a personal service, and tobacco products are small retail not listed in the permitted uses. Those uses will likely locate downtown for lack of other options.

7. *Mini-storage. It was agreed that the City should establish appropriate setbacks and other appropriate regulation of mini-storage units on US 93, Baker Avenue and JP Road so that the units are not an eyesore or otherwise objectionable when viewed from the street.*

Mini storage is an allowed Conditional Use in the WB-2 zone. There are currently no specific development or design standards established for ministorage facilities in the zoning code or Architectural Review Standards. The architectural standards would provide some design oversight, but do not address a setback from the major arterials. The committee wished to see those facilities set behind commercial uses on Highway 93 or JP Road, rather than fronting on those roads. At the direction of the council, staff could look at putting together a development standards chapter for mini storage facilities in the Special Provisions chapter that would address those concerns.

Summary

The proposed text changes attached from the Stakeholder Committee are a reasonable attempt to update the code and mitigate the negative effects of city oversight when it comes to allowing illegal uses to proliferate.. The majority of changes proposed are consistent with the "intent" of the WB-2 zone, and consistent with the adopted 2007 Growth Policy.

ZONING TEXT AMENDMENT CRITERIA – Section 11-7-10(D)

The following code considerations from Section 11-7-10(D) are intended to guide both the Planning Board and the City Council when considering an amendment to the zoning regulations or the official map.

CONSIDERATIONS FROM SECTION 11-7-10D.	Staff Analysis/Comments
Conformity to the Growth Policy	The 2007 Whitefish City-County Growth Policy has a several pertinent references to this particular zoning text amendment in the Land Use section. Future Land Use goals include: 1. Preserve and enhance the character, qualities, and small town feel and ambience of the Whitefish Community. The proposed changes conform to that goal by limiting the size of buildings and requiring a public review process for approval of uses that compete with downtown. 2. Strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community. By minimizing changes to the WB-2 zone, the

CONSIDERATIONS FROM SECTION 11-7-10D.	Staff Analysis/Comments
	proposed amendments do their best to continue to support downtown Whitefish. 3. Under Recommended Actions, 7. The City shall develop special regulations for "big box" commercial structures to ensure that the scale and character of the community are maintained. The Committee has recommended a Corridor Study to address that issue.
Project Designed to Lessen Congestion in the Streets	The proposed corridor plan may establish better criteria for large commercial developments that would allow city officials to require traffic impact studies and other ways to mitigate traffic impacts.
Historical and established use patterns and recent change in use trends weighed equally, not one to the exclusion of the other.	The proposed amendments carefully weight historic and established use patterns in the WB-2 Zone with change in use trends by expanding allowed uses that were not contemplated when the original code was written in 1982 while eliminating archaic uses.
Security from Fire, Panic, and Disasters	This criterion is not applicable to this code amendment.
Promote Health and General Welfare	The proposed amendments generally promote health and welfare.
Provide Adequate Light and Air	This criterion is not applicable to this code amendment. This criterion originates with the model zoning enabling statutes and codes of the 1920s. While it remains in the Montana Code Annotated as well as the planning enabling legislation of some other states, its use as a meaningful standard ceased decades ago.
Prevent Overcrowding of Land and Avoid Undue Concentration of People	This criterion is not applicable to this code amendment, although the amendment does expand the WB-2 zone's ability to provide mixed use residential commercial without setting density limits. Modern zoning trends encourage concentration and clustering of residential properties in order to minimize travel time and energy use to jobs and amenities.
Facilitate Adequate Provisions for Transportation, Water, Sewerage, Schools, Parks and Other Public Requirements	The criteria for adequate transportation, utilities, schools and parks are imposed via impact fees on new development and will also come into play when larger facilities are proposed that require a conditional use permit or PUD, wherein the city can impose additional conditions not otherwise required.
Reasonable	The proposed changes take great care to maintain the

CONSIDERATIONS FROM SECTION 11-7-10D.	Staff Analysis/Comments
Consideration to the Character of the District	character of both the WB-3 downtown zone and the WB-2 Secondary Business District zone, and attempt to be faithful to the adopted intents of those zones while preventing the continued proliferation of illegal uses.
Reasonable Consideration to the Peculiar Suitability of the Property for Particular Uses	This criterion is not applicable to this code amendment. It pertains more to site development than community wide zoning regulations.
Conserve the Value of Buildings	The proposed code amendments try to maintain building and property values in both the WB-3 and the WB-2 zone by encouraging consistent application of zoning and allowed uses.
Encourage the Most Appropriate Use of the Land throughout the Municipality	The modifications to the WB-2 zone continues to encourage auto-related uses that require access and parking, while also minimizing impacts to the downtown as the retail center of the city per the Downtown Master Plan and adopted Growth Policy

FINDINGS:

Approval of the amendments by the City Council should include the following findings:

1. Whereas additional uses that are compatible with the intent of WB-2 Zone such as automobile rentals, parts and repair, convenience stores associated with service stations, electronics stores, floor covering stores and military surplus stores should be permitted; and

2. Whereas personal services such as hair salons, and massage therapy and medical clinics are similar to other allowed professional office uses appropriate uses and do not compete with the commercial retail center and should be permitted; and

3. Whereas these changes will make several currently non-conforming existing businesses conforming; and

4. Whereas the Whitefish Downtown Business District Master Plan and the 2007 Growth Policy support continuing to protect the WB-3 Zone as Whitefish's commercial retail district by advocating limiting small retail in the WB-2 Zone and the proposed changes are consistent with that; and

5. We find that it is in the best interest of the City of Whitefish to allow amendments to the WB-2 zone permitted and conditional uses 11-2K-2 and 3, 11-9-2 Definitions, in order to

balance the growing needs of the WB-2 Secondary Business District while protecting the economic interests of the WB-3 General Business District.

Recommendation

Staff respectfully asks the City Council review and approve the proposed WB-2 text amendments with modifications proposed in the Stakeholder Committee draft enclosed, subject to the findings listed above.

David Taylor, AICP

Enc.

A. WB-2 Stakeholder Committee WB-2 Draft
B. 11-15-2010 WB-2 Text Amendment Staff Draft
C. WB-2 Stakeholder Committee Agreement
D. WB-2 Stakeholder Correspondence (15 pages)
E. Staff Summary of Issues

ADDENDUM to STAFF REPORT WTZA 14-03
PROPOSED CODE AMENDMENT
TITLE 11, CHAPTER 2K: SECONDARY BUSINESS DISTRICT
April 14, 2014

This is an addendum to staff report WZTA 14-03 to the Whitefish City Council amending the permitted uses in the Secondary Business District (WB-2) following the April 7, 2014 City Council hearing.

BACKGROUND:

The Planning Board held a public hearing on February 20, 2014 and recommended approval of a text amendment to add 'business services' to the WB-2 list of permitted uses along with a definition for 'business services'.

At the City Council meeting on March 3, 2014, the Council did not recommend approval of a new definition of 'business services' nor add it as a permitted use to the WB-2 (Secondary Business District). Instead the Council directed staff to come back to the March 17th meeting 'with an alternative option for shipping and packaging services as a conditional use in the WB-2 zone.'

At the City Council meeting on March 17, 2014, the Council tabled the text amendment for 'shipping and packaging services' as a conditional use in the WB-2. The Council directed staff to develop more robust findings in order to support the text amendment and change the use to 'private postal services and shipping services' to be consistent with other areas of the zoning regulations.

At the City Council meeting on April 7, 2014, the Council voted to approve the text amendment for 'shipping and packaging services' as a permitted use in the WB-2 and revised the Addendum and Findings of Fact.

COUNCIL PROPOSAL:

Add the following permitted use to §11-2K-2:

- Private postal services and shipping services.

FINDINGS OF FACT:

The proposed changes shall be evaluated based on the criteria for consideration for amendments to the provisions of the Zoning Regulations per §11-7-12E.

1. Zoning Regulations Must Be:
   a. Made in Accordance with a Growth Policy

The Whitefish City-County Growth Policy was adopted in 2007 and addresses many aspects of development and growth in our community. The proposed text

Commented [MF1]: Repace Addendum with Revised. Delete reference to an addendum. It make no sense to adopt an addendum to the April 1st staff report that this addendum supplements when the council rejected as the findings and premise of the April 1st staff report that suggested adding new uses under business services. Instead this staff report should be referred to as Revised Staff Report WTZA 14-03.

Commented [MF2]: Change to date of council meeting to reflect that changes are made at the council meeting—April 21,2014

Commented [MF3]: Change to this is a Revised Staff Report WZTA 14-03 with the Whitefish City Council amending...

Commented [MF4]: This should be conditional uses as explained in comments below.

Commented [MF5]: April 21, 2014 City Council meeting.

Commented [MF6]: Add to Background section ---At the City Council meeting on April 21, the Council voted to approve the text amendment for 'shipping and packaging services' as a conditional use in the WB-2 and revised the Staff Report and Findings of Fact to support this decision.

Commented [MF7]: This become 3 for a conditional use.

amendment is within the WB-2 zoning designation which is consistent with the General/Highway Commercial land use designation. The General/Highway Commercial land use designation is described as:

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

Commented [MF8]: Delete' is consistent with' as there are no specific findings that establish the criteria for 'consistent with'. This use occurs legally in the WB-3 currently and in the WF Mall currently as a legally grandfathered use at that location in the WB-2 zone. The point that needs to be made in your findings is that: private postal services and shipping services is not consistent but is permissible as a conditional use given an unfortunate and unintended planning staff error in allowing this use to locate to a building in the WB-2 zone. Replace 'is consistent with—with 'is within'.

Many of the goals and policies support the proposed text amendment including the following:

Land Use:
5. Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development.

7. Plan for healthy, efficient, and visually attractive corridors along major transportation routes through the community.

Economic Development:
3. Seek ways to diversify the local base economy with compatible business and industries such that the character and qualities of Whitefish are protected.

The 'private postal services and shipping services' use is a use that fits the character and quality of the WB-2 neighborhood.

Finding 1: The proposed amendment is in accordance with the Growth Policy because it promotes a diversification of the economy, and it promotes uses that preserve the character of the neighborhood.

Commented [MF9]: Almost any business promotes a diversification of the economy and most could preserve the character of the neighborhood. This is a not a finding that supports this unique single change which is only before you because of your desire to as fairly as possible resolve a staff error. Instead this finding and many of the others that follow need to be rewritten. Otherwise they open the door wide for almost any business to come back to you and say that base on these findings we too want to be allowed to located in the WB-2 District. YOU NEED TO GO BACK TO YOUR FINDINGS FOR THE LAST ZONE TEXT CHANGES YOU MADE FOR THIS DISTRICT IN 2011 AND ADOPT ALMOST IDENTICAL FINDINGS THAT YOU APPROVED FOR THOSE CHANGES. THOSE CHANGES WERE ALSO A RESULT OF STAFF/CITY FAILURE TO HAVE A SYSTEM IN PLACE TO PREVENT THE CONTINUED OCCURANCES OF ILLEGAL USES IN THE WB-2 DISTRICT.

b. Designed to:
   i. Secure safety from fire and other dangers

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The

review of securing the public from fire and other dangers is reviewed either at the time of building permit and/or subdivision.

Finding 2: The proposed code amendment is unrelated to securing safety from fire and other dangers because it is legislative request and not a site specific

request.

ii. Promote public health, public safety and general welfare

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of public health, public safety and general welfare is mostly reviewed either at the time of building permit and/or subdivision – through the building code and/or other development standards.

The proposed use promotes general welfare by adding a compatible use within the WB-2 zoning district.

Commented [MF10]: How is compatible use defined? Can't many, many other businesses also claim they are a compatible use? Here again this vague and unclear finding just invites future conflict with other businesses coming to you and arguing that they too are a compatible use.

Finding 3: The proposed code amendment promotes public health, public safety and general welfare because it is providing an additional compatible use within the zoning district.

Commented [MF11]: Go back and look at the finding you adopted in 2011 to address this criterion in that staff report, it makes no reference to compatible uses. Look at the 2011 Staff Report and its finding for 'Reasonable Consideration of the Character of the District' ,which should also apply here. It said "The proposed changes take great care to maintain the character of both the WB-3 downtown zone and the WB-2 Secondary Business District zone, and attempt to be faithful to the adopted intents of those zones while preventing the continued proliferation of illegal uses."

iii. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of transportation, water, sewer, schools, parks and other requirements are reviewed either at the time of building permit and/or subdivision.

Finding 4: The proposed code amendment has no impact on the adequate provision of transportation, water, sewerage, schools, parks and other public requirements because it is legislative request and not a site specific request.

2. In the adoption of zoning regulations, the city shall consider:
   a. Reasonable provision of adequate light and air

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of reasonable provision of adequate light and air is reviewed at the time of building permit.

Finding 5: The proposed code amendment is unrelated to reasonable provisions of adequate light and air because it is legislative request and not a site specific request.

b. The effect on motorized and nonmotorized transportation systems

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of effect on motorized and nonmotorized transportation systems is reviewed at the time of building permit and/or subdivision.

Finding 6: The proposed code amendment has no impact on motorized and nonmotorized transportation systems because it is legislative request and not a site specific request.

c. Promotion of compatible urban growth

The purpose and intent of the WB-2 zoning district states the following:

> "The WB-2 district is intended to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to highways or arterial streets and may be located in business corridors or islands."

The 'private postal services and shipping services' use is a service that has a need for parking areas and proximity to highways or arterials streets. The proposed use promotes compatible urban growth.

Finding 7: The proposed code amendment promotes compatible urban growth because it implements the purpose and intent of the WB-2 zoning district.

d. The character of the district and its particular suitability of the property for the particular uses

'Private postal services and shipping services' is a use that is suitable for the character of the WB-2 zoning district.

The particular suitability of the property for the particular use portion of the criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. This review would either occur during the time of a zoning compliance permit, a business license or other land use review and not at the time of the legislative action.

Finding 8. The proposed code amendment is not related to the particular suitability of the property for the particular use is not applicable to this code amendment because it pertains more to site development than community wide zoning regulations.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and

Finding 9: The proposed code amendment does not affect the value of buildings because it is legislative request and not a site specific request.

f. That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other.

Commented [MF12]: Again this finding is too broad and general to be valid. Clearly there are existing private postal services and shipping services in the downtown WB-3 zone currently that have "proximity" and access to arterial streets or Hwy 93 which runs through the heart of downtown. This is not a unique or sound finding to base allowing this new use in the WB-2 zone. This is a finding that could be used for adding almost any business to the WB-2 zone which is not the intent of the zoning districts as established.

Commented [MF13]: As note above this is a poorly worded finding and is vague and arbitrary. Why is this compatible urban growth for postal and shipping services and not for other businesses. Granted you recognize that at some point in the future a comprehensive rewrite of the WF zoning may be needed to better define terms like "compatible urban growth," but until then findings like this are vague and arbitrary and should be rewritten.

Commented [MF14]: How are 'Private postal services and shipping services' more suitable uses than another business uses that wants to locate in this district? What is not suitable is to continue to allow uses that can and should locate in the down to leak into the highway WB-2 zone and by doing so intensify this area as strip-entrance to Whitefish. This is not consistent with the WF growth policy or the Downtown Master Plan. Look at a more appropriate finding that you adopted in 2011, "Strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community. By minimizing changes to the WB-2 zone, the proposed amendments do their best to continue to support downtown Whitefish."
Make private postal services and shipping services a conditional use that requires a public hearing and review to insure that you are making this change with the intent of strengthening the role of Downtown Whitefish.

Commented [MF15]: This is not the finding you adopted in 2011. In 2011 you said, "The proposed code amendments try to maintain building and property values in both the WB-3 and the WB-2 zone by encouraging consistent application of zoning and allowed uses." Given that there are existing private postal services and shipping services established in the downtown area under WB-3 zoning you should limit an occurrence of this use in the WB- 2 zone to a conditional use to better maintain building and property values.

Finding 10: The proposed code amendment does not affect historical uses and established use patterns and recent changes in use trends because it is legislative request and not a site specific request.

ADDITIONAL FINDINGS:

Finding 11: Staff finds the considerations in Section 11-7-12(E) are either met or are not applicable;

Finding 12: Whereas, legal public notice according to the Whitefish City Code was published in the Daily Interlake on February 5, 2014;

Finding 13: Whereas, staff sent a notice February 5, 2014 to twenty-three (23) reviewing agencies, departments and other service providers regarding the zoning regulation update.

Finding 14: Whereas, the City-County Planning Board held a public hearing on February 20, 2014 and recommended approval of adding 'business services' to as a permitted use in the WB-2 zone and added a definition of 'business services' in the zoning regulations.

Finding 15: Whereas, at the March 3, 2014 public hearing, the Council directed staff to create a 'shipping and packaging services' use to be a Conditional Use within the WB-2 (Secondary Business District).

Finding 16: Whereas, at the March 17, 2014 public hearing, the Council directed staff to develop more robust findings and amend the proposed Conditional Use to 'private postal services and shipping services' in order to be more consistent with other zoning districts.

Finding 17: Whereas, at the April 7, 2014 public hearing, the Council amended the Ordinance to provide 'private postal services and shipping services' as a Permitted Use and revised the Addendum as findings of fact.

Commented [MF16]: Add a Finding 18 to reflect changes you make on April 21st. The finding could say. Finding 18: Whereas, at the April 21, 2014 city council meeting the council further revised the findings of fact and adopted the revised staff report and findings as findings of fact.

Commented [MF17]: This should be a conditional use as noted repeatedly above.

RECOMMENDATION:

We find it is in the best interest of the City of Whitefish to amend the Secondary Business District (WB-2) to add 'private postal services and shipping services' as a permitted use.

Commented [MF18]: conditional use.

Revised Findings of Facts recommended by Citizens for a Better Flathead for adoption by the City of Whitefish in its final decision amending zoning regulations in the Whitefish City Code Section 11-2k-3 to identify private postal services and shipping services as a conditional use in the Secondary Business District (WB-2) (Drafted by CBF 4-20-2014)

FINDINGS OF FACT:

Finding 1: The proposed amendment is in accordance with the Growth Policy because adding a conditional use to §11-2K-3 for Private postal services and shipping services to the WB-2 zone, but limiting this use in the WB-3 to a conditional use, is supported by the Whitefish Growth Policy as follows:

1. "Preserve and enhance the character, qualities, and small town feel and ambience of the Whitefish Community through an innovative and comprehensive growth management system." (page 68 WFGP)

The proposed change conforms to this goal by requiring an additional public review process for approval of uses that compete with downtown.

2. "Strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community." (page 68 WFGP)

By limiting this change to a conditional use in the WB-2 zone, the proposed amendment recognizes the growth policy intent to strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community.

3. "From a physical standpoint, the plan [Whitefish Downtown Master Plan] recognizes a market-supported build-out scenario that includes 140,000 SF of new retail, existing and/or renovated retail totaling 175,000 SF, over 330 new residential units, and 740 structured parking spaces. How that space could be distributed throughout the downtown area is shown in a Capacity Diagram on page 5 of the plan. Growth potential of this magnitude would present the community with the opportunity to keep the business focus on downtown as opposed to continued development of the Hwy. 93 South corridor, or allowing additional commercial stripping farther south along Hwy. 93 or along Montana Hwy. 40." (page 40 WFGP)

The text of the Whitefish Growth Policy references the Whitefish Downtown Master Plan, which was adopted as part of the WFGP, and demonstrates that the growth potential in the Downtown plan area provides a further basis for limiting additional development uses within the Highway 93 Corridor.

Finding 2: This change will allow non-conforming existing businesses to apply for consideration as a conforming condition use.

The proposed change takes great care to maintain the character of both the WB-3

downtown zone and the WB-2 Secondary Business District zone, and it attempts to be faithful to the adopted intents of those zones while preventing the continued proliferation of illegal uses.

Finding 3: The Whitefish Downtown Business District Master Plan and the 2007 Growth Policy support continuing to protect the WB-3 Zone as Whitefish's commercial retail district by limiting retail and other businesses uses in the WB-2 Zone and the proposed change are consistent with that.

b. Designed to:

i. Secure safety from fire and other dangers

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of securing the public from fire and other dangers is reviewed either at the time of building permit and/or subdivision.

Finding 4: The proposed code amendment is unrelated to securing safety from fire and other dangers because it is legislative request and not a site specific request.

ii. Promote public health, public safety and general welfare

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of public health, public safety and general welfare is mostly reviewed either at the time of building permit and/or subdivision – through the building code and/or other development standards.

Finding 5: The proposed code amendment promotes public health, public safety and general welfare by continuing to protect the WB-3 Zone as Whitefish's commercial retail and business district and by limiting similar WB-3 uses-within the WB-2 zoning district.

iii. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of transportation, water, sewer, schools, parks and other requirements is completed either at the time of building permit and/or subdivision.

Finding 6: The proposed code amendment has no impact on the adequate provision of transportation, water, sewerage, schools, parks and other public requirements because it is legislative request and not a site specific request.

2. In the adoption of zoning regulations, the city shall consider:

a. Reasonable provision of adequate light and air

This particular criterion is specific to lot development and this code amendment is

a legislative matter that would apply to the entire WB-2 zoning district. The review of reasonable provision of adequate light and air is completed at the time of building permit.

Finding 7: The proposed code amendment is unrelated to reasonable provisions of adequate light and air because it is legislative request and not a site specific request.

b. The effect on motorized and nonmotorized transportation systems

This particular criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. The review of effects on motorized and nonmotorized transportation systems are evaluated at the time of building permit and/or subdivision.

Finding 8: The proposed code amendment has no impact on motorized and nonmotorized transportation systems because it is legislative request and not a site specific request.

c. Promotion of compatible urban growth

By limiting this change to a conditional use in the WB-2 zone, the proposed amendment recognizes the growth policy intent to strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community.

Finding 9: By limiting this change to a conditional use in the WB-2 zone, the proposed amendment recognizes the growth policy intent to strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community.

d. The character of the district and its particular suitability of the property for the particular uses

The particular suitability of the property for the particular use portion of the criterion is specific to lot development and this code amendment is a legislative matter that would apply to the entire WB-2 zoning district. This review would either occur during the time of a zoning compliance permit, a business license or other land use review and not at the time of the legislative action.

Finding 10: The proposed code amendment is not related to the particular suitability of the property for the particular use because this portion of the criterion pertains more to site development than community wide zoning regulations and is not applicable to this code amendment.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and

Finding 11: The proposed code amendments try to maintain building and property values in both the WB-3 and the WB-2 zone by encouraging consistent application of zoning and allowed uses.

> **f. That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other.**

Finding 12: The proposed code amendment does not affect historical uses and established use patterns and recent changes in use trends because it is legislative request and not a site specific request.

ADDITIONAL FINDINGS:

Finding 13: Staff finds the considerations in Section 11-7-12(E) are either met or are not applicable;

Finding 14: Whereas, legal public notice according to the Whitefish City Code was published in the Daily Interlake on February 5, 2014;

Finding 15: Whereas, staff sent a notice February 5, 2014 to twenty-three (23) reviewing agencies, departments and other service providers regarding the zoning regulation update.

Finding 16: Whereas, the City-County Planning Board held a public hearing on February 20, 2014 and recommended approval of adding 'business services' to as a permitted use in the WB-2 zone and added a definition of 'business services' in the zoning regulations.

Finding 17: Whereas, at the March 3, 2014 public hearing, the Council directed staff to create a 'shipping and packaging services' use to be a Conditional Use within the WB-2 (Secondary Business District).

Finding 18: Whereas, at the March 17, 2014 public hearing, the Council directed staff to develop more robust findings and amend the proposed Conditional Use to 'private postal services and shipping services' in order to be more consistent with other zoning districts.

Finding 19: Whereas, at the April 7, 2014 public hearing, the Council amended the Ordinance to provide 'private postal services and shipping services' as a Conditional Use and revised the Addendum as findings of fact

Finding 18: Whereas, at the April 21, 2014 city council meeting the council further revised the findings of fact and adopted the revised staff report and findings as findings of fact.

RECOMMENDATION:

We find it is in the best interest of the City of Whitefish to amend the Secondary Business District (WB-2) to add 'private postal services and shipping services' as a conditional use.

received
4-21-14

4/21/2014

Mayor Muhlfeld and Councilers

Regarding no parking on West 5th, Geddes, Jennings and Good.

I attended every meeting regarding the planning of the Streets in this neighborhood. From the first meetings we were told that there would be no parking on these streets. Because of limited right of way the design width of the streets did not allow for on street parking.

Geddes Ave was so narrow that the my wife and I negotiated an easement for some of the utilities so a sidewalk and boulevard could be built. We were told again that there would be no parking on these streets.

When the project was completed and on one of the final inspections I noted to Karen Hilding that one of the no parking signs on Jennings Ave had already been removed (stolen). Vehicles were already parking on the street there by allowing only one lane of traffic.

During the past winter vehicles were parking on West 5th, Geddes, Jennings and Good. Because of the vehicles parking on the streets some parts of these streets were not plowed all winter which resulted in only one lane of traffic! Last week the City street sweeper came by and sections of West 5th and Geddes were not swept because of vehicles parked on the street.

I was informed there was a "technicality" when the plans were approved by the City that has not allowed enforcement of the no parking zones.

I had talked to one of the Council members about this issue in the past.

I would strongly encourage the City Council to fix this problem by approving the no parking zones on West 5th, Geddes, Jenning and Good as shown on map prepared by John Wilson.

I would also suggest if at all possible having no parking on both sides of West Sixth Street from Lupfer West to (the bottom of the hill) at O'Brien Ave. This is a steep hill with a corner at the bottom. During the winter the street becomes very narrow. The original plans called for no parking on this hill but in the fall of 2013 the signs were changed to allow parking on the hill but not the corner. During this past winter there were times that a person had to wait at the top or bottom of the hill for safe passage. There were times this past winter that vehicles were parked on the corner making it almost not passable.

Thanks for your consideration

Mark and Chris VanNyhuis

415 Geddes Ave

Whitefish, MT

Subject: FW: no parking on West 6th Good, Jennings,Geddes & w 5th
From: "John Wilson" <jwilson@cityofwhitefish.org>
Date: 4/21/2014 3:02 PM
To: "Andy Feury" <afeury@cityofwhitefish.org>, "Chuck Stearns" <cstearns@cityofwhitefish.org>, "'Frank Sweeney'" <fsweeney@cityofwhitefish.org>, <janderson@cityofwhitefish.org>, "Jen Frandsen" <jfrandsen@cityofwhitefish.org>, "John Muhlfeld" <jmuhlfeld@cityofwhitefish.org>, "Necile Lorang" <nlorang@cityofwhitefish.org>, "Pam Barberis" <pbarberis@cityofwhitefish.org>, "'Richard Hildner'" <rhildner@cityofwhitefish.org>

Below is the only comment we have received thus far in response to our public notice about tonight's discussion of No Parking zones along the 6th and Geddes project route.

John Wilson
Whitefish Public Works Director
P.O. Box 158
418 East Second Street
Whitefish, MT 59937
Phone 406.863.2455

From: Jerry Luderman [mailto:vsrealty@bresnan.net]
Sent: Thursday, April 17, 2014 9:49 AM
To: jwilson@cityofwhitefish.org
Subject: no parking on West 6th Good, Jennings,Geddes & w 5th

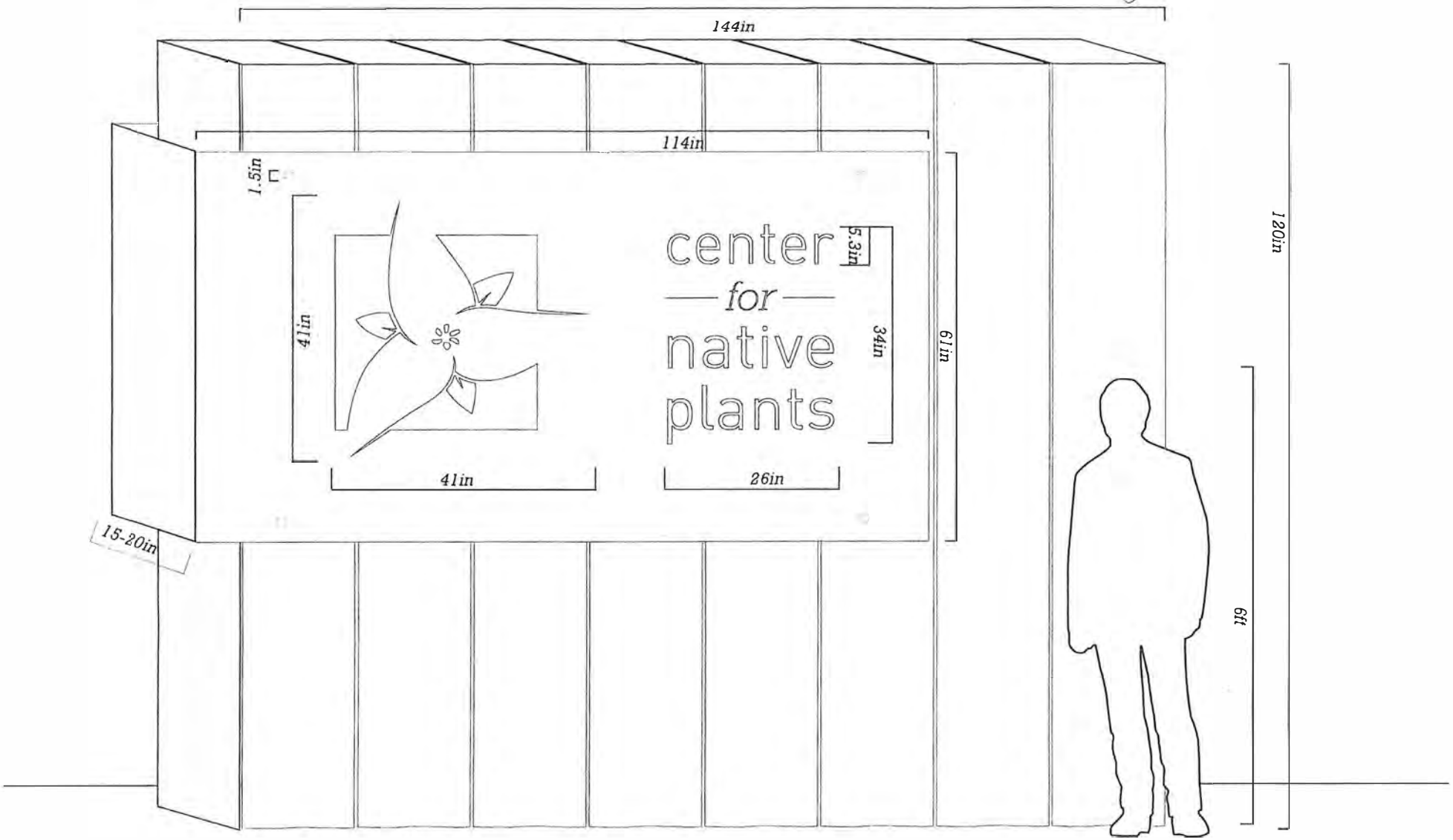
Good morning Mr. Wilson,

I live on east end of west 4th St and I encourage you to adopt a no parking resolution on the above referenced streets. I tow a 29ft camper trailer from time to time in the summer and my son-in-law who lives across the street from me tows a 5th wheel camper with a 18 ft boat behind it and If vehicles are parked on either side of these streets, it is very difficult to get around them and once in a while if there are cars parked on both sides of the road at the same time it is impossible to drive thru . Parking on these streets has been very inconvenient this past winter but unless parking is prohibited, the inconvenience will become more exaggerated as summer arrives and towed campers and boats become more frequent.

Thank you for your kind consideration

Jerry Luderman

132 West 4th Street

Rec'd at Meeting 4-21-14

Rec'd @ Meeting 4-21-14