CITY COUNCIL SPECIAL SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, OCTOBER 6, 2014, 4:30 to 5:50 PM

1. Call to Order

2. Interviews for Whitefish Planning Board
   4:30 – Cindy McGlenn
   4:40 – Ken Stein
   4:50 – Scott Wurster
   5:00 – Wm. (Rett) Parker
   5:10 – John Ellis
   5:20 – Ken Meckel
   5:30 – Rebecca Norton
   5:40 – Melissa Picoli

3. Public Comment

4. Appointments – One (1) Council appointment and Four (4) Mayoral appointments.

Note - If time runs out before all appointments are made, time has been set aside to make them during the Regular Council Session under Communications from Mayor and City Councilors.

5. Adjourn

CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, OCTOBER 6, 2014, 5:50 to 7:00 PM

1. Call to Order

2. Presentation by Ben Tintinger of Mosaic Architecture of the recommended conceptual design for the future City Hall and discussion the design, timing of construction, and costs.

3. Adjourn

ORDINANCE NO. 14-08

An Ordinance of the City Council of the City of Whitefish, Montana, providing that the Whitefish City Code be amended by adding Title 2, Chapter 15, providing for the creation of the Whitefish Planning Board, consistent with State law, and repealing Section 11-7-4.

WHEREAS, the City Council enacted Title 2, Chapter 1, to the Whitefish City Code, by Ordinance No. 01-06, establishing memberships and organization of City boards and committees; and

WHEREAS, by WCC Section 2-1-2, the provisions of Title 2, Chapter 1, to the Whitefish City Code did not apply to the City-County Planning Board as some of its members were appointed by agencies other than the City; and

WHEREAS, the Flathead County Board of County Commissioners has taken action to dissolve the Whitefish City-County Planning Board, assume jurisdiction of the exterritorial area around Whitefish, and exercise its election for the City to create a city planning board; and

WHEREAS, the City Council adopted Emergency Ordinance No. 14-07 on August 18, 2014, providing for the creation of an Interim Whitefish Planning Board; and

WHEREAS, the City Council desires to adopt an Ordinance providing for the creation of a city planning board as a standing committee of the City and establish the Whitefish Planning Board, its membership, powers, and duties, consistent with State law; and

WHEREAS, the City Council desires to repeal WCC Section 11-7-4 and all Resolutions, Ordinances and Sections of the Whitefish City Code in conflict with the application of this Ordinance.

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

Section 1: STANDING COMMITTEE ESTABLISHED: Pursuant to and under the provisions of Title 76, Montana Code Annotated, the City Council of the City of Whitefish does create and establish a city planning board to be known as the "Whitefish Planning Board" consistent with State law by adding Title 2, Chapter 15, WCC, and repealing Section 11-7-4, WCC.

Section 2: PURPOSE, POWERS AND DUTIES: By this chapter, the City Council of the City of Whitefish adopts all of the sections of the laws of Montana aforementioned that specifically pertain to a city planning board, granting and delegating to the Whitefish Planning Board all of the rights, privileges, powers, duties, and responsibilities thereto appertaining. The Whitefish Planning Board shall have such jurisdiction as provided by State law.

Section 3: MEMBERSHIP: The Whitefish Planning Board shall consist of seven (7) members, residing within the corporate limits of the City of Whitefish, to be appointed as follows:

A. One member appointed by the City Council from its own membership;

B. One member appointed by the City Council who, at the Council's discretion, may be an employee of the City of Whitefish or hold public office in Whitefish or Flathead County;

C. One member appointed by the Mayor upon designation by the Flathead County Board of Commissioners, who may be a member of the Board of County Commissioners or an office holder or employee of the County; and

D. Four citizen members appointed by the Mayor, who shall be qualified by knowledge and experience in matters pertaining to the development of the City.

Board members shall receive no compensation.

Section 4: TERMS: POSITIONS: Board terms shall be two (2) years. There are hereby created positions numbered one (1) through seven (7) inclusive of the members of the Whitefish Planning Board. Members serving on the effective date of this Chapter shall be assigned to positions that correspond with the following expiration dates:

POSITION NUMBER	TERM EXPIRATION DATE
1	December 31, 2015
2	December 31, 2015
3	December 31, 2015
4	December 31, 2015
5	December 31, 2016
6	December 31, 2016
7	December 31, 2016

As each of the above listed expiration dates has past, a member appointed to the position shall serve for a two (2) year term. Terms shall begin on January 1 following the initial expiration of the preceding term. At the discretion of the City Council, members may be appointed for more than one term.

Section 5: REMOVAL OF MEMBER: A member of Whitefish Planning Board may be removed from the board by majority vote of the City Council for cause upon written charges and after a public hearing. Willful disregard of State statutes, City ordinances and the rules of procedure of the board, or absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the City Council prior to removal.

Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chair or secretary of Whitefish Planning Board at least twenty-four (24) hours prior to any scheduled meeting.

Section 6: VACANCY: Pursuant to Sections 3 and 4, any vacancy on Whitefish Planning Board shall be filled by the City Council acting in a regular or special session for the unexpired term of the Position wherein the vacancy exists. The City Council may appoint members of the City Council to temporarily fill vacant positions on Whitefish Planning Board.

Section 7: ORGANIZATION: Whitefish Planning Board, at its first meeting after January 1 of each year, shall elect a chair and vice-chair for the next twelve (12) month period. Upon the absence of the chair, the vice-chair shall serve as chair pro tem. If a vacancy occurs in the chair or vice-chair positions, the board shall elect a member to fill the vacancy at the next meeting.

Section 8: MEETINGS; RULES AND REGULATIONS: Four (4) members of Whitefish Planning Board shall constitute a quorum. Not less than a quorum of the board may transact any business or conduct any proceedings before the board. The concurring vote of four (4) members of the board shall be necessary to decide any question or matter before the board, except a motion for a continuance and motions to elect a chair and vice-chair may be decided by a simple majority vote of the board. The board shall adopt rules of procedure for the conduct of meetings consistent with statutes, the City Charter, ordinances and resolutions. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. All meetings shall be open to the public.

Section 9: EXPENDITURE AUTHORIZED: Whitefish Planning Board shall not have authority to make any expenditures on behalf of the City or disburse any funds provided by the City or to obligate the City for any funds except as has been included in the City budget and after the City Council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended.

Section 10: WCC Section 11-7-4 is hereby repealed.

Section 11: All resolutions, ordinances and Sections of the Whitefish City Code and parts thereof in conflict with the application of this Ordinance are hereby repealed.

Section 12: 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 13: This Ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that began before the effective date of this Ordinance.

Section 14: 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 15TH DAY OF SEPTEMBER, 2014.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

A Hop Queen will be crowned as a part of the 2014 Great Northwest Oktoberfest, according to the Whitefish Chamber of Commerce.

Traditionally, a Hop Queen presides over the annual Munich Oktoberfest.

"Since Whitefish is at about the same latitude as Munich and the rich hop-growing Hallertau region, we felt it was appropriate for us to follow tradition and add a Hop Queen to top off this annual event," said Kevin Gartland, executive director of the Whitefish Chamber.

The Hop Queen will be awarded a $500 cash prize, an authentic German dirndl and a floral hop crown and will be the Ambassador of the Great Northwest Oktoberfest throughout the year.

"The Great Northwest Oktoberfest is all about winding down the busy summer season, blowing off some steam and having fun. We are looking for the kind of Hop Queen that embodies the qualities that the community of Whitefish and its almost relentless pursuit of fun," said Marcus Duffey, general manager of the Great Northern Brewing Co. in downtown Whitefish.

Applicants must be at least 21; a maximum of eight finalists will be selected to compete for the title. The judges will be looking for candidates who know their beer and hops for this ceremonial ambassadorship.

The 2014 Hop Queen coronation schedule will include:

❑ **Thursday, Sept. 25,** 6 p.m., — Introduction of all Hop Queen candidate finalists. Participate in various Oktoberfest competitions (stein holding, log-sawing, etc.). Interviews on stage with the judges.

❑ **Friday, Sept. 26,** 6 p.m. — Introduction of all Hop Queen candidates. More participation in Oktoberfest competitions. Coronation of the 2014 Whitefish Oktoberfest Hop Queen is at 8 p.m.

Application forms for the 2014 Great Northwest Oktoberfest Hop Queen can be obtained from the Whitefish Chamber of Commerce at 862-3501 or on its website, whitefishchamber.org, and must be submitted in person or by email no later than 5 p.m. Sept. 19.

Friends and family are encouraged to nominate candidates they feel could embody the spirit of a Great Northwest Oktoberfest Hop Queen.

Great Northern Oktoberfest is Sept 25-27 and Oct 2-4 at Depot Park in Whitefish.

Online:
www.whitefishoktoberfest.com

Volunteers sought for new planning board

The city of Whitefish is seeking people interested in serving on the newly established Whitefish Planning Board.

A board of city residents is being formed because of a recent Montana Supreme Court ruling that gave planning control for the area outside of Whitefish to Flathead County. The joint city-county board was disbanded following the court decision.

Applicants must reside within the city limits of Whitefish. Five members will be appointed for one- and two-year terms, expiring on Dec. 31, 2015, or Dec. 31, 2016.

Interviews with the mayor and City Council will be scheduled for Oct. 6.

To apply, submit your letters of interest to the City Clerk's office by Friday, Sept. 26, by mail to P.O. Box 158, Whitefish, MT 59937, or drop off at the office at 418 E. Second St., Whitefish, or email nlorang@cityofwhitefish.org.

LOCAL ROUNDUP

Polson man gets 50 years for rape

POLSON (AP) — A Polson man who was charged with trying to hire someone to kill his former girlfriend so she couldn't testify against him in a rape trial has been sentenced to 50 years in prison without the possibility of parole for two counts of sexual intercourse without consent.

District Judge James Manley also sentenced 57-year-old Dennis Hobbs on Wednesday to five years for stalking and 10 years for witness tampering. Under the plea agreement, Lake County prosecutors agreed to dismiss a charge of solicitation of deliberate homicide.

Manley said Hobbs' 50-year Montana sentence will begin after he finishes a 15-year sentence in Idaho for a 2005 conviction for false imprisonment and battery.

Idaho Pardons and Parole records indicate Hobbs served about five years before being paroled to Montana.

Birders plan volunteer day at Sowerwine

Flathead Audubon's annual volunteer Work Day at the Owen Sowerwine Natural Area will be Saturday, Sept. 20.

Volunteers will meet at 8:30 a.m. at the Montessori School at 349 Willow Glen Drive in Kalispell to carpool to the trailheads. Work will be done by 11:30 a.m. to allow time to celebrate the 50th anniversary of the Wilderness Act at the Flathead County Fairgrounds.

Volunteer projects will include gathering houndstongue weed seeds and constructing handrails on two footbridges. Weed pullers should wear gloves and bring hand pruners, if available.

Jane Lopp and Associates will submit an application for a $1,000 Prudential Global Volunteer Day grant in recognition of Flathead Audubon Work Day efforts. Twenty volunteers are needed to qualify for the grant.

The grant supports Flathead Audubon's management of the Owen Sowerwine Natural Area.

Contact Richard Kuhl at 257-5793 for further information and to sign up for the bridge project. Everyone is welcome to participate.

Kalispell to discuss the findings of the Flathead Regional Wastewater Management Group. The meeting is free and open to the public.

KALISPELL

❑ Granted final plat approval for new development at the Glacier Village Greens subdivision on the northeast side of town. Go Development LLC can proceed with a seven-lot residential development as part of a follow-up phase to preliminary plat approval that was granted in 2002. All conditions required for the final plat approval had been met, according to city staff.

WHITEFISH

❑ Established registration fees for alarm system companies and property owners with alarm systems. The one-time alarm business registration fee is set at $100. Property owners with alarm systems pay a one-time $25 registration fee.

A fee will be charged when city emergency crews responds to false emergency, fire and police alarms from the same location within a 12-month period. There is no charge for the first three false alarms. A $50 fee is charged on the fourth false alarm. A fifth or more false alarm carries a $300 fee per incident.

❑ Voted to maintain a cash-in-lieu payment for affordable housing at $8,000 per unit.

❑ Approved a contract amendment for the Downtown Master Plan update. The amendment brings the total contract cost to about $196,849.

❑ Accepted a 3 percent rate and fee increase for the water, wastewater and solid waste fund. The increase will result in an additional charge of about $3 per month for a typical residential customer.

Inter Lake 9-18-14 Section A3

Whitefish Pilot 9-24-2014 C-1

Heidi Desch / Whitefish Pilot

uch is the new school resource officer at Whitefish schools.

unity policing

ew school resource officer

would respond to the call.

"This is better because I know the people in the school and that makes it a lot easier," he said. "This is part of community policing — being proactive and preventative, while being able to nip problems in the bud before they happen."

The police department earned a federal grant that helped to fund the position with a matching contribution provided by the school district. The position had historically been funded in a partnership between the city and school district, but was eliminated in 2010 due to a lack of funding.

Schuch wants to break down a barrier that may exist between some students and law enforcement.

At the elementary school, that means shaking hands with the students and explaining the gear on his belt. At the high school, it's also talking with students so he becomes a familiar face.

"I want to make sure the younger students know that I'm approachable and that a police officer isn't just someone in a car," he said. "For the older students, I also want them to be comfortable and know they can come talk to me if they have an issue."

Schuch said his role as school resource officer has three main pieces.

"I'm here to be a resource, for education and also for law enforcement," he said. "Already in a few weeks, I've fulfilled those three roles."

A school officer can work with administrators serving as a mediator or counselor to help diffuse problems between students, he explained.

As one part of the education piece, Schuch spoke to a high school biology class last week. He explained how law enforcement officers use forensic analysis in processing a crime scene.

"That was definitely different," he said. "I enjoyed being able to do that."

Members sought for planning board

Deadline to apply Friday

Whitefish Pilot

Whitefish is looking for members to serve on its newly established Whitefish Planning Board.

The city board was created this month to replace the city-county planning board. The joint board was dissolved after a Montana Supreme Court decision gave Flathead County jurisdiction over Whitefish's planning doughnut.

Whitefish City Council unanimously approved an emergency ordinance Aug. 18 to create an interim planning board that will meet this month. The interim board will be replaced with the offical Whitefish Planning Board after members are appointed.

The city is seeking five residents interested in serving on the board. Applicants must reside within city limits. Members will serve one- and two-year terms, expiring on Dec. 31, 2015 or Dec. 31, 2016.

Interviews with the mayor and city council will be scheduled for Oct. 6.

To apply, submit a letter of interest to the City Clerk's Office by Friday, Sept. 26, by mail to PO Box 158, Whitefish, MT 59937, or drop off at the office as 418 E. 2nd St.; or email nlorang@cityofwhitefish.org.

4:30

received 9-19-14

Subject: Planning board letter of interest
From: "Cindy Dyson" <dyson@montanasky.net>
Date: 9/19/2014 2:08 PM
To: "Necile Lorang" <nlorang@cityofwhitefish.org>

Cindy Dyson-McGlenn
862-7054
dyson@montanasky.net 519 Central Ave. Whitefish, MT 59937

Whitefish City Clerk
418 E. Second St
Whitefish, MT 59937

Sept. 17, 2014

Dear City Councilors and Mayor:

I writing to offer myself for work on the new Whitefish City Planning Board.

As an 18-year resident Whitefish, I've been thinking it's time I give back to the community that's given me so much. I adore Whitefish and wish to champion the wonderful quality of life and the amenities I appreciate here.

I have served on the board of Literacy Volunteers of the Flathead. I currently volunteer with that organization's outreach to county-wide food banks. I served as secretary for Authors of the Flathead as well as the VP of membership for Whitefish's Toastmasters group.

I've been a freelance writer and novelist for the last decade and a half. My husband and I have owned a home in the city center for fourteen years.

I would be happy to answer any further questions.

Sincerely,

Cindy Dyson-McGlenn

Cindy McGlenn <cindy@stowawaybooks.net>
author liaison
Stowaway Books

4:40

received
9-24-14

Subject: Planning board
From: Ken Stein <ken@kenstein.us>
Date: 9/24/2014 10:08 AM
To: nlorang@cityofwhitefish.org

Hi Necile,
To be clear, and official, I am interested in serving on the Planning Board.
Thanks and have a nice day!

Ken Stein
Re/Max Whitefish
406.250.0599

4:50

Scott C. Wurster
222 Montana Avenue
Whitefish, Montana 59937

received
9-24-14

September 24, 2014

Hon. John Muhlfeld
Mayor, City of Whitefish
P.O. Box 158
418 East 2nd Street
Whitefish, MT 59937

Greetings Honorable Mayor Muhlfeld and City Council:

Please accept this letter as indicating my keen interest in serving on the Whitefish City Planning Board for any term length.

Thank you once again for your time and thoughtful consideration.

Sincerely,

/s/

Scott C. Wurster

5:00

received
9-24-14

William M. (Rett) Parker
192 Woodland Star Circle
Whitefish, MT 59937
406.862.6080

September 24, 2014

Dear Whitefish City Council:

This letter of interest serves as my request for appointment to the newly formed Whitefish Planning Board. My wife and I moved to Missoula, Montana in 1978 as newlyweds, and have owned property in Montana since 1979. We raised our children in the Seeley-Swan Valley and relocated to the Flathead Valley in January, 2013. We have been permanent residents of Whitefish for 10 years. I graduated from the University of Montana with a B.S. in Forest Resource Management. Additionally, I earned an M.B.A. from the University of Phoenix.

My career has been dedicated to responsible land management as a forester with Burlington Northern Timberlands, and then their successor, Plum Creek Timber Company managing 45,000 acres in the upper and middle Blackfoot River drainage. More recently, I have assumed responsibility for managing the real estate interests of the firm in Montana and Washington, having served in this role since 2003. My office is located in Columbia Falls at our regional headquarters. I have designed and/or managed a handful of development projects for the company.

Involvement in land use planning includes an on-going volunteer position with North Lake County Planning and Zoning work committee located in Bigfork, MT. This group of concerned citizens has worked for several years to develop land use and zoning regulations for the north Lake County area near the community of Bigfork. I was invited to join the group and help develop an appropriate community review process and zoning documents based on the interests of the community members and landowners. This project continues as a work in progress.

My personal philosophy relative to land use planning and zoning is simple. I support planning and zoning provided the regulations treat landowners equitably, protect public interests, and residents have an opportunity to collaborate in the discussions and process. I look forward to serving the Whitefish community, and becoming a valued and effective member of the planning board.

Thank you for your consideration,

William M. (Rett) Parker

5:10

received
9/25/14

JOHN OLIVER ELLIS, JR.
630 Somers Avenue
Whitefish, MT 59937
(406) 862-3798

September 26, 2014

Ms. Necile Lorang
City Clerk
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

Re: Whitefish Planning Board

Dear Ms. Lorang,

I am writing to express my interest in continuing to serve on the Whitefish Planning Board. I am a full-time resident of the City and reside at the above listed address.

As the Mayor and Council are aware, I am one of the two City of Whitefish representatives on the Flathead Conservation District Board and had been appointed to the City-County Planning Board by the Flathead Conservation District Board. As I read the Montana statutes, a City Planning Board does not have a representative from the Conservation District whereas a City-County Planning Board does.

I have enjoyed serving the City on both of these Boards and hope to continue to do so. I look forward to hearing from you on this matter.

Sincerely yours,

John Oliver Ellis, Jr.

5:20
received
9-26-14

Subject: Planning Board
From: Ken Meckel <kenmeck46@gmail.com>
Date: 9/26/2014 11:24 AM
To: nlorang@cityofwhitefish.org

Necile,

I would like to apply for the new planning board. Please submit my name to the city council for consideration.

Thanks,
Ken Meckel

received 9-26-14 5:30

530 Scott Avenue

Whitefish, Montana 59937

(406) 862-8175 wk/ 862-0629 hm

September 25, 2014

I am writing to submit my letter of interest in serving on the City Planning Board.

I have been a resident of Whitefish since 1986.

Having served on the Board of Adjustment, the Ethics committee, and the Tree Committee in the last decade, I am familiar with zoning in the city and around the lake, our public process and our urban forest.

I was a part of our initial ADA compliance committee (under Gary Marks) and have a strong interest in accessibility and adaptive participation, especially on our trails and downtown area.

I sat in on many of the meetings concerning our water quality issues, the river designation, the DOT interface with Whitefish, the City Hall design sessions, and the meetings with Crandall & Arumbula concerning the redesign of the downtown center.

I've also toured Haskill Basin with Stoltze personnel to look at our water system.

I own a home in Whitefish and a commercial space on Spokane, so also have the perspective of living 10 minutes from the core and working in downtown Whitefish as a business owner.

I have biases towards preserving our natural landscape, our clean water, and our public process. I believe that healthy cities grow, and that planning for their expansion in an inclusive, transparent manner is the responsibility of the local government. I am sensitive to the costs to the citizens who live here and sustain the infrastructure for our larger community. I'd like us to grow in a way that is affordable for the families that have been here for decades if at all possible. And I would like to see more people involved in our public process on a regular basis. I am always curious to see what people are feeling about their lives in Whitefish, and their perspectives on what we can do to improve things and keep things good. At the end of the day we want people to feel grateful that they live in the town that welcomes them into their future with an orderly, open and fair public venue.

Thank you for your consideration.

Rebecca Norton

received
9-26-14
5:40

Subject: Letter of Interest
From: melissa picoli <picolimelissa@gmail.com>
Date: 9/26/2014 11:21 AM
To: <nlorang@cityofwhitefish.org>

Hello,

I hope this email finds you having a great day and enjoying today's misty weather.

I would like to express strong interest in being part of Whitefish's new planning board.

I have had multiple small businesses in Missoula and Whitefish, and am very excited at the prospect of being part of a board which works to enhance and maintain Whitefish's charm and hospitality while ensuring successful economic growth for the local population. I adore this town, and enjoy thinking complex issues through in order to figure out how to align multiple issues in a puzzle.

My experience with planning is limited, but I would be eager to be a valuable member of the Board and would work diligently to catch up on issues and move forward. In Missoula, I was involved with the committee which helped push Brennan's Wave forward, a project which helped bring more excitement and liveliness to downtown, and brings the community together to "surf" and watch daily (as well as entertains the tourists to no end!). I was also interim outreach coordinator for Women's Voices for the Earth from 2007-2008, a position which gave me incredible insight to the power of people working together for a common goal.

I am the founder of BijaBody, a Montana born, MtCDC funded beauty company which reached the national retail and press channels within less than a year, and became one of the few women-owned Montana companies to be venture purchased. What this brings to the Board is an intimate knowledge of our local entrepreneurial spirit, the challenges inherent in pulling a business off the ground from a remote part of the country and the dedication required to do so.

I hope you will consider me for this position.

Sincerely, Melissa Picoli
406.531.4295

Current residential address: 565 Spokane Ave.

For documents and information on the design of the future City Hall portion of the work session, please refer to the documents in the packet in the public hearing on the future City Hall

(This page left blank intentionally to separate printed sections)

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, October 6, 2014, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 14-10. Resolution numbers start with 14-44.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) PRESENTATION – Presentation by Ben Tintinger of Mosaic Architecture on the recommended conceptual scheme for the future City Hall and Parking Structure

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

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

6) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
   a) Minutes from the September 15, 2014 Council regular session (p. 33)
   b) Consideration of approving application from Bruce Boody Landscape Architect on behalf of the Richard Bennett III Revocable Trust for Whitefish Lake Lakeshore Permit (#WLP-14-W40) at 1726 West Lakeshore Drive to repair existing dry stacked rock riprap located in front of an approved retaining wall with the addition of approximately 4 cubic yards of new rock material to supplement the existing rock, subject to 16 conditions (p. 41)

7) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
   a) Consideration of a request from Scott Freudenberger to amend Condition of Approval #28 in the Old Town Phase 1 Subdivision regarding the requirement on Lot 7 to maintain a fence around the storm detention pond (p. 58)
   b) Consideration of an application from Jennifer Howell for a Conditional Use Permit for an accessory apartment at 444 Columbia Avenue - the accessory apartment will be located above a proposed two car garage in the rear of the subject property, adjacent to the existing alley (p. 76)
   c) Resolution No. 14-___; A Resolution of Intention indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy, as requested by Four Fools, LLC, and Richard and Carol Atkinson and adopting findings with respect to such amendment (p. 112)

d) Ordinance No. 14-___; An Ordinance rezoning approximately 2.23 acres of land located at 510, 540 and 550 Wisconsin Avenue, Section 25, Township 31 North, Range 22 West, Whitefish, Montana, from WR-3 (Low Density Multi-Family Residential) to WB-1 (Limited Commercial District) and adopting Findings with respect to such rezone (1st Reading) (p. 156)
e) Resolution No. 14-___; A Resolution to establish a new fee for the rezone of properties that accompany a development project and annexation whenever an Applicant wishes to rezone their property back to what it was zoned before County interim zoning (p. 161)
f) Resolution No. 14-___; A Resolution amending Sections 1.3 and 1.5 of the City of Whitefish Engineering Standards to establish the property owners' consent to annexation as a requirement to initiate or continue receiving City services (p. 166)
g) Resolution No. 14-___; A Resolution amending Rules VI, XV, XXI, and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility to establish the property owners' consent to annexation as a condition to receiving services and responsibility for utility services (p. 172)
h) Resolution No. 14-___; A Resolution of the City Council of the City of Whitefish, Montana, to establish City policy on gated communities within the City limits and amending the City of Whitefish Engineering Standards to address City policy on gated communities (p. 178)
i) Consideration of approving the recommended conceptual scheme for the future City Hall and Parking Structure, providing direction on the cost limitations of the future City Hall and Parking Structure and the timing of construction, and authorizing the City Manager to enter into an agreement for the next phase of Architectural Design with Mosaic Architecture (p. 190)

8) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR
a) Consideration of approving small increases in the costs for proposed stairways to the pedestrian – bicycle trail at Stumptown Inn and at East 2nd Street and Miles Avenue (across the street from Kay Beller Park) (p. 303)

9) COMMUNICATIONS FROM CITY MANAGER
a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 311)
b) Other items arising between October 1st and October 6th

10) COMMUNICATIONS FROM CITY ATTORNEY
a) Resolution No. 14-___; A Resolution adopting findings of fact in support of the City Council's denial of the petitions for exclusion of land, Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, from the City of Whitefish (p. 324)

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
a) Affirm Flathead County appointment of Jim Laidlaw as the Flathead County appointment to the Whitefish Planning Board
b) Letter from Tracy Stone-Manning, Director of Montana Department of Environmental Quality, regarding City's letter requesting holding hearings on increased railroad traffic from the proposed Otter Creek, LLC coal mine (p. 361)
c) Appointment of members to Whitefish Planning Board if not made during special session earlier tonight
d) Select an elected official to participate in the selection committee for an engineering consulting firm for the Depot Park Master Plan Phase II improvements project

e) Consideration of cancelling the December 15, 2014 City Council meeting as has been the tradition in the past

12) 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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October 1, 2014

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

Mayor Muhlfeld and City Councilors:

Monday, October 6, 2014 City Council Agenda Report

There will be a special session for interviews for the Whitefish Planning Board appointments at **4:30 p.m.** There will be a work session on Monday at 5:50 p.m. on the recommended concept for the future City Hall and to discuss the timeline and cost aspects of the project. We will provide food for the work session.

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 September 15, 2014 Council regular session (p. 33)
b) Consideration of approving application from Bruce Boody Landscape Architect on behalf of the Richard Bennett III Revocable Trust for Whitefish Lake Lakeshore Permit (#WLP-14-W40) at 1726 West Lakeshore Drive to repair existing dry stacked rock riprap located in front of an approved retaining wall with the addition of approximately 4 cubic yards of new rock material to supplement the existing rock, subject to 16 conditions (p. 41)

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

Item a is an administrative decision and item b is a quasi-judicial decision.

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

a) Consideration of a request from Scott Freudenberger to amend Condition of Approval #28 in the Old Town Phase 1 Subdivision regarding the requirement on Lot 7 to maintain a fence around the storm detention pond (p. 58)

This item is a request by the property owner of Lot #7 to remove a condition from the Old Town Phase 1 subdivision approval that he needs to maintain a fence around the storm drainage pond on that lot until a storm drainage system is installed in the area. Senior Planner Wendy Compton-Ring has a full staff report in the packet. Staff is recommending modifying the condition, but not eliminating it.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff and the Planning Board, **not approve** the request to eliminate Condition #28 entirely, but **approve** amending Condition #28 to read as follows: Lot 7 shall be maintained in perpetuity as a stormwater facility until a viable city system is developed in the area. If water depths exceed the standards found in the most recent Whitefish Engineering Standards, the property owner of Lot 7 shall install a fence around the pond at their expense. A fence shall be provided around the drainage pond on Lot 7 for public safety. The design of the fence shall be approved by the Planning Department.

This item is a quasi-judicial matter.

b) Consideration of an application from Jennifer Howell for a Conditional Use Permit for an accessory apartment at 444 Columbia Avenue - the accessory apartment will be located above a proposed two car garage in the rear of the subject property, adjacent to the existing alley (p. 76)

The applicant is proposing an accessory apartment above a proposed new garage at 444 Columbia Avenue. Planner II Bailey Minnich has a full staff report in the packet. There were four letters of opposition to this proposal from neighbors.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff and the Planning Board, approve the application from Jennifer Howell for a Conditional Use Permit for an accessory apartment at 444 Columbia Avenue - the accessory apartment will be located above a proposed two car garage in the rear of the subject property, adjacent to the existing alley subject to 10 conditions.

This item is a quasi-judicial matter.

c) Resolution No. 14-___; A Resolution of Intention indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy, as requested by Four Fools, LLC, and Richard and Carol Atkinson and adopting findings with respect to such amendment (p. 112)

Four Fools, LLC, - Carol Atkinson & Richard Atkinson are requesting approval of a Growth Policy map amendment to change the Growth Policy designation from High Density Residential to Neighborhood Commercial. The purpose of the Growth Policy map amendment is to facilitate a rezone on the three parcels from WR-3 (Low Density Multi-Family Residential District) to WB-1 (Limited Commercial District) (WZC 14-03). Both applications (growth policy map amendment and zoning map amendment) are being requested. The properties are currently developed as a restaurant and two single family homes. Senior Planner Wendy Compton-Ring has a full staff report and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff and the Planning Board, approve a Resolution of Intention indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy, as requested by Four Fools, LLC, and Richard and Carol Atkinson and adopting findings with respect to such amendment.

This item is a quasi-judicial matter.

d) Ordinance No. 14-___; An Ordinance rezoning approximately 2.23 acres of land located at 510, 540 and 550 Wisconsin Avenue, Section 25, Township 31 North, Range 22 West, Whitefish, Montana, from WR-3 (Low Density Multi-Family Residential) to WB-1 (Limited Commercial District) and adopting Findings with respect to such rezone (1st Reading) (p. 156)

See description above.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff and the Planning Board, approve an Ordinance rezoning approximately 2.23 acres of land located at 510, 540 and 550 Wisconsin Avenue, Section 25, Township 31 North, Range 22 West, Whitefish, Montana, from WR-3 (Low Density Multi-Family Residential) to WB-1 (Limited Commercial District) and adopting Findings with respect to such rezone (1st Reading).

This item is a quasi-judicial matter.

e) Resolution No. 14-___; A Resolution to establish a new fee for the rezone of properties that accompany a development project and annexation whenever an Applicant wishes to rezone their property back to what it was zoned before County interim zoning (p. 161)

After Flathead County adopted interim zoning just outside the city limits, there were a number of projects caught in the review process that would now be required to annex into the city and rezone their properties back to a comparable Whitefish zone. The current rezone fee does not consider applicants simply wanting to rezone their property back to what it was zoned before the County Interim Zoning.

Staff learned that the city of Kalispell, in order to encourage annexation, has a reduced fee for applicants requesting to rezone to a comparable zoning. This made some sense to staff to have a reduced fee for development projects that are rezoning to a comparable city zone and annexing, as part of their development project. After further consideration, we identified costs to cover including publishing a legal notice and staff time to draft a staff report, but that the public noticing for the project could be joint with the main development project.

The current fee for rezoning property is $2,310.00 + $66.00/per acre for the first 80 acres and $40.00/per acre beyond 80 acres. Staff reviewed the fee and is recommending the following:

- Rezone to a comparable city zone that accompanies a development request and annexation: **$500.00**

The existing rezoning fee will remain in place and will apply to applicants requesting a zone change to a different zone – whether they are in the city limits or annexing with a development proposal.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff, approve a Resolution to establish a new fee for the rezone of properties that accompany a development project and annexation whenever an Applicant wishes to rezone their property back to what it was zoned before County interim zoning.

This item is a legislative matter.

f) Resolution No. 14-___; A Resolution amending Sections 1.3 and 1.5 of the City of Whitefish Engineering Standards to establish the property owners' consent to annexation as a requirement to initiate or continue receiving City services (p. 166)

City Attorney Mary VanBuskirk has a detailed staff report on this item in the packet. It will clarify our regulations so that people have to annex prior to beginning construction.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff, approve a Resolution amending Sections 1.3 and 1.5 of the City of Whitefish Engineering Standards to establish the property owners' consent to annexation as a requirement to initiate or continue receiving City services.

This item is a legislative matter.

g) Resolution No. 14-___; A Resolution amending Rules VI, XV, XXI, and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility to establish the property owners' consent to annexation as a condition to receiving services and responsibility for utility services (p. 172)

City Attorney Mary VanBuskirk has a detailed staff report on this item in the packet. It will clarify our regulations so that people have to annex prior to beginning construction.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff, approve a Resolution amending Rules VI, XV, XXI, and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility to establish the property owners' consent to annexation as a condition to receiving services and responsibility for utility services.

This item is a legislative matter.

h) Resolution No. 14-___; A Resolution of the City Council of the City of Whitefish, Montana, to establish City policy on gated communities within the City limits and amending the City of Whitefish Engineering Standards to address City policy on gated communities (p. 178)

City Attorney Mary VanBuskirk has a detailed staff report on this item in the packet. The changes to our Engineering Standards, if adopted, would prohibit gates on private streets completely.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff, approve a Resolution of the City Council of the City of Whitefish, Montana, to establish City policy on gated communities within the City limits and amending the City of Whitefish Engineering Standards to address City policy on gated communities.

This item is a legislative matter.

i) Consideration of approving the recommended conceptual scheme for the future City Hall and Parking Structure, providing direction on the cost limitations of the future City Hall and Parking Structure and the timing of construction, and authorizing the City Manager to enter into an agreement for the next phase of Architectural Design with Mosaic Architecture (p. 190)

There are extensive documents provided in the packet on this item including:

a) A report and recommendation from the Future City Hall Steering Committee;
b) The conceptual design packet from Mosaic Architecture;
c) A memo from me on costs of the various options for a future City Hall and the timing of construction;
d) A handout from John Kramer that was presented to the Future City Hall Steering Committee at their September 11th meeting;
e) A memo from Crandall Arambula provided comments and a critique of the proposed City Hall conceptual design;
f) The current contract with Mosaic Architecture

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations from staff and the Future City Hall Steering Committee, give direction and authorization to proceed in the following four areas:

1. What general conceptual scheme to pursue as we move into the next phase of architectural design which is called Schematic Design.

2. What general cost parameters and square footages of the building to pursue. If you want to reduce the cost of City Hall, I would recommend delaying or eliminating the third floor first and then reduce the basement to a ½ basement. The basement cannot be expanded in the future, so there is good reason to build a full basement now if possible.

3. Authorization to proceed to the next phase of architectural design which begins with Schematic Design. Costs

4. Timing of when we want to go to construction.

This item is a legislative matter.

COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

a) Consideration of approving small increases in the costs for proposed stairways to the pedestrian – bicycle trail at Stumptown Inn and at East 2nd Street and Miles Avenue (across the street from Kay Beller Park) (p. 303)

Maria Butts, Parks, Recreation and Community Services Director, has a full staff report on this item in the packet. There are some cost increases for these two stairways above what the City Council has previously approved.

RECOMMENDATION: Staff respectfully recommends the City Council approve Tax Increment Funding for the Stumptown Inn stairway not to exceed $20,000 and Tax increment Funding for the 2nd Street Bridge stairway not to exceed $17,000.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 311)
b) Other items arising between October 1st and October 6th

COMMUNICATIONS FROM CITY ATTORNEY

a) Resolution No. 14-___; A Resolution adopting findings of fact in support of the City Council's denial of the petitions for exclusion of land, Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, from the City of Whitefish (p. 324)

City Attorney has an extensive staff report on the rationale and findings to support if the City Council wants to deny this petition for "de-annexation" in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council approve a Resolution adopting findings of fact in support of the City Council's denial of the petitions for exclusion of land, Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, from the City of Whitefish.

This items is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Affirm Flathead County appointment of Jim Laidlaw as the Flathead County appointment to the Whitefish Planning Board
b) Letter from Tracy Stone-Manning, Director of Montana Department of Environmental Quality, regarding City's letter requesting holding hearings on increased railroad traffic from the proposed Otter Creek, LLC coal mine (p. 361)
c) Appointment of members to Whitefish Planning Board if not made during special session earlier tonight
d) Select an elected official to participate in the selection committee for an engineering consulting firm for the Depot Park Master Plan Phase II improvements project
e) Consideration of cancelling the December 15, 2014 City Council meeting as has been the tradition in the past

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
SEPTEMBER 15, 2014
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Anderson, Hildner, Feury and Sweeney. City Staff present were City Clerk Lorang, City Attorney VanBuskirk, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Wilson, Interim Fire Chief Page, Police Chief Dial and Senior Planner Compton-Ring. Mayor Muhlfeld said City Manager Stearns was out of town attending a conference and City Clerk Lorang was Acting City Manager tonight. Approximately 8 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Chris Hyatt 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) (CD 1:15)

Mayre Flowers, from Citizen's for a Better Flathead, 35 4th Street West in Kalispell, requested that staff gives the public adequate review time for Corridor Plans.

Rhonda Fitzgerald, 412 Lupfer Avenue, said her comments are related to agenda item 8c), the approval of the scope of work for the Downtown Master Plan update by Crandall-Arambula. She spoke for approval; and said that the entire community of Whitefish has enjoyed the benefits of successful implementation of elements of the original Master Plan. Completed priority catalyst projects have boosted the downtown core and helped build a strong economy in Whitefish at a time when other smaller communities have been struggling. She said there is more work to do so the next phase of this contract will help to facilitate the next steps.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS (CD 4:00)

Councilor Hildner reported on the last Bike/Ped Path Committee (Committee) meeting held on Monday, September 8th. The Parks and Recreation Department (the Department) is working to get both state and local approval for improvements at the Whitefish Landing (BNSF). Plans for the Skye Park Bridge are expected next month; that improvement project will likely be separated from the bid of the sewer improvement project at the same site. The Department is continuing to determine ownership for the path over the culverts by Town Pump, it is either MDOT or DNRC. The Council will be receiving a request for funding stairs at Second Street and Stumptown in October. The stairs are complete down to the river at The Kay Beller Park, Councilor Hildner encouraged people to check those out. The Committee will have a volunteer work project to do some spot seeding along the paths, dependent on getting the seed and the volunteers. He said the public might not be aware that the 'Safe Route to Schools' program facilitated the purchase of 22 bicycles and tools for repair and maintenance for the bike education program; unfortunately the Safe Route to Schools statewide program is coming to an end.

He said the Bike/Walk to Work/School Day will be announced and is coming soon. Bike lanes have recently been striped on Pine, Baker Avenues and 2nd Street. The Department's administrative report included discussion about revising ordinances to make some of the advisory committees to be subcommittees of the Park Board instead of the Council, which may be coming soon to the Council.

Secondly, Councilor Hildner reported attending the Ad Hoc New City Hall Committee (Committee) meeting on Thursday, September 11th, where the Committee addressed design elements and office spaces. It is currently back to the architects for refining; the architects did contact Crandall-Arambula, the Downtown Master Plan consultants regarding design elements. The architects will be making a presentation to the Council on October 6th.

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) (CD 8:25)

a) Minutes from the September 2, 2014 Council regular session (p. 21)

b) Ordinance No. 14-08; An Ordinance of the City Council of the City of Whitefish, Montana, providing that the Whitefish City Code be amended by adding Title 2, Chapter 15, providing for the creation of the Whitefish Planning Board, consistent with State law, and repealing Section 11-7-4 (2nd Reading) (p. 33)

c) Resolution No. 14-40; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City 1.050 acres of land in Section 1, Township 30 North, Range 22 West, that will become a part of 6348 Highway 93 South, for which the owner has petitioned for and consented to annexation (p.37)

RESOLUTION NO. 14-40

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City 1.050 acres of land in Section 1, Township 30 North, Range 22 West, that will become a part of 6348 Highway 93 South, for which the owner has petitioned for and consented to annexation.

WHEREAS, HDH Holdings, LLC, by and through Howard D. Hamilton, Manager, on behalf of Property Owner, has filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owner of real property representing 50% or more of the total area to be annexed, described and shown more fully on Exhibit A, attached hereto and made a part hereof. Therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

WHEREAS, services to the annexed area will be provided according to the City of Whitefish Extension of Services Plan, adopted by the City Council by Resolution No. 09-04 on March 2, 2009, as required by and in conformity with §§7-2-4610 and 7-2-4732, MCA, available at the office of the City Clerk; and

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish that the City is able to provide municipal services to the area proposed for annexation. Further, it is hereby

determined by the Whitefish City Council to be in the best interest of the City of Whitefish, and the inhabitants thereof, as well as the current and future inhabitants of the area to be annexed described herein, that the area be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate boundaries of the City of Whitefish be extended to include the boundaries of the area described in the Petition for Annexation within the limits of the City of Whitefish.

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

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area described in the Petition for Annexation and Exhibit "A", attached hereto and incorporated herein by reference.

Section 2: The minutes of the City Council of the City of Whitefish, Montana, incorporate this Resolution.

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the September 15, 2014 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to §7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 15TH DAY OF SEPTEMBER, 2014.

EXHIBIT 'A'

A TRACT OF LAND, SITUATED, LYING AND BEING IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 30 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

Commencing at the southeast corner of Lot 2, Dear Tracts Subdivision (records of Flathead County, Montana), which is a found iron pin on the westerly R\W of U.S. Highway No. 93; Thence leaving said R\W N87°38'54"W 778.66 feet to a found iron pin; Thence N28°36'58"E 229.37 feet to a found iron pin on the north boundary of said Dear Tracts Subdivision; Thence along said north boundary S87°41'06"E 82.74 feet to a set iron pin and the TRUE POINT OF BEGINNING of the tract of land herein described; Thence leaving said north boundary N00°01'06"E 125.60 feet to a found iron pin; Thence S89°33'55"E 351.38 feet to a found iron pin; Thence S02°35'28"W 137.03 feet to a set iron pin on the north boundary of Dear Tracts Subdivision; Thence along said north boundary N87°41'06"W 345.50 feet to the point of beginning and containing 1.050 ACRES; Subject to and together with all appurtenant easements of record.

/S/ John M. Muhlfeld, Mayor

ATTEST:
/S/ Necile Lorang, City Clerk

Councilor Sweeney made a motion, second by Councilor Frandsen, to approve the consent agenda as presented. The motion passed unanimously.

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)) (CD 8:44)

a) Resolution No. 14-41; A Resolution to establish registration fees for alarm system businesses and for structure alarm systems by property owners and customers and false alarm fees when City equipment responds to false emergency services, fire, and police alarms (p. 51)

Police Chief Dial gave the staff report; the public hearing has been advertised and the fees are set out in the resolution. He did point out that the registration fees for alarm businesses, and businesses and/or homes with alarms, is a one-time registration fee.

Mayor Muhlfeld opened the public hearing. There was no public comment, Mayor Muhlfeld closed the public hearing and turned the matter over to the Council for their consideration.

Councilor Feury made a motion, second by Councilor Sweeney, to adopt Resolution No. 14-41; A Resolution to establish registration fees for alarm system businesses and for structure alarm systems by property owners and customers and false alarm fees when City equipment responds to false emergency services, fire, and police alarms.

Councilor Hildner requested a status report in 6 months to see if this action is getting the expected results; and Chief Dial replied that since they started addressing this issue, the number of false alarm reports for the Police and Fire Departments is already going down. Councilor Frandsen asked about notification to those properties with alarms of the new registration process and Chief Dial said they are planning a notification and implementation process. Mayor Muhlfeld acknowledged Chief Dial, Chief Kennelly and the Chamber of Commerce for working together finding solutions to this situation.

The motion passed unanimously.

7) COMMUNICATIONS FROM CHIEF OF POLICE (CD 12:43)

a) Ordinance No. 14-09; An Ordinance amending Whitefish City Code Section 9-1-4 regarding false fire alarms to include all false alarms, and to provide registration requirements for all alarm system companies and administrative fees (Second Reading) (p. 57)

Chief Dial pointed out some minor clarifications in Exhibit "A" of the ordinance that differ from the first reading. Section 9-1-4.B – the last sentence reads that effective January 1, 2015, all property owners will pay a fee for each new alarm system installed in the City. In further explanation, Chief Dial said all properties are required to register their alarm systems, but new systems going in after January 1, 2015, will be charged the one-time fee. The other change is in Section 9-1-4.G.3 – the three words "false alarm <u>fee</u>" was changed to read that way instead of <u>fine,</u> to be consistent with the definition of False Alarm Fee set out in paragraph H.

Councilor Hildner made a motion, second by Councilor Frandsen, to approve Ordinance No. 14-09; An Ordinance amending Whitefish City Code Section 9-1-4 regarding false fire alarms to include all false alarms, and to provide registration requirements for all alarm system companies and administrative fees; Second Reading. The motion passed unanimously.

8) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

a) Resolution No. 14-42; A Resolution maintaining the cash-in-lieu payment in connection with affordable housing at the current $8,000.00 per unit (p. 62) (CD 15:02)

Planning Director Taylor said this is an annual review; and the fee is an option for developers of a PUD (Municipal Code Section 11-2S-3(B)(1), providing that a density bonus may be taken when a "cash-in-lieu" payment is made in the amount set by City Council each year by resolution. After consulting with Lori Collins, Director of the Whitefish Housing Authority, the recommendation is to maintain the affordable housing cash-in-lieu per unit fee for future Planned Unit Developments at $8,000.

Councilor Anderson made a motion, second by Councilor Frandsen, to approve Resolution No. 14-42; A Resolution maintaining the cash-in-lieu payment in connection with affordable housing at the current $8,000.00 per unit.

Councilor Sweeney commented that this program is in place but not raising any funds through the system and the program needs review. Councilor Hildner said the need to improve and increase affordable housing stock in Whitefish was the subject of a recent meeting at the Chamber of Commerce. Mayor Muhlfeld said he believed it will be revisited during a Council work session as it is on their list of priorities and goals.

The motion passed unanimously.

b) Discussion and direction on which Corridor Plan to pursue next and when to initiate work on it (continued from June 16th meeting) (p. 67) (CD 18:22)

Director Taylor said this is a continuation of the conversation that the Council had with staff on June 16, 2014, when they talked about finishing out the current Hwy 93W Corridor Study before beginning with any other plan, as more than one plan at a time is too much for his current staffing levels. The latest amendments to that plan should arrive in the office later this week so it can move forward to the Steering Committee, then to the Planning Board, then to the Council for the adoption followed by elements of implementation of the Plan. Additionally, he and his staff are currently working on amendments to the code they will be bringing forward to make them consistent with the City's zoning jurisdiction following the Supreme Court decision. Staff is asking for Council's direction. Council discussed both Wisconsin Avenue and Hwy 93S plans, and the Growth Policy Review. Also coming forward is the Downtown Master Plan amendments and implementation. Director Taylor suggested the possibility of hiring a consultant to help with some of the tasks. Mayor Muhlfeld said in summary, following the completion of the Hwy 93W Corridor Study, and the Downtown Master Plan and Growth Policy review this fall and winter – which may give more complete direction of further corridor studies;

move forward after the beginning of 2015 with the Wisconsin Avenue plan followed by a Hwy 93S plan with consideration given to outsourcing facilitators to move those forward.

c) Consideration of Amendment #3 to contract with Crandall-Arambula for Downtown Master Plan update (p. 74) (CD 30:54)

Senior Planner Compton-Ring said tonight's recommendation follows the February 2014 approval of Amendment #2 which included the gathering of more public input at a community information forum that was held in March. The Mayor and Council working group have also met with the consultants Crandall-Arambula on elements of Amendments #2 and #3; which was followed up by staff working with the consultants developing the scope of work detailed in this Amendment #3, and included in tonight's Council Packet. This amendment includes the work and three (3) one person visits for two public meetings and one meeting with Council. Staff notes there are still funds allocated from Amendment #2 that could cover one of the meetings, so Amendment #3 for $89,895 could be reduced by one meeting and paid for by TIF contingency funds.

Councilor Anderson made a motion, second by Councilor Frandsen, to approve contract Amendment #3 with Crandall-Arambula for $89,895 less one meeting and authorize the City Manager to approve a contract amendment for those terms.

Councilor Frandsen made an amendment, agreed to by Councilor Anderson, maker of the original motion, to form a working group that will oversee and work with the consultants and who report progress and status of this phase to the Council.

Mayor Muhlfeld said there was already a working group which would be a place to start.

The amendment passed unanimously.

The original motion, as amended, was approved unanimously.

9) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD 37:13)

a) Consideration of allowing annual, inflationary rate increases for water, sewer, and solid waste rates to go into effect (p. 85)

Public Works Director Wilson said this is an annual review and consideration by the Council for automatic inflationary rate and fee increases for the Water, Wastewater and Solid Waste Funds, based on Council's adoption of Resolution 13-29 in October 2013, providing for water and sewer rates be automatically adjusted on October 1st of each year "based on the increase, if any, in the U.S. Department of Labor's Water, Sewer and Trash Collection Services Consumer Price Index for All Urban Consumers for the twelve-month period ending the preceding December 31." Automatic increases of 3% for solid waste services each October 1st through 2016 is also included in Resolution 13-29 corresponding with the current service contract with North Valley Refuse. Director Wilson said it is important to keep rates in pace with inflation and that small increases help offset rising costs and help offset large increases required by major future expansions. Since the provisions of Resolution 13-29 calls for these increases to be automatic, no action is required by the Council if they agree with these increases; if the Council

prefers something different, any direction given can be brought back with a new resolution at the next meeting.

Mayor Muhlfeld asked for questions or direction for staff and there was none. Mayor Muhlfeld said no action deems approval of the 3% increase in rates for solid waste and a 3.6% CPI increase for Water and Wastewater rate and fee increase.

10) COMMUNICATIONS FROM CITY MANAGER (CD 41:04)

a) **Written report enclosed with the packet. Questions from Mayor or Council? (p. 96)** – None.
b) **Other items arising between September 10th and September** – None.
c) **Resolution No. 14-43; a Resolution relating to financing of certain proposed projects; establishing compliance with reimbursement bond regulations under the Internal Revenue Code (p. 103)** (CD 41:25)

Finance Director Smith said this resolution is prepared by our bond counsel, Dorsey & Whitney, to stay in compliance with tax-exempt bonds and the use of State funds for water and/or wastewater projects; specifically in this case the funds are for the River Lakes Force Main Project. The amount listed in the resolution is $500,000, which is over the engineer's estimate, but this is a provision of an amount "up to"; we don't have to do the full drawdown on the loan, but it is there in case we need it.

Councilor Feury made a motion, second by Councilor Frandsen, to approve Resolution No. 14-43. The motion passed unanimously.

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 43:24)

a) **Letter and petition from Warren Schweitzer and Ingela Schnittger to exclude (de-annex) their property at 2154 Houston Drive from City limits (p. 110)** – No comments.

Other Council Comments:

Councilor Hildner asked for status of action on the two abandoned signs and Director Taylor said new construction is scheduled at the old Wendy's location so that should be coming down, and a letter was sent to the owners of the old hospital site giving them 30 days to remove that sign. Councilor Hildner asked if there has been any recent effort for bear resistant containers south of the viaduct, it is bear season again. Director Wilson said nothing recently, just some general discussions with the contracted hauler; the logistics of finding a solution replacing the large (300 gallon) alley containers used citywide makes it difficult and very expensive. Thirdly, Councilor Hildner said there had been two major water main breaks on the Hwy 93W construction project. Director Wilson said they have found a whole lot of stuff in a small right-of-way and the contractor has put forth a special effort to deal with the situations as they have come up.

Councilor Frandsen announced the "Start-up Glacier" presented this weekend Friday through Sunday at Flathead Community College for entrepreneurial and new business idea presentations and discussions.

Councilor Anderson supported Councilor Hildner's request for more bear-resistant containers, the bears seem to be roaming more south of the tracks, he saw fresh evidence on JP Road by the bike path and Director Wilson agreed the bears like the creek and river corridors. Secondly, Councilor Anderson said he would like to officially appoint a spokesperson for the Council for speaking at County Commission meetings; and he suggested Councilor Sweeney, with Councilor Hildner as alternate, and he asked if there was Council support. Mayor Muhlfeld said he would just ask to be kept informed of what meetings the spokesperson will be attending and what they have in mind saying on behalf of the Council. Councilor Sweeney said he would be willing to take on that task with the proviso that he knew the views of at least the majority of the Council for what they wanted him to relay. Councilor Sweeney noted the County Commission hold lots of meetings on lots of different subjects and he said it would be helpful to have a city staff member keep an eye on that schedule and notify the spokesperson when an agenda item is coming up on a meeting that the Council should be aware of. He also thought that someone on the Planning Staff should be watching agenda items that come before the County Planning Board meetings and watch for issues, again, that Council should be aware of; he would like it to be an assignment to one of the Planning Staff. Mayor Muhlfeld said he agreed and addressed the matter to Director Taylor, who said they already do that. The Mayor asked for a show of hands for Councilors Sweeney and Hildner being the Council's official spokespeople at County Commission and Planning Board meetings. Councilors showed unanimous support. Councilor Anderson said he thought this was important as good things have been happening in this town of Whitefish, and he wanted to keep close tabs on anything that might affect us.

Mayor Muhlfeld said a Council Retreat has been talked about and needs to be scheduled, an email will be sent out so a date can be set. Mayor Muhlfeld thank TPL for the good work session before tonight's regular meeting and asked staff to place a link on the City's website for the power point presentation they did tonight, as well as to their Conservation Finance Feasibility Study. To follow up on a neighborhood's request for sidewalks on Texas Avenue, Mayor Muhlfeld asked if the Resort Tax Advisory Committee (Committee) did a fieldtrip to review priorities of street and sidewalk projects and Councilor Anderson said the field trip was done and project priorities will be on the next Committee agenda. Councilor Anderson said he will be sure the Committee is aware of that neighborhood's request during that discussion. Councilor Hildner said he is planning to attend the 5th Monday meeting on taxation to be held in Kalispell at the Red Lion on September 29th.

12) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 1:00:24)

Mayor Muhlfeld adjourned the meeting at 8:12 p.m.

_____
Mayor John M. Muhlfeld

Attest:

_____
Necile Lorang, Whitefish City Clerk

RICHARD BENNET III REVOCABLE TRUST AGREEMENT
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-14-W40
SEPTEMBER 30, 2014

Property Owner:	Richard Bennet III Revocable Trust Agreement
Mailing Address:	765 Cella Road St Louis, MO 63124
Applicant	Bruce Boody Landscape Architect
Mailing Address:	301 2nd Street, Ste. 1B Whitefish, MT 59937
Telephone Number:	406.862.4755
Contractor:	King's Landscape
Mailing Address:	755 Blaine Mountain Road Kalispell, MT 59901
Telephone Number:	406.253.1334
Property Legal Description:	Lot 19 in Block 2, Lake Park Addition Subdivision in Section 26, Township 31 North, Range 22 West
Property Address:	1726 W. Lakeshore Drive
Lake:	Whitefish Lake
Lake Frontage:	75.6' per permit
Project Description:	Repair existing dry stacked rock riprap along retaining wall

Proposal: The applicant is proposing to repair existing dry stacked rock riprap located in front of an approved retaining wall. The applicant is requesting the addition of approximately 4 cubic yards of new rock material to supplement the existing rock, necessitating a new lakeshore permit. The existing riprap which has slowly eroded away, was originally approved by the Whitefish City Council on July 21, 2008. The rock was to be placed in front of the concrete retaining wall. As documented in the submitted photographs, the concrete wall is currently exposed. The applicant is proposing the new rock to be placed at a 2:1 slope, with the tallest point approximately 12 inches in height. Existing rock will be utilized with the additional rock material for the new riprap. The proposed additional rock will be approximately 6 to 12 inches in diameter. The majority of the work will be completed by hand, with a small skid-steer to unload the rock material from a barge. No machinery will come in contact with the lake water.

Frontage and allowable constructed area: The subject property has 75.6 feet of lakeshore frontage, and is eligible for 604.8 square feet of constructed area.

Existing Constructed Area: Staff located one approved lakeshore permit for the subject property. WLP-08-W12 was issued for the installation of a rock faced retaining wall, a dock, stairs, the removal of fallen trees, and revegetation. The approved impervious coverage for the existing improvements was 556.1 square feet. The proposed repair will not increase the permitted constructed area of the subject property.

Conclusion: The proposed work complies with all requirements, most specifically Section 13-3-1, General Construction Standards of the Whitefish Lake and Lakeshore Regulations.

Recommendation: Staff recommends that the Whitefish City Council approve the requested lakeshore construction permit 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, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.
3. The proposed riprap location and dimensions specified in the application shall not be exceeded. Changes or modifications to increase any dimension or change locations 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. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.
7. Natural vegetation in the Lakeshore Protection Zone shall be preserved wherever possible.
8. Silt fencing, straw waddles or other erosion and sedimentation measures shall be utilized during construction. An approved plan for erosion and sedimentation during construction shall be required. Approval of the methods proposed shall be issued by the City of Whitefish in compliance with the Critical Areas Ordinance or other development standards.

Rip Rap

9. Riprap shall constitute the primary method of erosion control, and shall be limited to areas where active shoreline erosion is clearly present.
10. Riprap shall be placed at or landward of the mean annual high water elevation.
11. Riprap placement shall follow the contour of the existing shoreline, and shall be sloped at two horizontal to one vertical (2:1) ratio as originally permitted in order to dissipate wave energy.
12. Riprap shall be limited to eighteen inches (18") in vertical height.
13. The riprap rock shall be angular and sized property for the specific task. Nominal rock size to be 6-12" (18" maximum) in diameter with the exception of larger rocks approved via variance, and shall be free of silts, sands or fin materials. Changes or modifications to increase any of these dimensions must be approved through permit amendment.

14. Rock or stone from the immediate lakeshore protection zone may be used for a project if its removal does not reduce the effectiveness of the existing lakeshore armament or expose silts, sands, clays, or fines.
15. Prior to placement of the riprap, filter fabric is required to be placed along the shoreline and incorporated into the riprap design to inhibit erosion and the washing of fine materials through the riprap.
16. Backfill shall not be permitted as the project will be utilizing dry stacked rock for the riprap.

Report by: Bailey Minnich

File #: WLP-14-W4D
Date: 9/26/14
Intake Staff: BM
Date Complete: _____

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

LAKESHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH, BLANCHARD, LOST COON LAKE

FEE ATTACHED $ 350.00

A permit is required for any work, construction, demolition, dock/shorestation/buoy installation, and landscaping or shoreline modification in the lake and lakeshore protection zone – an area extending 20 horizontal fee landward from mean high water of:

- 3,000.79' msl (NAVD 1988) for Whitefish Lake
- 3,144.80' msl (NAVD 1988) for Blanchard Lake
- 3,104' msl (NAVD 1988) for Lost Coon Lake

INSTRUCTIONS:

☐ Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department a minimum of **three (3) weeks prior** to the Lakeshore Protection Committee meeting at which this application will be heard.

☐ The regularly scheduled meeting of the Lakeshore Protection Committee is the second Wednesday of each month at 6:00PM in the Planning & Building Department Meeting Room.

☐ After the Lakeshore Protection Committee meeting, the application is forwarded with the Committee's recommendation to the next available City Council meeting for final action, unless it is a committee approved permit.

☐ All work will be inspected for conformity with permit. Permits are valid for one year from date of approval and can be renewed by the governing body upon request.

A. LEGAL DESCRIPTION OF PROPERTY:

Street Address 1726 W. Lakeshore Dr., Whitefish, MT 59937

How many feet of the lake frontage do you own? 75.6LF Per Lakeshore Permit WLP-08-W12

Assessor's Tract No.(s) 0111600, Tract ID: 3122X26-LPW-19-BLK2 Lot No(s) Lot 19
Block # Block 2 Subdivision Name Lake Park Addition
1/4 Sec _____ Section 26 Township 31 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

Bennet III Revocable Trust Agreement, Richard W
Print Name

[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

Bruce Boody — 9/25/14

Applicant's Signature — Date

Bruce Boody, Landscape Architect

Print Name

Bruce Boody ASLA — 9/25/14

Representative's Signature — Date

Bruce Boody, Landscape Architect

Print Name

APPLICATION CONTENTS:

Attached **ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

____ Lakeshore Construction Permit Application

____ Written description how the project meets the criteria in Sections C-F

____ Site Plan drawn to scale

____ Project Drawing that is drawn to scale

____ Vicinity Map

____ Minimum of three (3) photos: 1 photo of property from lake; 2 photos showing lakeshore protection zoning from property boundary toward the other property boundary (e.g., from the north property line across property to the south) and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boathouse, stairs, etc.)

B. OWNER(S) OF RECORD:

Name: Bennet III Revocable Trust Agreement, Richard W Phone: 914-484-6216

Mailing Address: 765 Cella Road

City, State, Zip: St. Louis, MO 63124

Email: bennetr@wustl.edu

APPLICANT (if different than above):

Name: Bruce Boody, Landscape Architect Phone: 406-862-4755

Mailing Address: 301 2nd St., Ste. 1B

City, State, Zip: Whitefish, MT 59937

Email: boodyla@bruceboody.com

CONTRACTOR:

Name: King's Landscape Phone: 406-253-1334

Mailing Address: 455 Blaine Mountain Road

City, State, Zip: Kalispell, MT 59901

Email: jklndscp@centurytel.net

C. 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.)

Base Activity: This activity proposes to install 6-12" rip rap at the base of the existing rock-faced concrete retaining wall. There are portions of wall where the concrete has been exposed due to wave action. The rip rap will be installed at a 2:1 slope, and at the tallest point will be approximately 12" in height. Approximately 4 cu. yd. of material will be installed. The rip rap material and a skid-steer to unload the material will be brought in by barge. The machinery will not come in contact with lake water. Some hand-picking of rip rap may be done to supplement imported material and provide better armament against wave action.

D. 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.

We do not anticipate any negative environmental impacts. Ramps will be used to unload machinery, so that machinery does not come in contact with lake water.

E. 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.

Existing Permits on File:
WLP-08-W12: Installation of Rock-Faced Retaining Walls, Dock, Stairs, Removal of Fallen Trees & Revegetation.
Rock-Faced Retaining Wall: 110.4 sq. ft., Dock: 361.8 sq. ft., Dry-set Stone Stairs: 83.9 sq. ft.
Total Impervious Coverage of Existing Permitted Improvements: 556.1 sq. ft.

F. 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?

N/A

Existing Lakeshore Photos:

Bruce Boody Landscape Architecture, Inc.

Photo #1: Existing rock-faced retaining wall looking east. Rip rap will be installed to cover exposed portions of the wall.

Photo #2: Existing rock-faced retaining wall and lakeshore looking west. Some hand-picking and restacking of rip rap may be done to provide better armament against wave action.

Photo #3: Some minor repairs will be done to reattach rock to the wall at the corners.

I hereby authorize Bruce Boody Landscape Architect, Inc. to act on our behalf as applicant in all matters regarding my Whitefish, Blanchard, and Lost Coon Lake Lakeshore Construction Permit Application.

Signature

RICHARD BENNETT

Print Name

Date 9/25/14

1005 C Baker Avenue • Whitefish, MT 59937 • (406) 863-2410 • Fax: (406) 863-2409

City of Whitefish
Planning & Building Dept.

Prior permit and approval from 2008

October 17, 2008

Bruce Boody
Landscape Architect
301 2nd Street, Suite 1B
Whitefish MT 59937

Re: WHITEFISH LAKE LAKESHORE CONSTRUCTION PERMIT
FOR MIRABELLE VENTURE #WLP-08-W12

This letter is to inform you that staff has approved the materials that were required after provisional approval of the Mirabelle Venture lakeshore construction permit by the Whitefish City Council on July 21st, 2008.

The property received a Critical Areas Compliance Permit on October 17, 2008. The materials submitted by your office on September 26, 2008, address the additional requirements of condition 15 of your lakeshore protection permit.

The work associated with this permit must adhere to the approved site plans and is subject to the attached conditions. Please review these conditions carefully.

This permit is issued under the provisions of the Lake and Lakeshore Protection Regulations, Title 13, Whitefish City Code. Work done that is not in conformance the approved plans and conditions listed on this permit is in violation of the regulations and is subject to prosecution. If you have any questions regarding your permit, please don't hesitate to contact me at 406-863-2410.

Sincerely,

Nikki Bond

Nikki Bond
Planner II

FINAL APPROVED PERMIT 10/17/2008
HICKOCK/MIRABELLE VENTURE
WHITEFISH LAKE LAKESHORE PERMIT
#WLP-08-W12

Owner:	Doug & Lisa Hickock Mirabelle Venture
Mailing Address:	5305 Village Creek Drive Plano, TX 75093-4810 (972) 732-1155
Applicant/Contractor:	Bruce Boody Landscape Architect
Mailing Address:	301 2nd Street, Suite 1B Whitefish, MT 59937
Telephone Number:	(406) 862-4755
Property Legal Description:	Lot 19, Block 2, Lake Park Addition, Government Lot 1 in Section 26, Township 31N, Range 22W
Property Address:	1726 West Lakeshore
Lake:	Whitefish Lake
Lake Frontage:	75.6 feet
Project Description:	Installation of Rock-faced Retaining Walls, Dock, Stairs, Removal of Fallen Trees and Revegetation

Permit provisionally approved for: Installation of Rock-faced Retaining Walls, Dock, Stairs, Removal of Fallen Trees and Revegetation.

The construction above shall adhere to the approved site plans and are subject to the attached conditions. **Please review these conditions carefully as they may include requirements not referenced in your original application.**

Conditions of Approval:

1. The lakeshore protection zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.6'.

2. Temporary storage of vehicles, trailers, debris, other equipment or construction materials in the lakeshore protection zone is prohibited.

3. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.

4. At no time shall the wheels of any vehicle come in contact with the lake.

5. All work shall be done when the construction site is dry.

6. Construction materials shall be of a non-reflective nature.

7. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

8. All available methods will be made to preserve and protect all of the existing trees in the lakeshore protection zone.

9. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

10. Natural vegetation in the Lakeshore Protection Zone shall be preserved wherever possible.

11. The applicant shall contact Whitefish Planning Department staff or the monitoring member of the Lakeshore Protection Committee immediately prior to commencing work on this project.

12. Silt fencing, straw waddles or other erosion and sedimentation measures shall be utilized during construction. An approved plan for erosion and sedimentation during construction shall be required. Approval of the methods proposed shall be issued by the City of Whitefish in compliance with the Critical Areas Ordinance or other development standards.

13. The proposed projects shall not exceed the dimensions or deviate from the proposed location as specified in the application, except as amended by the Whitefish Lake and Lakeshore Protection Regulations. Changes or modification to increase any dimension (or change configuration) must be approved through permit amendment. The owner must request an amendment before the permit expires.

14. All work shall be done when the lake is at low pool, before April 20th or after August 15th, and when the construction site is dry. Construction dates can be modified with approval by the Planning Department to account for fluctuations with high water and low water cycles dependent on late thawing or early lowering of lake levels.

15. Prior to final approval, a plan must be submitted which includes:
    a. Name of the proposed contractor
    b. Amount or degree of proposed excavation
    c. Equipment to be used and an access plan
    d. Current mature tree inventory (>3" in diameter), and projected loss due to excavation

e. Quantity and type of materials to be removed, or added to the lakeshore protection zone
f. Proposed detailed revegetation plan
g. Provisions to be made if the excavation itself causes major bank failure, and how adjacent properties will be protected.

This condition was met on October 17, 2008.

16. Due to the technical complexity of the project & exposure to bank failure during construction, a qualified engineering consultant shall be employed to oversee the project.

17. The final construction plan shall attempt to preserve and protect as many mature trees as possible.

18. The final revegetation plan shall include a one-for-one replacement of all healthy trees over 3" in diameter that must be removed during construction.

Dock Conditions

19. The dock dimensions shall not exceed 60' in length, 22' in width and 362 square feet. Changes or modifications to increase any dimension (or change configuration) must be approved through permit amendment. A detailed drawing with specific measurements and square footage will be required prior to City Council

20. Any wood used in construction of the new dock shall be untreated and left in its natural state. Use of a wood polymer composite (i.e. TREX) is strongly encouraged. Use of painted material, plywood, particle board or other glued composite board is not allowed.

21. If foam logs or similar easily damaged flotation systems are incorporated into the dock design, said material shall be completely encased in solid wood or a suitable impervious, non-corrosive material such as a synthetic, aluminum or galvanized sheet metal to avoid the breakup or scattering of materials. Boards may be spaced up to one-half inch (1/2") apart on the bottom or drain holes may be incorporated into other materials to aid in drainage. All foam encased floating docks shall be maintained according to these standards or else be immediately and completely removed from the lakeshore protection zone. All foam shall be extruded closed-cell polystyrene (blue or pink logs) unless encased in synthetic "rotomolded" floats.

22. The dock shall be constructed outside of the lakeshore protection zone. Upon completion the components may be brought to the lakeshore area and launched.

23. The floating dock shall be suitably anchored to the lake bottom to avoid drift.

Anchoring methods for the dock are limited to cable; galvanized chain or nylon or polypropylene rope attached to a suitable clean weight such as solid clean concrete, rock or steel blocks.

24. The dock should be placed near the middle of the property ownership. Under no circumstances shall the dock be located closer than twenty (20) feet from the riparian property lines.

25. Only one lakeshore dock is permitted per property ownership.

    NOTE: Flotation-encased docks (i.e., Superdeck, EZ-Dock) or docks with rotomolded floats are strongly recommended for durability and longer-life. Owners are also encouraged to identify docks with a nameplate to permit notification in the event their dock floats away at high-water.

Steps, Walkway, Stone-faced Retaining Walls

26. The construction of the retaining walls shall be as described by the applicant with the permit application and shall follow best management practices during construction.

27. Any wood used in construction of the stairway shall be untreated and left in its natural state. Use of a wood polymer composite (i.e. TREX) is strongly recommended. Painted materials, plywood, particle board or other glued composite board are not allowed. Stairways or walkways of poured-in-place concrete are prohibited.

28. 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.

29. Rock should be acquired from a site outside of the lakeshore protection zone. Some rock may be hand picked from the lakeshore zone but only if the solid armament of rock remains in place. The removal of rock which exposes silts, sands, and fines is prohibited.

30. All cutting of stairway materials shall be done outside the lakeshore protection zone. Upon completion, the components may be brought to the lakeshore area and assembled.

31. The stairway and walkway shall follow the natural grade of the existing lakeshore and no portion of the walking surface or railing of the stairway shall be situated higher than two vertical feet above the underlying lakeshore. The steps and walkway shall have a maximum width of four feet and shall be designed to provide access only.

32. A stairway hand railing is permitted. The railing shall not extend higher than four feet above the stairway walking surface and shall have a visually open design. Metal, non-ornate railings may be painted brown or green by the manufacturer prior to installation.

33. The retaining rip rap shall be constructed at or landward of the mean annual high water elevation, shall conform to the contours of the existing shoreline, and shall be placed on a maximum slope of 2 horizontal : 1 vertical, as stated in the application materials.

34. The riprap rock shall be angular and sized property for the specific task. Nominal rock size to be 6-12" (18" maximum) in diameter. Changes or modifications to increase any of these dimensions must be approved through permit amendment.

35. Rock may be hand picked from the immediate lakeshore. The removal of rock which exposes silts, sands, and fines is prohibited.

36. Rock or stone from the immediate lakeshore protection zone may be used for a project if its removal does not reduce the effectiveness of the existing lakeshore armament or expose silts, sands, clays, or fines.

37. Any material which is excavated from the lakebed or lakeshore shall be removed entirely from the lake and lakeshore protection zone and deposited in such a manner as to prohibit re-entry of the material into the lake. (Section 5.1B.1)

38. The retaining walls shall be built as presented, at or landward of the mean high water elevation, and shall conform to the contours of the existing shoreline. No attempt shall be made to extend the land area into the lake any further.

39. Riprap complying with the dimensions mentioned above shall be placed on the waterward side of the lower retaining wall such that the toe of the riprap shall not extend waterward of high water and the top of the rock shall extend to within at least six inches (6") of the top of the wall.

40. The landward side of the retaining walls shall extend at least two inches (2") but not more than eight inches (8") above the level of backfill to inhibit surface water runoff which may carry fertilizer, herbicides, pesticides, etc.

41. All material excavated for placement of the footings may be used as backfill behind the wall or else be deposited outside of the lakeshore protection zone.

42. Backfill shall be limited to that amount necessary to reestablish the preexisting slope and contours of the landward side.

43. The rock used on the face of the concrete retaining walls shall be consistent with the natural stone found along the native shoreline of Whitefish Lake including size, color, and type of stone.

Revegetation

44. Areas revegetated shall be stabilized by jute netting to prevent erosion.

45. Landscaping shall be hand irrigated to ensure long-term survivability of the vegetation and trees.

46. The trees and vegetation shall be maintained for a ten (10) year period. If the trees and vegetation die within the ten year maintenance period, they shall be replaced to the standards which they were approved.

47. The area disturbed by construction of the retaining walls, steps and tree removal shall be restored to the condition prior to construction. 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 Whitefish Planning Department. Application of fertilizer is permitted only in minimal amounts to establish new plantings.

48. This permit shall be valid for one year from the date of issuance. Upon completion of the work, please contact Nikki Bond or Dru Dennison at 863-2410 for an inspection.

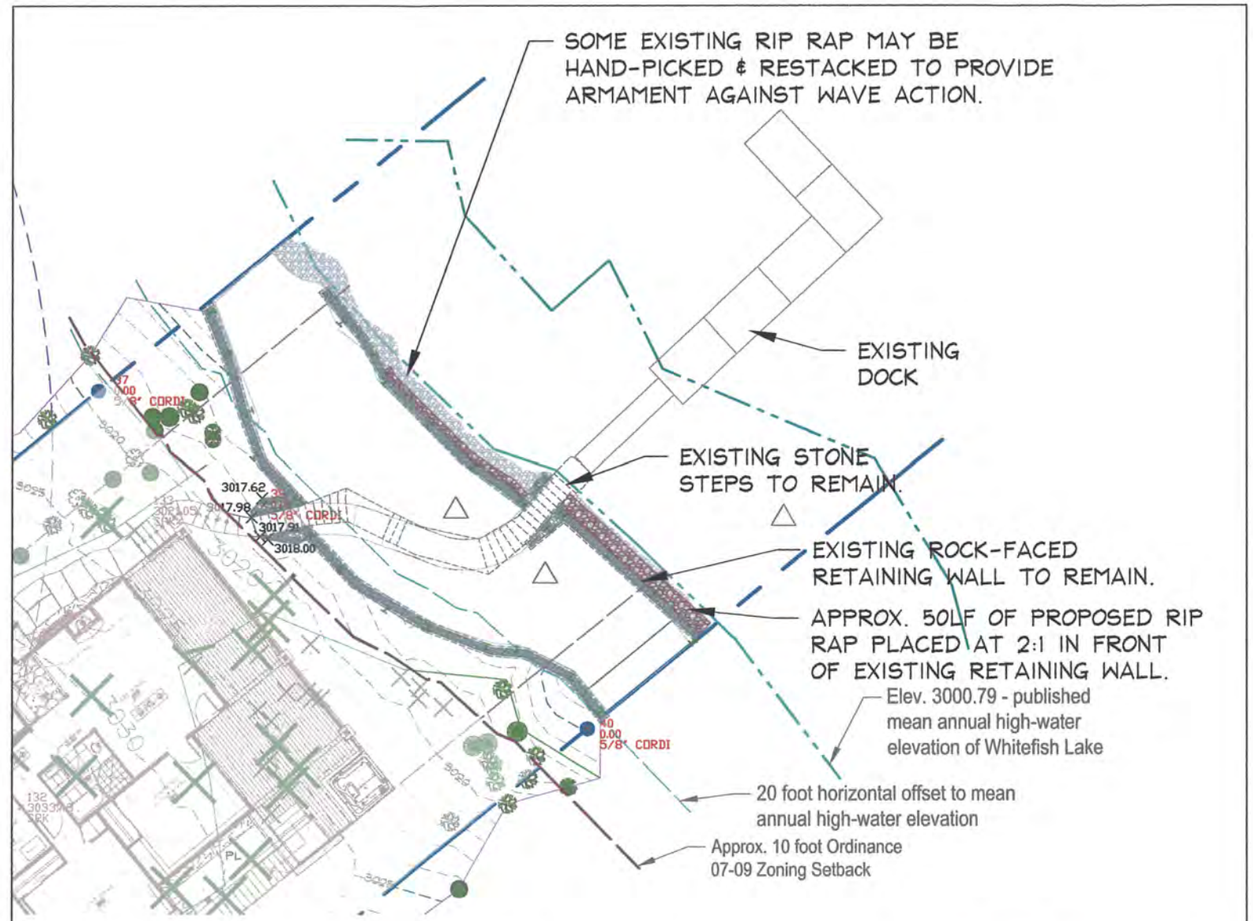
VICINITY MAP

N.T.S.

LEGEND

EXISTING

- EXISTING PROPERTY LINE BY SURVEY
- EXISTING SETBACK LINE BY SURVEY
- EXISTING EASEMENT LINE BY SURVEY
- EXISTING INDEX CONTOUR BY SURVEY
- EXISTING CONTOUR BY SURVEY
- EXISTING DECK LINE BY SURVEY
- EXISTING BUILDING LINE BY SURVEY
- EXISTING TREE BY SURVEY (8" DF)
- EXIST. TREE BY SURVEY TO BE REMOVED (8" DF)
- EXIST. ROCK-FACED CONCRETE RETAINING WALL
- EXIST. RIP RAP
- EXISTING UTILITIES
- EXIST. EDGE OF LAKE/SHORE LINE BY SURVEY
- EXISTING HIGH/LOW WATER LINE BY SURVEY
- 20' LAKESHORE SETBACK



SITE PLAN

NOTE:
APPROX. (4) CU. YD. OF 6-12" RIP RAP TO BE IMPORTED. COLOR & CHARACTER TO MATCH EXISTING.

BRUCE BOODY
Landscape Architect Inc.
311 Second Street
Suite 1b
Whitefish, MT
59937
phone 406 863-9755
fax 406 863-9756
bruce@brucebooddy.com

SURVEY BY:
SANDS SURVEYING, INC.
2 VILLAGE LOOP
KALISPELL, MT 59901
PH: (406) 755-6481

Revisions:

BENNET PROPERTY
1726 W. Lakeshore Drive
Whitefish, MT 59937
Lot 19, Blk 2, Lake Park Add.
S26, T31N, R22W

NORTH

SCALE: 1"=20'
DATE: 9/25/14
JOB #: 13-49

LAKESHORE APPLICATION
SITE PLAN

SHEET 6 OF 6

Z:\2013 Projects\13-49 Bennet (Hickok)\13-49 Drawings\13-49 Lakeshore.dwg, Site Plan-11x17 20sc, 9/25/2014 1:30:11 PM

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

September 30, 2014

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

Mayor Muhlfeld and Councilors:

Request to Eliminate Condition #28 of Old Town subdivision (WPP-05-4)

Request:
The owner of Lot 7 would like to remove Condition #28 so he does not have to maintain a fence around the Old Town subdivision stormpond.[1]

Background:
The Whitefish City Council approved the preliminary plat for the Old Town subdivision in 2005. This neighborhood consists of 54 single family residential lots and ten townhouse lots on 18.8 acres. The project was approved subject to 32 conditions of approval and two phases; Phase I was final platted in 2007 and Phase II was final platted in 2008.

This subdivision has had quite a lot of activity in recent years and is nearly built-out. All of the conditions of approval have been met.

One of the conditions of approval (#28) states the following:

> "Lot 7 shall be maintained in perpetuity as a stormwater facility until a viable city system is developed in the area. A fence shall be provided around the drainage pond on Lot 7 for public safety. The design of the fence shall be approved by the Planning Department."

The developer of the project chose to install a fence without first obtaining approval of the design from the City. Once it was realized the fence was installed the subdivision was in the process of going back to the bank – so there was really no way to get a better designed fence installed and fully meet this condition of approval. The other problem with the fence was a portion of the fence was installed on Lot 6 to the north.

[1] §12-3-11M of the Whitefish Subdivision regulations permit one to request a deletion or modification to conditions of approval. These requests are scheduled for public hearing and are noticed according to the standards in the regulations.

When the home was recently constructed on Lot 6, the builder removed a portion of the fence, but it was not reinstalled. Not having a fence around the entire pond was a violation of the preliminary plat conditions of approval.

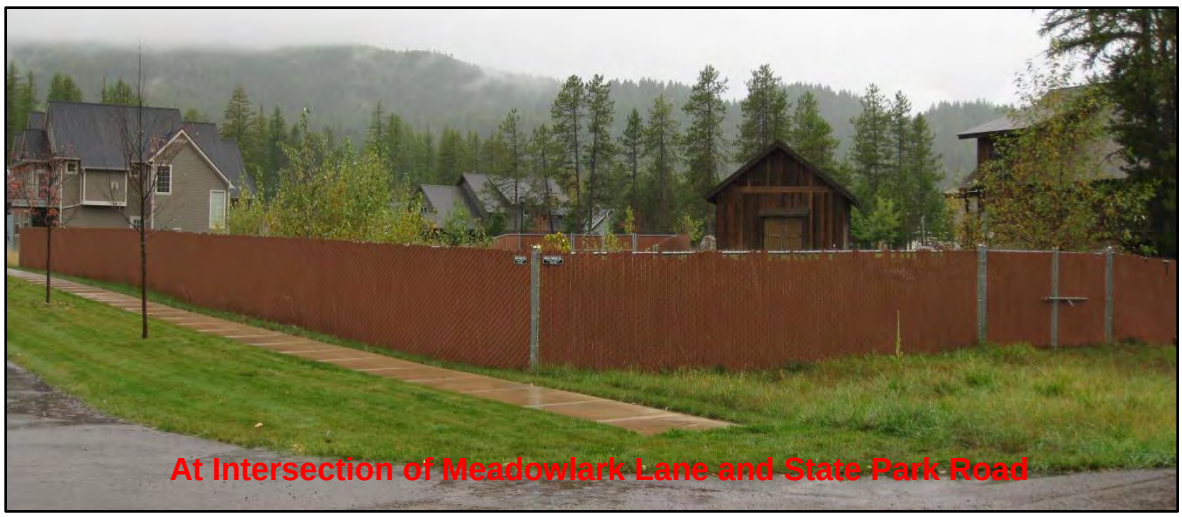
This condition of approval was added by the City Council due to concerns with the proximity of the pond to the sidewalk.

Current Report:
The owner of Lot 7 would like to remove Condition #28 so he does not have to maintain a fence around the pond. The applicant has submitted information from civil engineer, Tom Cowan, in support of removal of the fence. Mr. Cowan's report found low-water depths (4-6 inches), even during the highest storm events.

City staff would not have required fencing of the pond, according to City Engineering Standards. The Whitefish Engineering Standards (*Section 5.8: Additional Requirements for All Flow Control Facilities*) require fencing of ponds according to the following standard:

> "**Fencing.** Fencing or other barriers may be required to protect the health, welfare and safety of the public for ponds with standing water over 4-feet deep. At the discretion of the City Engineer, if a pond is proposed as an amenity, the design will be reviewed on a case-by-case basis, such that fencing requirements map be reduced or waived. At the discretion of the City Engineer, marking fences, terraces, shallower side-slopes, egress bars, etc., may be allowed instead of fencing."

Staff supports the request to remove the fence, as we have not found deep volumes of stormwater in this pond to warrant fencing; however, if the city finds that pond depths warrant a fence, we would like the condition to reflect that the lot owner will be obligated to reinstall the fence.



Staff also supports the removal of the fence because it is not attractive design and it is an eyesore in a nice neighborhood. This type of fencing is a screening fence and not a fence to simply prevent people from fall in, as a result there is no natural surveillance of the pond. Staff would not have approved this particular design.

Staff does not support eliminating this condition completely, as Lot 7 needs to continue to be a stormpond in perpetuity. Staff will recommend this portion of the condition remain and amend the condition that would require fencing if the pond starts to see additional water.

Public Comment

A notice was mailed to adjacent land owners within 300-feet of Lot 7 on September 12, 2014. A notice of the public hearing was published in the *Whitefish Pilot* on September 17, 2014. As of the writing of this report, we received two letters – one that did not support the request and another that did.

Recommendation:

Staff recommends the Council **not approve** the request to eliminate Condition #28 entirely, but **approve** amending Condition #28 to read as follows:

28. Lot 7 shall be maintained in perpetuity as a stormwater facility until a viable city system is developed in the area. If water depths exceed the standards found in the most recent Whitefish Engineering Standards, the property owner of Lot 7 shall install a fence around the pond at their expense. ~~A fence shall be provided around the drainage pond on Lot 7 for public safety.~~ The design of the fence shall be approved by the Planning Department.

Staff makes this recommendation based on the following findings of fact:

Finding 1: The 64-lot preliminary plat was approved by the Council on September 19, 2005. Phase I final plat was approved by the Council on January 2, 2007 and Phase II final plat was approved by the Council on December 1, 2008.

Finding 2: The developer installed a fence without first obtaining approval of the design from the City and a portion of the fence was installed on the lot to the north of the stormpond.

Finding 4: A legal notice was placed in the *Whitefish Pilot* on September 17, 2014 and public notice was mailed to property owners within 300-feet on September 12, 2014. As of the writing of this report, one letter has been received.

Finding 3: Stormwater depths have not been observed that would require the installation of a fence according to the adopted Whitefish Engineering Standards.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

Att: Request Letter from Applicant, 8-19-14
Letter, Tom Cowan, Carver Engineering, 7-23-14
Conditions of approval, 10-12-05
Plat map, 1-2-07
Legal Notice, *Whitefish Pilot*, 9-17-14
Adjacent Landowner Notice, 9-12-14
Email, Phil & Amber Keeler, 9-20-14
Email, Robin Dailey, 9-29-14

c/w/att: Necile Lorang, City Clerk

c/w/o/att: Scott Freudenberger, PO Box 1354 Whitefish, MT 59937

WPP 05-04

08-19-14 A10:45 IN

August 19, 2014

Ms. Wendy Compton-Ring
City of Whitefish Planning
510 Railway Street
Whitefish, MT 59937

RE: Lot 7, Phase 1, Old Town - Fence

Dear Ms. Compton-Ring

In response to your letter dated July 3, 2014 regarding the fencing at 131 Stumptown Loop (Lot 7 Phase 1 Old Town). Condition of Subdivision Approval #28 requires a fence be provided around the drainage pond on Lot 7. I respectfully request that I be able to remove Condition #28. I understand this request requires approval from the City Council.

A portion of the fence was removed, without permission by the contractor of the house on adjacent Lot 6. This was prior to my ownership and subsequent to the foreclosure on the developer. Apparently, the north fence line encroached on south side of Lot 6.

My request to remove the entire fence will not adversely affect the character of the neighborhood but will actually improve visual appeal. The removal will allow for better weed control; mowing and visibility of the pond. As-Is the fence has brown vinyl slats, which prohibit visibility and defeat the safety concern, if anybody were stuck in the water. I have had conversations with many homeowners in the Old Town subdivision and I believe you will find support from surrounding property owners for my request.

The plan of the subdivision will not be changed at all. The subdivision has received final plat and I am not requesting to change boundary lines, easements; or restrictions etc...

I am also presenting a letter to you from Mr. Tom Cowan of Carver Engineering. Mr. Cowan was involved with the engineering of the subdivision and has observed the collection pond over the history of its existence. His observations concur with mine, that the drainage on the site is such that there is rarely substantial standing water.

Respectfully,

Scott Freudenberger

TAT, Inc. dba
Carver Engineering
Consulting Civil Engineers

1995 Third Avenue East, P. O. Box 2039, Kalispell, Montana 59903-2039 Ph: 406.257.6202 Fax 406.756.1093 www.carvereng.com

July 23, 2014

Scott Freudenberger
Frazier Appraisal
P.O. Box 451
Whitefish, MT 59937

Re: Stormwater Retention Pond Fencing
Lot 7, Old Town, Phase 1

Dear Scott:

Wendy's July 3, 2014 describes the fencing requirements for the stormwater retention pond on Lot 7 of Old Town, Phase 1 so I won't go into any additional discussion on that issue except to say that the Council thought there could be periodic water depths in the pond of approximately 4 ft. and, based on that, they required the fencing.

We (Carver Engineering) designed the stormwater drainage system for Old Town Phases 1 and 2, and we have looked at the pond on numerous occasions since it was constructed in 2008. We wanted to see if there was any ponding of water especially after the addition of stormwater runoff from Mountain Pines was allowed. In all of our visits to the site we have never seen more than 4 to 6 inches of water in the pond even after very heavy storm events, the most recent being this past June. Near the end of several days of nearly continuous rainfall we checked the water level in the pond and the flow of water coming into the pond. The water level was no more than 6" at its deepest location and water was coming into the pond at, what appeared to be, about 80 to 100 gpm. As you may know, the pond area (Lot 7) was previously a small gravel pit and the existing gravelly soils can apparently accept a rather large amount of water without significant ponding.

Call or e-mail me if you have any questions.

Sincerely,

CARVER ENGINEERING

Tom Cowan

Tom Cowan, P.E.

1005 C Baker Avenue • Whitefish, MT 59937 • (406) 863-2410 • Fax: (406) 863-2409

City of Whitefish
Planning & Building Dept.

October 12, 2005

Old Town Development llc
Attn: Bayard Dominick
PO Box 4154
Whitefish, MT 59937

RE: WPUD-05-3A/WPP-05-4A – Old Town Planned Unit Development and Preliminary Plat

Dear Mr. Dominick:

On September 19, 2005, the Whitefish City Council approved your request for a Preliminary Plat approval for Old Town subject to 32 conditions of approval, enclosed herein. The preliminary plat approved was shown on a set of plans prepared by Flathead Geomatics dated June 21, 2005. The approval of the plat was based upon an approval of your request for a Planned Unit Development overlay to the existing WR-2 Zone. Ordinance 05-21 was also approved by the Whitefish City Council providing for that PUD overlay, a copy of Ordinance 05-21 is also enclosed herein. Please note Section 6 of Ordinance 05-21 provides that the ordinance shall take effect thirty (30) days after its adoption by the Whitefish City Council and signed by the Mayor thereof which date was October 3, 2005.

The Planned Unit Development is approved in two phases and the preliminary plat is valid for a period of three years from the date of approval.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

C: Carver Engineering 1995 3rd Avenue East Kalispell, MT 59901
Bruce Boody, L.A. 301 East 2nd Street, Suite 1B Whitefish, MT 59937
Cache Creek Consulting 10 Oregon Avenue Whitefish, MT 59937
Building Department, City of Whitefish
Public Works, City of Whitefish
Whitefish Fire Department, City of Whitefish

Attachment A
Amended Old Town Planned Unit Development and Preliminary Plat
WPUD-05-3A/WPP-05-4A
Whitefish City Council Approved
September 19, 2005

1. Except as amended by these conditions, the development of the subdivision and planned unit development shall be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as "approved plans" by the city council.

2. 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. Plans for grading, drainage, utilities, streets, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works.

3. Approval of the preliminary plat is subject to subsequent approval of detailed design of all on and off site improvements, including drainage. Through review of detailed drainage plans, applicant is advised that the number, density and/or location of building lots shown on the preliminary plat may change depending upon on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable.

4. The improvements (water, sewer, roads, stormwater, street lights, etc.) within the subdivision shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards and the Whitefish Subdivision Regulations. Water and sewer shall be extended to the western end of the property in the Haugen Heights Road right-of-way. All infrastructure shall be sized to accommodate future growth. The Public Works director shall approve the design prior to construction. The design for roadways and utilities shown on the preliminary plat are viewed as a concept only and may not necessarily be the design approved by Public Works for construction.

5. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees.

- Construction office siting, staging areas for material and vehicles, and employee parking.
- Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures remove soil and construction debris from roadways as necessary.
- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way.

6. All roads within the subdivision shall be built to City of Whitefish Public Works Standards and the Whitefish Subdivision Regulations. All roads shall be dedicated to the City and open to public use.

7. Street lighting shall be approved at 300-foot intervals throughout the subdivision plus at major intersections.

8. The proposed access to Meadowlark Lane be offset at least 125-feet from the centerline of the access to the Mountain Seniors complex.

9. The developer shall waive the right to protest the creation of a Special Improvement District for the reconstruction of State Park Road, including pavement widening, curb, gutter and storm drainage.

10. Similar to the Mountain Senior project to the south, pave approximately an additional 5-feet of the east side of State Park Road along the entire frontage including the width of Haugen Heights Road.

11. There shall be no direct access to State Park Road.

12. Cash in lieu of sidewalk shall be calculated by the Public Works Department for the length of State Park Road and paid at the time of final plat.

13. A 5-foot detached sidewalk shall be built along the length of Meadowlark Lane where it fronts on this subdivision.

14. Lots 1 through 6, 8A, 8B, 13 through 19, 33 and 34 have slopes in excess of 15 percent. These lots shall be noted on the face of the plat indicating the steep slope and that the Whitefish Fire Marshall shall approve driveway access as suitable prior to the start of combustible construction. (WCC 12-5-6.E.)

15. All drainage easements shall be placed on the face of the plat and a note on the plat indicating the importance of the drainage areas to the overall stormwater plan for the entire neighborhood and the restriction of property owners to fill and otherwise modify these areas.

16. A Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works

Department approving the water and sewage treatment facilities for the subdivision (WCC 12-3-4-3.C.).

17. Parkland dedication shall be based on 11% of the area in lots; or cash equivalent. Any parkland dedication and/or improvements shall be accepted by the Whitefish Park Board. The Park Board shall acknowledge implementation of the plan in writing (WCC 12-5-19.A.1.a.).

18. The internal paths shall be built to the City of Whitefish Public Works standards.

19. Demonstrate the entire site contains at least 30% open space or landscaped areas or the lots comply with the zoning (WCC 11-2S-3.C).

20. Boulevard trees shall be planted in accordance with the provision of the Whitefish Subdivision Regulations. Species and spacing shall be approved in advance by the Whitefish Parks Department Director. Submit a landscaping plan for the street trees, stormwater pond and the open space. The open space landscaping plan shall also indicate an overall development plan for the types and number of amenities in order to ensure the park's usability.

21. Tree stands outside building envelopes and roadbeds shall be preserved. Any additional tree removal shall be approved by the planning department (WCC 12-5-2).

22. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) for the Old Town Subdivision and Planned Unit Development Homeowners' Association (HOA) providing for the long-term maintenance of the open space and street trees (WCC 12-2S-5.C.4.).

23. The applicant shall submit a site specific drainage plan prepared by a licensed engineer in the State of Montana to be reviewed and approved by the City of Whitefish Public Works Department. This plan, also located within the HOA CC&Rs, shall also include a strategy for long-term maintenance.

24. The applicant shall submit a site specific erosion and sediment control plan for construction activities which is to be approved by the Whitefish Public Works Department and implemented prior to substantial earth moving.

25. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and the spread of noxious weeds.

26. The Fire Marshall shall approve the placement and design of all fire hydrants prior to their installation (UFC and WCC 12-5-20).

27. A note shall be placed on the face of the plat requiring house numbers be posted on the house in a clearly visible location (WCC 12-5-9.A.3.).

28. Lot 7 shall be maintained in perpetuity as a stormwater facility until a viable city system is developed in the area. A fence shall be provided around the drainage pond on Lot 7 for public safety. The design of the fence shall be approved by the Planning Department.

29. This preliminary plat and planned unit development is approved in two phases and is valid for three years from Council action (WCC 12-3-3-2.E.6.). Phase one will be lots 1-46 and phase two will be lots 47-59.

Other on-going conditions of approval:

30. The Old Town Homeowners Association shall be responsible for snow plowing in the alley all other typical maintenance shall be the responsibility of the City of Whitefish.

31. Common off-street mail facilities shall be provided by the developer and approved by the local post office (WCC 12-5-21).

32. Development shall adhere to the setback requirements as specified in the Whitefish Zoning Regulations for WR-2 properties, with the following exceptions: front yard setbacks are 20 feet, uncovered decks and uncovered porches may encroach up to five feet into side. Rear yard setbacks on Lots 1-7 shall be no less than 25 feet. Said encroachments shall be noted on the PUD master plan and plat, as approved by staff (WCC 11-2G-4 and 11-2S).

44-8-9 L6-0319770 L7 & 8 TRA-0326300 W271' L7-0319771 L7 Ex TRA & B, 8 Ex TRA-0225850

Final Plat of:

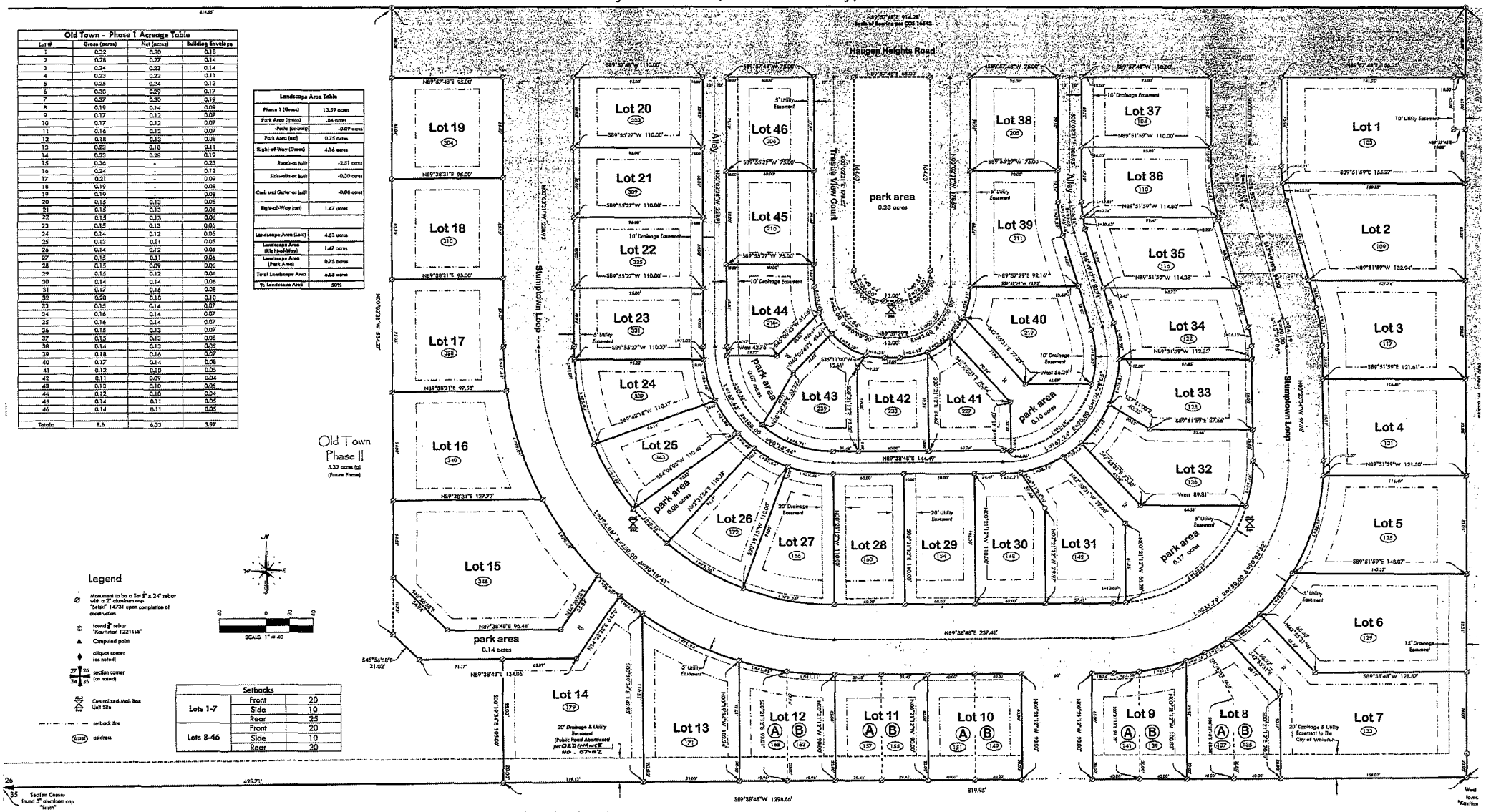
"Old Town - Phase 1"

44-8-9

an amended plat of Lots 7&8 and a portion of Lot 6, Block 11 of Lake Park Addition

SW ¼ Section 26, T31N R22W, P.M., M.

City of Whitefish, Flathead County, Montana



Old Town - Phase 1 Acreage Table			
Lot #	Gross (acres)	Net (acres)	Building Envelope
1	0.32	0.30	0.18
2	0.28	0.27	0.14
3	0.24	0.23	0.14
4	0.23	0.22	0.11
5	0.25	0.24	0.12
6	0.30	0.29	0.17
7	0.32	0.30	0.19
8	0.19	0.14	0.09
9	0.17	0.12	0.07
10	0.17	0.12	0.07
11	0.16	0.12	0.07
12	0.18	0.13	0.08
13	0.23	0.18	0.11
14	0.33	0.28	0.19
15	0.36	-	0.23
16	0.24	-	0.12
17	0.21	-	0.09
18	0.19	-	0.08
19	0.19	-	0.08
20	0.15	0.13	0.06
21	0.15	0.13	0.06
22	0.15	0.13	0.06
23	0.15	0.13	0.06
24	0.14	0.12	0.06
25	0.13	0.11	0.05
26	0.14	0.12	0.05
27	0.15	0.11	0.06
28	0.15	0.09	0.06
29	0.15	0.12	0.06
30	0.14	0.14	0.06
31	0.17	0.16	0.08
32	0.20	0.18	0.10
33	0.15	0.14	0.07
34	0.16	0.14	0.07
35	0.16	0.14	0.07
36	0.15	0.13	0.07
37	0.15	0.13	0.06
38	0.14	0.13	0.05
39	0.18	0.16	0.07
40	0.17	0.14	0.08
41	0.12	0.10	0.05
42	0.11	0.09	0.04
43	0.13	0.10	0.05
44	0.12	0.10	0.04
45	0.14	0.11	0.05
46	0.14	0.11	0.05
Totals	8.6	6.33	3.97

Landscape Area Table	
Phase 1 (Gross)	13.59 acres
Park Area (gross)	.54 acres
-Paths (exclusive)	-0.09 acres
Park Area (net)	0.75 acres
Right-of-Way (Gross)	4.16 acres
Roads-as built	-2.51 acres
Sidewalks-as built	-0.30 acres
Curb and Gutter-as built	-0.06 acres
Right-of-Way (net)	1.47 acres
Landscape Area (Lots)	4.63 acres
Landscape Area (Right-of-Way)	1.47 acres
Landscape Area (Park Area)	0.75 acres
Total Landscape Area	6.85 acres
% Landscape Area	50%

Legend

- Monument to be a Set ⅝" x 24" rebar with a 2" aluminum cap "Selah" 14731 upon completion of construction
- found ⅝" rebar "Kaufman 1221115"
- Computed point
- cliquot corner (as noted)
- section corner (as noted)
- Centralized Mail Box Unit Site
- setback line
- address

Setbacks		
Lots 1-7	Front	20
	Side	10
	Rear	25
Lots 8-46	Front	20
	Side	10
	Rear	20

Conditions per Preliminary Plat Approval September 19, 2003

9. The developer shall waive the right to protest the creation of a Special Improvement District for the reconstruction of State Park Road, including pavement widening, curb, gutter and storm drainage.
14. Lots 1 through 6, 8A, 8B, 12 through 19, 33 and 34 have slopes in excess of 15 percent. These lots shall be noted on the face of the plat indicating the steep slope and that the Whitefish Fire Marshall shall approve driveway access as suitable prior to the start of combustible construction. (WCC 12-2-4. E.)
16. Stormwater drainage improvements, including roadside drainage swales, bioretention areas, catch basins, stormwater drainage piping and the stormwater retention ponds, are integral to the overall stormwater drainage plan for Old Town. Property owners, or authorized representatives of a property owner, shall be prohibited from excavating, filling, modifying, or in any way damaging said stormwater drainage improvements. The stormwater drainage system shall be owned, operated and maintained by the Old Town property owners.
19. The entire site contains at least 30% open space or landscaped areas or the lots comply with the zoning (WCC 11-2S-3-C) Please see the area tables located on Sheet 1 of 2.
27. All house numbers shall be posted in a clearly visible location.
28. Lot 7 shall be maintained in perpetuity as a site for a stormwater retention pond until a viable City (public) drainage system is provided for this area, with adequate piped conveyance and effective stormwater treatment. At such time, Lot 7 may be developed for a single-family residence, subject to prior approval of the City of Whitefish.
29. Development shall adhere to the setback requirements as specified in the Whitefish Zoning Regulations for WR-2 properties, with the following exceptions: front yard setbacks are 20 feet, uncovered decks and uncovered porches may encroach up to five feet into side, Rear yard setbacks on Lots 1-7 shall be not less than 25 feet. Said encroachment shall be noted on the PUD master plan and plat, as approved by staff (WCC 11-2G-4 and 11-2S).
*. All garbage containers will be stored in a bear proof storage area, such as a closed garage, until the day of pick-up.
*. The City of Whitefish shall not be responsible for damage to boulevard landscaping or drainage improvements that may result from snow plowing operations.

Sheet 1 of 2

TO: rrooney@dailyinterlake.com

PLEASE PUBLISH THE FOLLOWING LEGAL NOTICE ONCE ON September 17th in the Whitefish Pilot

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, October 6, 2014 at 7:10 pm, the Council will hold a public hearing on the item listed below. The Council meets in Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Scott Freudenberger to amend condition #28 of the Old Town subdivision as it pertains to fencing of Lot 7, Old Town, Phase 1 in S26 T31N R22W. (WPUD-05-3A/WPP-05-4A) Compton-Ring

Documents pertaining to these agenda items 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

PO Box 158 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 Scott Freudenberger, owner of Lot 7, Old Town phase 1, is requesting to amend condition #28 of the Old Town subdivision, by deleting the fencing requirement. This condition currently states:

> "Lot 7 shall be maintained in perpetuity as a stormwater facility until a viable city system is developed in the area. A fence shall be provided around the drainage pond on Lot 7 for public safety. The design of the fence shall be approved by the Planning Department."

The Old Town subdivision consists of 64 lots on 18.8 acres and is located off Haugen Heights Road, west of State Park Road in S26-T31N-R22W. The property is zoned WR-2/PUD (Two-Family Residential District). The preliminary plat was approved by the Whitefish City Council in October 3, 2005 and final plat on January 2, 2007.

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 and take final action for the request on:

Monday, October 6, 2014
7:10 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937

Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, September 29, 2014, will be included in the packets to Councilors. Comments received after the deadline will be summarized to Councilors at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

Wendy Compton-Ring

From: Amber Keeler <amberk@bak.rr.com>
Sent: Saturday, September 20, 2014 2:58 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Lot 7, Old Town Phase 1

To City Council:
I regard to your letter about amending condition #28 of the Old Town Subdivision, we both feel that the fence should be placed around the stormwater facility as originally planned.
Public safety should be first & foremost in your decision in this matter. Thank you,

Phil & Amber Keeler
1040 Mountain Park Dr., Unit A
Whitefish, MT
661-978-0096

Wendy Compton-Ring

From: daileycrew <daileycrew@att.net>
Sent: Monday, September 29, 2014 9:28 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Oct. 6th - Scott Freudenberger - Amending Condition #28 - Old Town subdivision

The Old Town HOA Board is in favor of supporting Scott Freudenberger's request to amend condition #28 of the Old Town subdivision by deleting the fencing requirement, if the current, not to code, fence's removal will not pose a safety issue. If the City Counsel agrees to the amendment, we would ask that Mr. Freudenberger be given a timeframe to complete the removal of the fence.

Thank you,

Robin Dailey, 2014 Old Town HOA President

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

September 29, 2014

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

RE: Howell Accessory Apartment at 444 Columbia Avenue; (WCUP 14-06)

Honorable Mayor and Council:

Summary of Requested Action: Jennifer Howell is requesting approval of a Conditional Use Permit to construct an accessory apartment at 444 Columbia Avenue. The property is currently developed with a single family residence and is zoned WR-2 (Two Family Residential District). The Whitefish Growth Policy designates this property as "Urban". The proposed structure will be a maximum of 600 square feet, and is proposing a reduced rear setback of 6 feet but a standard setback of 10 feet from each side. The proposed access for the accessory apartment will be along the existing alley on the west side of the subject property.

Planning Board Action: The Whitefish Interim Planning Board met on September 25, 2014 and considered the request. Following the hearing, the Planning Board recommended approval of the above referenced conditional use permit (5-0, unanimously) with ten (10) conditions as recommended by staff and adopted the staff report as findings of fact.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with ten (10) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the hearing, along with 2 members of the public. The applicant addressed the overall height of the proposed structure and submitted a new plan showing the modification to 24 feet tall maximum. She also modified the paved parking /driveway to include a 2 foot wide gravel area along the side property line to provide adequate drainage. Also discussed was the entrance from the alley instead of 5th Street, which she felt was an improvement to the property. Concerns raised by the public included the existing house not corrected located on the site plan, the existence of too many accessory apartments already located within the neighborhood, problems with on-street parking, traffic congestion, and the potential for losing open spaces and privacy within the neighborhood. The draft minutes for this item are attached as part of this packet.

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

Respectfully,

Bailey Minnich, CFM
Planner II

Att: Exhibit A: Recommended Conditions of Approval
Draft Minutes of 9-25-14 Planning Board Meeting
Received Public Comments after 9-18-14
Revised Site Plan submitted 9-25-14

Exhibits from 9-18-14 Planning Board Packet

1. Staff Report – WCUP 14-06, 9-18-14
2. Adjacent Landowner Notice, 9-4-14
3. Advisory Agency Notice, 9-3-14
4. Received Public Comment as of 9-18-14

The following were submitted by the applicant:

5. Application for Conditional Use Permit, 8-4-14

c: w/att Necile Lorang, City Clerk

c: w/o att Jennifer Howell, 444 Columbia Ave Whitefish, MT 59937
Montana Creative Design

Exhibit A
Howell
WCUP 14-06
Whitefish Interim Planning Board
Recommended Conditions of Approval
September 29, 2014

1. The project shall be constructed in compliance with the plans submitted on August 4, 2014, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. All stormwater generated by the proposal shall be retained on-site. (§11-3-2(C))

3. The proposed driveway shall be setback a minimum of 2 feet from the northern side property line for adequate water drainage. (§11-3-2(C))

4. The proposed driveway and parking area shall be paved in accordance with the Whitefish Zoning Regulations. (§11-6-3-1(D)(2))

5. The maximum height of the accessory structure shall be 24 feet. (§11-3-2(B))

6. The applicant shall be required to obtain a building permit from the City of Whitefish for the proposed accessory structure. (City Building Code)

7. Per §11-2-3(B)(3) of the Whitefish Zoning Regulations, the interior lot line located between lots 11 and 12 shall be abandoned prior to the issuance of the building permit for the accessory structure, as the existing residence and proposed accessory structure will be located across both lots. (§11-2-3(B)(3))

8. One off-street parking space shall be designated for the accessory apartment and two off-street parking spaces shall be designated for the primary residence. (§11-3-1(D))

9. Prior to building permit issuance, the property owner shall provide the City a recorded copy of either a deed restriction or a restrictive covenant that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure. (§11-3-1(C))

10. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8)

Draft

CALL TO ORDER AND ROLL CALL

The regular meeting of the Whitefish Interim Planning Board was called to order at 6:01 pm. Board members present were Greg Gunderson, Jim Laidlaw, Ken Meckel, Ken Stein, and Scott Wurster. John Ellis and Frank Sweeney were absent. Richard Hildner, Alternate Councilor in Frank Sweeney's absence, arrived at 7:00 pm. Planning Director David Taylor, Senior Planner Wendy Compton-Ring and Planner II Bailey Minnich represented the Whitefish Planning and Building Department.

PLANNING BOARD APPOINTMENTS

Following discussion, Stein moved and Laidlaw seconded to select Gunderson as Whitefish Interim Planning Board Chair. Motion passed unanimously. Laidlaw moved and Wurster seconded to select Stein Vice Chair. Motion passed unanimously. Stein volunteered to serve on the Highway 93 West Steering Committee. Two members are needed, but Laidlaw is already on it. Gunderson motioned and Meckel seconded to select Stein for the Highway 93 West Steering Committee. Motion passed unanimously.

APPROVAL OF MINUTES

Stein moved and Meckel seconded to approve the July 17, 2014, minutes. On a vote by acclamation the motion passed unanimously.

COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA)

None.

OLD BUSINESS

None.

JENNIFER HOWELL CONDITIONAL USE PERMIT REQUEST

Jennifer Howell is requesting a Conditional Use Permit to construct an accessory apartment adjacent to a single-family residence. The proposed accessory apartment would be located above a proposed garage. The property is located at 444 Columbia Avenue, is 6,500 square feet, and can be legally described as Lots 11 and 12, Block 63 of Whitefish Subdivision, Section 36, Township 31N, Range 22W.

STAFF REPORT WCUP 14-06 (Minnich)

Planner Minnich reviewed her staff report and covered key items including the proposed garage will be approximately 24' wide by 24' long, for a total of 576 square feet. The Applicant is proposing a reduced setback of 6' from the rear property line adjacent to the alley, but maintaining the side setbacks of 10' each. There are no proposed changes to the existing home. The property is a corner lot fronting

Columbia Avenue and Fifth Street. The proposed garage will be accessed from the adjacent alley at the rear of the property, not from Columbia Avenue. The project is zoned WR-2 (Two Family Residential District). The Growth Policy designation for this area is "Urban" which corresponds to the WR-2. The existing residence, along with the proposed accessory apartment and garage will have a lot coverage of approximately 32%, which is below the maximum permitted lot coverage in this zoning district of 40%. The submitted site plan shows the accessory apartment will be 26' tall. Staff has informed the Applicant the maximum height permitted for an accessory structure is 24'. The Applicant has also been informed by staff that as a condition of approval, the driveway must be setback at least 2' from the northern side property line for adequate water drainage, and the driveway and adjacent parking area must be paved in compliance with zoning regulations. Currently there is an existing interior lot line located between Lots 11 and 12 that must be abandoned prior to the issuance of the building permit for the accessory structure. There are ten conditions of approval in Staff Report WCUP 14-06. Four comments were received as noted on Page 3 of the Staff Report, all against the proposal. One additional comment was received after the packets were distributed, a copy of which was provided to all. It was also against the proposal.

Staff recommended adoption of the findings of fact within staff report WCUP 14-06 and that the conditional use permit be recommended for **approval** to the Whitefish City Council subject to ten conditions.

Stein questioned whether the owner needed to live in the primary resident. Minnich pointed to Condition 9 in the Staff Report requiring that the owner maintain permanent residence in the primary structure. Stein wanted to know if there is any restriction or language in the WCC that says the owner needs to live in the main house or can they live in the apartment and rent the house. Director Taylor said they have allowed people to do that as an exception to the WCC. Stein also questioned whether there was adequate parking. Minnich said three spaces are required under zoning regulations, and there are three proposed. Wurster questioned 6' setback in rear. Even though primary access from alley in this instance, that does not make the alley a street per Director Taylor.

APPLICANT / AGENCIES

Jenny Howell, 444 Columbia Avenue, spoke and said she is working with an architect on the project and provided a revised set of plans tonight after being made aware of height restriction. The height of the roof has been adjusted to a maximum height is 24', and 2' wide 3/4" drain rock was added to the side of the tenant parking area. There is a two-car garage proposed for the main house and a one-car stall for the tenant. The old garage has an entrance off Fifth Street, and she felt bringing the entrance to the garage around to the alley instead of facing the street was an improvement and noted the proposed garage will be set back further from the lot line than the current garage.

PUBLIC COMMENT

Ross Toelcke, 440 Columbia Avenue, immediately to the north, spoke in opposition of the proposal. He stated the site plan shows the existing house in a location other than where it actually sits. He said it is a 1920's Sears & Roebuck style home that came in on the train. He feels there are too many accessory apartments in the neighborhood, which adversely impact the character and demographics, and cause problems for parking, traffic, children walking to and from school and privacy. He said many houses don't even have driveways, resulting in overcrowding on streets and traffic congestion.

Anna Ham, 430 Columbia Avenue, is a summer resident who has owned her property since 1991 and feels this is a very unique neighborhood. She sees traffic and parking as a huge issue and doesn't want to see any more cars parking on the streets. She feels kids are losing open spaces and privacy. She would hate to see the neighborhood go in the direction of the request and asked for denial.

MOTION

Laidlaw moved and Gunderson seconded to adopt staff report WCUP 14-06, and recommend approval of the Howell Conditional Use Permit to construct an accessory apartment to the Whitefish City Council.

BOARD DISCUSSION

Stein said the issues brought up by the neighbors are real. He's been in that neighborhood and sold houses there. He mentioned a utility pole sits in the ROW on the southwest side of the alley that is adjacent to the garage. He's not sure exactly what that means other than it restricts the traffic flow even more in that alley, which is a concern. He would have rather seen a Fifth Street access to the garage but realizes the Board is not here to change the plan.

Wurster questioned whether the standard for accessory buildings is found in WCC §11-3-2, and whether there was nothing in the Code that addresses proximity to a street? In reviewing the definitions of "alley" and "street" in WCC §11-9-2, he felt the alley in this instance would be considered a street. Per Director Taylor, the City has always interpreted that an alley is not a street. Wurster questioned why the definition has been interpreted that way and felt it was strange.

Gunderson questioned whether there was enough turn radius for this to be a functional garage for pulling in and out every day. With a 16' wide alley and a 6' setback, there should be 22' and 20' is needed for a full radius turn, but he rode his bike through there and said it felt narrow to him. The utility pole might decrease the functional width, but it should be the burden of the architect or staff to ensure a functional design that will work. Going by the width and distances on the drawings it looks like it would be possible to enter and exit the garage. Stein said the garage access facing Fifth Street could also be an access problem because of parked vehicles. Gunderson said functionality comes first and he doesn't want the access off Fifth Street either as backing out into an alley is much safer than into a street. Laidlaw said he originally thought having the garage entrance on Fifth Street would make sense, but after listening to Board comments had changed his mind. He said anything we can do to encourage the neighborhood would be good and that the current garage is not attractive.

Gunderson summarized that everyone knows parking is an issue in Whitefish and that a lot of people park on the streets. He said this design provides three off-street parking spaces, provides affordable housing which Whitefish needs, and meets the Growth Policy and criteria of the WCC. Meckel said he had sympathy for the neighbors' comments but oftentimes situations arise that go beyond their discretion as a Board, and they have to go by the regulations in front of them. Stein reiterated that the zoning allows it and unless there are things that staff overlooked then the Board's hands are basically tied. Meckel called for the question.

VOTE

The motion passed unanimously with a 5-0 vote (Hildner not here yet) and the matter is scheduled for City Council on

October 6, 2014.

FOUR FOOLS, LLC, AND RICHARD AND CAROL ATKINSON WHITEFISH GROWTH POLICY AMENDMENT REQUEST AND REZONE REQUEST

Four Fools, LLC, and Richard and Carol Atkinson are proposing to amend the Whitefish Growth Policy from High Density Residential to Neighborhood Commercial and rezone the parcels from WR-3 (Low Density Residential District) to WB-1 (Limited Business District). The property is located at 510, 540 and 550 Wisconsin Avenue and can be legally described as T1C-1B, T1R-2, and T1R-1 in Section 25, Township 31N, Range 22W.

STAFF REPORT WZC 14-03 / WGPA 14-01 (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff reports and findings.

The City is concerned with increasing traffic along this corridor. Wisconsin Avenue is a state highway and there are limited funds for redevelopment of the road. MDT plans to mill and overlay Wisconsin Avenue in the next couple of years, but developing left-hand turn lanes, bus pullouts, sidewalks, street lights and other improvements could be 15-20 years out. There are concerns that each development along the corridor will add to the existing traffic causing further problems before the road is able to be redeveloped. While this current applicant does not have any immediate plans for development, the proposed zoning allows the full-range of retail sales and services.

City Council recently directed staff to pursue a Wisconsin Avenue corridor study once the Highway 93 West and Downtown plans are completed. Such a plan would look at land use, build-out, motorized and non-motorized transportation, access, parkland and other corridor specific issues. Staff indicated the work would not start until January 2015 at the earliest. Completion and implementation of such a plan could be several months or longer.

Staff noticed the adjacent neighbors and a legal ad appeared in the *Whitefish Pilot*, resulting in no comment. An email was received late today from John Wilson, Public Works Director, voicing the Public Works Department's concerns regarding impacts for traffic on Wisconsin Avenue and recommending this item be postponed until a comprehensive corridor study is completed. Copies of the email were distributed to all.

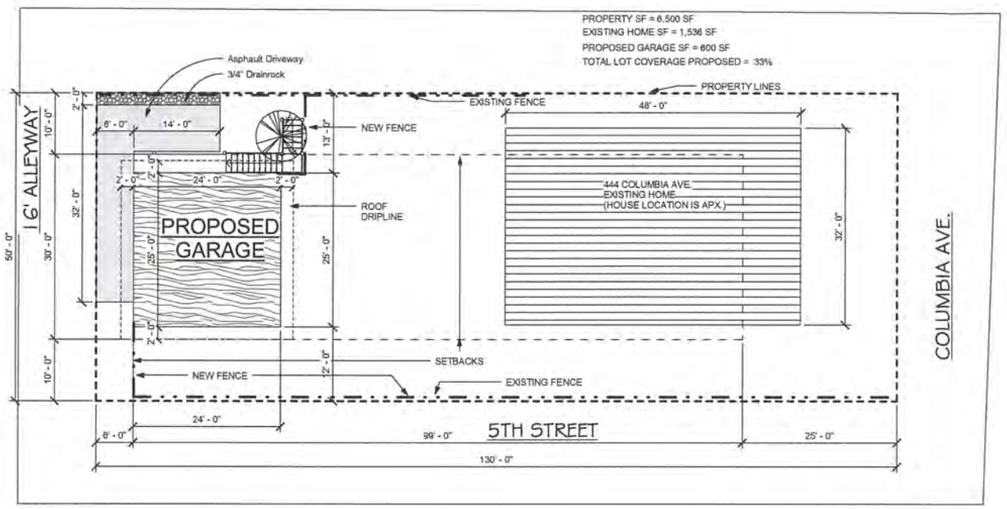
Staff is recommending **approval** of the Growth Policy

Bailey Minnich

From: Kevin Nimmo <knimmo59@gmail.com>
Sent: Thursday, September 18, 2014 4:20 PM
To: bminnich@cityofwhitefish.org
Subject: Public notice of proposed land use action

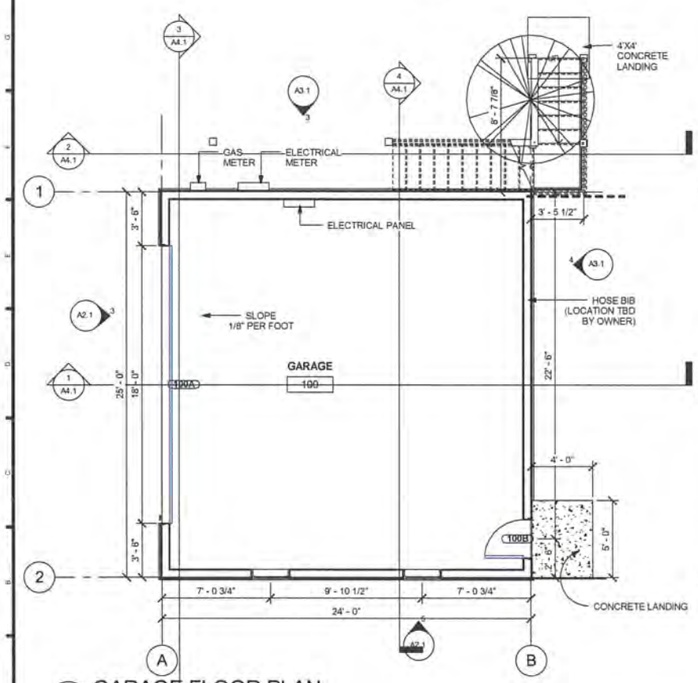
Concerning the application for conditional use permit to construct an accessory apartment at 444 Columbia avenue. I own the property at 437 Kalispell avenue which is just to the northwest and across the alley of 444 Columbia avenue. I can say that any structure that is 27-30 feet high would eliminate the small piece of privacy that we have worked very hard to create. This would also include additional parking in the alley way and along 5th street, further congesting this already tight area. It is my opinion that a one car garage would most likely not be for housing a car, but become more of a storage facility. My wife and I would encourage the Interim Planning Board to vote against approval of this application for conditional use at this time.

PRELIMINARY SET

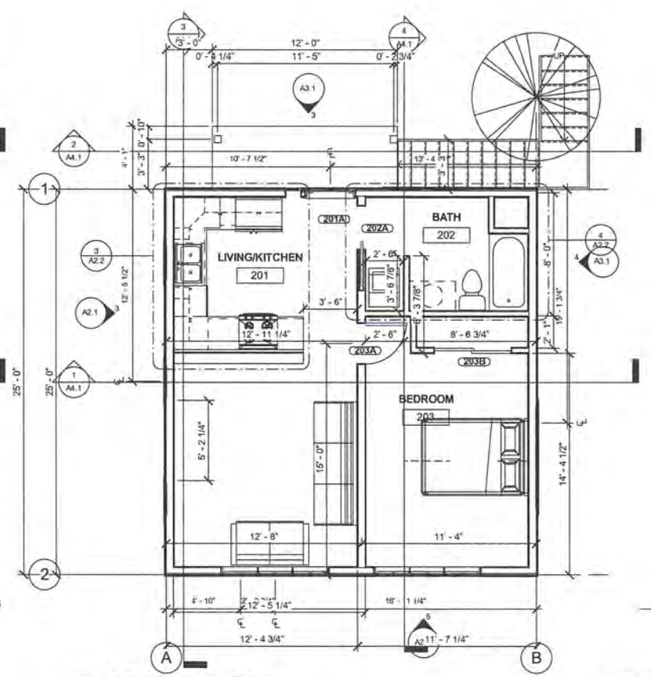


4 A2.1 SITE PLAN
1" = 10'-0"

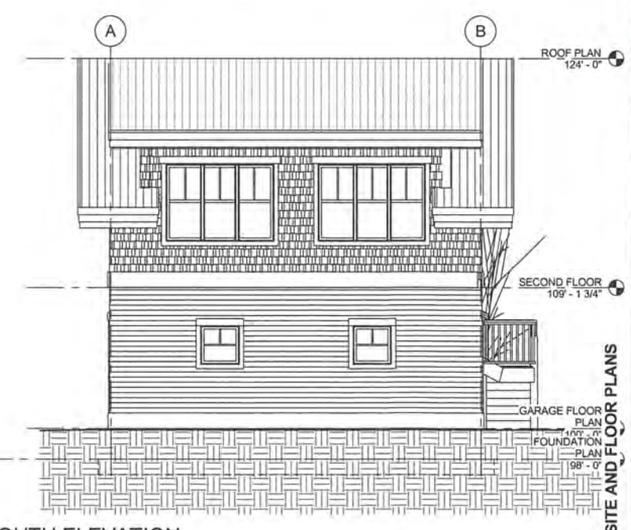
3 A2.1 WEST ELEVATION
1/4" = 1'-0"



1 A2.1 GARAGE FLOOR PLAN
1/4" = 1'-0"



2 A2.1 SECOND FLOOR
1/4" = 1'-0"



5 A2.1 SOUTH ELEVATION
1/4" = 1'-0"

SITE AND FLOOR PLANS

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly registered architect under the laws of the State of Montana, practicing in Whitefish, Montana.

14-20

Date: 9/25/14

Reg. No. 2032

AARON J. WALLACE

THESE PLANS AND SPECIFICATIONS ARE THE SOLE PROPERTY OF MONTANA CREATIVE ARCHITECTURE AND DESIGN ANY REPRODUCTION OR REUSE OF THESE DOCUMENTS IS FORBIDDEN WITHOUT WRITTEN PERMISSION FROM MONTANA CREATIVE ARCHITECTURE AND DESIGN

Project Number:	14-20
Date:	9/25/14
Drawn By:	AW/JL
Checked By:	-
Revisions:	-

Montana Creative
architecture + design

MONTANA CREATIVE
ARCHITECTURE +DESIGN
158 RAILWAY ST.
WHITEFISH, MT 59937
406.862.8152
FAX# 406.862.8153

444 COLUMBIA AVE. GARAGE APARTMENT

444 COLUMBIA AVE. WHITEFISH MT 59937

A2.1

SEP 2 5 2014

HOWELL
CONDITIONAL USE PERMIT WCUP 14-06
EXHIBIT LIST
SEPTEMBER 18, 2014

1. Staff Report – WCUP 14-06, 9-18-14
2. Adjacent Landowner Notice, 9-4-14
3. Advisory Agency Notice, 9-3-14
4. Received Public Comment as of 9-18-14

The following were submitted by the applicant:

5. Application for Conditional Use Permit, 8-4-14

HOWELL
CONDITIONAL USE PERMIT
WCUP 14-06
SEPTEMBER 18, 2014

This is a report to the Whitefish Interim Planning Board and the Whitefish City Council regarding a request for a conditional use permit to allow an accessory apartment in a WR-2 zone. This application has been scheduled before the Whitefish Interim Planning Board for a public hearing on Thursday, September 25, 2014. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, October 6, 2014.

PROJECT SCOPE

The applicant is requesting a conditional use permit to construct an accessory apartment adjacent to a single-family residence. The accessory apartment will be located above a proposed two car garage in the rear of the subject property, adjacent to the existing alley. Currently, there is an existing garage on the property which will be removed. The proposed garage will be approximately 24 feet wide by 24 feet long, for a total of 576 square feet. The applicant is proposing a reduced setback of 6 feet from the rear property line adjacent to the alley, but maintaining the side setbacks of 10 feet each. There are no proposed changed to the existing home. The subject property is a corner lot fronting Columbia Avenue and 5th Street. The proposed garage will be accessed from the adjacent alley at the rear of the property.

A. **OWNER:**

Jennifer Howell
444 Columbia Avenue
Whitefish, MT 59937
(626) 773-2637

Technical Representative:

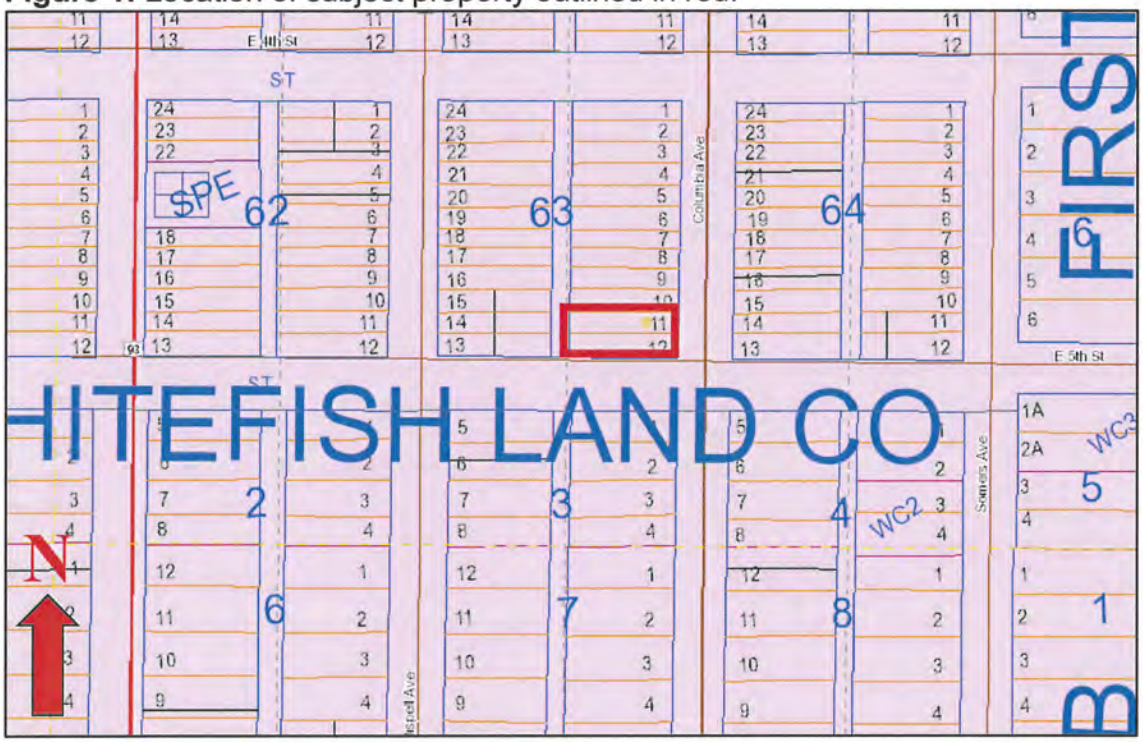
Aaron Wallace
158 Railway Street
Whitefish, MT 59937
(406) 862-8152

B. **SIZE AND LOCATION OF PROPERTY:**

The subject property is 6,500 square feet (approximately 0.149 acres). It is located at 444 Columbia Avenue, and can be described as Lots 11 & 12 in Block 63 of Whitefish Subdivision in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana.

EXHIBIT

Figure 1: Location of subject property outlined in red.



C. **EXISTING LAND USE AND ZONING:**

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

D. **ADJACENT LAND USES AND ZONING:**

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

E. **ZONING DISTRICT:**

WR-2 (Two Family Residential District)

F. **WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:**

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

neighborhood commercial located along arterial or collector streets are also included in this designation. Zoning includes WLR, WR-1, and WR-2."

G. **UTILITIES:**

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

H. **PUBLIC COMMENTS:**

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on September 4, 2014. A notice was emailed to advisory agencies on September 3, 2014. A notice of the public hearing was published in the *Whitefish Pilot* on September 10, 2014. As of the writing of this staff report, one comment has been verbally received by our office, two comments has been received by email, and one comment has been received by mail. All four comments are against the proposal. The concerns indicated include increased traffic near street intersections, access, parking, noise, safety, the density of the surrounding neighborhood, the proposed height of the structure, and the overall compatibility of the existing zoning with the neighborhood.

REVIEW AND FINDINGS OF FACT

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

1. Growth Policy Compliance:

Finding 1: The proposed use complies with Growth Policy Designation of Urban because the proposal is for an accessory apartment in association with a single family residence in compliance with the WR-2 zoning.

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

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

The development proposal is consistent with the purpose and intent of the applicable regulations. Currently the submitted site plan shows the accessory apartment will be 26 feet tall. Staff has informed the applicant the maximum height permitted for an accessory structure is 24 feet. As a condition of approval, the overall height of the structure shall be reduced to 24 feet incompliance with the zoning regulations. Section 11-3-1 describes the requirements for an accessory apartment and this project meets all the requirements. The proposed use is accessory to a single family home and

adequate parking will be provided. Additionally, the accessory apartment will meet the side setbacks required for a principal structure, but will have a reduced rear setback of 6 feet per the zoning regulations for accessory structures. The subject property for the proposed accessory apartment is approximately 6,500 square feet, which complies with both the minimum lot size and lot width requirements of the WR-2 zoning.

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

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

Adequate usable land area: The subject parcel is approximately 6,500 square feet in size. The existing garage will be removed in order to permit the construction of the new garage and accessory apartment. The structure will be setback 10 feet from the side property lines in compliance with the principal structure setbacks. However, the rear setback will be reduced to 6 feet as permitted for accessory structures less than 600 square feet. There is adequate space on the subject property for the proposed structure. The maximum permitted lot coverage in this zoning district is 40%. The existing residence, along with the proposed accessory apartment & garage will have a lot coverage of approximately 32%.

Figure 2: Location of proposed accessory apartment after existing is removed.

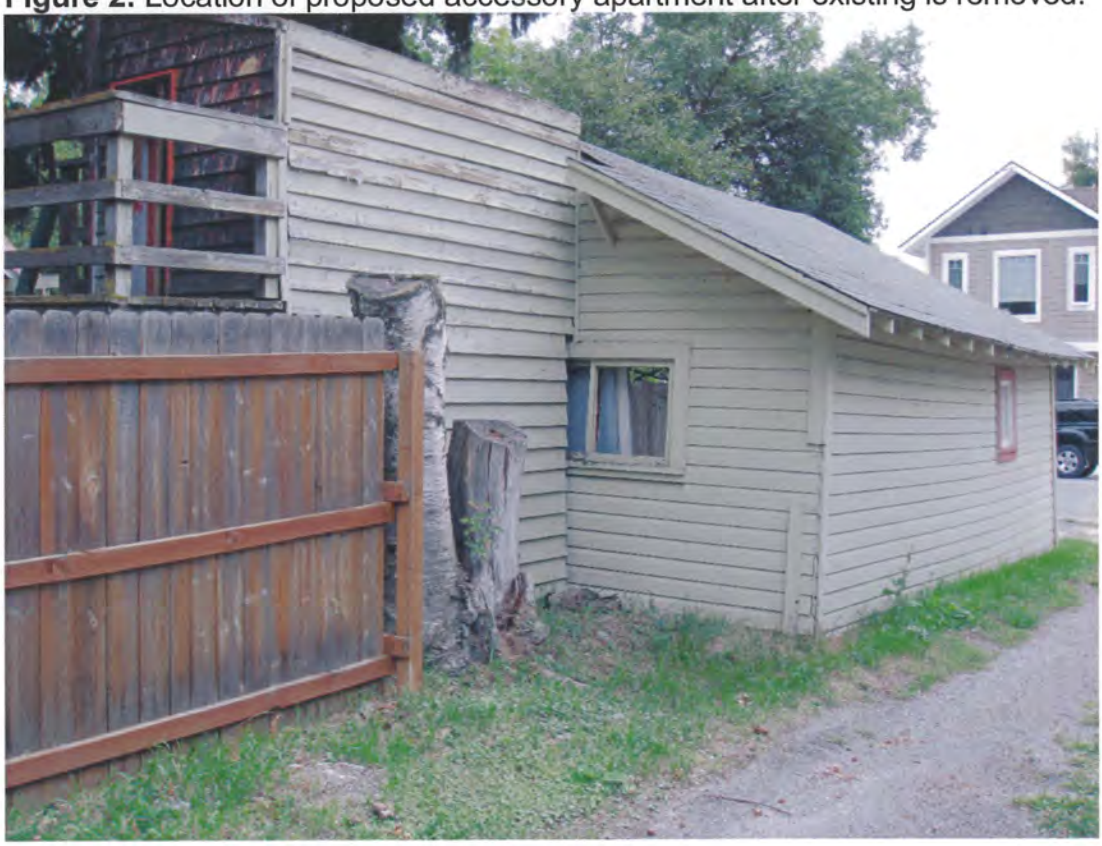
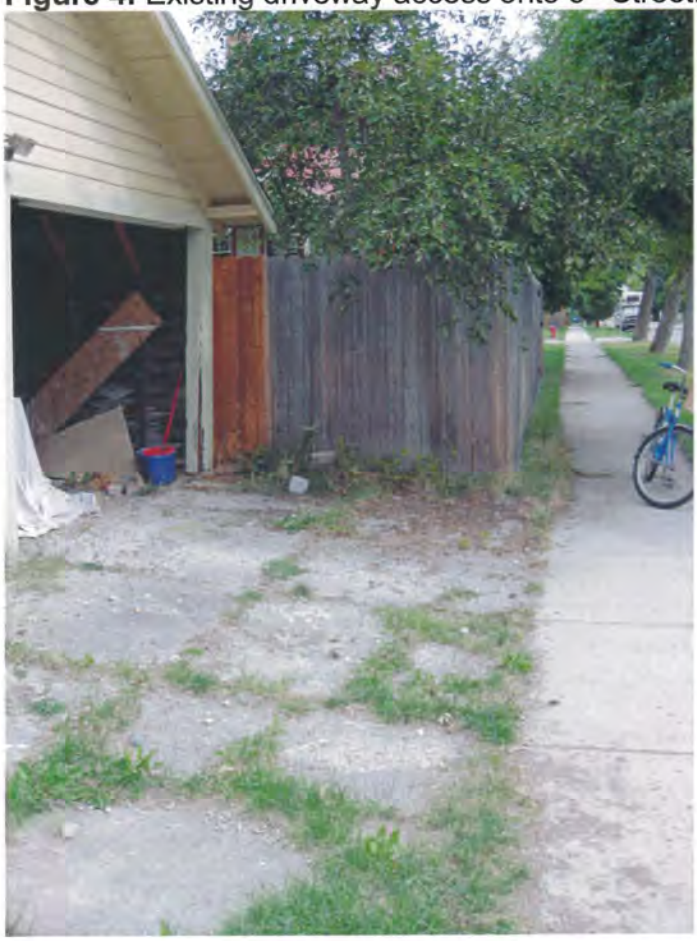


Figure 3: Location of proposed garage/accessory apartment.

Access that meets the standards set forth in these regulations, including emergency access: The subject property is a corner lot with the front of the property facing Columbia Avenue and one side along 5th Street. Currently there is a driveway access to the existing garage from 5th Street along the southern property line. The applicant is proposing to remove the existing access and instead access the proposed garage from the alley. The subject property does not have direct access off Columbia Avenue. On the submitted site plan, the driveway is shown to be constructed directly adjacent to the side property line. Staff has informed the applicant that as a condition of approval, the driveway must be at least 2 feet off the property line for adequate water drainage. The proposed driveway location should provide adequate emergency access to the accessory apartment, and the single family residence is capable of being accessed from either Columbia Avenue or 5th Street. As a condition of approval, the driveway and adjacent parking area must be paved in compliance with the zoning regulations.

Figure 4: Existing driveway access onto 5th Street.



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

Finding 3: The subject property is suitable for the proposed accessory apartment because the proposal complies with the minimum lot size, minimum lot coverage, and required setbacks; access to the proposed structure will be from an existing alley off 5th Street on the south side of the subject property; and there are no environmental constraints on the property to limit development.

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

Parking locations and layout: Section 11-6-2(A) of the Whitefish Zoning Regulations requires two (2) parking spaces per single family dwelling unit and Section 11-3-1(D) requires one (1) off-street space must be provided for the accessory apartment. The proposed lot provides adequate space to accommodate all parking needs on site. The proposed garage can accommodate 2 parking spaces for the single family residence, while the proposed accessory apartment will have a parking area for one vehicle adjacent to the proposed structure.

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

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

Fencing/Screening: Fencing and screening are not required by the zoning regulations.

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

Signage: No signage is proposed for the accessory apartment.

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

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

5. Availability and Adequacy of Public Services and Facilities.

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

Storm Water Drainage: The storm water drainage will be reviewed by the City Public Works Department at the time a building permit application has been submitted for the accessory apartment. If the impervious surface will exceed 5,000 square feet, an engineered stormwater plan will be required to be reviewed and approved.

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

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

Streets: The subject property is located on the northwestern corner of Columbia Avenue and 5th Street. The property currently has a driveway access from 5th Street on the south side of the property. The applicant is proposing to abandon the access off 5th Street and instead access the proposed garage directly from the adjacent alley. Columbia Avenue and 5th Street are both paved travel surfaces, and the driveway for the accessory structure will be paved as well per the zoning regulations.

Finding 5: The subject property appears to have adequate availability of public services because the property is currently served by sewer and water, is within the jurisdiction of the Whitefish Fire Department and the City of Whitefish Police Department, and is accessed from an existing alley adjacent to 5th Street which is paved.

6. Neighborhood/Community Impact:

Traffic Generation: Traffic impacts are anticipated to be minimal as the subject property has an existing single family residence, and the proposed accessory apartment should not result in a significant impact to traffic on Columbia Avenue, 5th Street, or surrounding roadways.

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

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from the residential use currently onsite. The driveway access for the accessory apartment shall be required to be paved.

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

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

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

7. Neighborhood/Community Compatibility:

Structural Bulk and Massing: The proposed accessory apartment's bulk and massing will be less than 600 square feet. The structure will comply with the standard setback of 10 feet from the side property lines, and with a reduced setback of 6 feet from the rear property line. The proposed structure will be similar to existing adjacent residential uses in the neighborhood, and will not exceed the maximum height of 24-feet for an accessory structure.

Scale: The proposed accessory apartment appears to be adequately scaled to the subject property. It will be substantially smaller than the existing single family residence and will be located approximately 36 feet away from the existing residential structure. This will allow for adequate open space within the subject property to maintain the character of the neighborhood.

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

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

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

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

RECOMMENDATION

It is recommended that the Whitefish Interim Planning Board adopt the findings of fact within staff report WCUP 14-06 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be constructed in compliance with the plans submitted on August 4, 2014, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. All stormwater generated by the proposal shall be retained on-site. (§11-3-2(C))

3. The proposed driveway shall be setback a minimum of 2 feet from the northern side property line for adequate water drainage. (§11-3-2(C))

4. The proposed driveway and parking area shall be paved in accordance with the Whitefish Zoning Regulations. (§11-6-3-1(D)(2))

5. The maximum height of the accessory structure shall be 24 feet. (§11-3-2(B))

6. The applicant shall be required to obtain a building permit from the City of Whitefish for the proposed accessory structure. (City Building Code)

7. Per §11-2-3(B)(3) of the Whitefish Zoning Regulations, the interior lot line located between lots 11 and 12 shall be abandoned prior to the issuance of the building permit for the accessory structure, as the existing residence and proposed accessory structure will be located across both lots. (§11-2-3(B)(3))

8. One off-street parking space shall be designated for the accessory apartment and two off-street parking spaces shall be designated for the primary residence. (§11-3-1(D))

9. Prior to building permit issuance, the property owner shall provide the City a recorded copy of either a deed restriction or a restrictive covenant that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure. (§11-3-1(C))

10. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8)

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 Jennifer Howell has applied for a Conditional Use Permit to construct an accessory apartment. The property is developed with a single family home and is zoned WR-2 (Two Family Residential District). The proposed accessory apartment would be located above a proposed garage. The accessory apartment will be approximately 24 feet wide by 24 feet long, for a total of 576 square feet. As the garage will be less than 600 square feet, the structure qualifies for reduced side and rear setbacks of 6 feet; however the applicant is only proposing a reduced setback from the rear property line. The property is located at 444 Columbia Avenue and can be legally described as Lots 11 and 12, Block 63 of Whitefish Subdivision, S36, T31N, R22W, P.M.M., Flathead County, Montana.

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

Thursday, September 25, 2014
6:00 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937

The Whitefish Interim Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, October 6, 2014 at 7:10 p.m., also in the Whitefish City Council Chambers.

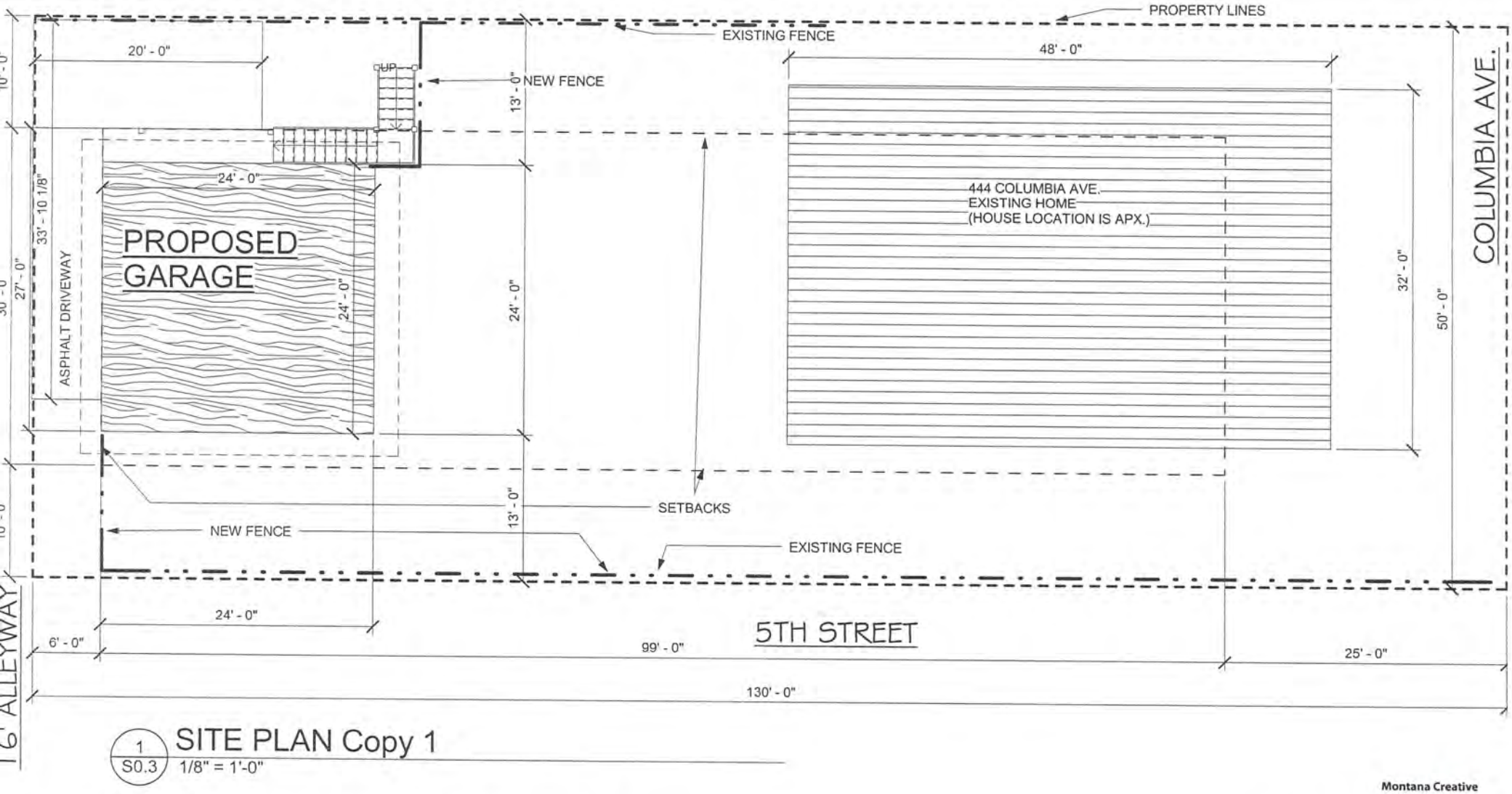
On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposal and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *bminnich@cityofwhitefish.org*. Comments received by the close of business on Wednesday September 17, 2014, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

EXHIBIT

2

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

PROPERTY SF = 6,500 SF EXISTING HOME SF = 1,536 SF PROPOSED GARAGE = 576 SF TOTAL LOT COVERAGE PROPOSED = 32%



1 / S0.3 SITE PLAN Copy 1
1/8" = 1'-0"

Montana Creative
architecture + design

444 COLUMBIA AVE. GARAGE APARTMENT

444 COLUMBIA AVE, WHITEFISH MT 59937

SITE PLAN

1/8" = 1'-0"
8/4/2014

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

Date: September 5, 2014

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Interim Planning Board will be held on Thursday, September 25, 2014 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing on these items on Monday, October 6, 2014. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. Four Fools llc and Richard and Carol Atkinson are proposing to amend the Whitefish Growth Policy from High Density Residential to Neighborhood Commercial and rezone the parcels from WR-3 (Low Density Residential District) to WB-1 (Limited Business District). The property is located at 510, 540 and 550 Wisconsin Avenue and can be legally described as T1C-1B, T1R-2, T1R-1 in Section 25, Township 31N, Range 22W (WZC 14-03/WGPA 14-01) Compton-Ring

2. Jennifer Howell is requesting a Conditional Use Permit to construct an accessory apartment. The proposed accessory apartment would be located above a proposed garage. The property is located at 444 Columbia Avenue and can be legally described as Lots 11 and 12, Block 63 of Whitefish Subdivision, S36, T31N, R22W. (WCUP-14-06) Minnich

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

EXHIBIT

3

Bailey Minnich

From: melanie toelcke <toelckemelanie@gmail.com>
Sent: Wednesday, September 17, 2014 10:04 AM
To: bminnich@cityofwhitefish.org
Subject: special use

My name is Melanie Toelcke and I own a home at 440 Columbia Ave., next door to 444 Columbia Ave, the owners of whom are applying for a permit to build a garage/apartment in their backyard.

I am absolutely opposed to this happening to my neighborhood. It will and is ruining the density. It's unbelievable to me that this neighborhood is zoned for this. The lots are not big enough for two residences. The height and location of what they are proposing would make them able to see into all their neighbor's homes and yards. Not that I think they want to, it's just how it would be.

The home that is already there needs a whole lot of work. It is a very cool older home that hasn't had any love for many years. Please just focus on the existing home.

Parking is ridiculous, people with a single car garage don't park their car in the garage, they put their stuff in the garage. And with 2-3 cars per home, that's a whole lot of cars parked on the street which makes it difficult to see and unsafe for the children walking to school. When cars are parked on both sides of the street it brings it down to one squeezable lane.

Really I think the zoning just needs to be changed. This shouldn't be happening in this neighborhood at all. It shouldn't even be an option.

Thanks for your time. Melanie Toelcke
261-3184

EXHIBIT
4

Bailey Minnich

From: Stephen Nix <stephenn@bigmountainglass.com>
Sent: Wednesday, September 17, 2014 8:38 AM
To: bminnich@cityofwhitefish.org
Subject: Comments - Howell Project / Accessory Apartment

Good morning,

Conditional Use Permit / Jennifer Howell @ 444 Columbia Ave
Accessory Apartment

We reside at 720 5th Street and have concerns regarding the mentioned project;

A] Accessing the garage for parking automobiles is shown through the alley and our concern is the tightness or difficulty in pulling into and backing out of the garage based on the proximity of the side of our house to the alley. We would ask you to consider keeping the access as it currently is, off of 5th street for ease of the occupant parking within or backing out of the garage, as well they have a larger visual area for entering or existing onto 5th street then within the alley.

B] With a second residence on this lot it will add additional vehicles and parking issues which we have already experienced from the accessory apartment built across the street, which has added (3) autos and (1) cargo trailer either parked on 5th street or in the alley.

C] With a second residence on this lot it will create additional noise and adjoining neighbors will lose what privacy there yards currently provide by having a living space created in a second story structure.

D] Many residents are young couples with small children who play in both front and back yards as well as sometimes in the streets, which with the continued added people and vehicles to the downtown residential area's is creating safety concerns.

E] We would prefer to see the Howells replace the garage (based on its poor condition) for their personal use and not build an accessory apartment above it.

Thank you,

Tammy Foster
Stephen Nix
720 5th Street, Whitefish MT.
212-0104 / Stephen

430 Columbia Ave
Whitefish, MT 59937
September 3, 2014

Whitefish Planning Department
PO Box 158
Whitefish, MT 59937

Re: Comments on Proposed Land Use Action
Jennifer Howell, 444 Columbia Ave.
Lots 11 and 12, Block 63 of Whitefish Subdivision, S36.etc

Dear City Planners,

I have been a homeowner at 430 Columbia Avenue since 1991. I love this neighborhood! It is a family neighborhood.

I am opposed to the approval of this permit. I believe that the proposed addition would cause a deterioration in the quality of this neighborhood. These bungalows and dwellings on Columbia and on Fifth St. are a historical part of the unique living ambience of old town Whitefish. This is a family neighborhood, couples, children, seniors. The lots are quite small. There is extremely limited parking. The children need space for playing and safely and neighbors also need some privacy. I do not want to see the trend of apartment rentals in this old established neighborhood.

I respectfully request the denial of this permit.

Sincerely,

Anna Ham

Anna Ham

09-10-14 P01:04 IN

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

File #: WCUP-14-02
Date: 8/4/14
Intake Staff: BM
Date Complete: _____

CONDITIONAL USE PERMIT

FEE ATTACHED $ 990.00
(See current fee schedule)

INSTRUCTIONS:

☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: 8/14/14

☐ 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 Planning Board meeting at which this application will be heard.

☐ The regularly scheduled meeting of the City-County Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 402 E 2nd Street.

☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Name: Howell Garage

Project Address: 444 Columbia Ave.

Assessor's Tract No.(s) 0543425 Lot No(s) 11-12
Block # 63 Subdivision Name Whitefish
Section 36 Township 31 N Range 22 W

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.

Jennifer Howell — 8/1/14
Owner's Signature[1] — Date

Jennifer Howell
Print Name

Jennifer Howell — 8/1/14
Applicant's Signature — Date

Jennifer Howell
Print Name

_____ — _____
Representative's Signature — Date

_____
Print Name

EXHIBIT 5

[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

APPLICATION CONTENTS:

Attached **ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

____ Conditional Use Permit Application – **11 copies**

____ Written description how the project meets the criteria in Section D – **11 copies**

____ Site Plan – **11 copies** The site plan, drawn to scale, which shows in detail your proposed use, your property lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, signage, and any unusual topographic features such as slopes, drainage, ridges, etc.

____ Reduced copy of the site plan not to exceed 11" x 17" – **1 copy**

____ Where new buildings or additions are proposed, building sketches and elevations shall be submitted.

____ Electronic version of entire application such as .pdf

____ Certified adjacent owners list for properties within 150-feet of subject site – **1 copy**

____ 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 Planning Board and City Council.

B. OWNER(S) OF RECORD:

Name: Jennifer Howell Phone: (626) 773-2637

Mailing Address: 444 Columbia Ave.

City, State, Zip: Whitefish, MT 59937

Email: jenni_howell@rocketmail.com

APPLICANT (if different than above):

Name: Jennifer Howell Phone: (626) 773-2637

Mailing Address: 444 Columbia Ave.

City, State, Zip: Whitefish, MT 59937

Email: jenni_howell@rocketmail.com

TECHNICAL/PROFESSIONAL:

Name: Aaron J. Wallace Phone: (406) 862-8152

Mailing Address: 158 Railway Street

City, State, Zip: Whitefish, MT 59937

Email: awallace@mt-creative.com

C. DESCRIBE PROPOSED USE:

Mother-in-law's apartment over two-car detached garage. Homeowner may use the apartment as a long-term rental, as a private artist's studio, or for out-of-town guests.

ZONING DISTRICT: WR-2

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

1. Describe how the proposal conforms to the applicable goals and policies of the Whitefish City-County Growth Policy.

   This proposed garage apartment, if used as a long-term rental unit, conforms to the Whitefish City Growth Policy by providing a smaller, affordable rental option for a working-class person or family to live in the Whitefish community, just walking distance to the city's many downtown amenities. Also, by providing a walkable or bikable commute for a working-class person or family, this proposed garage apartment will also reduce traffic congestion and pollution by "infilling" new residential options into an existing neighborhood, rather than moving to the "suburbs" and driving to commute to work in Whitefish.

2. Describe how the proposal is consistent with the purpose, intent and applicable provisions of the regulations.

   This proposed garage apartment will comply with all City of Whitefish zoning and setback requirements applicable to an accessory apartment. It will also comply with City of Whitefish special provisions within the regulations for an accessory apartment, such as minimum lot size, quantity of apartments per lot, and the homeowner will remain living in the main house at 444 Columbia Ave. as her primary residence.

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?

   The property location is suitable for a new garage, to replace an old dilapidated garage structure on this site. There is adequate usable land area for the proposed garage structure to be built on the site. Access to the site will not be changed by this proposal, as 5th Street and the alley between Kalispell Ave. and Columbia Ave. will remain unchanged. There are no environmentally sensitive areas on the property.

4. How are the following design issues addressed on the site plan?
   a. Parking locations and layout
   b. Traffic circulation
   c. Open space
   d. Fencing/screening
   e. Landscaping

f. Signage
g. Undergrounding of new utilities
h. Undergrounding of existing utilities

a. Two parking spaces are shown inside the two-car garage, plus one parking space adjacent to new garage structure for future apartment tenant(s).
b. Traffic circulation will be modified by moving the vehicle entrance into the garage from the South side (5th St.) to the West side (alley). Public traffic circulation will remain unchanged.
c. The yard around the proposed garage location, and between the existing house and the proposed garage (including setback dimensions) are shown on the site plan.
d. Fencing is currently not shown on the site plan, but this property has some existing fencing around the yard, and additional matching fencing will be installed during construction of the proposed garage to completely enclose the back yard.
e. Landscaping is not currently shown on the site plan, but a landscape design will be prepared for this project.
f. Signage is not included in the scope of this project, and is not shown on the site plan.
g. Undergrounding of new utilities is not currently shown on the site plan, but may be added at a later date, after coordination with Public Works.
h. Undergrounding of existing utilities is not currently shown on the site plan, but may be added at a later date, after coordination with Public Works.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
   a. Sewer
   b. Water
   c. Stormwater
   d. Fire Protection
   e. Police Protection
   f. Street (public or private)
   g. Parks (residential only)
   h. Sidewalks
   i. Bike/pedestrian ways – including connectivity to existing and proposed developments

a. Sewer tie-in to proposed garage location will be required.
b. Water may be able to be provided from main house, utilizing existing water meter and street tap. Coordination with Public Works will be needed.
c. Existing stormwater systems will be utilized for new garage - available and adequate.
d. Fire Protection services - available and adequate.
e. Police Protection - available and adequate.
f. Streets will not be modified in any way by this project, however, new asphalt driveway will be installed abutting existing alley asphalt.
g. Parks - available and adequate.
h. Sidewalks will not be modified in any way by this project - available and adequate.
i. Bike/ped ways will not be modified in any way by this project - available and adequate.

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general? Describe any adverse impacts under the following categories.
   a. Excessive traffic generation and/or infiltration of traffic into neighborhoods
   b. Noise, vibration, dust, glare, heat, smoke, fumes, odors

a. If the apartment is used as a long-term rental or guest quarters, one additional vehicle at a time may be added to the neighborhood. If the apartment is used as an artist's studio, there will be no additional vehicle impact on the neighborhood.
b. During construction, all efforts will be taken to minimize or prevent excessive noise, vibration, dust, glare, heat, smoke, fumes and odors that may impact the nearby neighborhoods. After construction, the garage and apartment will be used as a residential structure only, and will have NO noise, vibration, dust, glare, heat, smoke, fumes or odors.

7. What are the proposed hours of operation?

Not applicable for a residence.

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:
   a. Structural bulk and massing
   b. Scale
   c. Context of existing neighborhood
   d. Density
   e. Community Character

The design of the proposed garage will be similar to the architectural features of the main house, with similar bulk and massing. The size of the proposed garage is within the maximum 600 sf limit imposed by the City of Whitefish, and is appropriate in scale relative to the adjacent buildings and the main house at 444 Columbia Ave. Montana Creative Architecture have been retained to prepare plans for this project, taking into account the context of the existing neighborhood into their design. Since this is a residential construction project, the density of the building is not applicable, as it would be on a commercial project.

Flathead County GIS
800 South Main Street
Kalispell, MT 59901
Phone (406) 758-5540

Adjacent Ownership List Request Form

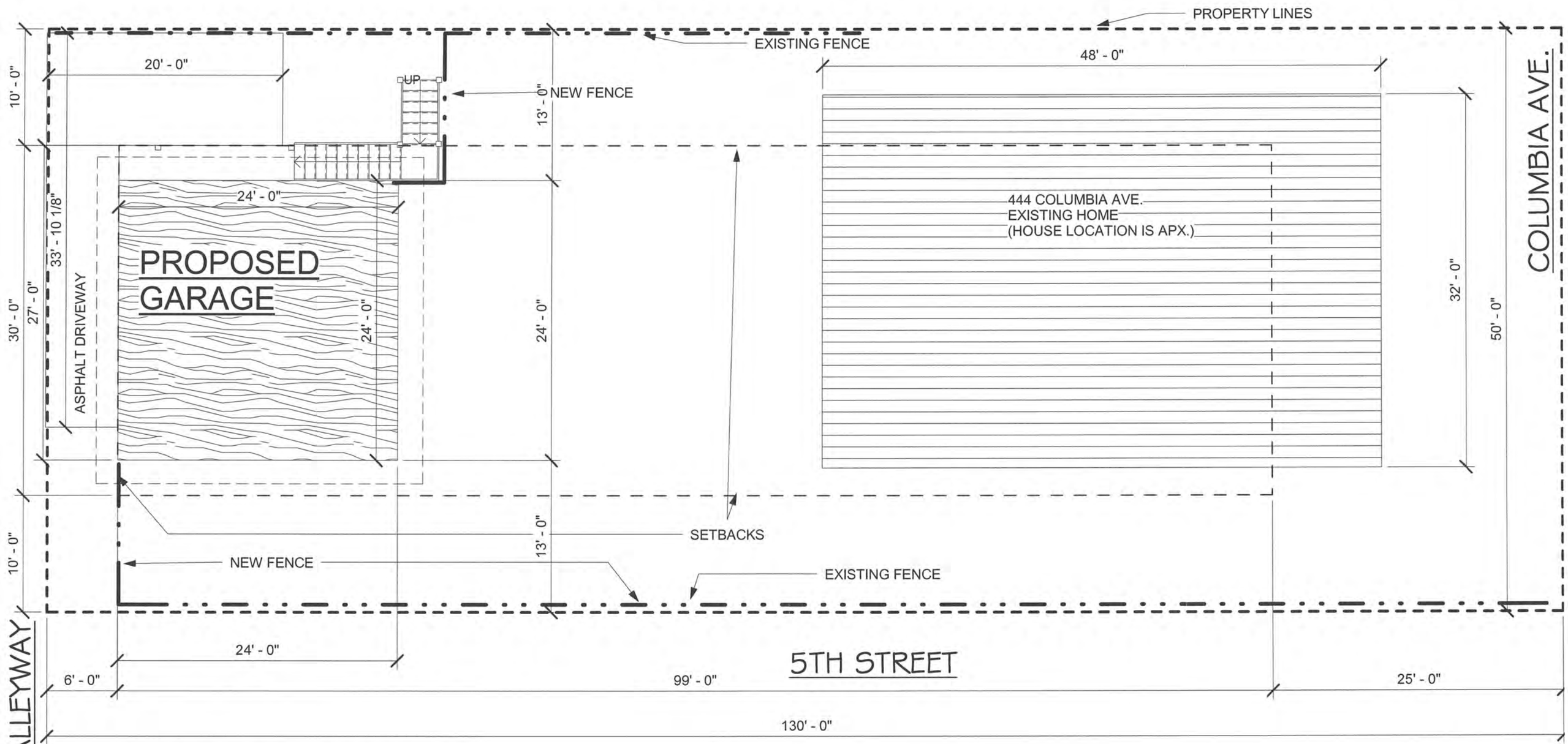
Must be filled out by the Planning Office, Surveyor, or Engineer

SUBJECT PROPERTY OWNER	Jenni Howell
SUBJECT PROPERTY ASSESSOR #	0543425
SUBJECT PROPERTY LEGAL DESCRIPTION	WFSH, S36, T31 N, R22 W, Block 63, Lot 11-12, Assr# 0000543425
SEC-TOWNSHIP-RANGE	S36-T31N-R22W
BUFFER FOOTAGE	150-feet
CONTACT PERSON	Jenni Howell
CONTACT PHONE #	(626) 773-2637
TODAY'S DATE	07/30/14
SPECIAL HANDLING INSTRUCTIONS	Certified Ownership List - RUSH
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

PROPERTY SF = 6,500 SF EXISTING HOME SF = 1,536 SF PROPOSED GARAGE = 576 SF TOTAL LOT COVERAGE PROPOSED = 32%



1 S0.3 SITE PLAN Copy 1
1/8" = 1'-0"

Montana Creative
architecture + design

444 COLUMBIA AVE. GARAGE APARTMENT

SITE PLAN

444 COLUMBIA AVE, WHITEFISH MT 59937

1/8" = 1'-0"
8/4/2014

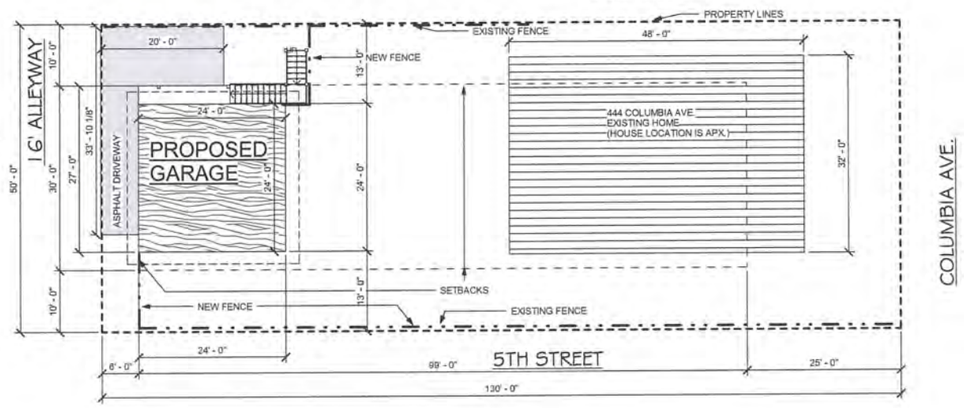
PRELIMINARY SET

PROPERTY SF = 6,500 SF

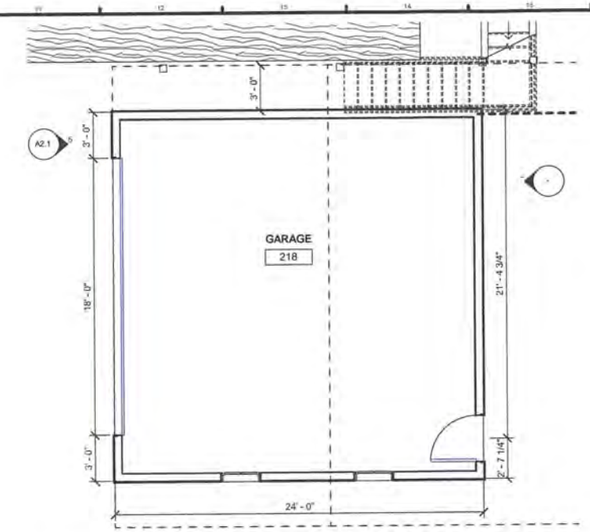
EXISTING HOME SF = 1,536 SF

PROPOSED GARAGE = 576 SF

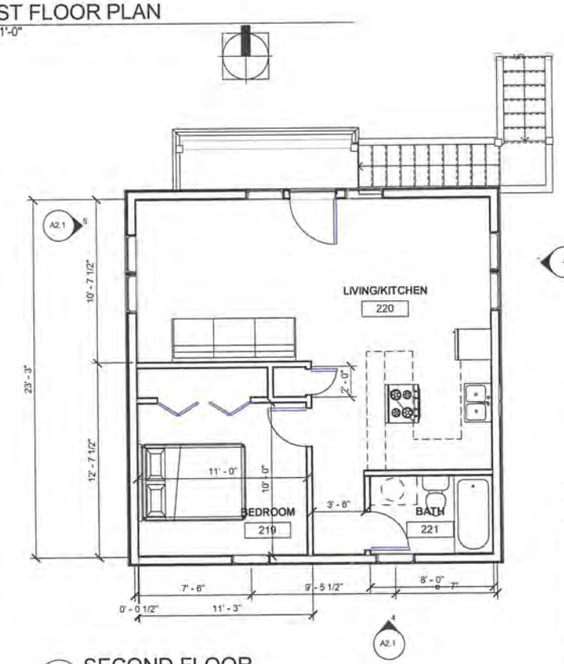
TOTAL LOT COVERAGE PROPOSED = 32%



2 A2.1 SITE PLAN
1" = 10'-0"



1 A2.1 FIRST FLOOR PLAN
1/4" = 1'-0"



3 A2.1 SECOND FLOOR
1/4" = 1'-0"

5 A2.1 WEST ELEVATION
1/4" = 1'-0"

4 A2.1 SOUTH ELEVATION
1/4" = 1'-0"

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly registered architect under the laws of the State of Montana, practicing in Whitefish, Montana.

14-20

Date: 8/4/2014

Reg. No. 2002

AARON J. WALLACE

THESE PLANS AND SPECIFICATIONS ARE THE SOLE PROPERTY OF MONTANA CREATIVE ARCHITECTURE AND DESIGN ANY REPRODUCTION OR REUSE OF THESE DOCUMENTS IS FORBIDDEN WITHOUT WRITTEN PERMISSION FROM MONTANA CREATIVE ARCHITECTURE AND DESIGN.

Project Number: 14-20

Date: 8/4/2014

Drawn By: JLL

Checked By:

Revisions:

Montana Creative
architecture + design

MONTANA CREATIVE
ARCHITECTURE +DESIGN
158 RAILWAY ST.
WHITEFISH, MT 59937
406.862.8152
FAX# 406.862.8153

SITE PLAN, FLOOR PLANS, ELEVATIONS

444 COLUMBIA AVE. GARAGE APARTMENT

444 COLUMBIA AVE. WHITEFISH MT 59937

A2.1

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RESOLUTION NO. 14-___

A Resolution of Intention of the City Council of the City of Whitefish, Montana, indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy, as requested by Four Fools, LLC, and Richard and Carol Atkinson and adopting findings with respect to such amendment.

WHEREAS, Applicants, Four Fools, LLC, and Richard and Carol Atkinson, applied to the Whitefish Planning & Building Department for a map amendment to the 2007 Whitefish City-County Growth Policy with respect to three parcels comprising approximately 2.23 acres located at 510, 540 and 550 Wisconsin Avenue, and legally described as T1C-1B, T1R-2 and T1R-1 in Section 25, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana; and

WHEREAS, the 2.23 acre parcels are included within the boundary of the area covered by the Growth Policy as adopted by City Council Ordinance No. 07-57 on November 19, 2007; and

WHEREAS, Applicants requested that the Low Density Multi-Family Residential District use designation on their property be changed to Limited Commercial District; and

WHEREAS, in response to such application, the Whitefish Planning & Building Department prepared Staff Report WGPA 14-01, dated September 18, 2014, which recommended in favor of the proposed amendment to the Growth Policy; and

WHEREAS, in response to such application, the Whitefish Interim Planning Board conducted a lawfully noticed public hearing on September 25, 2014, at which the Planning Board received an oral report from Planning staff, reviewed Staff Report WGPA 14-01, and invited public comment; and

WHEREAS, at the conclusion of such hearing, the Whitefish Interim Planning Board voted to recommend in favor of the proposed map amendment to the Growth Policy; and

WHEREAS, at a lawfully noticed public hearing on October 6, 2014, the Whitefish City Council received an oral report from Planning staff, reviewed Staff Report WGPA 14-01, and invited public comment; and

WHEREAS, the proposed map amendment to the Growth Policy is in compliance with the overall goals and policies of the Growth Policy and MCA §76-1-604; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the proposed map amendment to the Growth Policy.

NOW, THEREFORE, BE IT RESOLVED 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 WGPA 14-01 dated September 18, 2014, together with the September 30, 2014 letter of transmittal from the Whitefish Planning & Building Department are hereby adopted as Findings of Fact.

Section 3: The City Council of the City of Whitefish, Montana, hereby indicates its intent to adopt an amendment to the 2007 Whitefish City-County Growth Policy by changing the land use designation on Applicants' property located at 510, 540 and 550 Wisconsin Avenue, and legally described as T1C-1B, T1R-2 and T1R-1 in Section 25, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from Low Density Multi-Family Residential to Limited Commercial designation.

Section 4: This Resolution of Intention shall take effect upon adoption of the Resolution by the City Council, and signing by the Mayor thereof.

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

September 30, 2014

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

RE: Four Fools, llc, Carol & Richard Atkinson; (WGPA 14-01/WZC 14-03)

Honorable Mayor and Council:

Summary of Requested Action: Four Fools, llc, Carol Atkinson & Richard Atkinson are requesting approval of a Growth Policy map amendment to change the Growth Policy designation from High Density Residential to Neighborhood Commercial. The purpose of the Growth Policy map amendment is to facilitate a rezone on the three parcels from WR-3 (Low Density Multi-Family Residential District) to WB-1 (Limited Commercial District) (WZC 14-03). Both applications (growth policy map amendment and zoning map amendment) are being requested. The properties are currently developed as a restaurant and two single family homes.

Planning Board Action: The Whitefish City-County Planning Board met on September 25, 2014 and considered the request. Following the hearing, the Planning Board recommended approval of the Growth Policy Amendment application (WGPA 14-01) and adopted the staff report as findings of fact. (5-1, Wurster voting in opposition). The Planning Board also recommended approval of the Zoning Map Amendment application (WZC 14-03) and adopted the staff report as findings of fact. (5-1, Wurster voting in opposition).

Planning & Building Department Recommendation: Staff recommended approval of the above referenced applications.

Public Hearing: The applicant and his representative spoke at the hearing. One neighbor spoke at the hearing and suggested the Board postpone action of these requests in order to complete a Corridor Study for Wisconsin Avenue. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on October 6, 2014. Should Council have questions or need further information

on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Wendy Compton-Ring, AICP
Senior Planner

Att: Draft Minutes of 9-25-14 Planning Board Meeting

Exhibits from 9-25-14 Staff Packet

1. WGPA 14-01 Staff Report, 9-18-14
2. WZC 14-03 Staff Report, 9-18-14
3. Adjacent Landowner Notice, 9-3-14
4. Advisory Agency Notice, 9-3-14

Exhibits Submitted by the Applicant:

5. Growth Policy Amendment Application & Supporting Materials, 6-18-14
6. Zone Change Application & Supporting Materials, 6-18-14

Exhibits Received after the Packet was Mailed:

7. Email, John Wilson, Public Works Department, 9-25-14

c: w/att Necile Lorang, City Clerk

c: w/o att Eric Mulcahy, Sands Surveying 2 Village Loop Kalispell, MT 59901
Four Fools llc PO Box 400 Whitefish, MT 59937
Carol & Richard Atkinson PO Box 370 Whitefish, MT 59937

FOUR FOOLS, LLC, AND RICHARD AND CAROL ATKINSON WHITEFISH GROWTH POLICY AMENDMENT REQUEST AND REZONE REQUEST

Four Fools, LLC, and Richard and Carol Atkinson are proposing to amend the Whitefish Growth Policy from High Density Residential to Neighborhood Commercial and rezone the parcels from WR-3 (Low Density Residential District) to WB-1 (Limited Business District). The property is located at 510, 540 and 550 Wisconsin Avenue and can be legally described as T1C-1B, T1R-2, and T1R-1 in Section 25, Township 31N, Range 22W.

STAFF REPORT WZC 14-03 / WGPA 14-01 (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff reports and findings.

The City is concerned with increasing traffic along this corridor. Wisconsin Avenue is a state highway and there are limited funds for redevelopment of the road. MDT plans to mill and overlay Wisconsin Avenue in the next couple of years, but developing left-hand turn lanes, bus pullouts, sidewalks, street lights and other improvements could be 15-20 years out. There are concerns that each development along the corridor will add to the existing traffic causing further problems before the road is able to be redeveloped. While this current applicant does not have any immediate plans for development, the proposed zoning allows the full-range of retail sales and services.

City Council recently directed staff to pursue a Wisconsin Avenue corridor study once the Highway 93 West and Downtown plans are completed. Such a plan would look at land use, build-out, motorized and non-motorized transportation, access, parkland and other corridor specific issues. Staff indicated the work would not start until January 2015 at the earliest. Completion and implementation of such a plan could be several months or longer.

Staff noticed the adjacent neighbors and a legal ad appeared in the *Whitefish Pilot*, resulting in no comment. An email was received late today from John Wilson, Public Works Director, voicing the Public Works Department's concerns regarding impacts for traffic on Wisconsin Avenue and recommending this item be postponed until a comprehensive corridor study is completed. Copies of the email were distributed to all.

Staff is recommending **approval** of the Growth Policy Amendment and the Zoning Map Amendment and forwarding

this recommendation to the Whitefish City Council.

Stein asked why Director Wilson's comments came in so late. Director Taylor said he and Director Wilson had talked about the issue a week ago and Director Taylor asked him to put his thoughts in writing.

APPLICANT / AGENCIES

Eric Mulcahy spoke representing Four Fools and Richard and Carol Atkinson, and Mr. Atkinson also spoke. Mulcahy complimented staff on preparing their recommendations and synopsis of this proposal. He wanted to address Director Wilson's comments, as he doesn't feel traffic would be increased as a result of changing the use. He thinks the proposed Growth Policy and zone change would reflect the use and character of the existing neighborhood. Hildner asked Mulcahy to address the open space development that hasn't occurred and the remainder of the project as a condition of the 2002 PUD. Mulcahy explained the project came to the City when he was a City planner. Four Fools was looking to open a restaurant in a location with a long history of commercial use, but the project didn't meet the Master Plan in place at the time so it was suggested to the applicant to pursue a PUD. Phase 1 was completed but owners were so busy running the restaurant they didn't have time or energy to move forward with the remainder of the project. Hildner asked Compton-Ring what obligation the Applicant has to complete the agreement under the 2002 PUD and she said since the project has expired, they have no more obligation to finish it, and actually couldn't due to its expiration. Laidlaw asked if there are no immediate development plans, what objection is there to waiting for the corridor study. Atkinson thought the corridor plan was going to happen back in 2007 when Bob Horne was the Planning Director. He said Four Fools held an annual meeting recently and decided they wanted to get it straightened out. There apparently hasn't been a home on that property for a long time, and he would like the zoning to reflect what the property is being used for as opposed to having to explain why they have an exception. Hildner said one concern is that eventually Wisconsin Avenue will have to be rebuilt and he wanted to know how this project will affect the ability to meet objectives of bike path on both sides, etc. Atkinson said he couldn't predict that and feels traffic isn't nearly as bad here along Wisconsin Avenue as it is closer to the viaduct. Future road width and what the upcoming corridor

study would entail was discussed. Mulcahy said if the corridor study showed the need for more room for the bike path, turning lane, etc., the land would need to come from the properties on the sides of the street anyway. Stein asked if the dwellings were maximized, didn't they think traffic would be greater than it currently is. Mulcahy said McGarry's is open from 5:00-10:00 pm, which creates different traffic than the type that would be created from two 4-plexes where families lived or traffic created by other businesses.

PUBLIC COMMENT

Ben Spradlin, 605 Pine Place, located behind the subject project, would like the Growth Policy Amendment and rezone to wait until after the corridor study had been completed. Everyone knows Wisconsin is a nightmare and will only get worse. He doesn't know whether it would be better to have apartments or offices in his backyard, but sees no reason not to wait since there are no current development plans.

BOARD DISCUSSION

Stein questioned maximum acreage in district and said he wasn't trying to put Director Wilson in the hot seat but wanted to get clarification from staff whether his comments had been taken into account with the proposal and with the recommendation. Director Taylor said Compton-Ring was aware of them when putting her report together. He said there's been a lot of discussion about this property and that's one reason they recommend the change, just to clean it up. Mulcahy said the City had to acquire ROW from McGarry's for the bike path. Atkinson said the back of the McGarry's lot is 34' above the street. Any building access would have to be from Iowa so he doesn’t think anyone could do any sort of building that would pay off back there. Access to the second lot would probably be from the top also and they have no plans to do that nor do they have any access off Iowa Avenue.

MOTION (WGPA 14-01)

Gunderson moved and Meckel seconded, to approve staff report WGPA 14-01.

Gunderson summarized the property has a unique history and background and as such this is almost a housekeeping issue to bring the parcels in line with existing uses. Hildner said he's wearing two hats and doesn't want anyone to construe any vote he makes tonight as precedence for a future vote on

the Council as he'll see this issue again. Laidlaw called for the question.

VOTE

The motion passed 5 to 1, with Scott Wurster dissenting. The matter is scheduled to go before the Council on October 6, 2014.

MOTION (WZC 14-03)

Stein moved and Gunderson seconded, to approve staff report WZC 14-03.

BOARD DISCUSSION

Stein said this is again more of a housekeeping matter. The restaurant has been running for ten years and the owners have made an effort to clean up the zoning before and through no fault of their own have been unable to accomplish that. Gunderson said regarding Director Wilson's comments, he sees it the same way as Mulcahy that the types of uses and development they could do right now would create the same traffic impacts that could happen with this zone change. It doesn't seem like we can freeze all development on Wisconsin Avenue for 15 years until the MDT actually does something about it. Meckel called for the question.

VOTE

The motion passed 5 to 1, with Scott Wurster dissenting. The matter is scheduled to go before the Council on October 6, 2014.

NEW BUSINESS

None.

GOOD AND WELFARE

1. Matters from board. Gunderson reminded members that if they are interested in serving on the Whitefish Planning Board, they should turn in their letters of interest. Hildner apologized for being late and said he had in mind the meeting started at 7:00 pm. Laidlaw said he was selected to serve on the Whitefish Interim Planning Board by the Flathead County Commissioners, and may need to reapply for the County's position with the Whitefish Planning Board.

2. Matters from Staff. Director Taylor reiterated getting letters of interest to serve on the Whitefish Planning Board in to Necile Lorang, City Clerk, by the September 26, 5:00 pm, deadline. The Ordinance creating the Whitefish Planning Board becomes effective October 15, so this will be the only meeting of the Whitefish Interim Planning Board. The October 16 meeting will consist of members of the new Whitefish Planning Board rather than the Interim Board.

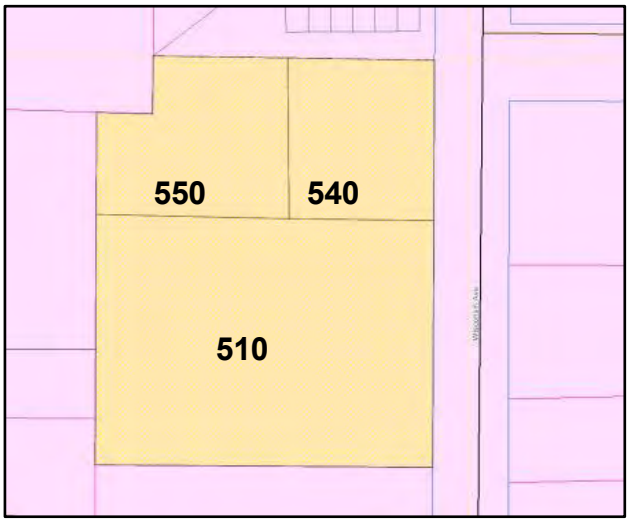
FOUR FOOLS, LLC, CAROL ATKINSON & RICHARD ATKINSON
WHITEFISH CITY-COUNTY GROWTH POLICY AMENDMENT
STAFF REPORT WGPA 14-01
SEPTEMBER 18, 2014

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by Four Fools, llc, Carol Atkinson & Richard Atkinson for a growth policy amendment. This request has been scheduled before the Whitefish Planning Board for public hearing on Thursday, September 25, 2014. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, October 6, 2014.

PROJECT SCOPE

The applicants are proposing to amend the Whitefish City-County Growth Policy land use designation for three parcels from High Density Residential to Neighborhood Commercial. The purpose of the Growth Policy map amendment is to facilitate a rezone on the three parcels from WR-3 (Low Density Multi-Family Residential District) to WB-1 (Limited Commercial District) (WZC 14-03). Both applications (growth policy map amendment and zoning map amendment) are being requested. They have no immediate development plans.

BACKGROUND



Two of the three parcels have previous approvals from the City Council. The property developed with McGarry's restaurant, 510 Wisconsin Avenue, received a Planned Unit Development (PUD) overlay approval in 2002. The overall project was to develop a residential PUD with 10% commercial, as provided for in the zoning. The commercial component was identified as the restaurant and a gallery. The residential component was planned to be a two-unit building. The project also included considerable open space along the hill behind the development (to the west) that was to be designed with trails and other open space areas. Upon inspection, the open space development does not appear to have occurred. The restaurant was constructed in 2003, but the remainder of the project was not completed. In approving the PUD, the Council granted approval for a reduction in required parking and an encroachment into the front yard setback for the parking. In 2007,

staff informed the applicant that the PUD had expired and suggested they request to the Planning Board and the City Council to consider a 'Neighborhood Commercial' land use designation for the property so they could rezone their property to WB-1, as restaurants are a permitted use in the WB-1. At the time, the City was in the process of developing the City-County Growth Policy and reviewing land uses. The property owners did not make this request so the land use designation was not changed until this current request.

The property at 540 Wisconsin Avenue received a Conditional Use Permit in 2004 for a professional office – the Glacier Park Fund. All conditions of approval were met with this request. The Glacier Park Fund has since moved its office and the building is being used as a single family residential unit. However, the 2004 CUP runs with the land and a professional office could move in at any time.

A. Petitioners:

Four Fools, llc
PO Box 400
Whitefish, MT 59937

Carol Atkinson & Richard Atkinson
PO Box 370
Whitefish, MT 59937

B. Location and Size of Property: The property is addressed as 510, 540 and 550 Wisconsin Avenue, T1C-1B, T1R-2, T1R-1 in Section 25, Township 31N, Range 22W, PMM Flathead County. The proposed amendment encompasses 2.23 acres.

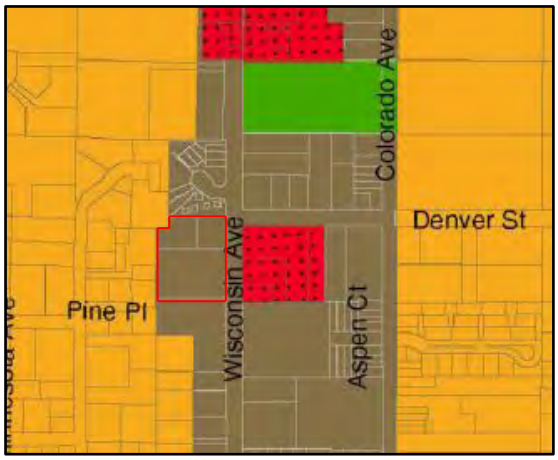
C. Existing Land Use and Zoning: The property is developed with a restaurant and two single family homes and is zoned WR-3 (Low Density Multi-Family Residential District).

D. Adjacent Land Uses, Zoning and Growth Policy Designation:

	Land Use:	**Zoning:**	**Growth Policy Land Use Designation:**
North:	Residential	WR-3	High Density Residential
West:	Residential	WR-1	Urban Residential
South:	Residential	WR-3	High Density Residential
East:	Commercial	WB-1	Neighborhood Commercial

E. Current Growth Policy Land Use Designation: High Density Residential

F. Proposed Growth Policy Land Use Designation: Neighborhood Commercial



G. Utilities:

Sewer:	City of Whitefish
Water:	City of Whitefish
Refuse:	North Valley Refuse
Police:	City of Whitefish
Fire:	City of Whitefish
Electric:	Flathead Electric Co-op
Phone:	CenturyLink
Gas:	Northwestern Energy
Schools:	Whitefish School District #44

G. Public Notice: A notice was mailed to adjacent land owners within 150-feet of the proposed growth policy amendment and advisory agencies on September 3, 2014. A notice was published in the *Whitefish Pilot* on September 10, 2014. As of the writing of this report, no comments have been received.

EVALUATION OF THE GROWTH POLICY AMENDMENT REQUEST:

The Whitefish City-County Growth Policy is intended to provide guidance for long-term growth in a general and comprehensive manner. The Whitefish City Council adopted the Whitefish City-County Growth Policy on November 20, 2007. The proposed plan amendment should be considered in the context of the overall goals and policies of the Whitefish City-County Growth Policy. The Whitefish City-County Growth Policy provides some evaluation for amending the plan map.

Whitefish City-County Growth Policy – Implementation Element (Chapter 7); Growth Policy Amendments and Updates

Plan Amendments: The Growth Policy identifies criteria to consider when a property owner applies for an amendment. These criteria are:

- Errors;
- Community conditions have changed; and
- Clear, extraordinary community benefit in terms of achieving community goals.

Errors:

Finding 1: There are no errors with the Growth Policy map as it pertains to these parcels.

Community Conditions have Changed to the Degree that Amendments to the Map will Facilitate Achieving Community Goals and the Overall Vision of the Citizens of Whitefish: Community conditions have not changed to warrant the amendments to the map, but this area has been long identified as a location for a Growth Policy map amendment and zone change due to the expiration of the 2002 PUD for McGarry's restaurant. In fact, as part of the most recent two-year review of the Growth Policy, this area was identified as a location for a possible map amendment to make the underlying land use consistent with the Growth Policy and zoning map. As 510 and 540 Wisconsin Avenue share parking and access to Wisconsin Avenue and 540 Wisconsin Avenue has a conditional use permit for a professional office, it makes sense to include these lots together. In addition 550 Wisconsin Avenue also shares access with the two front lots. One could make a case that the back lot (550 Wisconsin Avenue) should not be part of the proposed amendment, but this lot does share access and make a logical boundary with the entire proposal.

Upon reviewing the file for the 2002 PUD request, there was considerable support from the community and the neighborhood for this project, as exemplifying the type of development that should occur along this corridor. The Growth Policy also has goals and policies promoting Whitefish as a destination resort community providing amenities for the visitors and employment opportunities for area residents.

Finding 2: Community conditions have not changed that warrant a Growth Policy map amendment; however, the existing land use is inconsistent with the Growth Policy and zoning. Amendments to the map will achieve community goals and the overall vision of the corridor because it supports the Growth Policy goals of promoting Whitefish as a destination resort community by providing amenities for the visitors and employment opportunities for area residents.

Clear, Extraordinary Community Benefit in Achieving Goals or Resolving Problems/Issues or Furthering the Whitefish Community Vision:

Finding 3: The request is not intended to provide extraordinary community benefit, but to resolve inconsistencies with the existing land use, an expired Planned Unit Development and the Growth Policy land use designation.

Other Considerations: Other items to consider in reviewing the Growth Policy are:

- How the proposed change will promote the goals and objectives of the Growth Policy;
- How the proposed change is compatible with the existing neighborhood; and
- The appropriateness of the proposed amendment with respect to its location.

Promotion of Goals and Policies of Growth Policy: As described previously, the Growth Policy has goals and policies supporting the tourist economy and providing for employment opportunities. The applicants do not have any immediate plans for development, but this request would bring an expired PUD into compliance with the Growth Policy and provide more possible opportunities for economic diversification.

Finding 4: This application promotes the goals and policies of the Growth Policy because it is not in conflict with the Growth Policy.

Compatibility with Existing Neighborhood and Appropriateness: The proposed change is compatible with the existing neighborhood. The properties to the east of the subject parcels have a Neighborhood Commercial land use designation and a WB-1 zoning designation. The properties to the north and south of the subject parcel have a High Density Residential land use designation, while the properties to the west have a Urban land use designation.

Finding 5: The proposed request is compatible with the existing neighborhood because there is Neighborhood Commercial on the east side of Wisconsin Avenue and along this corridor.

Finding 6: The proposed location is appropriate for the Neighborhood Commercial land use designation because it is located across the street from an existing Neighborhood Commercial area and is along the Wisconsin Avenue corridor where these Neighborhood Commercial designations are located.

STAFF ANALYSIS

The City is concerned with increasing traffic along this corridor. Wisconsin Avenue is a state highway and there are limited funds for redevelopment of the road. MDT plans to mill and overlay Wisconsin Avenue in the next couple of years, but developing left-hand turn lanes, bus pullouts, sidewalks, street lights and other improvements could be many years out (15-20 years by some estimates). In the meantime, there are concerns that each development along the corridor will add to the existing traffic causing further problems before the road is able to be redeveloped. While this current applicant does not have any immediate plans for development, the proposed zoning does allow the full-range of retail sales and services.

At the September 15, 2014 City Council meeting, the Council directed staff to pursue a Wisconsin Avenue corridor study once the Highway 93 W and Downtown plans are completed. Such a plan would look at land use, build-out, transportation – both motorized and non-motorized, access, parkland and other corridor specific issues. While staff indicated that the work would not start until January 2015 at the earliest, no definitive start date has been identified. Completion and implementation of such a plan could be several months or longer.

RECOMMENDATION

Staff recommends the Whitefish City-County Planning Board **approve** the Growth Policy Amendment and forward this recommendation to the Whitefish City Council.

FOUR FOOLS LLC, CAROL ATKINSON & RICHARD ATKINSON
ZONE CHANGE
STAFF REPORT WZC 14-03
SEPTEMBER 18, 2014

A report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request by Four Fools, llc, Carol Atkinson and Richard Atkinson to rezone three parcels from WR-3 (Low Density Multi-Family Residential District) to WB-1 (Limited Commercial District) at 510, 540 & 550 Wisconsin Avenue. This request is scheduled before the Whitefish City-County Planning Board for public hearing on Thursday, September 25, 2014 at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, October 6, 2014 at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The applicant is requesting a zone change from WR-3 (Low Density Multi-Family Residential District) to WB-1 (Limited Commercial District). All parcels access Wisconsin Avenue and are located within the city limits.

This rezone application accompanies a Growth Policy map amendment to change the land use map from High Density Residential to Neighborhood Commercial in order to accommodate the rezone (WGPA 14-01).

Purpose of WB-1: The WB-1 district is intended for limited commercial uses within or adjacent to residential districts to meet certain convenience services catering to the daily needs of those nearby residents living within one mile of the district. This district shall generally be a business island rather than a strip and shall be located adjacent to an arterial or collector street and shall have convenient and safe access both for the vehicular and pedestrian customer. The maximum size of such a district at one location shall be seven (7) acres and the minimum shall be two (2) acres.

	WB-1 (proposed zoning)	**WR-3 (existing zoning)**
Minimum Lot Area:	n/a	6,000 s.f. (SFR); 3,000 s.f. (other detached dwellings/unit)
Front Yard Setback:	20-feet	25-feet
Side Yard Setback:	20-feet when abutting residential district; otherwise none	10-feet; 15-feet (triplex or larger)
Rear Yard Setback:	20-feet when abutting residential district; otherwise none	20-feet

Maximum Height:	35-feet	35-feet
Permitted Lot Coverage:	n/a	40%

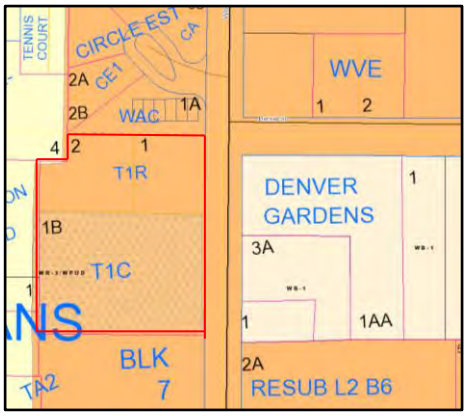
A. Property Owners:

Four Fools llc
PO Box 400
Whitefish, MT 59937

Carol Atkinson & Richard Atkinson
PO Box 370
Whitefish, MT 59937

B. Location and Size:

The subject properties are located on Wisconsin Avenue east of Denver Street and addressed as 510, 540 and 550 Wisconsin Avenue. The properties can be legally described as T1C-1B, T1R-2, T1R-1 in Section 25, Township 31N, Range 22W, P.M.M., Flathead County, Montana. Together they are approximately 2.23 acres in size.



C. Existing Land Use, Zoning and Growth Policy Designation:

The properties are currently being used for a restaurant and residential uses. The Growth Policy identifies the parcels as High Density Residential.[1] The existing zoning for the three parcels is WR-3 (Low Density Multi-Family Residential District). The adjacent map shows Lot T1C as having a PUD overlay; however, staff made a determination in 2007 that this PUD overlay had expired, as not all the work was completed; therefore, this is a mapping error and all three parcels are zoned WR-3.

D. Adjacent Land Uses, Zoning and Growth Policy Designations:

North:	residential	WR-3	High Density Residential
South:	residential	WR-3	High Density Residential
East:	commercial	WB-1	Neighborhood Commercial
West	residential	WR-1	Urban Residential

E. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on September 3, 2014. Advisory agencies were noticed on September 3, 2014. A

[1] A request to amend the Growth Policy from High Density Residential to Neighborhood Commercial accompanies this rezone request (WGPA 14-01).

notice was published in the Whitefish Pilot on September 10, 2014. As of the writing of this report, no public comments have been received.

F. Utilities

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	North Valley Refuse
Electric:	Flathead Electric Co-op
Natural Gas:	Northwestern Energy
Phone:	Centurylink
Police:	City of Whitefish
Fire:	City of Whitefish
Roads:	City of Whitefish

REVIEW AND FINDINGS OF FACT

This request is reviewed in accordance with the Whitefish Zoning Regulations Section 11-7-10 and based on statutory criteria on the purposes of zoning (76-2-304 & 305 M.C.A.).

The Whitefish Zoning Jurisdiction Regulations set forth the process for rezoning property and the considerations that both the Planning Board and the City Council must make in order to approve an amendment. While some of these considerations are not applicable as the existing and proposed zoning districts already address them, several considerations need to be reviewed in light of the proposed zoning district. The following is a review and discussion of considerations applicable to the proposed zoning district.

A. Made in Accordance with a Growth Policy.

The Growth Policy currently designates the three parcels with a High Density land use designation. However, this rezone request accompanies an amendment to the Growth Policy to change to Neighborhood Commercial which is consistent with the WB-1 (Limited Business District) zoning category.

Finding 1: The proposed zone change to WB-1 will be in accordance with the Growth Policy, if the Growth Policy amendment is approved, because it complies with the Neighborhood Commercial land use designation.

B. Secure safety from fire, panic and other dangers.

These properties are served by the City of Whitefish Police and Fire Departments. Any future development will meet all City requirements for roadway widths and Fire Department standards.

Finding 2: The proposed zone change will secure safety from fire, panic and other dangers because the city standards and zoning standards will be reviewed at the time of development.

C. Promote the public health, public safety and general welfare.

Public services and utilities are immediately available to the property.

Finding 3: The proposed zone change promotes public interest, health, comfort and general welfare because it is in conformance with the Growth Policy.

D. Facilitate the Adequate Provision of Transportation, Water, Sewerage, Schools, Parks and other Public Requirements.

Water and sewer are existing and in place. The properties are served by Wisconsin Avenue, an existing road. Wisconsin Avenue also includes a bike path for non-motorized transportation.

Finding 4: The proposed zone change facilitates the adequate provision of transportation, water, sewerage, schools, parks and other public requirements because it is located inside city limits and is served by all public services and facilities.

E. Reasonable Provision of Adequate Light and Air.

The proposed zoning designation includes setbacks, maximum building height and other development standards (parking, stormwater mgmt., etc.). In addition, all construction will require conformance with the Building Code.

Finding 5: The proposed zone change provides reasonable provision of adequate light and air because the zoning and other city standards will prevent the overcrowding of the land through setbacks, engineering standards and conformance with the Building Code.

F. The Effect on Motorized and Non-motorized Transportation Systems.

The property is located in the city limits and is served by a public street – Wisconsin Avenue, which has a pedestrian-bicycle trail along its frontage that goes from Edgewood Place to Nordic Loop beyond the Big Mountain Road. In addition, one block to the east of the subject parcels is another joint pedestrian-bicycle sidewalk along the west side of Colorado Avenue. This project is well served by non-motorized facilities and is well situated to take advantage of these facilities for any future projects.

Finding 6: The proposed zone change in and of itself will not have an effect on motorized and non-motorized transportation systems because the applicants do not have any immediate development plans; however, the properties are well situated to take advantage of existing facilities.

G. Promotion of Compatible Urban Growth.

The properties are located within the city limits and are served by all public services and facilities and is accessed by a state highway that also includes a non-motorized bike-pedestrian path. No project is proposed at this time, but the intent of this land use and zoning designation is to serve the immediate neighborhood.

The zone change itself is compatible with the surrounding neighborhoods as there is WB-1 zoning across Wisconsin Avenue and along its corridor.

Finding 7: The proposed zone change will promote compatible urban growth because the property is served by public services and facilities, it is within walking distance to many urban amenities, is surrounded by urban and suburban-scale residential development and is consistent with the proposed Growth Policy land use designation of Neighborhood Commercial.

H. Consideration to the character of the district and its particular suitability for particular uses.

The character of the district is mixed-use with commercial, residential with a variety of densities and types and open spaces/parkland.

The character of this development will not change immediately, as the applicant does not have any development plans. The WB-1 does permit a variety of uses intended to serve the immediate neighborhood and may not be greater than 7 acres. As proposed, the applicants' 2.23 acres plus the 2.77 acres across the street equals a total of 5.07 acres of WB-1. In addition, all future development will require review by the city through the Architectural Review Standards for neighborhood compatibility, zoning compliance, Building Code compliance and Engineering Standards, if applicable.

Finding 8: The proposed zone change considers the character of the district and its particular suitability for particular uses with the proposed project because it is a predominately single family development in a predominately single family neighborhood, the lot sizes are comparable to the existing neighborhood and considerable open spaces will be retained.

I. Conserving the Value of Buildings.

The existing buildings will remain with this request. There are no immediate plans to remove the buildings. Any future development/buildings will require Architectural Review. A major component of Architectural Review is to ensure compatibility with the existing neighborhood.

Finding 9: This criterion is subjective at best. However, it is permissible for the Board to consider testimony from nearby residents as prima facie evidence of adverse impact.

J. Encouraging the Most Appropriate Use of Land Throughout the Jurisdictional Area.

These properties have remained in a Low Density Multi-Family Residential District, when the actual usage of the parcels has been commercial uses. There are public services and facilities and it makes sense to bring these lots into compliance with the Growth Policy and zoning. These properties are across the street from WB-1 zoning which also makes them suited to neighborhood commercial zoning.

Finding 10: The proposed zone change encourages the most appropriate use of land throughout the jurisdictional area because it is currently being used as commercial and is adjacent to commercial.

K. That Historical Use and Establish Use Patterns and Recent Change in Use Trends will be Weighed Equally and Consideration not be Given One to the Exclusion of the Other.

Finding 11: The Planning Board and the City Council should consider the historical and established use patterns, including trends, when making a decision on the project

STAFF ANALYSIS

As described in the Growth Policy amendment staff report for this project (WGPA 14-01), the City is concerned with increasing traffic along this corridor. Wisconsin Avenue is a state highway and there are limited funds for redevelopment of the road. MDT plans to mill and overlay Wisconsin Avenue in the next couple of years, but developing left-hand turn lanes, bus pullouts, sidewalks, street lights and other improvements could be many years out (15-20 years by some estimates). In the meantime, there are concerns that each development along the corridor will add to the existing traffic causing further problems before the road is able to be redeveloped. While this current applicant does not have any immediate plans for development, the proposed zoning does allow the full-range of retail sales and services.

At the September 15, 2014 City Council meeting, the Council directed staff to pursue a Wisconsin Avenue corridor study once the Highway 93 W and Downtown plans are completed. Such a plan would look at land use, build-out, transportation – both motorized and non-motorized, access, parkland and other corridor specific issues. While staff indicated that the work would not start until January 2015 at the earliest, no definitive start date has been identified. Completion and implementation of such a plan could be several months or longer.

RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board Report adopt staff report WZC 14-03 findings of fact and recommend to the Whitefish City Council the map amendment be **approved**.

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 – *revised meeting date*

The City of Whitefish would like to inform you that Four Fools llc and Richard and Carol Atkinson are proposing to amend the Whitefish Growth Policy from High Density Residential to Neighborhood Commercial and rezone the parcels from WR-3 (Low Density Residential District) to WB-1 (Limited Business District). The properties are developed with McGarry's restaurant and residential uses. The property is located at 510, 540 and 550 Wisconsin Avenue and can be legally described as T1C-1B, T1R-2, T1R-1 in Section 25, Township 31N, Range 22W.

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

Thursday, September 25, 2014
6:00 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, October 6, 2014 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a map showing the subject properties. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, September 15, 2014, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

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

Date: September 5, 2014

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Interim Planning Board will be held on Thursday, September 25, 2014 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing on these items on Monday, October 6, 2014. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. Four Fools llc and Richard and Carol Atkinson are proposing to amend the Whitefish Growth Policy from High Density Residential to Neighborhood Commercial and rezone the parcels from WR-3 (Low Density Residential District) to WB-1 (Limited Business District). The property is located at 510, 540 and 550 Wisconsin Avenue and can be legally described as T1C-1B, T1R-2, T1R-1 in Section 25, Township 31N, Range 22W (WZC 14-03/WGPA 14-01) Compton-Ring

2. Jennifer Howell is requesting a Conditional Use Permit to construct an accessory apartment. The proposed accessory apartment would be located above a proposed garage. The property is located at 444 Columbia Avenue and can be legally described as Lots 11 and 12, Block 63 of Whitefish Subdivision, S36, T31N, R22W. (WCUP-14-06) Minnich

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

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Wednesday, September 03, 2014 9:19 AM
To: 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); Dan Graves (dgraves@skiwhitefish.com); Dennis Oliver (doliver@mt.gov); 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Gary Krueger (gkrueger@flathead.mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); Greg Acton; 'James Freyholtz (jfreyholtz@mt.gov)'; 'Joe Page' (jpage@cityofwhitefish.org); 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; Karen Reeves; Karin Hilding (khilding@cityofwhitefish.org); 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; Lori Collins; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; Mayre Flowers (flowers@digisys.net); Mayre Flowers (mayre@flatheadcitizens.org); North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; 'Pris, Jeremy'; 'Randy Reynolds'; 'Rita Hanson (for Whitefish Water & Sewer District)'; Sherri Baccaro; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; Tara Fugina (tfugina@flathead.mt.gov); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears '; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'; William Reed (william.reed@bnsf.com)
Cc: David Taylor; Bailey Minnich (bminnich@cityofwhitefish.org)
Subject: Whitefish Planning Board meeting change
Attachments: 9-25-2014_PB meeting.pdf

Attached please find the revised notice for the September Planning Board meeting. Please note the meeting date change to **Thursday, September 25th**.

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

EXHIBIT 4

WGPA 14-01

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

APPLICATION FOR GROWTH POLICY AMENDMENT
WHITEFISH ZONING JURISDICTION

FEE ATTACHED $6,020.00 **(See current fee schedule)**

This is an application for:

- ❑ **Amending text-only in the Growth Policy** – complete text supplemental application
- ❑ **Amending a Growth Policy map only** – complete map supplemental application
- ❑ **Amending both a map and text in the Growth Policy** – complete both map and text supplemental applications
- ❑ **New Neighborhood Plan** – complete neighborhood plan supplemental application

NAME OF APPLICANT/OWNER (attach supplemental sheets, if multiple owners): Four Fools, LLC and Richard H. Atkinson and Carol Atkinson

MAIL ADDRESS: P.O. Box 400 and P.O. Box 370

CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: 862-6223 (Afternoons) Steve or Sandy Nogel

E-Mail (Optional; not for official notification.) _____

TECHNICAL/PROFESSIONAL PARTICIPANTS (Surveyor/Designer/Engineer/Planner):

NAME: Sands Surveying, Inc. Attn: Eric H. Mulcahy

MAIL ADDRESS: 2 Village Loop

CITY/STATE/ZIP: Kalispell, MT 59901 PHONE: 755-6481

E-Mail: eric@sandssurveying.com

NAME: _____

MAIL ADDRESS: _____

CITY/STATE/ZIP: _____ PHONE: _____

E-Mail: _____

NAME: _____

MAIL ADDRESS: _____

CITY/STATE/ZIP: _____ PHONE: _____

E-Mail: _____

06-079039P038-79FM

EXHIBIT 5

The signing of this application signifies approval for Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during approval process.

_____ _____
(Applicant Signature) (Date)

_____
Print Name

_____ _____
(Property Owner Signature) (Date)
Attach signed acknowledgements from all affected property owners

_____
Print Name

FEE ATTACHED: _____ DATE DEEMED COMPLETE: _____

DATE RECEIVED: _____

SUPPLEMENTAL APPLICATION
for
GROWTH POLICY AMENDMENT - MAP

Description of Property (attach a vicinity map):

A. Address of the property or properties: 510, 540, and 550, Wisconsin Avenue, Whitefish

B. Legal Description: (Subdivision Name, Lot & Block and/or Tract Number; Section, Township, Range) Lots 1 and 2 of the Resubdivision of Lot 1-A of the Resubdivision of Lot 1of the Amended Plat of Lot 4 of First Addition Tallman's Subdivision and Lot 1 Block 7 First Addition to Whitefish Townsite Co's Five Acre Tracts **and** Lot 1B of the Resubdivision of Lot 1 of the Amended Plat of Lot 4 of First Addition Tallman's Subdivision and Lot 1 Block 7 First Addition to Whitefish Townsite Co's Five Acre Tracts all in Section 25, Township 31 North, Range 22 West.

C. Gross acreage of subject area:

2.230

D. Current land use designation: High Density Residential

E. Proposed Map Amendment: Neighborhood Commercial

Provide the following information in a narrative format with supporting drawings and/or maps, as needed. In order to amend the Growth Policy, it must be demonstrated:

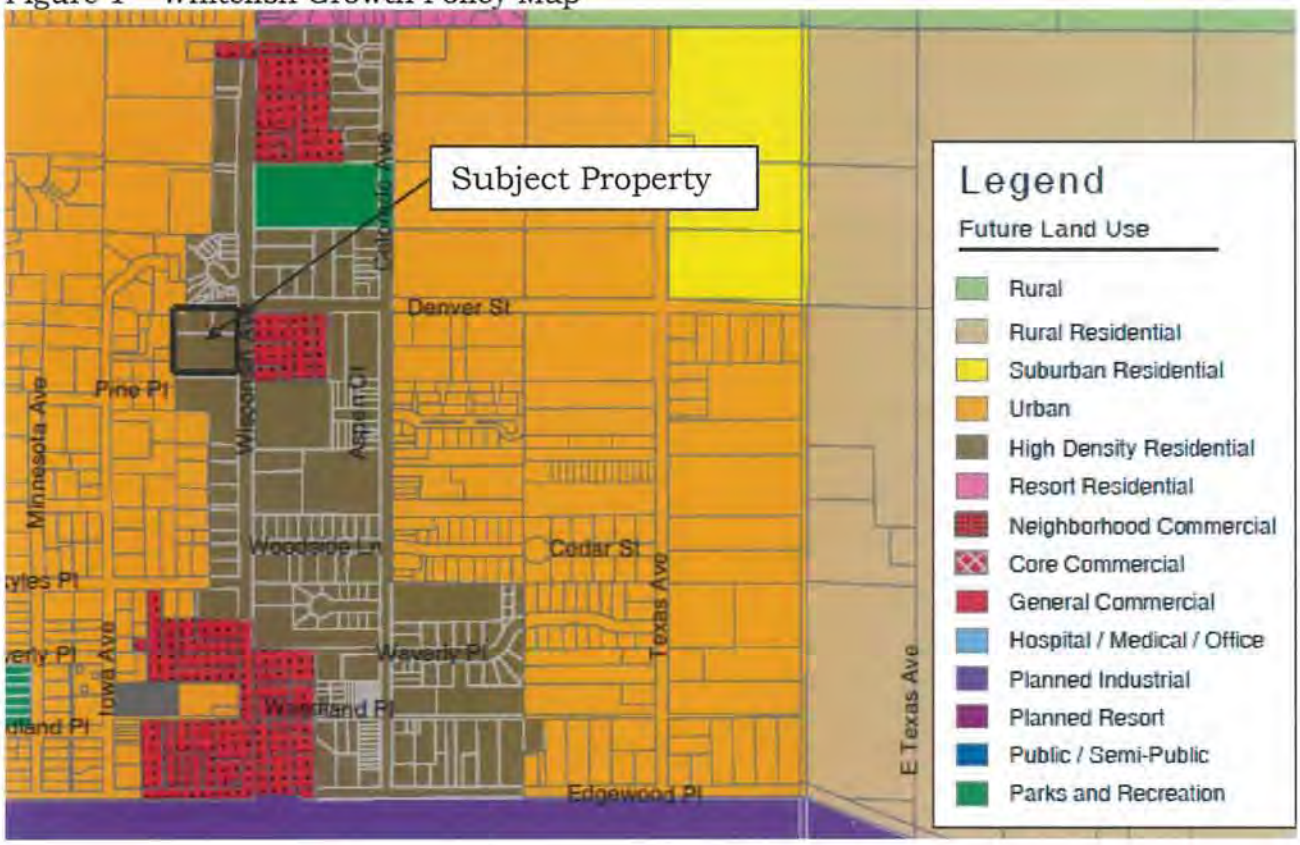
1. How a specific error was made in the Growth Policy that necessitates an amendment to the map in order to preserve a property right or to preserve or achieve equal protection under the law.

   We are not proposing that the City made an error in establishing the Growth Policy for the Wisconsin corridor. The Growth Policy acknowledges that the corridors such as Wisconsin Avenue pose complex land use questions and decisions. Corridors such as Wisconsin are high traffic collectors. As a result of the traffic, these corridors typically promote multi-family and limited commercial opportunities as compatible uses and buffers to single family uses which are more sensitive to the impacts of traffic.

   The subject properties have a multifamily designation and there is neighborhood commercial designation directly across the street. The subject property has had a long history of commercial use going back to and beginning with a machine shop; than Heathers Candles which operated for at least 20 years; and now McGarry's Roadhouse restaurant which opened approximately 10 years ago. The McGarry's Roadhouse was part of a Planned Unit Development that provided for a mix of commercial and residential use. The residential component never materialized as the real estate market collapsed about the time the next phase was to be developed. In addition to the McGarry's site, the City issued a Conditional Use

Permit for professional office at the house directly north and addressed as 540 Wisconsin Avenue. Therefore given the mosaic of multi-family and commercial use in the adjacent neighborhood and the historical commercial use of the subject properties, the proposed change is compatible and protects the investment that the applicants have made in these properties.

Figure 1 – Whitefish Growth Policy Map



2. How community conditions have changed to a degree that amendments to the map will help facilitate achieving the community goals and overall vision for Whitefish.

Chapter Three of the Whitefish Growth Policy under growth acknowledges the issue of; "Whitefish has several highway corridors that are characterized by a variety of land uses, transportation functions and design and development issues."

Although the section of the Growth Policy promotes larger corridor studies such as the Second Street West Study, the proposed Growth Policy amendment works in concert with the Zoning Provisions of the Whitefish Zoning Code. The Whitefish Zoning Code establishes the WB-1 Limited Business District with maximum district size of seven acres. The adjacent WB-1 zoning district is currently 2.77 acres in size and encompasses the old Whitefish Gardens and Rising Sun Bistro sites along with the Tamarack Ski and Patio Shop and the Good Medicine Lodge. Therefore, adding the 2.230 acres proposed in this growth policy amendment will not exceed the seven acre maximum limit of the Zoning Ordinance.

The Whitefish Growth Policy list a number of Goals that promote economic development in Chapter 2:

1. Maintain a healthy and vibrant base economy that sustains an influx of dollars into the economy
2. Protect the natural resources and unique character and qualities of Whitefish in order to support the continued health of the visitation economy.
3 Seek ways to diversify the local base economy with compatible business and industry such that the character and quality of Whitefish is protected.

The "Neighborhood Business" Growth Policy Designation and the supporting WB-1 (Limited Business) zoning classification both support the above mentioned goals. The WB-1 limits commercial to small structures, less than 4,000 square feet or require a Conditional Use permit for anything larger. The WB-1 Zoning District also limits land use categories to neighborhood oriented professional office, restaurants, small scale retail with the conditional use category expanding the list slightly with other compatible uses. As the proposed Map Amendment and existing uses are located in the middle of the City, the Map Amendment is not sprawling into the outskirts of the City or impacting the natural resources of the area. The existing restaurant and professional office on the site reflect the neighboring land use and scale of development. The proposed change will promote the character and quality of Whitefish.

3. There is a clear, extraordinary community benefit in terms of achieving goals, resolving problems or issues, or furthering the realization of the Whitefish community vision.

It would be hard to make the case that the existing "High Density Residential" growth policy designation provides an "Extraordinary Community Benefit" let alone the proposed "Neighborhood Commercial" designation. What can be said, is that the existing High Density Residential and the proposed Neighborhood Commercial designations are compatible and currently exist adjacent to each other. There are no goals or policy in the Whitefish Growth Policy that promote High Density Residential over Neighborhood Commercial or vise versa along the Wisconsin Corridor.

Additionally, describe the following:

4. How the proposed change will promote the goals and objectives of the Growth Policy overall.

As outlined previously in item #2, there are at least three goals and one issue that identify the area of the proposed map amendment as an area for future land use considerations. The three goals found in Chapter 2 promote economic development as follows:

1. Maintain a healthy and vibrant base economy that sustains an influx of dollars into the economy
2. Protect the natural resources and unique character and qualities of Whitefish in order to support the continued health of the visitation economy.
3 Seek ways to diversify the local base economy with compatible business and industry such that the character and quality of Whitefish is protected.

The proposed Neighborhood Business Growth Policy Designation promotes the above mentioned goals by supporting a WB-1 Zoning Designations that land use categories to neighborhood oriented professional office, restaurants, small scale retail. The proposed Map Amendment and existing land uses are located in the middle of the City and along a major collector. The Map Amendment will not promote sprawl into the outskirts or impact the natural resources of the area. The proposed land use designation promotes a scale of development that is compatible with the neighboring residential uses and blend with the natural and built environments.

5. How the proposed change is compatible with the existing neighborhood.

The Wisconsin Corridor is a mix on multi-family residential; some single family use; commercial uses such as: restaurants, professional office, retail, convenience store, a city park and a popular ice skating rink. The zoning along Wisconsin consist of WR-4 and WR-3 (multi-family residential), WB-1 (Limited commercial), and several PUD overlays that allow a mix of uses. The propose Map Amendment to "neighborhood commercial" is not only compatible with the existing "high density residential" designation but it matches and abuts the "neighborhood commercial" designation just across Wisconsin Avenue.

6. Demonstrate the appropriateness of the proposed amendment location and a description of its proximity to other areas with a similar land use designation.

There are three "neighborhood commercial" islands along the Wisconsin Corridor. On the south end, there is a seven acre "neighborhood commercial" designation just north of the viaduct. At the Alpine Village complex north of the ice rink, there is a seven acre "neighborhood commercial" island that straddles both sides of Wisconsin. At the intersection of Denver and Wisconsin, there is a 2.7 acre "neighborhood commercial" island that encompasses the old Whitefish Gardens property and the Good Medicine Lodge and Tamarack ski shop just to the south. The proposed Map Amendment would add 2.230 acres (McGarry's and the professional office/house adjacent and to the north) to the existing 2.77 acres for a total of 5.00 acres

7. If this request is associated with proposed project, please provide conceptual plans.

The uses are existing and no projects are propose for the property

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

Sandra P. Nogal

Applicant's Signature

6-6-2014

Date

Sandra P. Nogal

Print Name

Richard H. Atkinson

6-7-2014

RICHARD H. ATKINSON

3-12-21

For: Thomas LaChance

Date: April 11, 1984

Dwi Freeheim B. Helps
Land Surveying Co.
431 E. Second St.
P.O. Box 114
Whitefish, MT 59937
862-2386

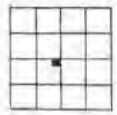
RESUBDIVISION OF LOT I-A OF THE RESUBDIVISION OF LOT I OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT I BLOCK 7 FIRST ADDITION TO WHITEFISH TOWNSITE CO.'S FIVE ACRE TRACTS

N 1/2 NE 1/4 SW 1/4 Section 25, T.31N., R.22W., P.M.,M.,

Flathead County

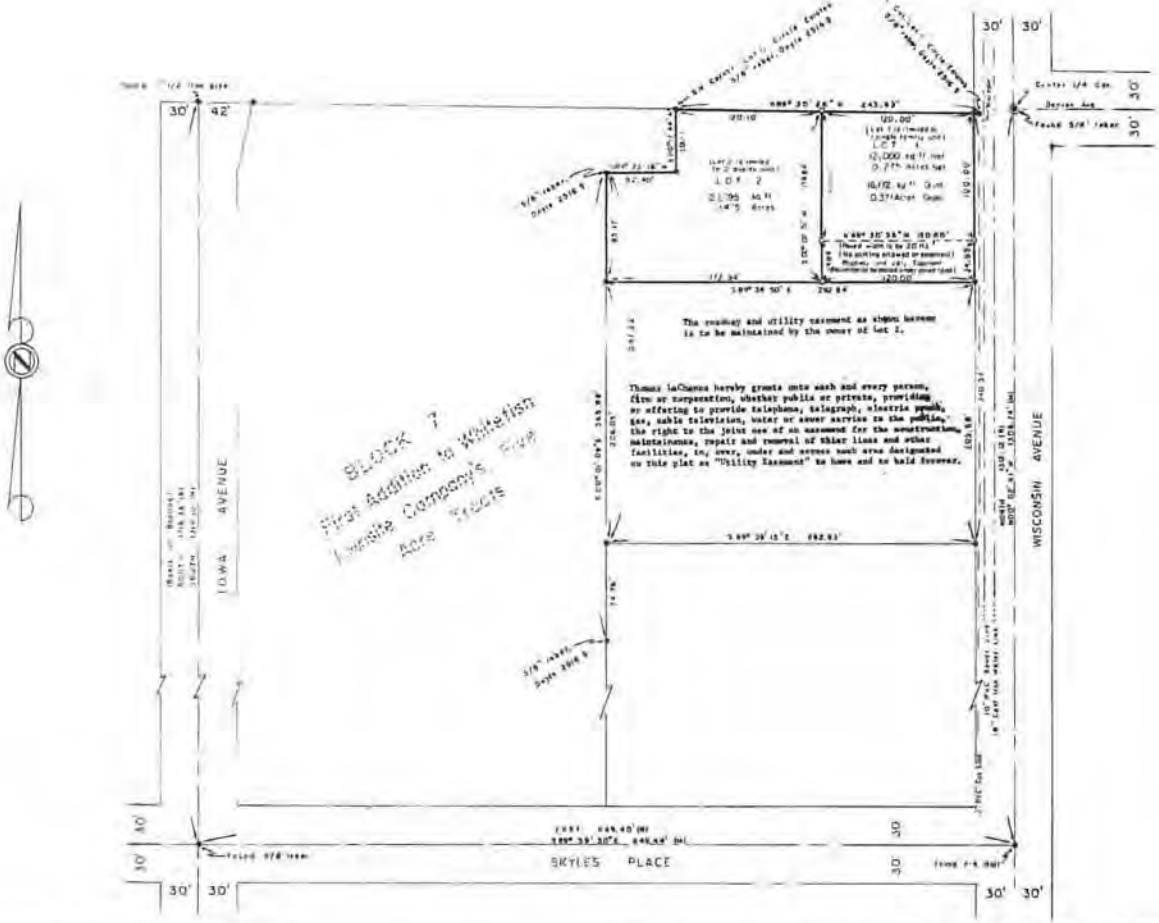
Scale 1" = 50'

30 25 0 30 100



LEGEND

- Found 5/8" rebar with yellow surveyor FIELDHOW 4730 or [illegible]
- Set 5/8" rebar with plastic cap marked [illegible]



CERTIFICATE OF OWNER

I, Thomas LaChance, the undersigned property owner, do hereby certify that I have caused to be surveyed, subdivided and platted into [illegible] as shown by the plat and certificate of survey hereunto included, the following described tract of land:

That portion of the Southwest one-quarter (SW1/4) of Section Twenty-five (25), Township Thirty-one North (T.31 N.), Range Twenty-two West (R.22 W.), Principal Meridian, Montana, Flathead County, Montana, described as follows:

Lot Three-A (I-A) of the RESUBDIVISION OF LOT I OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION TO WHITEFISH TOWNSITE COMPANY'S FIVE ACRE TRACTS, [illegible] or plat of which is on file at the Clerk and Recorders Office of Flathead County, Montana, as shown hereon. Containing [illegible] acres, all as shown hereon.

The above described tract of land is to be known and designated as the RESUBDIVISION OF LOT I-A OF THE RESUBDIVISION OF LOT I OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION WHITEFISH TOWNSITE CO'S [illegible] TRACT

Dated this 17 day of August, 1984.

Thomas LaChance

The above described tract of land is within a master planned area and municipal services for water supply, sewage and solid waste disposal are available to said tract of land; therefore, this division of land is exempt from review by the Montana Department of Health and Environmental Sciences pursuant to Section 16.16.605 M.C.A.

STATE OF MONTANA)
) SS
County of Flathead)

On this 17 day of August, 1984, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Thomas LaChance, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana
Residing at Whitefish, Montana
My Commission expires 2-15-87

CERTIFICATE OF CITY COUNCIL

We, James Fabian, Mayor of the City of Whitefish, Montana, and Kay Butler, City Clerk of the City of Whitefish, Montana, do hereby certify that the accompanying plat was duly examined and approved by the City Council of the City of Whitefish, Montana at its regular meeting thereof held on the 4 day of September, 1984.

We do hereby further certify that the following order was made by the City Council of the City of Whitefish, Montana, at its regular meeting held on the 4 day of September, 1984, and entered into the proceedings of said body to wit: " The park dedication and construction requirements do not apply to this division as it creates only one additional lot, in accordance with Section 76-3-606

James Fabian, Mayor
City of Whitefish, Montana

Kay Butler, City Clerk
City of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY

I, Lee Fisher, City Attorney for the City of Whitefish, Montana, do hereby certify that I have examined the Certificate of Title, issued by a licensed title company, attached hereto, of the land described in the Certificate of Consent of the amended plat of RESUBDIVISION OF LOT I-A OF THE RESUBDIVISION OF LOT I OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION WHITEFISH TOWNSITE CO.'S FIVE ACRE TRACTS, in the city of Whitefish, Montana, and find that the owners in fee simple [illegible] have consented to the platting of said subdivision.

Dated this 26th day of Nov, 1984

Lee Fisher, City Attorney
City of Whitefish, Montana

CERTIFICATE OF PUBLIC WORKS DIRECTOR

I, H. Sid Fredrickson, Public Works Director for the City of Whitefish, Montana, do hereby certify that the accompanying plat conforms to the adjoining plats in the City of Whitefish, Montana, already platted, as near as circumstances will permit.

H. Sid Fredrickson
Public Works Director
City of Whitefish, Montana

CERTIFICATE OF SURVEYOR

Philip A. Helps
Registration No. 4730

CERTIFICATE OF EXAMINING LAND SURVEYOR

Approved: May 17, 1984

C. W. Doyle
Registration No. 2515

STATE OF MONTANA)
) SS
County of Flathead)

Filed for record on this 4 day of Dec, 1984 at 10:18 o'clock A. M.

#894330120

Iris L. Hindman
County Clerk and Recorder
Flathead County, Montana

LoChance

Lot 10 041897

OWNER: HEATHER MULL
PURPOSE: RETRACEMENT
DATE: JUNE 05, 2002

CERTIFICATE OF SURVEY

N1/2 NE1/4 SW1/4, SEC 25, T31N, R22W, P.M.M.

FLATHEAD COUNTY, MONTANA

DESCRIPTION

LOT 1B OF THE RESUBDIVISION OF LOT 1 OF THE AMENDED PLAT OF LOT 1, BLOCK 1 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1, BLOCK 1 OF FIRST ADDITION TO WHITEFISH TOWNSITE COMPANY'S FIVE ACRE TRACTS, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF FLATHEAD COUNTY, MONTANA AND CONTAINING 1.381 ACRES OF LAND, UNLESS MEASURED, MORE OR LESS.

SUBJECT TO AND TOGETHER WITH ALL APPURTENANT EASEMENTS AS RECORD.

LEGEND

- ● FOUND REBAR W/CAP STAMPED #4738S (UNLESS OTHERWISE NOTED)
- SET 5/8" X 24" REBAR W/PLASTIC CAP STAMPED #13780LS
- ◻ COMPUTED POINT
- (M) MEASURED DISTANCE
- (R) RECORD DISTANCE

CERTIFICATE OF SURVEYOR

REGISTERED LAND SURVEYOR NO. 13780LS

APPROVED: 6/7/2002

EXAMINED AND SURVEYOR NOTED NO ERRORS

STATE OF MONTANA
County of Flathead SS

Filed on the 20 day of August 2002 at 2:02 PM by and

SHARON W. DAISLEY
CLERK AND RECORDER
BY Laurie Lee
DEPUTY

INSTRUMENT REC. NO. 200232214080

CERTIFICATE OF SURVEY NO. 15240

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

WZC 14-03

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

PETITION FOR ZONING MAP AMENDMENT
WHITEFISH ZONING JURISDICTION

FEE ATTACHED $2,442 (See current fee schedule)

NAME OF APPLICANT: Four Fools, LLC; Carol Atkinson; and Richard Atkinson

MAIL ADDRESS: P.O. Box 400 and P.O. Box 370

CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: (406) 862-6223 (After 3:00 pm)

E-Mail (Optional; not for official notification.) _____

INTEREST IN PROPERTY: Owners

PLEASE COMPLETE THE FOLLOWING:

A. Address of the property: 510, 540 and 550 Wisconsin Avenue

B. Legal Description: (Subdivision Name, Lot & Block and/or Tract Number (Section, Township, Range) Lots 1 and 2 of the Resubdivision of Lot 1-A of the Resubdivision of Lot 1of the Amended Plat of Lot 4 of First Addition Tallman's Subdivision and Lot 1 Block 7 First Addition to Whitefish Townsite Co's Five Acre Tracts **and** Lot 1B of the Resubdivision of Lot 1 of the Amended Plat of Lot 4 of First Addition Tallman's Subdivision and Lot 1 Block 7 First Addition to Whitefish Townsite Co's Five Acre Tracts all in Section 25, Township 31 North, Range 22 West.

(Attach sheet for metes and bounds)

C. Land area in zone change (ac) 2.230 acres

D. The present zoning of the above property is: WR-3 (Low Density Multi-Family Residential) and WR-3 PUD

E. The proposed zoning of the above property is: WB-1 (Limited Business)

F. State the changed or changing conditions that make the proposed amendment necessary:

The property that is currently the McGarry's Roadhouse property has been in commercial use for more than 40 years and is currently permitted by the PUD. However the PUD limits the commercial use to the existing footprint of the structure. The house at 540 Wisconsin Avenue received a Conditional Use Permit for a professional office as allowed by the WR-3

FOR DEPOSIT ONLY
GLACIER BANK OF WHITEFISH
Y OF WHITEFISH
WSPR 14-01; WZC 14-03 $862.00
06/19/2014 09:16

EXHIBIT
6

zoning regulations, but again the CUP limits the use to office or residential. The property at 550 Wisconsin is a single family residential use. The owners of these properties would like the opportunity and flexibility provided by the WB-1 zoning district, the same zoning district located directly across Wisconsin Avenue. Wisconsin Avenue will continue to increase in vehicle use as the Whitefish Mountain Resort continues to expand its skier operations and the City of Whitefish continues to promote itself to the traveling public, all of which the City and the applicants clearly support.

HOW WILL THE PROPOSED ZONE CHANGE ACCOMPLISH THE FOLLOWING:

A. Promote public health, public safety, and general welfare: The McGarry's building and parking lot exist and the use neither detract from nor promote public health and safety issues. If approved, the existing professional office and the single family residence located on the north end of the subject map amendment could be converted to other WB-1 uses, but any such conversion would be subject to parking, signage, landscaping, architectural, and building code review. These review processes are in place to protect the health, safety and general welfare of the occupants and public.

B. Secure safety from fire and other dangers: All new structures and major remodels of existing structures require building permits and review by the Whitefish Fire Marshall. New parking lots are reviewed for compliance with the city standards and access for emergency vehicles. The proposed zoning map amendment from low density multi-family residential to WB-1 (Limited Business) will continue to secure safety from fire and other dangers.

C. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements: The existing WR-3 (Low Density Multi-Family Residential) zoning district allows up two 13 units per acre. If developed at this density, the 2.23 acre site would contribute approximately 290 vehicle trips per day, nine school aged children, utilize 9,280 gallons per day of water for domestic use, produce similar amount of wastewater, and house a population that utilize area parks and other public requirements. The proposed WB-1 (Limited Business) the existing uses would produce approximately 292 vehicle trips per day, zero school aged children, approximately 1/3 of the water and sewer

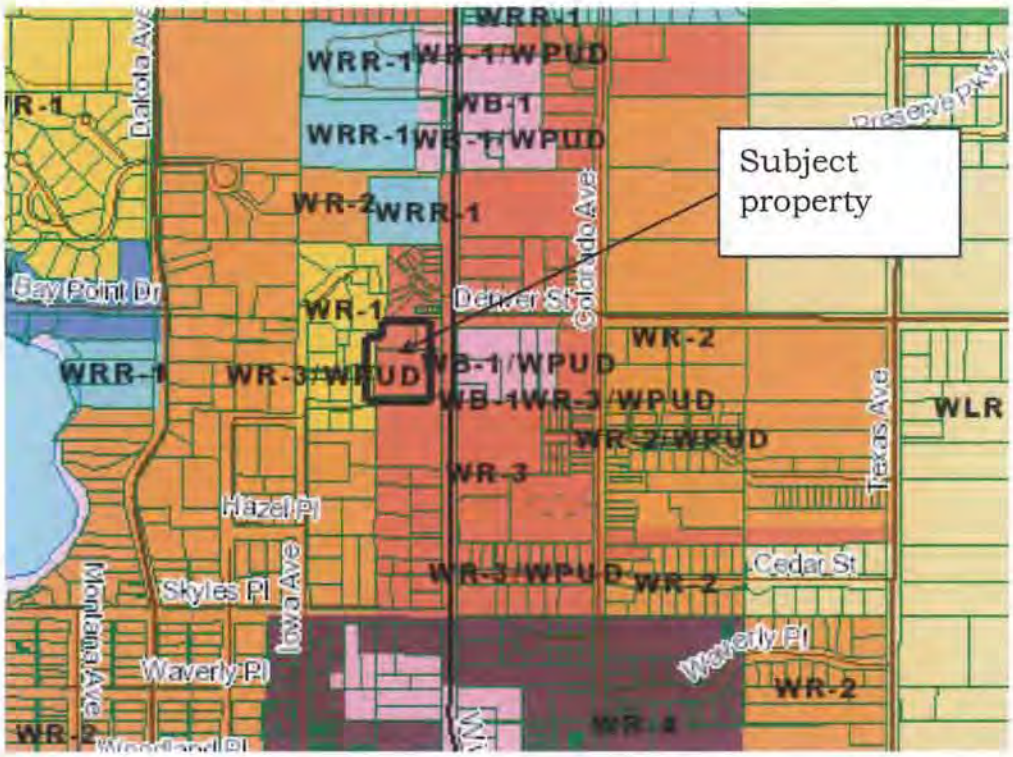
use. Policy fire and other services would be similar to residential.

D. Provide reasonable provision of adequate light and air: Height limitations of 35 feet are the same for both the existing zone and the proposed zoning classification. The WR-3 requires setbacks of 25 feet in the front, 15-feet on the side for a triplex or larger and 20 feet in the rear yard. The proposed WB-1 zone requires a 20 feet setback in the front, a 20 feet setback on the side where abutting another residential district and a 20 feet setback in the rear. The proposed zoning district will provide for light and air in similar fashion to the existing zoning.

E. Effect motorized and nonmotorized transportation systems: Wisconsin Avenue is a significant collector road on the MDOT secondary Highway System. Wisconsin Avenue is the only means of access to the Whitefish Mountain Resort and many of the neighborhoods north of Crestwood. The proposed neighborhood commercial utilizing present uses would have the same trip generation as a multi-family development developed at 13 units per acre. However, the WB-1 would allow other uses that could increase trip generation over that of the existing uses but still at a very small fraction of the other all traffic on Wisconsin. The City of Whitefish constructed the Wisconsin Bike and Pedestrian Path which provides safe pedestrian movement up and down the corridor.

F. Promote compatible urban growth: The Wisconsin Corridor is a mix of High Density Multi Family Zoning (43 units/acre), Low Density Multi-Family Zoning (13 units/acre) and Neighborhood Commercial zoning and use. The proposed Zoning Map amendment is adjacent to and just across Wisconsin Avenue from a 2.77 acre WB-1 zoning District. There is WR-3 Low density multi family residential zoning north and south of the subject property. The subject property is home to a restaurant and a professional office CUP. The proposed map amendment does promote compatible urban growth.

Figure 1. Whitefish Zoning Map



G. Consider the character of the district and its particular suitability for particular uses: The immediate neighborhood is made up of a multi-family residential complex directly to the north. To the east is an office and mixed use PUD, the Good Medicine Lodge, and the Tamarack Ski Shop. To the south is a vacant tract of land that is zoned WR-3 allowing up to 13 units per acre. To the west but separated by some significant grade is a WR-1 zone made up of single family residences. Given the surrounding uses and zoning designations, the proposed Map Amendment is in character with the neighborhood.

H. Protect and conserve the value of buildings: The proposed WB-1 zoning district will maintain the status quo as the neighborhood is already a mix of commercial, office, and multifamily residential.

I. Encourage the most appropriate use of land throughout the jurisdictional area: The proposed WB-1 is intended to service the surrounding neighborhoods as well and the traveling public utilizing the adjacent collector street. In this case, Wisconsin Avenue is the only access to a major destination ski area and the corridor is bounded on the east and west by significant residential neighborhoods. The subject site is suitable to both the WB-1 and the existing WR-3. However, the site is already been developed with the commercial element and it is clearly adjacent to other commercial ventures.

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

The southern 2/3rds of the subject site has been used for a machine shop, a candle manufacture/gift shop, and most recently a restaurant. The northern 1/3 has two residential structures with the one facing Wisconsin Avenue securing a Conditional Use Permit for a professional office more than 10 years ago. The properties across the street have had a number of commercial ventures over the years with the mixed use PUD, Good Medicine Lodge, and Tamarack Ski shop the current occupants. The proposed expansion of the WB-1 zoning district fits in both historically and presently.

The signing of this application signifies approval for Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during approval process.

Sandra P. Nogal — 6-6-2014

(Applicant Signature) (Date)

Sandra P. Nogal

Print Name

R. H. Atkinson — 6-8-2014

RICHARD H. ATKINSON

3-13-21

Owner: Thomas LaChance

Date: April 11, 1988

By: Fredrickson & Kelly
Land Surveying Co.
431 E. Second St.
P.O. Box 114
Whitefish, MT 59937
862-2386

RESUBDIVISION OF LOT 1-A OF THE RESUBDIVISION OF LOT 1 OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION TO WHITEFISH TOWNSITE CO.'S FIVE ACRE TRACTS

N 1/2 NE 1/4 SW 1/4 Section 25, T.31N., R.22W., P.M.,M.,

Flathead County

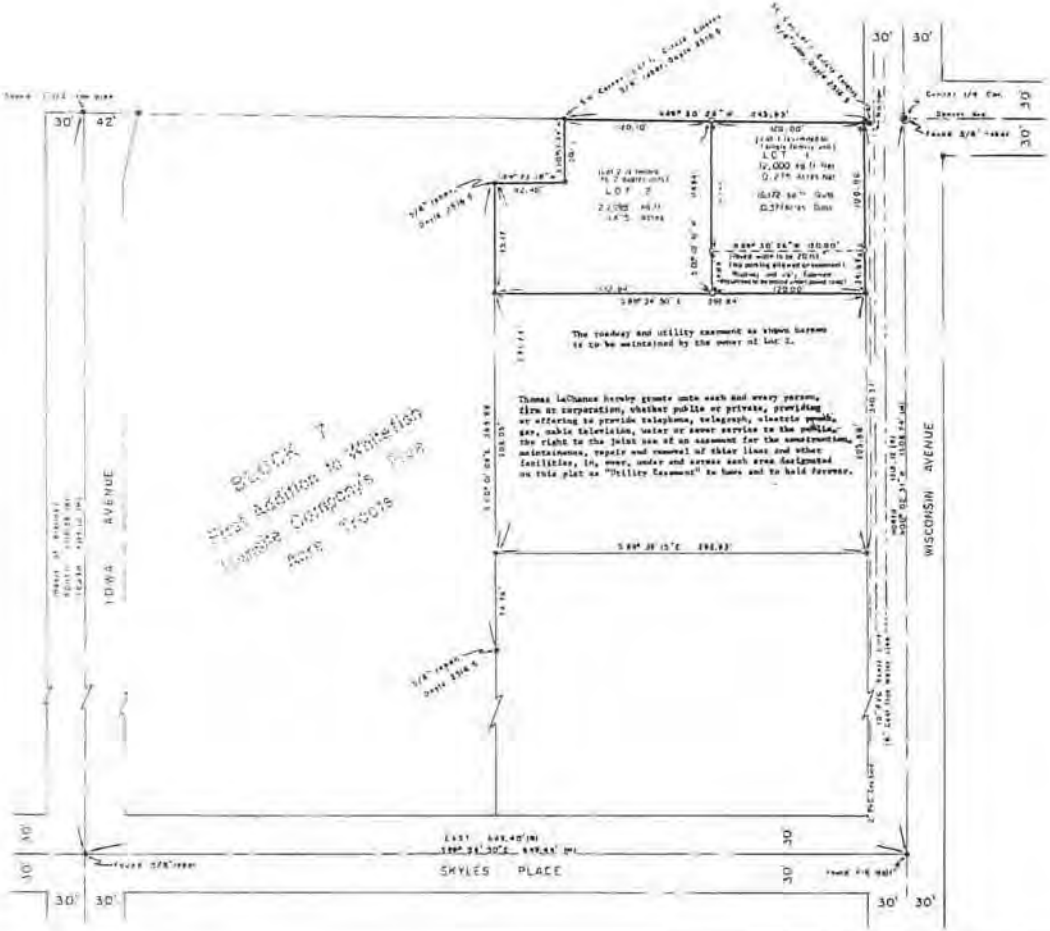
Scale 1"=50'

30 25 0 50 100

LEGEND

■ Found 5/8" rebar with cap marked FKS T&W 4738 S (unless otherwise noted)

○ Set 5/8" rebar with plastic cap marked MPLS 4738 S



CERTIFICATE OF OWNER

I, Thomas LaChance, the undersigned property owner, do hereby certify that I have caused to be surveyed, subdivided and platted into lots as shown by the plat and certificate of survey hereunto included, the following described tract of land:

That portion of the Southwest one-quarter (S.W.1/4) of Section Twenty-five (25), Township Thirty-one North (T.31 N.), Range Twenty-two West (R.22 W.), Principal Meridian, Montana, Flathead County, Montana, described as follows:

Lot Thirty (1-A) of the RESUBDIVISION OF LOT 1 OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION TO WHITEFISH TOWNSITE COMPANY'S FIVE ACRE TRACTS, according to plat of which is on file at the Clerk and Recorders Office of Flathead County, Montana, as shown hereon. Containing 0.858 acres, all as shown hereon.

The above described tract of land is to be known and designated as the RESUBDIVISION OF LOT 1-A OF THE RESUBDIVISION OF LOT 1 OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION WHITEFISH TOWNSITE CO'S FIVE ACRE TRACTS.

Dated this 19 day of August, 1988.

Thomas LaChance

STATE OF MONTANA)
) ss
County of Flathead)

The above described tract of land is within a master planned area wherein municipal services for water supply, sewage and solid waste disposal are available to said tract of land; therefore, this division of land is exempt from review by the Montana department of Health and Environmental Sciences pursuant to Section 16.16.603 M.C.A.

On this 19 day of August, 1988, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Thomas LaChance, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana
Residing at Whitefish, Montana
My Commission expires 8-16-92

CERTIFICATE OF CITY COUNCIL

We, James Putnam, Mayor of the City of Whitefish, Montana, and Kay Walker, City Clerk of the City of Whitefish, Montana, do hereby certify that the accompanying plat was duly examined and approved by the City Council of the City of Whitefish, Montana at its regular meeting thereof held on the 4 day of September, 1988.

We do hereby further certify that the following order was made by the City Council of the City of Whitefish, Montana, at its regular meeting held on the 8 day of September, 1988, and entered into the proceedings of said body to wit: "The park dedication and cash-in-lieu requirements do not apply to this division as it creates only one additional lot, in accordance with Section 76-3-606(2)

James Putnam, Mayor
City of Whitefish, Montana

Kay Walker, City Clerk
City of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY

I, Lee Fisher, City Attorney for the City of Whitefish, Montana, do hereby certify that I have examined the Certificate of Title, issued by a licensed title company, attached hereto, of the land described in the Certificate of Consent of the amended plat of RESUBDIVISION OF LOT 1-A OF THE RESUBDIVISION OF LOT 1 OF THE AMENDED PLAT OF LOT 4 OF FIRST ADDITION TALLMAN'S SUBDIVISION AND LOT 1 BLOCK 7 FIRST ADDITION WHITEFISH TOWNSITE CO.'S FIVE ACRE TRACTS, in the city of Whitefish, Montana, and find that the owners in fee simple have consented to the platting of said subdivision.

Dated this 20th day of Nov, 1988

Lee Fisher, City Attorney
City of Whitefish, Montana

CERTIFICATE OF PUBLIC WORKS DIRECTOR

I, H. Old Fredrickson, Public Works Director for the City of Whitefish, Montana, do hereby certify that the accompanying plat conforms to the adjoining plats in the city of Whitefish, Montana, already platted, as near as circumstances will permit.

H. Old Fredrickson
Public Works Director
City of Whitefish, Montana

CERTIFICATE OF SURVEYOR

Philip A. Heine
Registration No. 4738S

CERTIFICATE OF EXAMINING LAND SURVEYOR

Approved: Aug 17 1988

C. W. Doyle
Registration No. 2515S

STATE OF MONTANA)
) ss
County of Flathead)

Filed for record on this 3 day of Oct, 1988 at 10:00 o'clock A.M.

#88-35K0120

$20.00

Jean L. Hindman
County Clerk and Recorder
Flathead County, Montana

LoChance

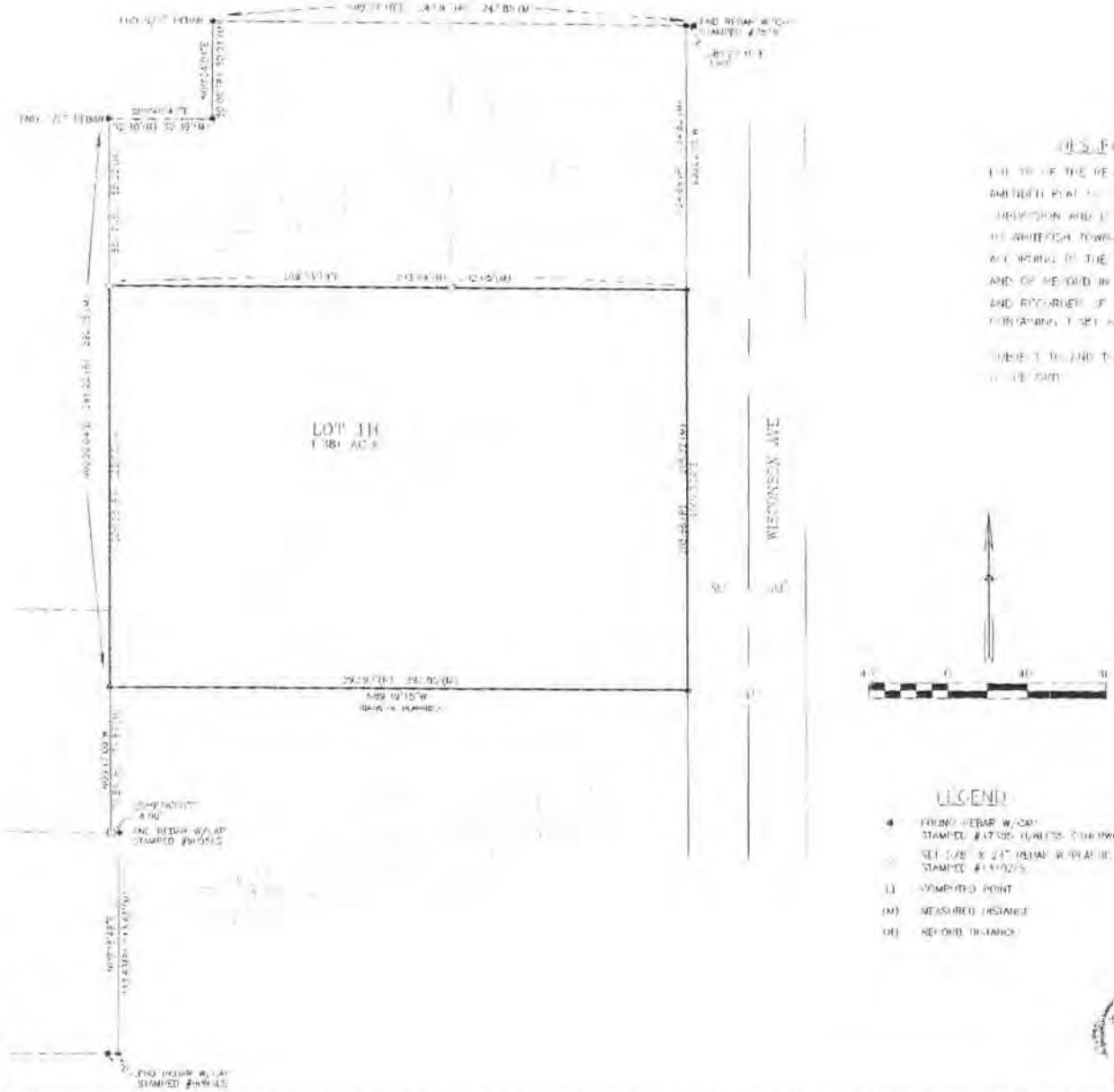
Lot 12 241889

OWNER: HEATHER MULL
SURVEYOR: RETRACEMENT
DATE: JUNE 25, 2002

CERTIFICATE OF SURVEY

N1/2 NE1/4 SW1/4 SEC 25, T31N, R22W, P.M.M.,

FLATHEAD COUNTY, MONTANA



DESCRIPTION

LOT 1H OF THE RE-DIVISION OF LOT 1 OF THE AMBERG PLAT OF THE FIRST ADDITION INTO WHITEFISH TOWNSITE COMPANY'S FIRST ADDITION ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF FLATHEAD COUNTY, MONTANA AND CONTAINING 1.381 ACRES IN LAND MORE OR LESS MEASURED, MORE OR LESS.

SUBJECT TO AND TOGETHER WITH ALL APPURTENANT EASEMENTS OF RECORD.

LEGEND

- FOUND REBAR W/ CAP STAMPED #17795 (UNLESS OTHERWISE NOTED)
- SET 1/2" X 24" REBAR W/ PLASTIC CAP STAMPED #11025
- COMPUTED POINT
- (M) MEASURED DISTANCE
- (R) RECORD DISTANCE

CERTIFICATE OF SURVEYOR

SIGNED BY SURVEYOR: 8/13/02

APPROVED: 8/13/02

EXAMINED AND REVIEWED NO. 1559

STATE OF MONTANA
County of Gallatin } SS

Filed for Record this 20 day of August A.D. 2002 at 2:05 o'clock P.M.

SUSAN M. WAISTAD
CLERK AND RECORDER
BY Linda Baz
DEPUTY

INSTRUMENT REC. NO. 2252324000

CERTIFICATE OF SURVEY NO. 1559D

SAM CORDI
REGISTERED LAND SURVEYOR
974 COLORADO AVE
P.O. BOX 322
WHITEFISH, MT 59937
PHONE: (406)-862-9877

MULL RETRACE.dwg

Sterling Title Services

ZONING REPORT

ORDER NO.: **CG-60313**

TO: **Sands Surveying, Inc.**

DATE: **June 9, 2014 8:00 A.M.**

RE: **Four Fools, LLC**
Richard H. Atkinson
Carol Atkinson

FEE: **$150.00**

"Protecting You is Our Business"

211 South Main Street • P.O. Box 73
Kalispell, Montana 59903
Phone: (406) 752-7000 • Title Fax: (406) 752-7207
Escrow Fax: (406) 257-5663

307 Spokane Avenue • Suite 101
P.O. Box 4730
Whitefish, Montana 59937
Phone: (406) 862-7000 • Fax: (406) 862-7036

www.sterlingtitleservices.com • E-mail: info@sterlingtitleservices.com

The assurances referred to on the face page are:

According to Sterling Title Services' property records relative to the following described real property (but without examination of the Company records maintained and indexed by name):

Lot 1B of the Resubdivision of Lot 1 of the Amended Plat of Lot 4 of First Addition Tallman's Subdivision and Lot 1, Block 7 First Addition to Whitefish Townsite Company's Five Acre Tracts, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

Lot 1 of the Resubdivision of Lot 1 of the Amended Plat of Lot 4 of First Addition to Tallman's Subdivision and Lot 1, Block 7, First Addition to Whitefish Townsite Company's Five Acre Tracts, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

Lot 2 of the Resubdivision of Lot 1-A of the Resubdivision of Lot 1 of the Amended Plat of Lot 4 of First Addition to Tallman's Subdivision and Lot 1, Block 7 First Addition to Whitefish Townsite Company's Five Acre Tracts, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

The last recorded instruments purporting to transfer title to said real property is:

Warranty Deed:
Dated: August 20, 2002
Grantor: Heather Mull
Grantee: Four Fools, LLC
Recorded: August 20, 2002 as Document #200223216430,
records of Flathead County, Montana.
Affects: Lot 1B

Grant Deed:
Dated: October 23, 2006
Grantor: Richard H. Atkinson and Carol B. Atkinson
Grantee: Richard H. Atkinson
Recorded: October 23, 2006, as Document #200629608410, records of Flathead County, Montana.
Affects: Lot 1

Warranty Deed:
Dated: May 14, 2007
Grantor: Eric L. McKay, David B. McKay, Allan Gehrke and Darryl McDonald
Grantee: Richard H. Atkinson
Recorded: May 18, 2007 as Document #200713815270, records of Flathead County, Montana.
Affects: Lot 2

This report is based on a search of our tract indexes of the records of the Flathead County Courthouse. This is not a title or ownership report and no examination of the title to the aforementioned real property has been made. No liability beyond the amount paid for this report is assumed for this reason. Sterling Title Services is not responsible beyond the amount paid for this report in connection with any errors and/or omissions contained herein. No examination has been made of the records of Sterling Title Services maintained and indexed by name, nor has an examination been made regarding matters affecting any deed(s) of trust or mortgage(s) shown in this Zoning Report, or other matters which may affect any such deed(s) of trust or mortgage(s). No report is made regarding any liens, claim of lien, defects or encumbrances other than those specifically set forth in this report. If this report was requested by reference to a *street address*, no assurances or guarantees are made that the aforementioned real property is the same as the address provided to Sterling Title Services. No examination has been made with respect to the identity of the party named in the last recorded instrument purporting to transfer title to the aforementioned real property, or with respect to the validity, legal effect or priority of any matter reflected in this report.

If you are interested in additional services or title insurance coverage, or questions about additional services available, please contact Sterling Title Services at 752-7000 or visit our website at www.sterlingtitleservices.com.

Thank you for your continued business.

Report prepared by:

Tracy J. Martin
Sterling Title Services

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ORDINANCE NO. 14-___

An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 2.23 acres of land located at 510, 540 and 550 Wisconsin Avenue, Section 25, Township 31 North, Range 22 West, Whitefish, Montana, from WR-3 (Low Density Multi-Family Residential) to WB-1 (Limited Commercial District) and adopting Findings with respect to such rezone.

WHEREAS, Four Fools, LLC, and Carol and Richard Atkinson (Applicant), applied to the City of Whitefish for a rezone with respect to their property located at 510, 540 and 550 Wisconsin Avenue, and legally described as T1C-1B, T1R-2 and T1R-1 in Section 25, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana; and

WHEREAS, in response to the application for a rezone, the Whitefish Planning & Building staff prepared Staff Report WZC-14-03, dated September 18, 2014, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on September 25, 2014, the Whitefish Interim Planning Board received an oral report from Planning staff, reviewed Staff Report WZC-14-03, received public comment, and thereafter voted to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on October 6 , 2014, the Whitefish City Council received an oral report from Planning staff, reviewed Staff Report WZC-14-03, and invited public comment; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the proposed rezone; and

WHEREAS, the proposed rezone meets zoning procedure and the criteria and guidelines for the proposed rezone required by MCA §§76-2-303 through 76-2-305 and WCC §11-7-12.

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 WZC-14-03 dated September 18, 2014, together with the September 30, 2014 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property identified as 540 and 550 Wisconsin Avenue, and legally described as T1C-1B, T1R-2 and T1R-1 in Section 25, Township 31 North,

Range 22 West, P.M.M., Flathead County, Montana, previously zoned WR-3 (Low Density Multi-Family Residential) is hereby rezoned to WB-1 (Limited Commercial District).

Section 4: The official Zoning Map of the City of Whitefish, Montana, be amended, altered and changed to provide that the rezone and zoning map amendment of the real property identified on the map attached hereto as Exhibit "A," and incorporated herein by reference, shall be designated WR-3.

Section 5: The Zoning Administrator is instructed to change the City's official Zoning Map to conform to the terms of this Ordinance.

Section 6: 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.

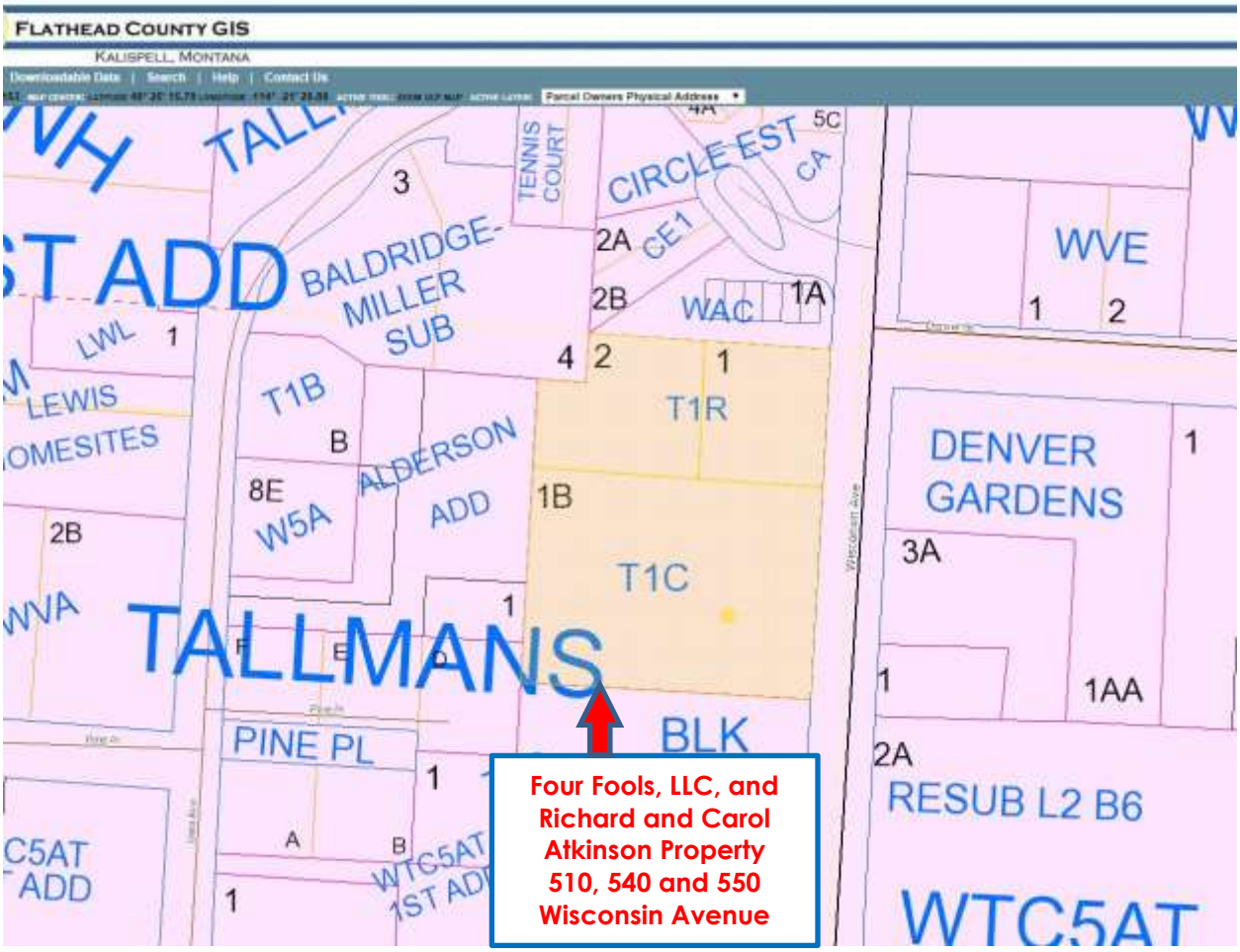
Section 7: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

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


FLATHEAD COUNTY GIS
KALISPELL, MONTANA
Downloadable Data | Search | Help | Contact Us
Parcel Owners Physical Address
TALL
ST ADD
BALDRIDGE-
MILLER
SUB
TENNIS
COURT
CIRCLE EST
CA
CE1
WAC
WVE
LWL
LEWIS
OMESITES
T1B
ALDERSON
ADD
W5A
T1R
T1C
DENVER
GARDENS
WVA
TALLMANS
PINE PL
BLK
RESUB L2 B6
C5AT
ADD
WTC5AT
1ST ADD
WTC5AT
Four Fools, LLC, and
Richard and Carol
Atkinson Property
510, 540 and 550
Wisconsin Avenue

THE STAFF REPORT FOR THIS ITEM IS ABOVE WITH THE RESOLUTION OF INTENTION FOR THE GROWTH POLICY AMENDMENT

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RESOLUTION NO. 14-__

A Resolution of the City Council of the City of Whitefish, Montana, to establish a new fee for the rezone of properties that accompany a development project and annexation whenever an Applicant wishes to rezone their property back to what it was zoned before County interim zoning.

WHEREAS, the City of Whitefish, a charter city with self-government powers, has the authority to regulate, establish and charge fees for City services, which must be reasonable and related to the cost of providing the services by Sections 7-1-4123(7) and 7-6-4013, MCA; and

WHEREAS, the City Planning & Building Department currently charges various fees for the provision of a service and a number of different land use applications; and

WHEREAS, on September 9, 2014, the Flathead County Board of Commissioners has taken action to enact County interim zoning in its recently acquired jurisdiction for the area surrounding the City of Whitefish revising all in-place Whitefish zones to County zones and regulation; and

WHEREAS, various projects in the City's review process prior to the change to County's interim zoning must now annex into the City and rezone their properties back to the previous Whitefish zone to complete their development project; and

WHEREAS, to assist these developments staff has recommended a change to the department fee currently charged for the rezone of properties that accompanies a development project and annexation whenever an applicant wishes to rezone property back to what it was zoned before County interim zoning; and

WHEREAS, as required by Section 7-6-4013, MCA, public notice on the City's proposed fee change for the Whitefish Planning & Building Department was published on September 24 and October 1, 2014; and

WHEREAS, at a lawfully noticed public hearing on October 6, 2014, the City Council received a report from Planning Department staff and reviewed staff recommendations concerning the proposed fee change, solicited and received public comment, and determined the fee change proposed by the Whitefish Planning & Building Department to be reasonable and directly related to the cost of providing services; and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to approve the fee proposed by the Whitefish Planning & Building Department.

NOW, THEREFORE, BE IT RESOLVED 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: The new fee of $500.00 for a rezone to the prior City zone that accompanies a development request and consent to annexation is hereby approved, and the City Planning & Building Department is authorized to begin charging such fee on any applications received after adoption of this Resolution.

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

September 30, 2014

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and City Councilors:

Recommendation to Add a Planning Fee for
Rezoning that Accompanies a Development Project and Annexation

Introduction/History
After Flathead County adopted interim zoning just outside the city limits, there were a number of projects caught in the review process that would now be required to annex into the city and rezone their properties back to a comparable Whitefish zone. The current rezone fee does not consider applicants simply wanting to rezone their property back to what it was zoned before the County Interim Zoning.

Staff learned that the city of Kalispell, in order to encourage annexation, has a reduced fee for applicants requesting to rezone to a comparable zoning. This made some sense to staff to have a reduced fee for development projects that are rezoning to a comparable city zone and annexing, as part of their development project. After further consideration, we identified costs to cover including publishing a legal notice and staff time to draft a staff report, but that the public noticing for the project could be joint with the main development project.

Current Report
The current fee for rezoning property is $2,310.00 + $66.00/per acre for the first 80 acres and $40.00/per acre beyond 80 acres. Staff reviewed the fee and is recommending the following:

- Rezone to a comparable city zone that accompanies a development request and annexation: **$500.00**

The existing rezoning fee will remain in place and will apply to applicants requesting a zone change to a different zone – whether they are in the city limits or annexing with a development proposal.

Financial Requirement

These fees are estimated to cover the expected costs to cover the time in addressing the rezoning request, as it accompanies a development request. It is reasonable to expect an applicant to pay for the time and expenses for their projects and not the citizens of Whitefish.

Recommendation

Staff recommends the Council adopt the applicable fee.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

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RESOLUTION NO. 14-____

A Resolution of the City Council of the City of Whitefish, Montana, amending Sections 1.3 and 1.5 of the City of Whitefish Engineering Standards to establish the property owners' consent to annexation as a requirement to initiate or continue receiving City services.

WHEREAS, MCA §7-13-4301 authorizes the City to operate, maintain, construct, and extend its sewage and water systems for public use; and

WHEREAS, MCA §69-7-201 provides the City will adopt municipal rules for the operation of its utility services including its procedure for discontinuance and reestablishment of service as well as the extension of service to users within and outside the City limits; and

WHEREAS MCA §7-13-4314 provides the City may require consent to annexation for property owners outside of City limits receiving City or water services; and

WHEREAS, by Resolution Nos. 98-43 and 98-51, the City adopted the Utility Rule that provides the City may require a property owner's consent to annexation as a condition of continued City utility services and may imply consent to annexation if the property owner continues to use City utility services; and

WHEREAS, amendments have been identified to address when property owners who wish to initiate or continue to receive City services must consent to annexation and petition to annex as a condition of service; and

WHEREAS, at a lawfully noticed public meeting on October 6, 2014, after receiving public comment and review of written and oral staff reports recommending the amendment of Sections 1.3 and 1.5 of the City of Whitefish Engineering Standards to require property owners wishing to initiate or continue receiving City services to petition to annex prior to development/new construction, the City Council determined such recommendation to be reasonable; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed amendment to the City of Whitefish Engineering Standards.

NOW, THEREFORE, BE IT RESOLVED 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: Section 1.3 of the City of Whitefish Engineering Standards is amended to read as follows:

1.3 General Policy – Utilities

A. All development/new construction within the City limits shall be

served by the City water system. If the property has not been annexed into the City, the property owner is required to petition for annexation, be a party to a development agreement, as applicable, and consent to annexation as a condition of service. Developers are required to extend the existing system across the full frontage of the property being developed or otherwise extend the system to make it available for future extension and development, unless approved by the Public Works Director. Upon approval and final acceptance of construction, the Developer shall convey or deed the system as constructed to the City with all necessary easements to the City. Joint participation by the City may be applicable where oversizing is deemed appropriate by the Public Works Director/City Engineer. City approval is required prior to construction. Latecomer agreements, where appropriate, will be administered by the City.

B. All development/new construction within the City limits shall be served by the City sewer system. If the property has not been annexed into the City, the property owner is required to petition for annexation, be a party to a development agreement, as applicable, and consent to annexation as a condition of service. Developers are required to extend the existing system across the full frontage of the property being developed or otherwise extend the system to make it available for future extension and development unless approved by the Public Works Director.. Upon approval and final acceptance of construction, the Developer shall convey or deed the system so constructed to the City with all necessary easements to the City. Joint participation by the City may be applicable where oversizing is deemed appropriate by the Public Works Director/City Engineer. City approval is required prior to construction. Latecomer agreements, where appropriate, will be administered by the City.

Section 3: Section 1.5 of the City of Whitefish Engineering Standards is amended to read as follows:

1.5 Service Connection Policy.

Annexation into the City of Whitefish for Municipal Services. If a property is located outside the City Limits, but is within 500-feet of a sewer main, state law requires development/new construction to connect to municipal services. If a property is located outside the City limits, and the property owner wishes to continue City services or anticipates initiation of City services in the future, the property owner is required to consent to annexation prior to development/new construction. Properties required to annex into the City shall complete and return a p~~P~~etition for a~~A~~nnexation to the City of Whitefish, a development agreement, if applicable, and an application for zoning map amendment ~~and submit the form~~ to the City Clerk's Office. Such consent to annexation shall be completed prior to any ~~connection to the required service~~ development/new construction on the property. ~~Prior to annexation, the~~

~~property owner shall confirm zoning with the Whitefish Planning & Building Department.~~ If the property requesting annexation has a County zone, a rezone of the property to a Whitefish zone ~~shall occur prior to annexation~~will be initiated by the City. ~~A completed Rezone Application shall be submitted to the Whitefish Planning & Building Department for processing.~~

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

Staff Report

October 6, 2014

To: Mayor Muhlfeld and City Councilors

From: Mary VanBuskirk, City Attorney

Re: Amendment of Sections 1.3 and 1.5 – City of Whitefish Engineering Standards and Amendment of Rules VI, XV, XXI and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility

Discussion

This Staff Report addresses two proposed amendments to the Whitefish Engineering Standards (Engineering Standards) and the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility (Utility Rules) to establish *when* property owners are required to consent to annexation as a condition to initiate or continue City services. Through these amendments, the City will require a property owner's consent to annexation prior to the initiation of development/new construction.

Introduction/History

State law authorizes a broad range of powers to cities for the operation of municipal sewer and water systems. MCA §§7-13-4301 and 69-7-201. Cities are authorized to extend its utility services to property owners within as well as outside city limits. MCA §69-7-201. In addition, State law allows the City to require the property owner's consent to annexation as a condition to receiving City utility services. MCA §7-13-4314. Under the City's utility rules and regulations, the City may imply consent to annexation if the property owner continues to use the City's utility services. *Gregg v. Whitefish City Council,* 2004 MT 252, ¶¶36-37 *(Gregg)*; City Resolution No. 98-51; 46 Op. Att'y Gen. No. 12 (1995). The City usually obtains consents to annexation and waivers of protest as part of its process to obtain the property owner's consent to annexation. When recorded, the covenants run with the land and bind subsequent purchasers "to ensure that property owners outside a municipality can request utility service and to ensure that a local government can later require annexation in exchange for its utilities". *Gregg*, ¶28.

The purpose of these two proposed resolutions is to establish City policy that a property owner is required to consent to annexation as a condition to initiate or continue City services prior to the initiation of development/new construction. Through these amendments to the Engineering Standards and Utility Rules, consent to annexation is required before beginning development/new construction on the property *and* before the introduction or continuation of City utilities to the property.

City of Whitefish Engineering Standards.

The proposed amendments to Sections 1.3 and 1.5 of the Engineering Standards clarify that the property owner's consent to annexation is required by the City prior to

the initiation of the development or new construction on the property, if the property owner contemplates or anticipates the property will be served by City services sometime in the future.

Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility.

The proposed amendments to Rules VI, XV, XXI and XXII of the Utility Rules clarify that the property owner requesting the initiation or continuation of City utility services, or the owner's authorized agent, must make the application for services.

If the property served by City utilities is located outside City limits, the property owner must consent to annexation as a condition prior to receiving City utility services.

If the property owner seeks temporary utility services for property not located within the City limits, the property owner is required to consent to annexation before initiating construction.

Financial Requirement

None.

Recommendation

Staff respectfully recommends that the City Council adopt both resolutions amending the Engineering Standards and Utility Rules requiring property owners to consent to annexation as a condition to initiating or continuing City utility services prior to new construction/development.

Recommended Motions:

1. I move the adoption of Resolution No. 14-___, a resolution amending Sections 1.3 and 1.5 to the City of Whitefish Engineering Standards.

2. I move the adoption of Resolution No. 14-___ amending Rules VI, XV, XXI and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility.

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RESOLUTION NO. 14-____

A Resolution of the City Council of the City of Whitefish, Montana, amending Rules VI, XV, XXI, and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility to establish the property owners' consent to annexation as a condition to receiving services and responsibility for utility services.

WHEREAS, as required by § 69-7-201, MCA, the City adopted Rules and Regulations for the operation of the City's Water and Wastewater Utilities and Garbage Collection pursuant to Resolution Nos. 02-55, 03-32, 11-33, 11-60, 13-01, and 13-05; and

WHEREAS, at a lawfully noticed public hearing on October 6, 2014, after receiving public comment and reviewing a staff report recommending the amendment of Rules VI, XV, XXI, and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility, to establish the property owner's consent to annexation as a condition to receiving services and responsibility for utility services, the City Council determined such recommendations to be reasonable; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed amendments to the Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED 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: Rules VI, XV, XXI, and XXII of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility are amended to establish the property owner's consent to annexation as a condition to receiving services and responsibility for utility services, as follows:

RULE VI: APPLICATION FOR WATER AND/OR SEWER SERVICE

2. Introduction of Service Within Whitefish City Limits. ~~All residential or commercial customers requesting water and/or sewer service to premises that are located or will be located within the City limits~~Property owners seeking the introduction or continuation of City water and/or sewer service within City limits must make application for City services at the Water and Wastewater Utility office on forms provided therefore, setting forth in the application all purposes for which water and/or sewer service will be used on the premises.

3. Introduction of Water or Sewer Service Outside Whitefish City Limits. ~~All residential or commercial customers wishing~~Property owners that will want to connect to City water and/or sewer service to properties which are not within the City limits, must consent to annexation as a condition to receiving City services and make application as provided

for under Rule VI(2), above. The property owner's consent to annexation and application for water and/or sewer service ~~must~~ will be accompanied by ~~an "Agreement for Annexation and City Water (and/or Sewer) Service" or~~ a ~~"P~~petition for ~~A~~annexation~~"~~ and a development agreement, as applicable, and an application for zoning map amendment. All applications for the introduction or continuation of City services from outside the corporate limits of the City shall require City Council approval.

4. Applications. All applications for the introduction of water and/or sewer service or the continuation of water and/or sewer service must be signed by the property owner or their agent, duly authorized in writing, if applicable, ~~unless the City already has a signed agreement on hand~~prior to the initiation of development/new construction. If the owner authorizes the utility bill to be sent to a property manager or tenant, the owner will notify the City in writing with any change of authority or occupancy. If the City determines that an existing City customer has not signed an application, or if a prior application has been lost, or no application is on file, the City may require the current customer to sign an application. Refusal to sign a current application, after reasonable notice, shall be sufficient cause for discontinuance of service. All customers are bound by these rules and regulations whether or not the customer has signed an application.

RULE XV: DISCONTINUANCE OF SERVICE

3. Discontinuance by the Water and Wastewater Utility. ~~The Water and Wastewater Utility shall make diligent effort to induce the~~ The customer ~~to~~will comply with all applicable rules and regulations, including the paying of bills.

Service shall only be discontinued for violations of these rules or for the failure to comply with other City project requirements, ordinances, codes, or rules or regulations if such termination is specifically authorized by City Ordinance, after written notice has been mailed by regular mail to the customer by the Water and Wastewater Utility that the violation of rules must cease; provided, however, that where fraudulent use of water is detected, or where the Water and Wastewater Utility's regulating or measuring equipment has been tampered with, or where a dangerous condition is found to exist on the customer's premises, the water may be shut off without advance notice. If the customer, upon notification, does not comply with the written notice within ten calendar days, the Water and Wastewater Utility shall discontinue service. The Water and Wastewater Utility shall keep record of all notices. "Ord. No. 03-23"

Service shall only be discontinued for nonpayment of bills after the bills become ten or more days delinquent. The utility bill contains lines for "charges", "past due", "balance", and "current charges". If the customer has not paid or made suitable arrangements with the Water and Wastewater Utility for payment, the Water and Wastewater Utility shall mail by regular mail a notice indicating the amount due and the date of disconnection. Accounts with charges for service not paid by the 20th day of the month shall be assessed a late payment penalty to defray the cost of administering delinquent accounts, including mailing of late notices. The date of disconnection shall be no less than ten calendar days following the mailing of the notice, excluding the date of mailing. The Water and Wastewater Utility shall keep record of all notices. In the case of a property manager or a tenant, all of the notices regarding delinquent accounts or potential discontinuance of service shall be sent to the customer and property manager or tenant.

The Water and Wastewater Utility will not discontinue service on Fridays, Saturdays, Sundays, national holidays, or if an emergency affecting health exists. A written statement from a physician or health agency must be presented to the Water and Wastewater Utility prior to the date of disconnection or it will be assumed no health condition exists and the Water and Wastewater Utility cannot be held liable.

RULE XXI: BILLING

8. Deposits. Before water will be furnished to a new consumer a cash deposit shall be required. The Water and Wastewater Utility shall collect a deposit of one hundred fifty dollars ($150) for garbage, water and sewer service. ~~In the case of leased property, the deposit shall be collected from the tenant, and not the property owner, unless the property owner agrees to be responsible for all charges.~~ The deposit ~~shall~~ will be refundable upon termination of service and collection of final payment in full. Any customer moving to, and applying for service at another location within the City's service area ~~shall~~ will be required to submit a new deposit even if they have had their deposit returned at their most previous residence. No interest shall accrue to deposits held by the City. "Res. No. 03-32"

The deposit ~~shall~~ will be deposited with the City Treasurer who ~~shall~~ will issue a receipt to the customer submitting the deposit. The deposit shall be held as security for payment for water and sewer service provided the consumer. When any consumer moves from the City or discontinues taking water from the City, they shall give notice to the Utility Clerk who shall request a final meter reading. Upon obtaining a final meter reading, the consumer's deposit shall be returned, less the amount required to pay the final bill.

Nothing in this section shall be construed as waiving any lien created by statute for delinquent and unpaid charges for water or sewer service.

RULE XXII: PAYMENT OF BILLS

Bills are due and payable in full upon receipt. A bill not paid within twenty days of the billing date is considered delinquent and service may be discontinued in accordance with Rule XV unless a suitable payment schedule is made in writing between the City and the property owner; provided, however, that no outstanding balance shall be permitted to exceed the amount of the deposit. ~~In the case of leased property any payment arrangements shall have to be approved, in writing, by the property owner.~~

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

The staff report for this Resolution is above, with the prior resolution.

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RESOLUTION NO. 14-___

A Resolution of the City Council of the City of Whitefish, Montana, to establish City policy on gated communities within the City limits and amending the City of Whitefish Engineering Standards to address City policy on gated communities.

WHEREAS, the City of Whitefish is a charter city with self-government powers under Article XI, Montana Constitution, authorizing the City to exercise any power not expressly prohibited by the constitution, law or charter; and

WHEREAS, by MCA §7-1-4123, the Whitefish City Council has the legislative authority to enact resolutions required to secure and promote the general public health, safety and welfare, and;

WHEREAS, in the interests of identifying community goals and objectives and securing the public health, safety and welfare, the Whitefish City Council initiated the City's efforts in an extensive public process to develop the community's growth policy; and

WHEREAS, in their development of the 2007 Whitefish City-County Growth Policy ("Growth Policy"), community members participated in over 32 public work sessions, 16 public visioning format sessions, and additional hearings before the Planning Board and City Council, and identified key themes that the citizens of Whitefish value and will strive to maintain the community's scale, character, and small town feel, traditional neighborhoods, and the social and economic diversity of the community; and

WHEREAS, during the 2007 public outreach and visioning to create the Growth Policy, Whitefish citizens expressed their sentiments that there be no gated communities in Whitefish and identified gated communities and subdivisions a problem and a threat to Whitefish's small town feel and neighborhood character; and

WHEREAS, the 2007 Whitefish City-County Growth Policy was adopted by the City Council by Resolution No. 07-57; and

WHEREAS, following the Whitefish citizens' expression of community goals and objectives and their desire for the continuation of the small town feel and neighborhood character of Whitefish through land use and transportation planning in the continuity of streets and traditional grid street pattern, the City of Whitefish Engineering Standards, Whitefish Transportation Plan, and City Subdivision regulations were developed to strongly encourage the continuity of streets and use of traditional grid street patterns, discourage dead-end streets, and restrict cul-de-sacs to extraordinary circumstances. Whitefish City Code §12-4-14(E) expressly prohibits the use of gates to subdivisions or other residential neighborhoods, as well as features that give the impression to the public of a gated neighborhood; and

WHEREAS, at the September 2, 2014 public work session, the City Council discussed the City's current policy to prohibit gated communities and gated

development within the City, public policy issues created by segregating neighborhoods from the community of Whitefish, public safety issues for emergency services in response to fire and emergency evacuation, access, turning radius for dead-end roads, half streets, and cul-de-sacs, and the temporary gates permitted to be installed by the City for a limited time due to Highway 93 West construction; and

WHEREAS, the City may address by Resolution public policy concerns of the Whitefish community and enact the City policy to prohibit gated communities and developments within the City limits as follows:

> Gates. No subdivision or other residential neighborhood shall gate its streets off from public access. No features, temporary or otherwise shall give the impression to the public of a gated neighborhood.

; and

WHEREAS, an amendment to the Whitefish Engineering Standards has been proposed to address City policy on gated communities because the City Engineering Standards establish the minimum requirements for construction and/or upgrading of facilities both in the private right-of-way and private development. The City's policy on gated communities has been identified as an amendment to the City Engineering Standards as follows:

> Gates. No subdivision or other residential neighborhood shall gate its streets off from public access. No features, temporary or otherwise shall give the impression to the public of a gated neighborhood.

; and

WHEREAS, at a lawfully noticed public hearing on October 6, 2014, the Whitefish City Council reviewed the staff report and received an oral report from City staff, invited public comment and determined the City policy prohibiting gated communities and the amendment to City Engineering Standards as reasonable; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the City policy prohibiting gated communities within the City of Whitefish and the proposed amendment to Section 8.1 of the City Engineering Standards consistent with City subdivision regulations.

NOW, THEREFORE, BE IT RESOLVED 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: The City of Whitefish establishes as City policy that there will be no gated community and no new permanent gate is permitted within City limits as follows:

No subdivision or other residential neighborhood shall gate its streets off

from public access. No features, temporary or otherwise shall give the impression to the public of a gated neighborhood.

Section 3: Section 8.1, Roadways and Walkways, of the City of Whitefish Engineering Standards is amended to add the City's prohibition of the use of gates to create a gated community or development within the City, as follows:

Gates. No subdivision or other residential neighborhood shall gate its streets off from public access. No features, temporary or otherwise shall give the impression to the public of a gated neighborhood.

Section 4: This Resolution shall not be construed to have a retroactive effect on existing permanent gates installed prior to the effective date of this Resolution.

Section 5: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

Staff Report

October 6, 2014

To: Mayor Muhlfeld and City Councilors

From: Mary VanBuskirk, City Attorney *Mary*

Re: City Policy on Gated Communities and
Amendment to City of Whitefish Engineering Standards

Introduction/History

The Whitefish community members engaged themselves in an exhaustive community-wide planning effort to formulate a new growth policy beginning in 2005. Volunteers for the growth policy steering committee were appointed in November 2005 and the Committee conducted its first meeting in January 2006. The Committee conducted its public work sessions an average of twice a month from January 2006 through April 2007. Over 16 separate public visioning sessions were conducted throughout the Whitefish community. From these public meetings, work session and visioning sessions, the community developed its vision for Whitefish that formed the Vision Statement for the 2007 Whitefish City-County Growth Policy ("Growth Policy").

The Vision Statement identified the scale, character and small town feel of the community, with its neighborhoods, continuity of streets and traditional grid street pattern, and the social and economic diversity of the community as important community goals to continue through community planning:

> **The citizens of Whitefish** value the scale, character, and small town feel of the community and will preserve those values as the community grows. We will preserve and enhance our open spaces, wildlife habitat, scenic vistas, and traditional neighborhoods that make our community special....
>
> **As Whitefish grows,** it will face many challenges. We will manage traffic and keep our community safe for pedestrians and cyclists. We see that the social and economic diversity of our community is threatened, and we will strive to maintain it....
>
> * * *
>
> **New growth will provide opportunities** for new urban forms to emerge. We welcome new and infill development that is compatible with the character and qualities of Whitefish, that respects existing neighborhoods, and that maintains connections to existing and planned streets, pathways, schools, parks and open spaces.
>
> * * *
>
> ...**the small town feel and character** of Whitefish are deeply valued by the community, ... we will formulate the best plan we can for the good and

> welfare of the entire community. We will protect the community qualities that we value....

Growth Policy, Pp. 9-10.

The Visioning Statement is expanded throughout the chapters of the Growth Policy. Of importance to the community members was the maintenance of the character and "small town feel" of Whitefish and encouragement of development not out of scale and character to threaten existing character, socio-economic diversity, and density of the surrounding neighborhoods. Growth Policy, Pp. 47-48, 53-54, 62-63, 68-72, 103-104, 121-124, 135-137.

In its Land Use Element and Transportation Element, the community members expressed their strong desire that future development be consistent in character and quality with existing neighborhoods. Community members expressed their preference for continuity and connectivity with the streets, pedestrian/bikeways and open space corridors:

> As new neighborhoods emerge through future development, Whitefish residents have expressed a desire that they be consistent in character and quality with existing neighborhoods. A strong desire was expressed for continuing the traditional grid street pattern when and where possible. There was also a preference for continuity of streets, pedestrian/bikeways and open space corridors such as streams and wildlife use areas.
>
> There is a general expectation that densities of new neighborhoods will be mixed as appropriate, but a preference was expressed for developments that incorporate open space and exhibit a high degree of connectivity with the street. Streets should be lively, attractive, and walkable, and streetscapes should not be dominated by garage doors, blank walls, or other "dead" structural features....

Growth Policy, P. 62.

These community expressions resulted in the Recommended Actions to the City. The City is directed to ensure continuity and connectivity through transportation planning in the Transportation Element:

> 2. Plan for through, continuous streets to the extent possible. When cul-de-sacs are appropriate due to ownership, topography, or other constraints, ensure that a future street extension can be made via a right-of-way dedication, or at the very least, a pedestrian connection.

Growth Policy, P. 136.

In Chapter 4: Community Facilities Element Recommended Actions number 6, the City is directed to "work cooperatively with land owners and developers to identify and maintain access to publicly and privately owned roads, trails, and lands". City Growth Policy, P. 104.

"No gated communities" was one of the Key Themes identified in the May 2006 survey. During the Steering Committee's Public Outreach sessions, the community members expressed their sentiments that there be no gated communities in Whitefish and identified gated communities and subdivisions as a problem and a threat to Whitefish's small town feel and to neighborhood character. Visioning Formats of 6-13-06 Voerman-Monegan, 7-25-06 Saddle Club, 8-30-06 Mountain Mall.

The 2007 Whitefish City-County Growth Policy was approved on November 19, 2007 upon the City Council's adoption of Resolution No. 07-57.

Current City Policies and Standards

City policies, zoning and subdivision regulations, and its Engineering Standards help implement the Growth Policy's vision, plan and recommendations. Since the City's adoption of its Growth Policy, the City has conducted additional planning for its neighborhoods, corridors, downtown, transportation, and City services. In response to the strong sentiment expressed by community members in the growth planning process, the City's small town feel and neighborhood characteristics have been continued through the City's exercise of its general police power (public health, safety and welfare) in the City's planning and enactment of regulations and standards for public facilities and services.

City streets have been designed to encourage public access through continuity and connectivity of streets in traditional grid street patterns. Dead-end streets and cul-de-sacs are discouraged. City services are required to meet standards to provide adequate public facilities with an emphasis on public health and safety and access for police, fire and emergency services response.

Developments and subdivisions comply with City regulations, architectural review, and Engineering Standards. WCC §12-4-1(A) and (B). Subdivision lots are designed to have physical and legal access to a public or private street or road constructed to City standards. WCC §12-4-13. Dead end streets are not permitted. WCC §12-4-15(G). Cul-de-sacs are only allowed in unusual circumstances. WCC §12-4-15(G). In WCC §12-4-14(E), gates are prohibited:

> No subdivision or other residential neighborhood shall gate its streets off from public access. No features, temporary or otherwise, shall give the impression to the public of a gated neighborhood.

The City Engineering Standards "establish the minimum requirements for construction and/or upgrading...for private development...." City Engineering Standards, Section 1.2.

In addition to City regulations, the City's Engineering Standards strongly discourage dead-end streets and allow cul-de-sacs only in extraordinary circumstances. City Engineering Standards, Section 8.1. City Standards require plan and profile drawings for all proposed transportation-related improvements. Section 2.1, Engineering Plan Submittals. Under these City standards and protocols, new proposed neighborhood and subdivision improvements are reviewed for compliance with City zoning regulations, subdivision regulations, and Engineering Standards and are subject to site development review and building code compliance review. Section 2.3 Design and Development Requirements; Section 2.4 Site Development Review.

Current Report

Generally, new subdivisions develop the roadways and infrastructure and dedicate their roadways to the City for public use and maintenance. Unlike new subdivisions covered under current City subdivisions regulations that dedicate their roadways for public use and maintenance, there are four subdivisions in town with private roadways and maintenance: Grouse Mountain, Suncrest, Lion Mountain and Iron Horse. Only Grouse Mountain has private roads that may be closed to vehicular access by the public:

> The roads in Grouse Mountain ... shall be private roads, and the Homeowner's Association shall be entitled to close them to vehicular access by the public. Condition of Approval, ¶12.

For these four subdivisions with private roadways located within City limits, none should be permitted to install permanent gates under the City's regulations and Engineering Standards that prohibit the creation of dead end streets, half-streets and restrict the creation of cul-de-sacs. Although the Grouse Mountain HOA may close its streets to the public's vehicular access, the City to date has not permitted the installation or use of permanent gates as the method to prevent public vehicular access at the entrances to Grouse Mountain[1]. Nor has the City permitted any other HOA to install gates to prevent public access within City limits. During the work session other methods were discussed to close the public's vehicular access to Grouse Mountain's private roadways in lieu of permanent gates. In addition, some alternative methods to close private streets to the public are found in the City Engineering Standards, traffic calming measures, discussed in Section 8.11, Pp. 8-9 through 8-12.

[1] Note, Grouse Mountain Estates has two internal gates installed within its development that would not be affected by this resolution, as both are pre-existing, permanent gates.

Although the growth policy process established the community members' clear wishes to prohibit gated communities, implementation of their recommendations did not include the adoption of City policy to prohibit gated communities, as proposed by this resolution. While the City's subdivision regulations contain the explicit prohibition on gates, the City's Engineering Standards currently do not explicitly prohibit gates, but strongly discourage dead end streets, half streets and cul-de-sacs.

The proposed city policy and amendment to section 8.1 in the City Engineering Standards would include the same language found in the subdivision regulations:

> No subdivision or other residential neighborhood shall gate its streets off from public access. No features, temporary or otherwise, shall give the impression to the public of a gated neighborhood.

If the City Council approves the proposed City policy to prohibit gated communities and the amendment to City Engineering Standards, no subdivision would be permitted to install new permanent gates within City limits.

For any contemplated new construction for the installation of permanent gates on existing private roadways, the Engineering Standards should apply. For new subdivisions seeking a gated community, the subdivision regulations should apply.

Recommendation

City staff respectfully requests the Council's consideration of an explicit City Policy prohibiting gates and an amendment to the City Engineering Standards with the same language found in the subdivision regulations.

RESOLUTION NO. 07-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ADOPTING A GROWTH POLICY, ENTITLED "2007 WHITEFISH CITY-COUNTY GROWTH POLICY."

WHEREAS, the last community-wide planning effort in Whitefish took place over 11 years ago and resulted in the Whitefish City-County Master Plan; Year 2020; and

WHEREAS, the current Whitefish City-County Master Plan was adopted by the City of Whitefish pursuant to Resolution No. 96-3 on February 20, 1996, and adopted by the Flathead County Board of Commissioners pursuant to Resolution No. 677-G on February 6, 1996; and

WHEREAS, pursuant to an Interlocal Agreement dated February 1, 2005, between the County of Flathead and the City of Whitefish, the City acquired the sole jurisdiction to amend or update the Whitefish City-County Master Plan or a growth policy, within the boundaries identified in the Interlocal Agreement; and

WHEREAS, the City of Whitefish and surrounding areas have undergone substantial growth and change since adoption of the Whitefish City-County Master Plan; Year 2020; and

WHEREAS, Sections 71-1-601 through 76-1-606, MCA, contain the requirements for a city growth policy, and provide a procedure for adoption of a growth policy; and

WHEREAS, in order to facilitate the formulation of a new growth policy, the Whitefish City Council advertised for volunteers for a Growth Policy Steering Committee, and on November 7, 2005, appointed at-large members to the Steering Committee; and

WHEREAS, the Whitefish Growth Policy Steering Committee conducted its first meeting on January 11, 2006; and

WHEREAS, the Growth Policy Steering Committee conducted open public work sessions an average of twice per month from January 2006 through April 2007; and

WHEREAS, during the Summer and Fall of 2006, Whitefish city staff and members of the Steering Committee conducted at least 16 separate advertised public visioning sessions in various locations throughout the Whitefish community; and

WHEREAS, in drafting the 2007 Whitefish City-County Growth Policy, the staff and Steering Committee considered numerous comments that are kept on file in the Planning and Building Department; and

WHEREAS, the Steering Committee and staff completed a working draft of the 2007 Whitefish City-County Growth Policy; and

WHEREAS, the draft 2007 Whitefish City-County Growth Policy was transmitted to the Whitefish City-County Planning Board in April 2007; and

WHEREAS, on May 22, June 14, June 28, July 12, July 19, and July 26, 2007, the Whitefish City-County Planning Board conducted advertised open public workshops to discuss the draft 2007 Whitefish City-County Growth Policy and take public comment; and

WHEREAS, on September 6, 2007, the Whitefish City-County Planning Board conducted a lawfully noticed Public Hearing at which City of Whitefish Planning and Building Department staff and Project Consultant Applied Communications, LLC, presented the draft 2007 Whitefish City-County Growth Policy, answered questions from the public, and received public comment concerning the draft 2007 Whitefish City-County Growth Policy; and

WHEREAS, at a lawfully noticed workshop on September 17, 2007, the Whitefish City Council received an update report from Project Consultant Applied Communications, LLC, and asked questions regarding the draft 2007 Whitefish City-County Growth Policy; and

WHEREAS, at a subsequent meeting on September 20, 2007, the Whitefish City-County Planning Board adopted amendments to the draft 2007 Whitefish City-County Growth Policy, and thereafter voted unanimously to recommend adoption of the draft 2007 Whitefish City-County Growth Policy to the Whitefish City Council; and

WHEREAS, at a lawfully noticed public hearing on October 15, 2007, the Whitefish City Council received a report from Whitefish Planning and Building Department staff and Project Consultant Applied Communications, LLC, received public comment concerning the draft 2007 Whitefish City-County Growth Policy, and thereafter considered proposed amendments to the draft 2007 Whitefish City-County Growth Policy; and

WHEREAS, at a lawfully noticed workshop on October 22, 2007, the Whitefish City Council received additional information from Whitefish Planning and Building Department staff and from Project Consultant Applied Communications, LLC, as well as additional comments from members of the public; and

WHEREAS, at a regularly scheduled Council Meeting on November 5, 2007, the Whitefish City Council received a report from the Whitefish Planning and Building Department staff and from Project Consultant Applied Communications, LLC, concerning amendments prepared as a result of comments received from the City Council at its October 22, 2007, workshop; and

WHEREAS, at its November 5, 2007, Council Meeting, the Whitefish City Council invited public comment regarding the proposed amendments that arose from its October 22, 2007, workshop, and the City Council approved several additional amendments to the draft 2007 Whitefish City-County Growth Policy; and

WHEREAS, at its November 5, 2007, Council Meeting, the Whitefish City Council adopted Resolution No. 07-54, a Resolution of Intent to adopt the 2007 Whitefish City-County Growth Policy, in the form approved by the City Council at such meeting;

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the 2007 Whitefish City-County Growth Policy;

NOW, THEREFORE, BE IT RESOLVED 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: The City Council of the City of Whitefish, Montana, finds that the City has complied with all of the procedural requirements contained in Sections 76-1-602 through 76-1-604, MCA, and finds that the 2007 Whitefish City-County Growth Policy fully complies with all of the requirements contained in Section 76-1-601, MCA.

Section 3: The City Council of the City of Whitefish, Montana, hereby adopts the 2007 Whitefish City-County Growth Policy, in the form approved by the City Council at the November 5, 2007, Council Meeting, with any subsequent amendments approved at the November 19, 2007, Council Meeting, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 4: The City Council hereby indicates that the 2007 Whitefish City-County Growth Policy supersedes and replaces the Whitefish City-County Master Plan; Year 2020.

Section 5: All previously adopted neighborhood plans shall remain in full force and effect, including but not limited to the Iron Horse Neighborhood Plan, the Riverside at Whitefish Neighborhood Plan, the South Whitefish Neighborhood Plan, the North Valley Hospital Neighborhood Plan, the Whitefish Downtown Business District Neighborhood Plan (except as superseded by the Future Land Use Map), and the Big Mountain Neighborhood Plan.

Section 6: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF NOVEMBER, 2007.

CRIS COUGHLIN, MAYOR

ATTEST:

Necile Lorang, City Clerk

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P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

September 16, 2014

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Move Forward with Scheme 1 Design

Introduction/History
The Future City Hall Steering Ad Hoc Committee was established in November 2011 (Resolution No. 11-57) to study, evaluate and recommend ideas and process for the location, design and architectural selection for the future City Hall to City Council. In September 2012, the Committee recommended to City Council to build the future City Hall on the same property where it currently is located. In January 2014, the Committee recommended to City Council to award the design contract to Mosaic Architecture and move forward with the Phase I design. City Council moved forward to negotiate a contract with Mosaic Architecture.

Since Mosaic received the design contract, the City Hall Committee has participated in goal setting and concept design meetings with Mosaic as well as attending public meetings gathering public input for the New City Hall design. The Committee has spent many hours reviewing the three designs presented by Mosaic, discussing the pros/cons of each plan and moving forward with what we feel is the best design for our community and staff. At our August 21st meeting the Committee voted 6-3 for Scheme 1, but asked Mosaic to return with the Scheme 1 plan revised opening up the lobby area some and showing an active edge.

Current Report and Recommendation
At the September 11, 2014 meeting the Committee voted 7 to 3 to recommend City Council to move forward with Scheme 1 (with some adjustments - change the E. 2nd Street and Baker Avenue corner and change the entrance off of Baker Avenue, near parking garage). The Committee also voted 8 to 2 to recommend City Council to include a 3rd floor and a full basement/half finished.

A copy of Mosaic's scheme 1 design is attached with this recommendation and the minutes from the September 11th City Hall Committee meeting.

Sincerely,

Sherri L. Baccaro

Sherri L. Baccaro
Chair, Future City Hall Committee

DRAFT MINUTES FROM 9/11 MEETING

WHITEFISH FUTURE CITY HALL STEERING COMMITTEE
CITY COUNCIL CONFERENCE ROOM
SEPTEMBER 11, 2014

CALL TO ORDER
Sherri Baccaro called the meeting to order at 9:00 a.m. Members present were City Manager Chuck Stearns, Toby Scott, Ian Collins, Ross Anderson, Robert Blickenstaff, Necile Lorang, Wendy Compton-Ring, Richard Hildner, John Muhlfeld and Vanice Woodbeck. Members not present were George Gardner. In the audience were John Kramer, Rhonda Fitzgerald and Jen Frandsen.

APPROVAL OF MINUTES FROM LAST MEETING (August 21, 2014)
Chuck Stearns made a motion, seconded by John Muhlfeld to approve the August 21, 2014 minutes. The motion passed unanimously.

COMMITTEE MEMBER VACANCIES
Sherri said they have received a letter of resignation from Mike Jenson and Marcus Duffey. The Chamber will recommend someone to replace Marcus to the council and the other position is being advertised in September and October with interviews on October 20, 2014.

PUBLIC COMMENT
John Kramer passed out a handout to the committee that included the following:

Whitefish City Hall and Parking Structure

City Hall Concerns:

- Staggered building frontage at corner creates a 'suburban' from. It is not consistent with downtown buildings, which generally all engage the sidewalks.
- Scheme 1 – midblock City Hall entry minimizes the importance of the Baker frontage "active edge".
- Midblock entry creates an internal building function-All internal uses pinwheel off a meandering/confusing internal corridor.
- Scheme 1 lacks consideration of compatibility, or lessons learned from neighboring existing and future buildings.

City Hall Suggested Revisions – using Scheme 2 as the basis for revisions:

- Provide a corner entry that celebrates the important intersection and provides a prominent civic presence on both Baker and Second Street by orienting the lobby to the corner (two story space).
- Build upon/strengthen existing and future corner entry concept as a theme for this important intersection.

- Provide a corner vestibule that is large enough to function properly; provides an opportunity for public art and a seating/waiting area. Consider a large Conference Room/Community Room with a door (secured) from the vestibule.
- Eliminate corner landscaping.
- To create a more active edge on Second, provide a hallway corridor along the ground floor rather than offices.
- Layout of department work spaces and offices is conceptual only, and can accommodate either Scheme 1 or Scheme 2 configurations.

Parking Structure Concerns:

- Lack of an elevator to serve retail Central Avenue and First Street customers effectively.
- Mixing City Hall and retail parking is problematic. A location for City employee and elected official vehicles should be reserved/secured.
- Retail Space proposed is very limited and may not provide a usable layout.
- The basement parking level may not be necessary. Cost of constructing a basement level vs. number of spaces provided is questionable.
- Driveway width may not be adequate to accommodate peak periods/surges of traffic (three lanes) and ingress/egress point on First Street.

Parking Structure Revisions Suggested:

- Provide an elevator at the northeast corner of the parking structure. This is absolutely necessary to serve retail customers effectively.
- Flip ramping concept. Ramp up immediately with 10% slope after entering the garage to gain clearance over the first floor of the garage.
- Eliminate basement level parking.
- Consider reserving some ground floor parking spaces for City Hall visitors, City employees and elected officials.
- Provide separate ground floor parking access from alley.
- Relocate vertical circulation: stairs and elevators to the southwest corner of the garage. Provide stair exit to the street; elevator access to City Hall.
- Construct vehicular pass-through on third level to eliminate dead-end.
- Enlarge the entry to have three lanes. Design the lanes so that they are reversible to facilitate better access/egress at peak periods.
- Provide enlarged ground floor retail space at First and Baker.

(Pictures attached to minutes)

Rhonda Fitzgerald said this is a very important building as it will represent 3 different groups; staff, customers and visitors. She has received a report showing that we had 1,125,163 out of state visitors pass through Whitefish in 2013. We need to have an active edge which will help drive people to the Railway District, retail parking and having separate parking for city employees.

PRESENTATION BY MOSAIC ARCHITECTURE: Present revised concept plan-link to concept plan emailed to committee.

DISCUSS REVISED CONCEPT PLAN AND POSSIBLE RECOMMENDATION TO COUNCIL:
Some comments from staff were with keeping an active edge on the front, if retail is put in it could mean a jump ramp which is not grandma friendly, John Kramer has good suggestions for retail, if retail is put in it will take away parking spaces, reinforce intersection with corner entry, courtyard is wasted space, if the parking structure is not successful the whole project will not be, the garden space does allow for daylight basement, need friendly space either outdoor or indoor for people to visit.

City Manager Stearns said the Council has approved TIF money of $4,500,000 for City Hall and $6,500,000 for parking structure for a total of $11,000,000. With adding a 3rd floor and a full basement the cost could go up another $1,000,000 with total costs of $7,500,000 for City Hall and $6,900,000 for the parking structure.

Sherri Baccaro made a motion, seconded by Necile Lorang, to move forward with Scheme #1 and bring the building out to the corner with a champfer corner and less landscaping.

The committee comments were some were not comfortable with champfer corner, having an entrance on the corner would connect better with the RR District and better access off of Baker Avenue, some feel the parking structure has been pushed to the curb and no elevator for the retail space and we should wait and get feedback from the amendment on the Downtown Master plan.
The motion failed with a vote of 1 to 9 votes with Necile Lorang voting in favor.

John Muhlfeld made a motion, seconded by Wendy Compton-Ring, to not take action at this time on either Scheme and wait for feedback from the Downtown Master Plan consultants.

The committee comments were that more eyes on this phase is important, allowing their input is enlarging our committee and delaying the process, having someone involved in urban design is important.

The motion failed with a 2 to 8 vote with John Muhlfeld and Ian Collins voting in favor.

Richard Hildner made a motion, seconded by Necile Lorang, to follow up on Scheme 1 with the entry on 2nd Street, change the 2nd Street and Baker Avenue corner and change the entrance off of Baker Avenue into City Hall. The motion passed with a 7 to 3 vote with John Muhlfeld, Ian Collins and Ross Anderson voting in opposition.

City Manager Stearns said the committee needs to decide if they want to have a 3rd floor with the ability to add on later or eliminate the 3rd floor and if we want a full basement. The committee comments were that we need the 3rd floor for expansion and the basement for storage, community room is the meat of the 3rd floor, we do not need green roofs and decks, if we leave 3rd floor as a shell would not be good, see need for expansion, forgo the 3rd floor, the basement if important, need to bite

the bullitt now and build the 3rd floor otherwise it will not get done when we do need it, get a good building now instead of later when cost would be much higher.

Richard Hildner made a motion, seconded by Necile Lorang, to include a 3rd floor and a full ½ finished basement.

Jen Frandsen said she would support this motion as we do need space for the community.

The motion passed with an 8 to 2 vote with John Muhlfeld and Ian Collins voting in opposition.

These two motions will be a recommendation to the Council at the October 6, 2014 meeting.

PUBLIC COMMENT:
Rhonda Fitzgerald said they need signage for the entryway off of Baker Avenue, elevator & stairs not set well, they need to do some research on community rooms on size and what kind of design would work best, spend money on quality and no whoop-to-do angles.

Jen Frandsen is disappointed the committee did not want the Downtown consultants to weigh in on the design and she will support this council and will make sure it is done right.

John Kramer said you can never have too much storage and looking ahead and doing the right thing even if the cost is more. Have landscaping inside the building with some outside, Scheme 2 would have active edges around the building, look at moveable walls and max out the flexibility of the building.

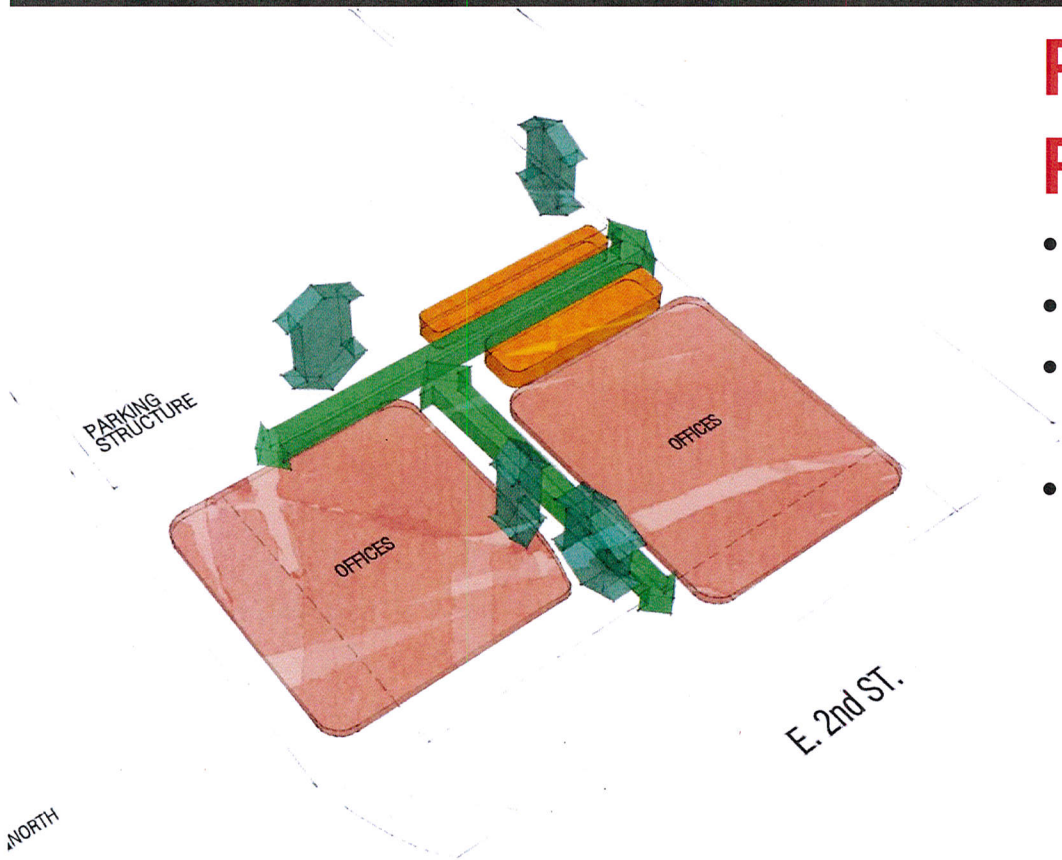
DISCUSS LEED WORKSHOP:-Move to next meeting.

SET DATE AND TIME FOR NEXT MEETING: Will wait until after the recommendations go to the Council.

City Manager Stearns called Ben Tintinger with Mosaic Architects and gave him an update of what the committee decided today. Ben said he could call Crandall Arambula and see if they have any suggestions on the City Hall design. Ben also said the active edges does drive up the square footage of the space. They will get a final format to City Manager Stearns for Council. City Manager Stearns said there were some concerns about having just one elevator and also the cost difference from before to now. Ben said in the 2007 Cole & Russell Architects/Grover & Company space needs study the city needed about 18,000 square feet and the program summary had the building at 19,228 square feet at a cost of $5.3 million. Ben said they found both of the summaries to be short on space and cost based on the departmental interviews Mosaic completed. Ben said he thought they did not take into account future growth and internal department non-assignable space. Ben said we are now around 24,000 square feet or 31,000 square feet with the additional third floor (for future growth) and basement space. Also, construction cost is going up so in another year the total cost could be even higher.

Richard Hildner said he would like Mosaic to look at the plans that John Kramer presented today and see if the parking structure could fit into Scheme 1.

The meeting was adjourned at 11:57 a.m.



PLAN SCHEME 1 - Revised

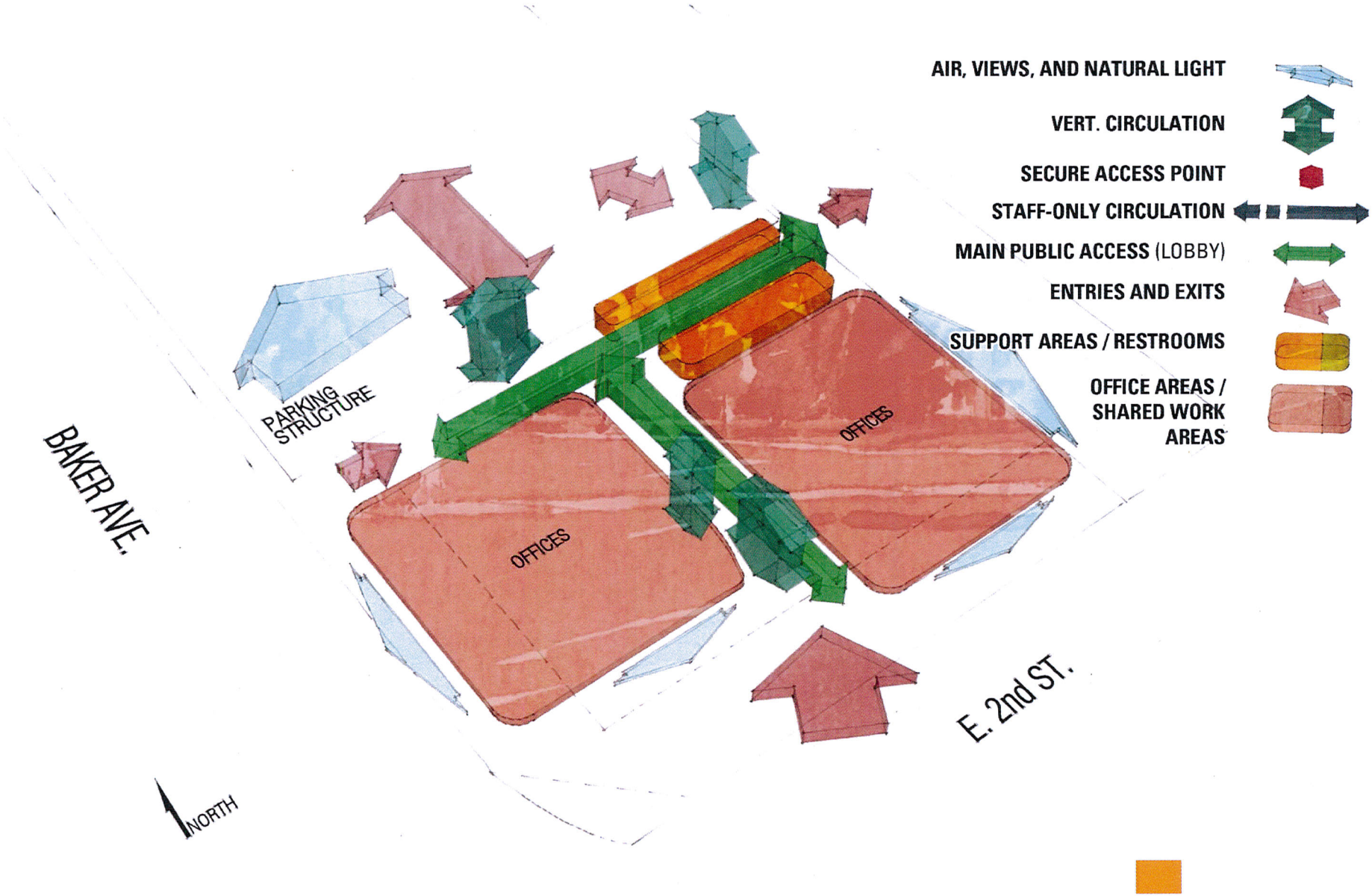
- South and Central Lobby
- Council Chamber on 2nd Level
- Departments have clear divisions from each other
- Floor Heights:
  - Level 1: 100.0'
  - Level 2: 116.0'
  - Level 3: 130.0'
  - Basement: 88.0'

SCHEME 1

City Hall: Plan Organization

WHITEFISH **CITY HALL** AND **PARKING STRUCTURE**

mosaic architecture planning design

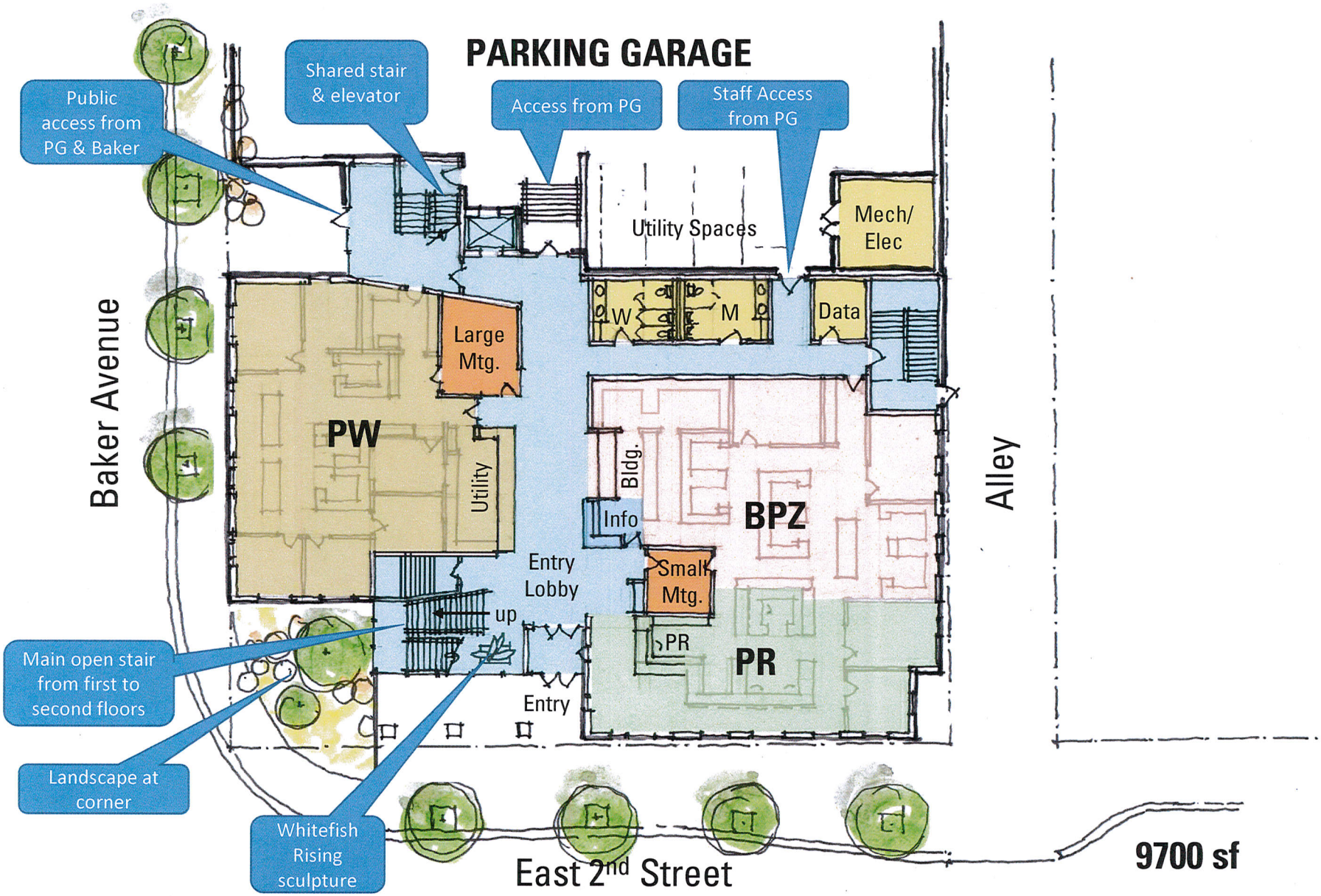


SCHEME 1 – Revised – Basic Organization

City Hall: Plan Organization

WHITEFISH **CITY HALL** AND **PARKING STRUCTURE**

mosaic architecture planning design

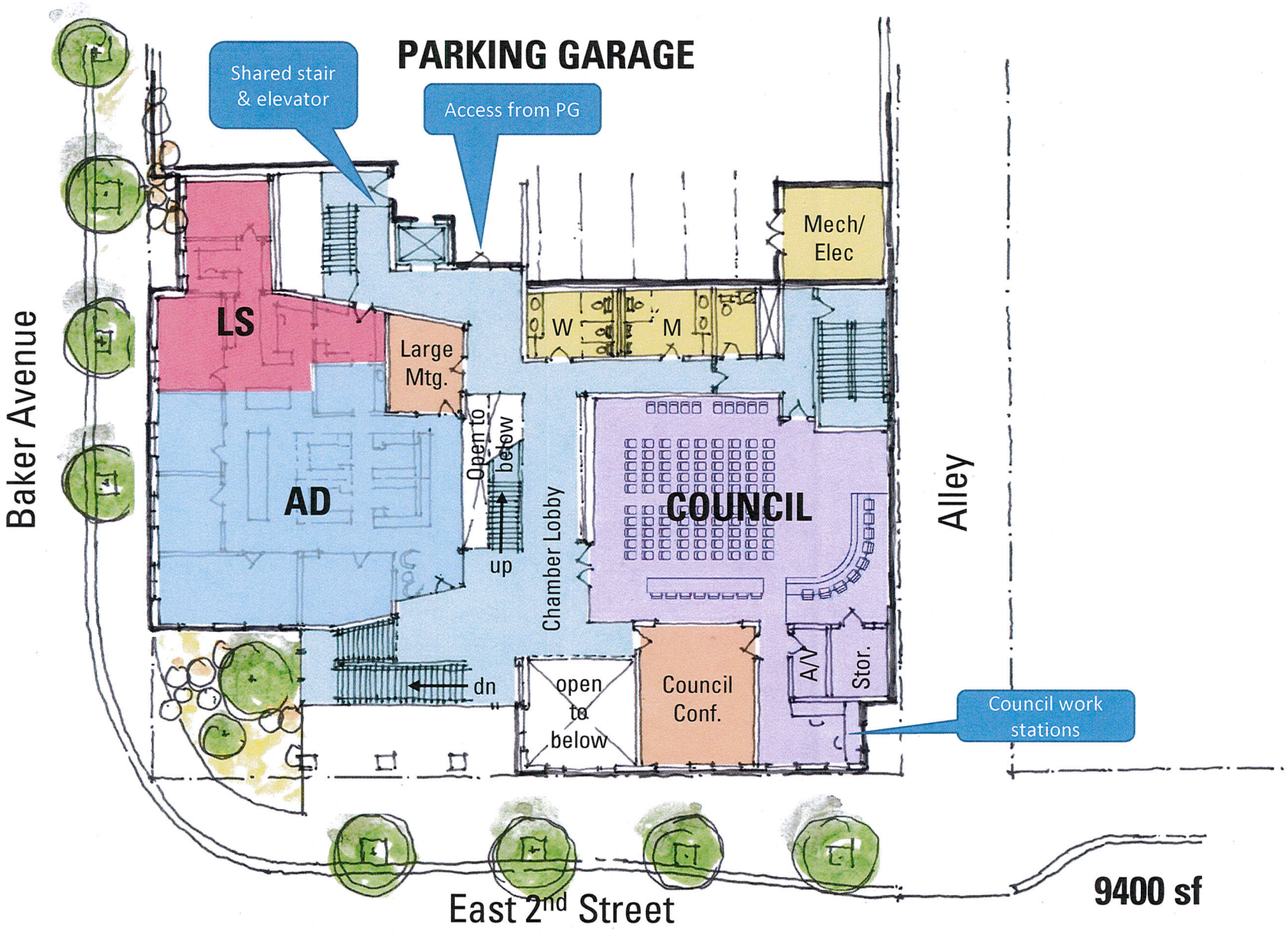


SCHEME 1 – Main Floor (south lobby)

City Hall: Plan Organization

WHITEFISH **CITY HALL** AND **PARKING STRUCTURE**

mosaic architecture planning design

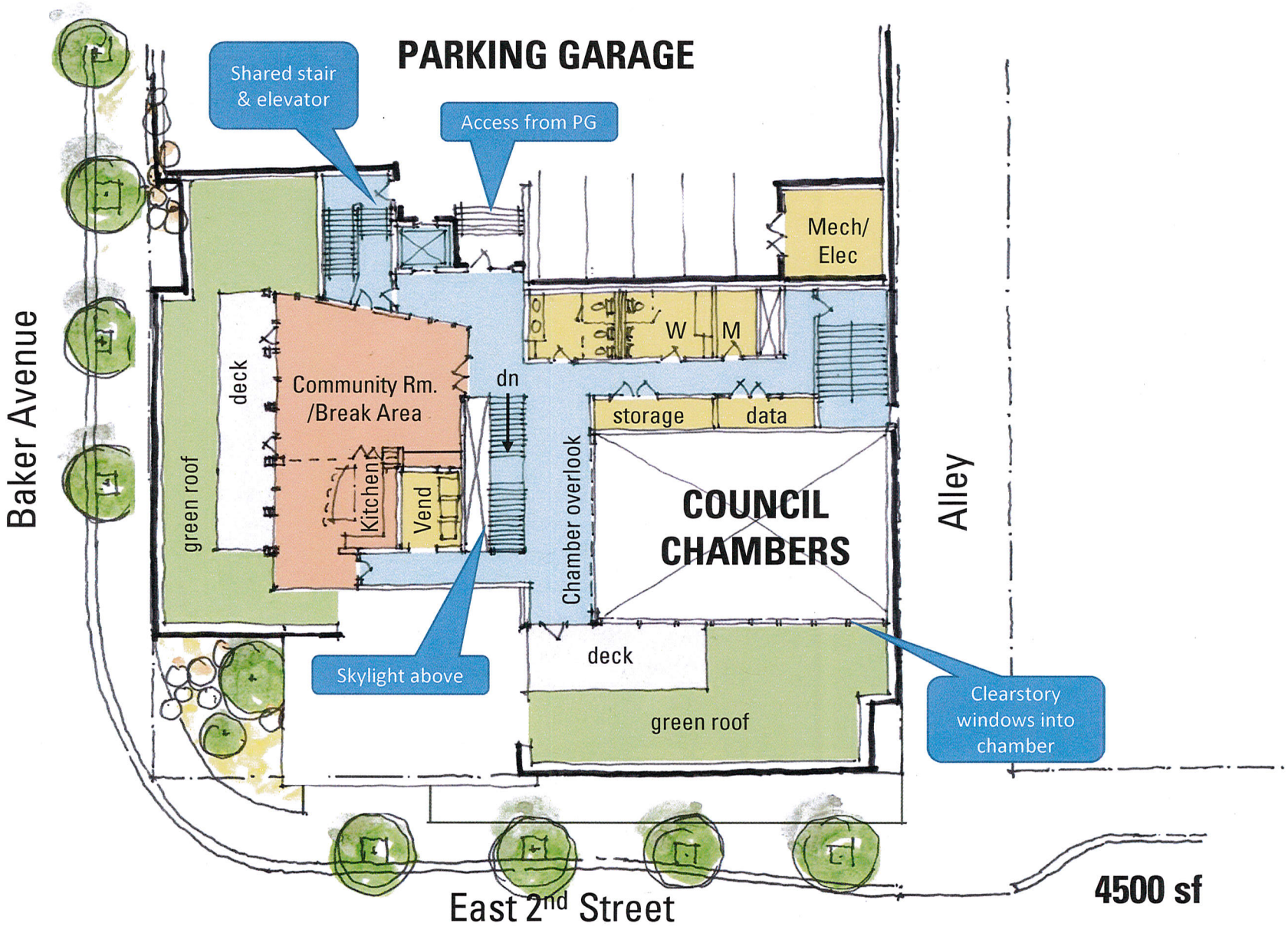


SCHEME 1 – 2nd Floor

City Hall: Plan Organization

WHITEFISH **CITY HALL** AND **PARKING STRUCTURE**

mosaic architecture planning design

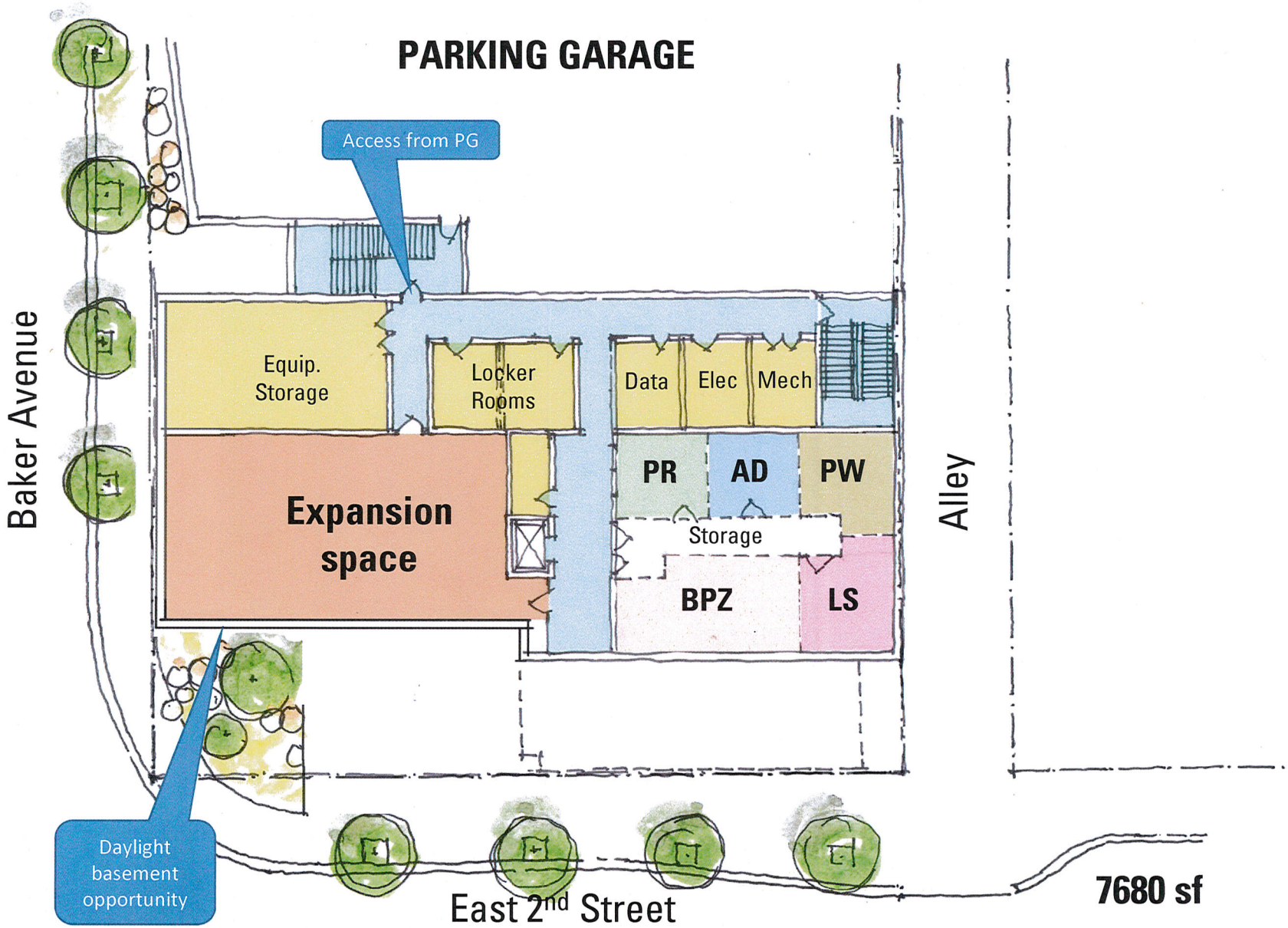


SCHEME 1 – 3rd Floor

City Hall: Plan Organization

WHITEFISH **CITY HALL** AND **PARKING STRUCTURE**

mosaic architecture planning design



SCHEME 1 - Basement

City Hall: Plan Organization

WHITEFISH **CITY HALL** AND **PARKING STRUCTURE**

mosaic architecture planning design

City of Whitefish

mosaic
architecture | planning | design

WHITEFISH CITY HALL AND DOWNTOWN PARKING STRUCTURE

PHASE 1 V1.2 - CONCEPT AND PROGRAMMING

September 26, 2014

MOSAIC ARCHITECTURE
406-449-2013
428 N. Last Chance Gulch | Helena, MT 59601
www.mosaicarch.com

September 26, 2014

RE: Whitefish City Hall & Parking Garage Program & Concept Design Submittal

Mr. Chuck Stearns and City Council:

Mosaic is proud to submit the following Programming & Concept Design submittal for the Whitefish City Hall and Parking Garage. After many departmental programming and goal setting meetings, the case study road trip, and the community wide concept design effort, we have documented for you, the numerous decisions and consensus direction for the project. We are all very excited about the direction as well as the working relationship of the entire project team. The planning has gone very smoothly thus far and we are quickly moving into the schematic design phase.

As suggested in the last Building Committee meeting, we have reached out to Crandall Arambula for a peer review of the design. This review occurred via an online 'gotomeeting' on September 12th. Review comments echoed those included in the Building Committee recommendation to the City Council to continue to explore the relationship of the building to the pedestrian sidewalk to create 'active edges along 2nd and Baker and to refine how the building addresses the street corner. It is our commitment that these refinements will continue as we move through the next phase of the design. We are confident that we will reach a final design solution of which Whitefish can be proud. The intent of this document is to define the scope and direction for the project. The design detail will come in the next phases.

Please review the enclosed document and comment as needed. We would appreciate written approval of this programming document in order to solidify the expectations and direction for the schematic design. If you have any further questions, please feel free to contact me. We look forward to working with you.

Sincerely,

Ben Tintinger, AIA
Mosaic Architecture

PROGRAMMING AND CONCEPTUAL DESIGN APPROVAL

Date of Approval: September 15, 2014

Project: **Whitefish City Hall and Downtown Parking Garage**
Location: **Baker Avenue and 2nd Street**, Whitefish, Montana
Owner: **City of Whitefish**
Architect: **Mosaic Architecture, P.C.**, 428 No. Last Chance Gulch, Helena, MT

Project Phase Submittal: Building Program and Concept Design

Based on the contract for 'Phase 1' of the architectural services designated in the 'Professional Architectural Services Agreement' between Mosaic Architecture and the City of Whitefish, the work performed has been reviewed and found to be complete. The conceptual design and program for the new Whitefish City Hall and Parking Garage are acceptable and consistent with the owner's and user's functional, spatial, and aesthetic needs and desires. Furthermore, the design intent appears to meet the project goals defined by the administration, staff and community of the City of Whitefish. The Date of Approval designated above shall establish the milestone beyond which major changes to the design will be considered additional work.

A list of items to be completed, corrected or further documented, prepared by the Owner and verified by the Architect, is attached hereto.

MOSAIC ARCHITECTURE
Architect

By: _____
Ben Tintinger, President Date

CITY OF WHITEFISH, MONTANA
Owner

By: _____
Charles C. Stearns, City Manager Date

WHITEFISH CITY HALL
AND DOWNTOWN PARKING STRUCTURE
PHASE 1 - CONCEPT AND PROGRAMMING

1. **Concept**
   - Concept Summary
   - Preferred City Hall Concept Scheme
   - Alternative Explored Concepts
   - Design Elements

2. **Goal Setting**
   - Summary
   - Survey and Priorities
   - Road Trip
   - Public Input & Design Charrette

3. **Building Program & Summary**
   - Departmental Summaries
   - Programmatic Breakdowns

4. **Parking Structure**
   - Summary of Concepts
   - Diagrams

5. **Mechanical/Electrical Systems Summary**

6. **Project Estimate Draft**

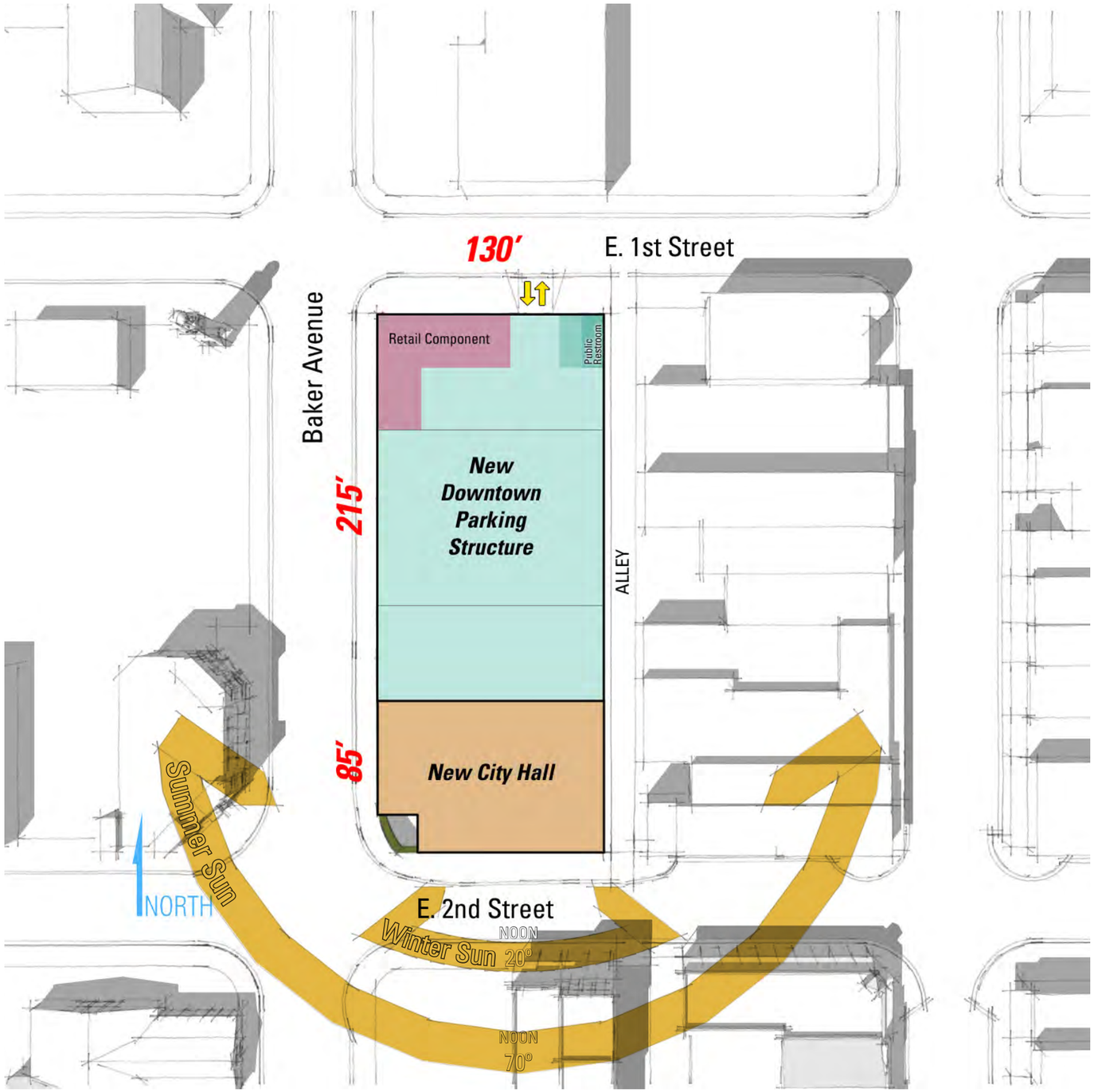
City of Whitefish

MOSAIC ARCHITECTURE
406-449-2013
428 N. Last Chance Gulch | Helena, MT 59601
www.mosaicarch.com

1. CONCEPT

The **CONCEPT DESIGN** for the new Whitefish City Hall and Downtown Parking Structure facilities is a collaborative culmination of the detailed program and site study, the project goals and the community wide design workshop. The following diagrams illustrate graphically the new building's relation to the site and surroundings, the connection with the new City parking structure, the **'big picture' view** of the City of Whitefish programmed departments along with the building level assignment for each WFCH group. The diagrams also hint at design ideas that will be further enhanced during the schematic design phase.

Additionally, each scheme was "tested" at this Phase with **preliminary plan layouts** that took the programmed spaces and applied the organizational layout. More study of how each department interconnects, is laid out, interconnected, separated, and organized will be continued and completed during the next Schematic, Design, and even Construction Phases to verify a good fit and functional layout.



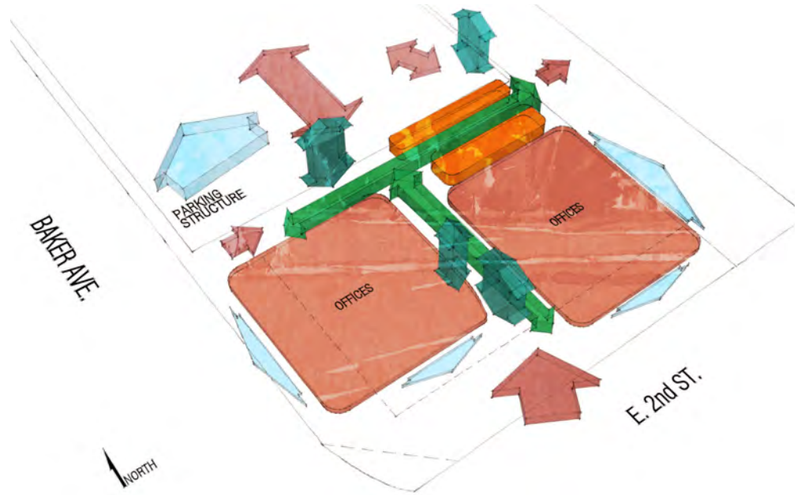
CONCEPT DESIGN

SITE LAYOUT

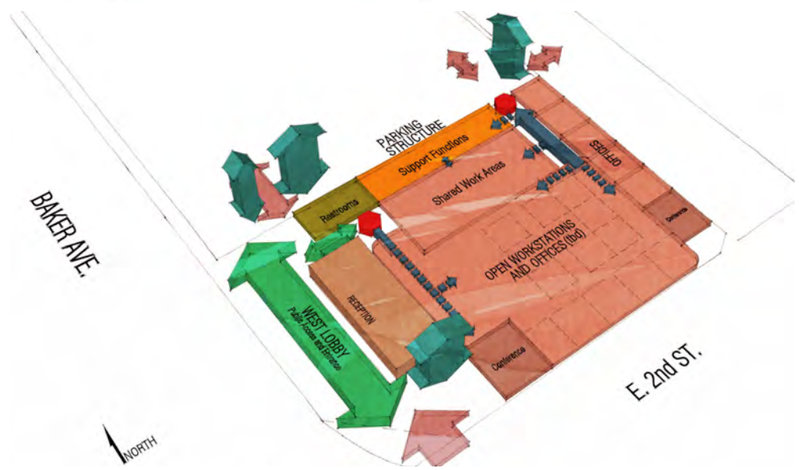
The intention of the design is to maximize the potential for achieving the project goals. At each stage of the design, the project team will evaluate decisions and solutions based on the goals and expectations defined by the project team. Many of the guiding project goals are shown in the diagrams. For example, the location of the entry was directly influenced by the project goals and community design input. To this end, the office building is oriented along 2nd Street to create a civic presence while providing a straightforward circulation path between the new parking garage to the north and the main entry the south. Views to and from the facility will enhance the facility's image and provide a comfortable workplace environment.

The parking structure is located on the north 2/3s of the site, fronting 1st avenue. Access and egress is provided at the north-east corner onto 1st. This is the only access as it was determined that access to or from Baker would be difficult during high traffic times and parking spaces would be sacrificed.

SCHEME 1 - ***PREFERRED SCHEME***
CENTRAL LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 2ND LEVEL



SCHEME 2
WESTERN LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 2ND LEVEL



SCHEME 3
CENTRAL LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 1ST LEVEL

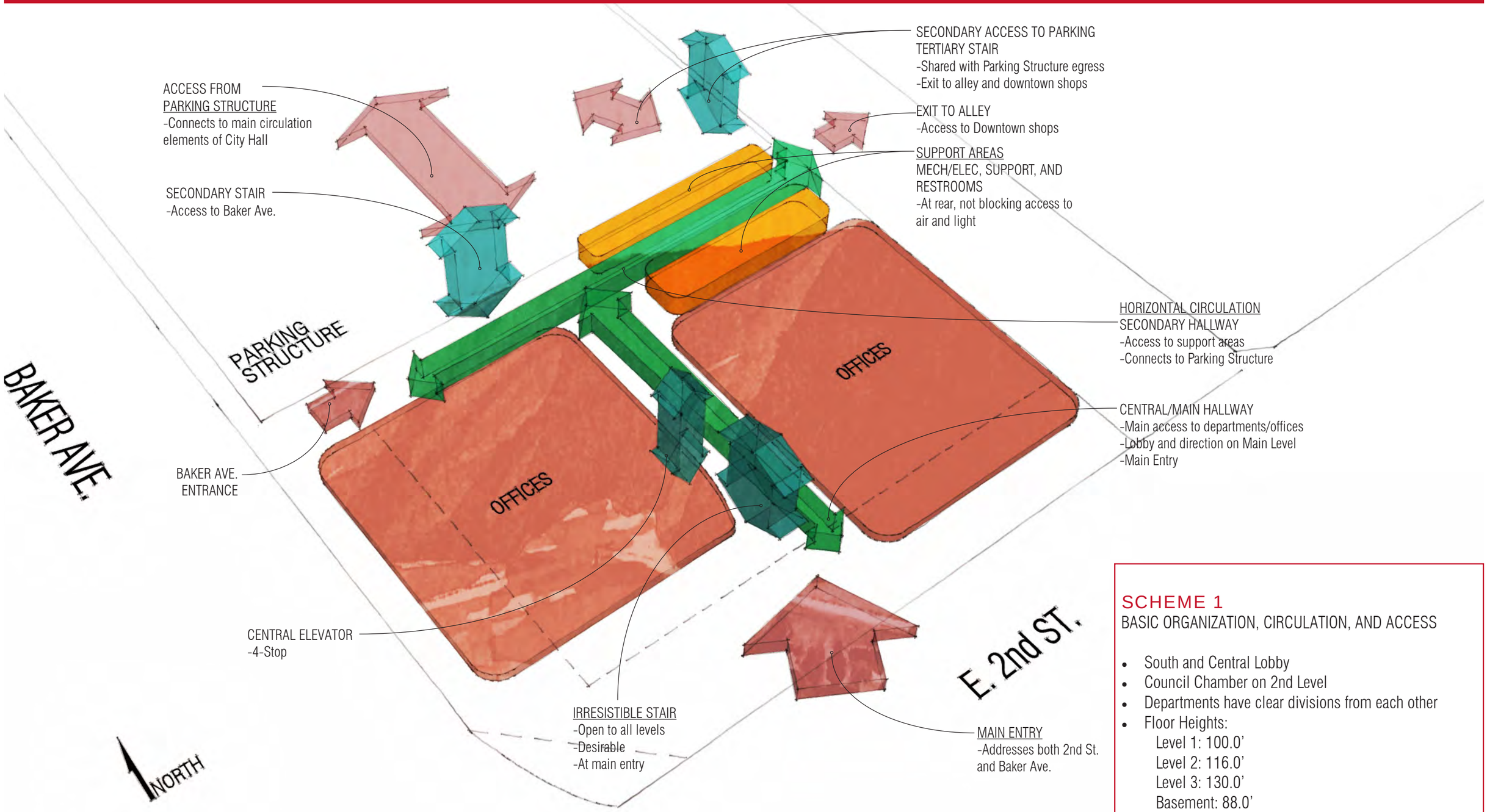
CONCEPT DESIGN
PLAN LAYOUT SCHEMES

After evaluating three different site/floor design schemes during and after the public design workshop, a building scheme (Scheme 1) was chosen by the Building Committee that fronts 2nd Street and provides a 'central' lobby through the building to the parking garage. The project team felt strongly that the main building entry should face the 2nd, provide a public connection to the garage, provide distinct areas for each department, and, most importantly, "create a welcoming, easy to use, image-setting entry/arrival".

The building form is essentially defined by two building blocks, both running north-south, connected by a lightwell and circulation path. The lightwell extends three stories, allowing daylight to penetrate deep into the structure and provide a sense of orientation inside the building. The lightwell plan axis connects the new parking structure to the building. While the main entry/lobby will get heavy daily use (based on the nature of WFCH department function and visitor use), the arrival from the parking structure will also provide a convenient entrance for public and staff. The secondary intent of the lightwell is to bring employees into a beautiful, social space each day before circulating to their work space.

SCHEME 1 - ***PREFERRED SCHEME***

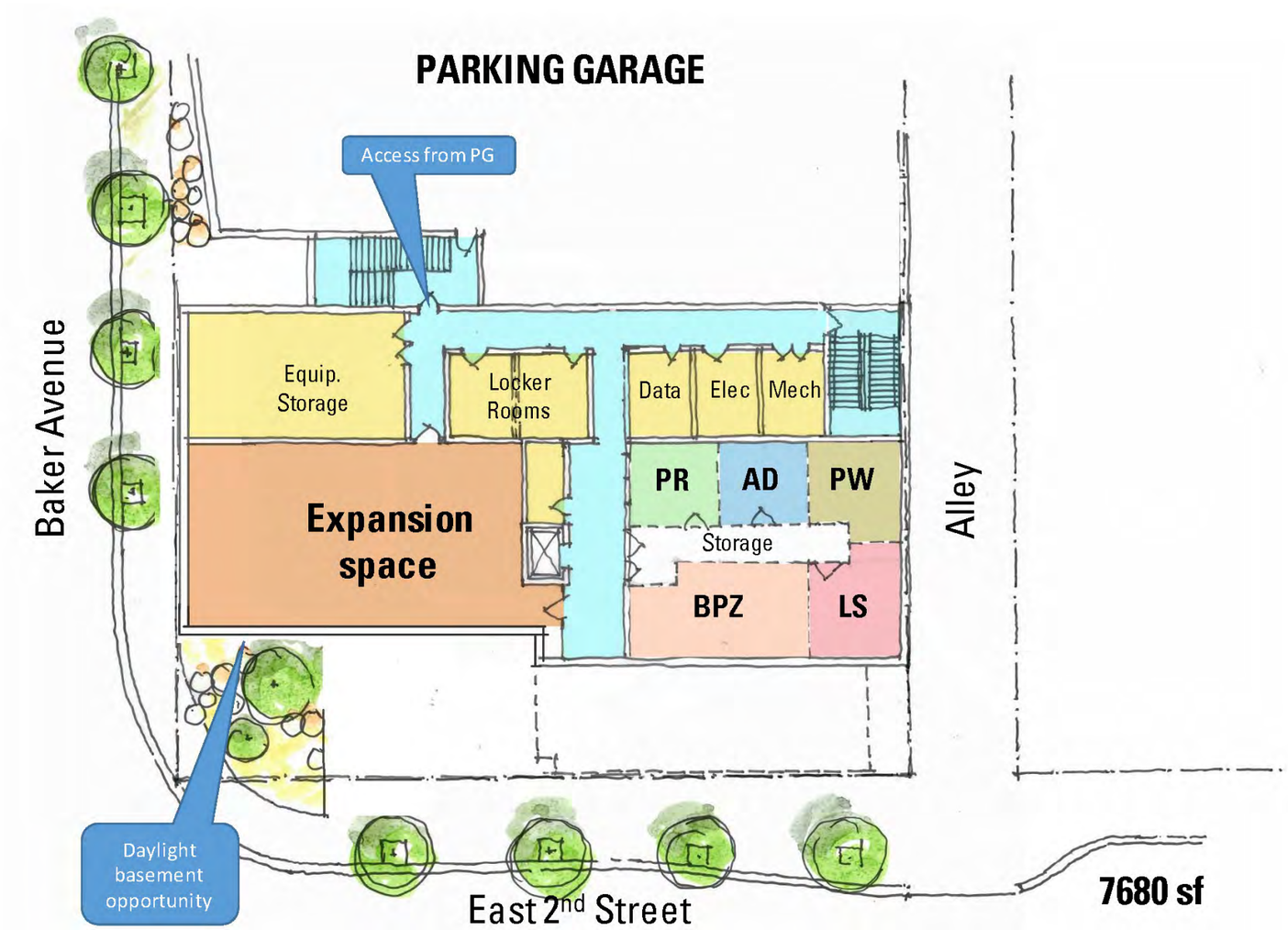
CENTRAL LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 2ND LEVEL



SCHEME 1

BASIC ORGANIZATION, CIRCULATION, AND ACCESS

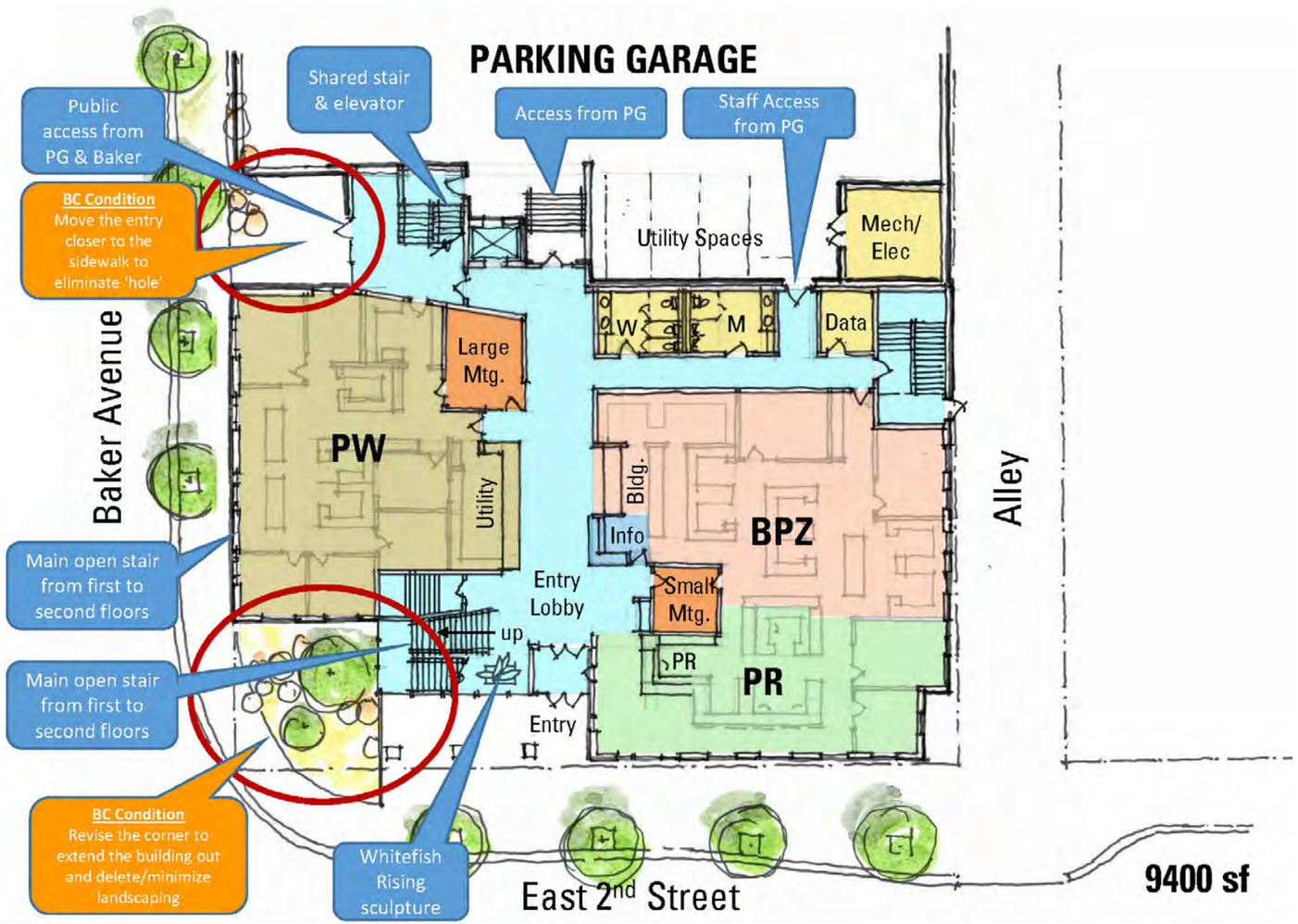
- South and Central Lobby
- Council Chamber on 2nd Level
- Departments have clear divisions from each other
- Floor Heights:
  - Level 1: 100.0'
  - Level 2: 116.0'
  - Level 3: 130.0'
  - Basement: 88.0'



Level 0 - Basement
The lowest level of the building is primarily storage and mechanical spaces where the floor is buried into the site and under the upper floors. But, the south-west corner of the west block could have high daylight windows creating the potential for future office space.

It was also discussed that a full basement may be desired (adding about 4,000 s.f. to the building program). If this is pursued, then lightwells along the southwest corner will be designed into the space. A full basement will maximize the flexibility of the floor and provide ample storage for the future.

Utility spaces located at the basement level will include mechanical/electrical rooms, bathroom/shower/locker space for staff, designated department archive storage, facility equipment/furniture storage, and potential for meeting and office space.

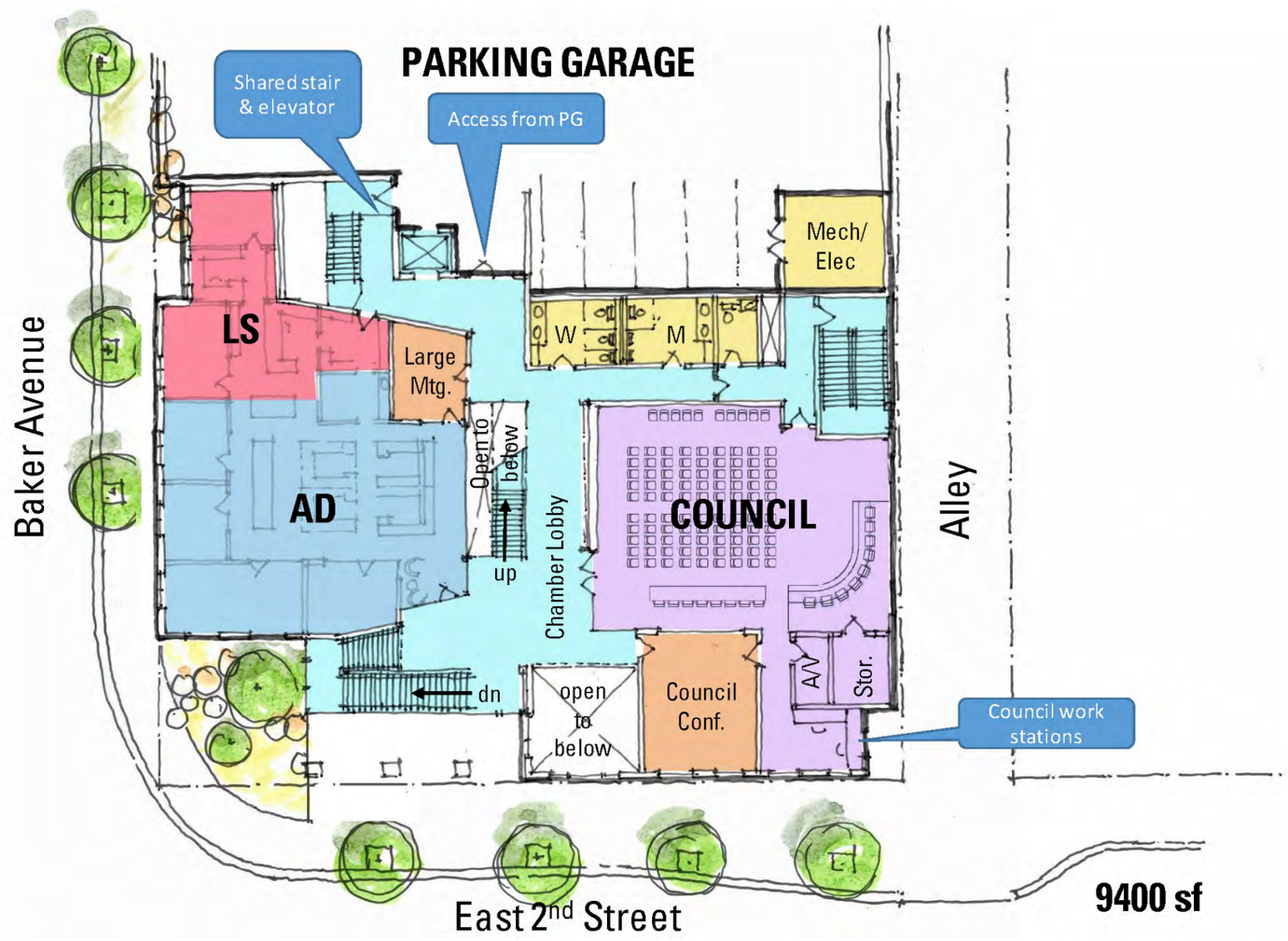


Level 1

The main level represents the mission of Whitefish City government. After much discussion of who should be where, it was determined that the first floor should serve the public in its daily operations. As such, the Parks & Rec, Building & Planning, and Public Works teams are located on this floor. The main entry and lobby from 2nd street will be designed to tell the story of Whitefish. A visitor should come away with an understanding of the history and vision of the City of Whitefish as well as the professionalism and partnership Whitefish has with the community.

Department identity is also forefront in the layout of places and spaces. With the project goal of providing daylight to all workspaces, core spaces such as elevators, bathrooms and mechanical spaces will be carefully placed in order to leave open, daylit, flexible office areas. Identity for each department occurs at the central lobby with reception and 'business' counters facing the lobby and open to the lightwell.

The main entry will be at grade with the street sidewalk at 2nd. The entry face will be pushed back from the property line somewhat in order to provide some gathering space outside the building as well as providing a more celebrated sense of entry. As discussed with the Building Committee on many occasions, there is a fine balance between zero lot line building development and the creation of civic outdoor space and landscaping. The concept floor plan strives to strike that balance, providing some landscape/setback at the south west corner (that meets MDoT's desire for view angles at this corner) and covered gathering space in front of the main entry.

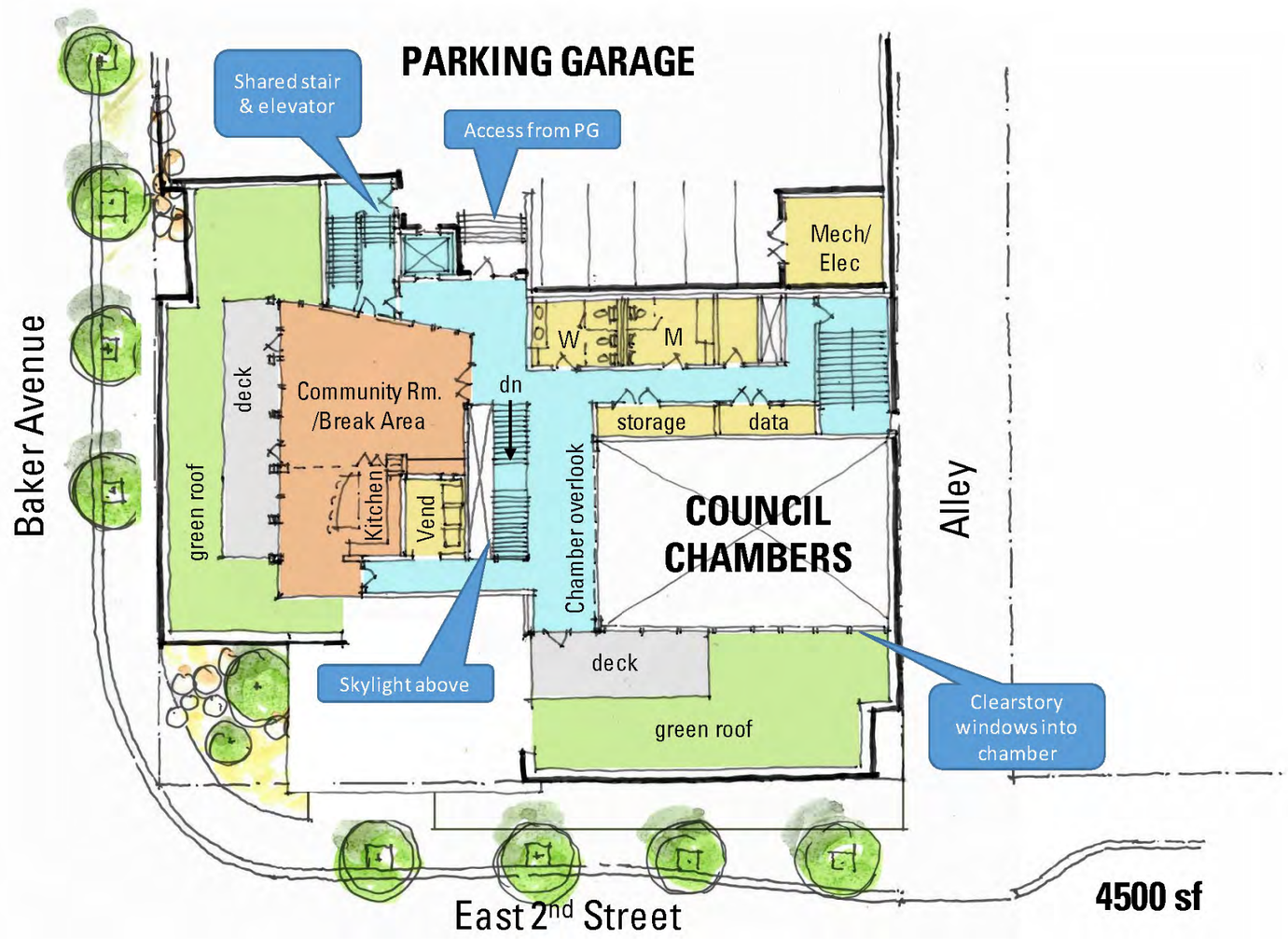


Level 2

As indicated earlier, discussions of operation, function and space desires revolved around the layout of the building levels and department space assignment, as well as the location of the Council Chambers. Because of the limited floor plate area defined by the site constraints and the garage to the north and the number of public visits and access required with City staff, it was determined that the Council Chamber would be located on the second floor. This would allow Parks & Rec, Building & Planning, and Public Works to be located on the main floor. These are the departments most frequently visited by the public.

The Council Chambers is easily accessed from the Main open stir from the first level as well as the elevator and Second level of the parking garage. The chambers will be front and center on the second floor with ample lobby/spillout space outside the chamber entry and adjacent to the lightwell. The SW corner of the chamber will visible from outside the building. The large council meeting room provides ample space for work sessions open to the public as well as access from the main circulation for use by staff during work hours.

The Administration and Legal Services are also located on this floor in the west block of the building. It is anticipated that the cash receipt function of the administration department will occur at the main floor information/reception desk. This is the first person that one comes to when entering the building from 2nd street.



Level 3

The third level provides space for the Community as well as staff break area. This level is substantially smaller than the other floors providing opportunity for roof top access and good views. The third floor overlooks the 2 story tall Council Chambers from the lightwell space. The third floor allows for other staff type spaces including a full kitchen connected to a large meeting room. These places will have roof access and will be an inviting, comfortable place to take a break or attend a community function.

Note: The third floor space is not required by the building program but is indicated as a desired space by the Building Committee and the community. This floor is approximately 4500 sf. And is access by the open stair as well as direct access off the third floor of the parking garage. The third floor does give the City Hall 'scale', especially when placed adjacent to the new parking garage.

SCHEME 2
WESTERN LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 2ND LEVEL

MAIN ACCESS TO
PARKING STRUCTURE
-Levels of Parking Structure align closely with levels of City Hall
-Connects to main north-south public circulation elements of City Hall

NORTH VERTICAL CIRC.
NORTH EXIT STAIR
-Access to Baker Ave.
-Secure, after-hours limited access to City Hall

ELEVATOR
-Shared, securable access to parking structure

SUPPORT AREAS
MECH/ELEC, SUPPORT, AND PUBLIC RESTROOMS
-At rear, not blocking access to air and light

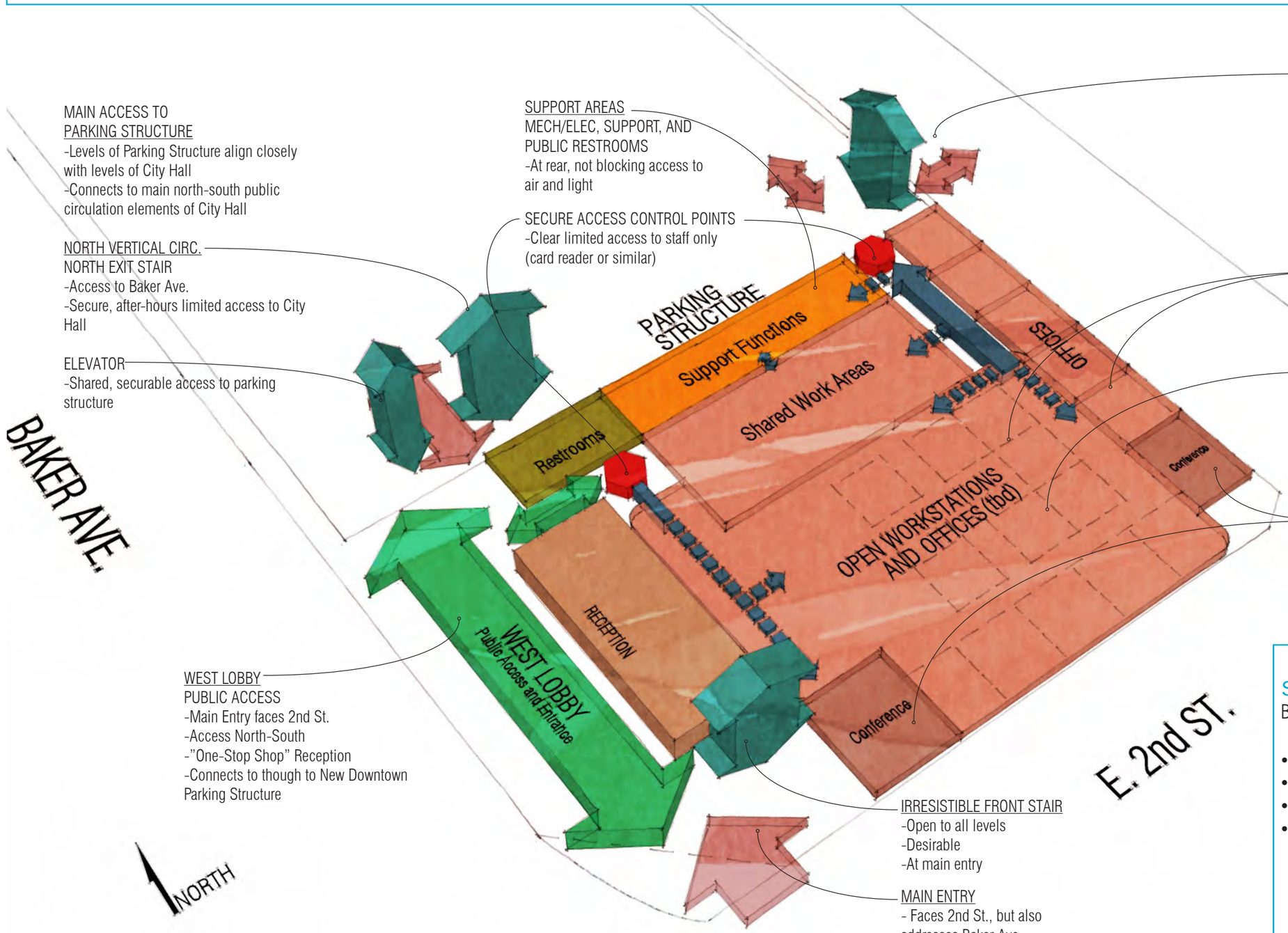
SECURE ACCESS CONTROL POINTS
-Clear limited access to staff only (card reader or similar)

SECONDARY ACCESS FROM PARKING
(STAFF ONLY)
EXIT STAIR
ACCESS FROM/TO ALLEY
-Supplies and Delivery Point
-Shredder Truck Access
-Access to Downtown shops

STAFF OFFICE AREAS
ENCLOSED OFFICES
-Allows flexibility to convert enclosed offices to a conference room, combine offices, etc.

VERSATILE OFFICE LAYOUT
-Large office floor plan allows for a versatile mix of enclosed offices and open workstations and flexibility as changes occur in the future.
-Department divisions tbd

SHARED CONFERENCE ROOMS



WEST LOBBY
PUBLIC ACCESS
-Main Entry faces 2nd St.
-Access North-South
-"One-Stop Shop" Reception
-Connects to though to New Downtown Parking Structure

IRRESISTIBLE FRONT STAIR
-Open to all levels
-Desirable
-At main entry

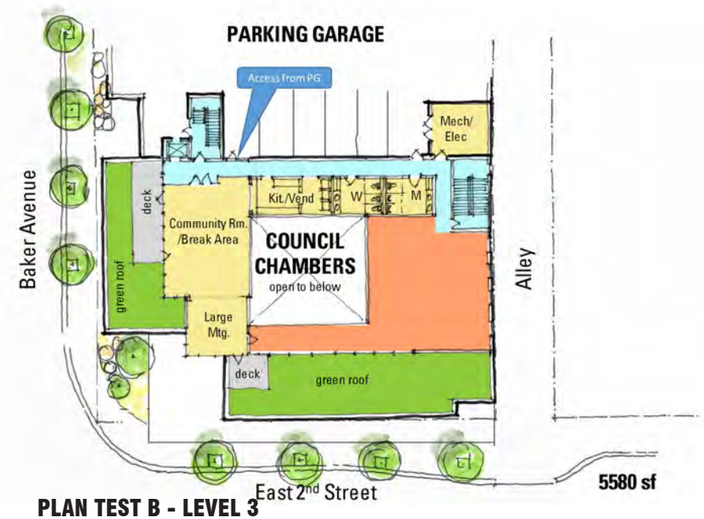
MAIN ENTRY
- Faces 2nd St., but also addresses Baker Ave.

SCHEME 2
BASIC ORGANIZATION, CIRCULATION, AND ACCESS

- Western Lobby
- Council Chamber on 2nd Level
- Departments largely integrated with one another
- Floor Heights:
  Level 1: 100.0'
  Level 2: 116.0'
  Level 3: 130.0'
  Basement: 88.0'

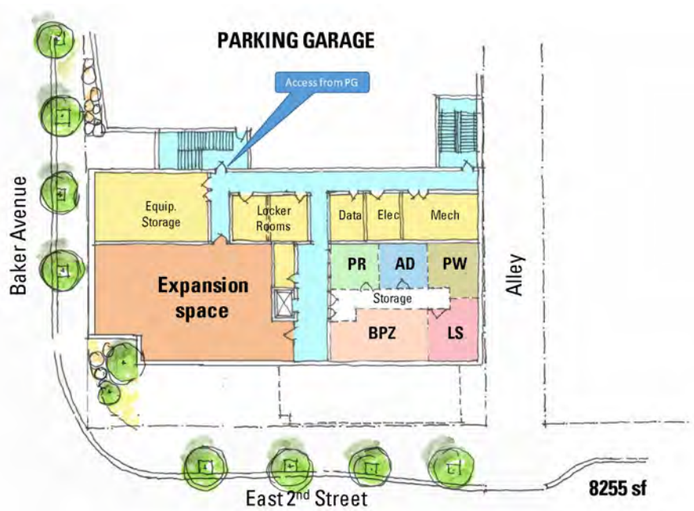
SCHEME 2
WESTERN LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 2ND LEVEL

PLAN TEST B - LEVEL 1

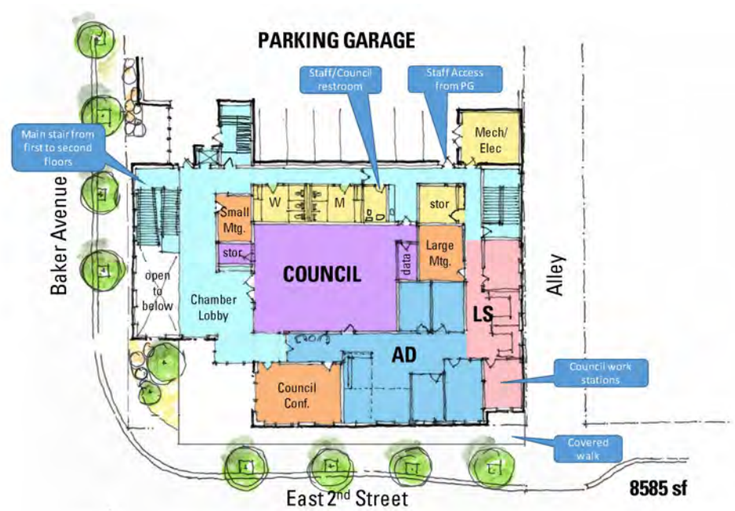


PLAN TEST B - LEVEL 3

PLAN TEST A - LEVEL 1



PLAN TEST B - BASEMENT LEVEL



PLAN TEST B - LEVEL 2

SCHEME 2
TEST LAYOUTS SHOWING POSSIBLE DIVISIONS OFFICE SPACES, WESTERN LOBBY

SCHEME 3
CENTRAL LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 1ST LEVEL

MAIN ACCESS TO
PARKING STRUCTURE
-Levels of Parking Structure align closely with levels of City Hall
-Connects to main north-south public circulation elements of City Hall
NORTH EGRESS STAIR
-Access to all levels
-Central access to Parking Structure, Shared
-Secure, after-hours limited access to City Hall

SECURE ACCESS CONTROL POINTS
-Clear limited access to staff only
(card reader or similar)

SUPPORT AREAS
MECH/ELEC, SUPPORT, AND
PUBLIC RESTROOMS
-At rear, reduced blocking of
access to air and light

STAFF OFFICE AREAS
OFFICES AND WORKSTATIONS
-Smaller areas allow clear
divisions of departments
-Mix of enclosed and open
workstations tbd per department

SHARABLE WORK AREAS AND
CONFERENCE ROOMS

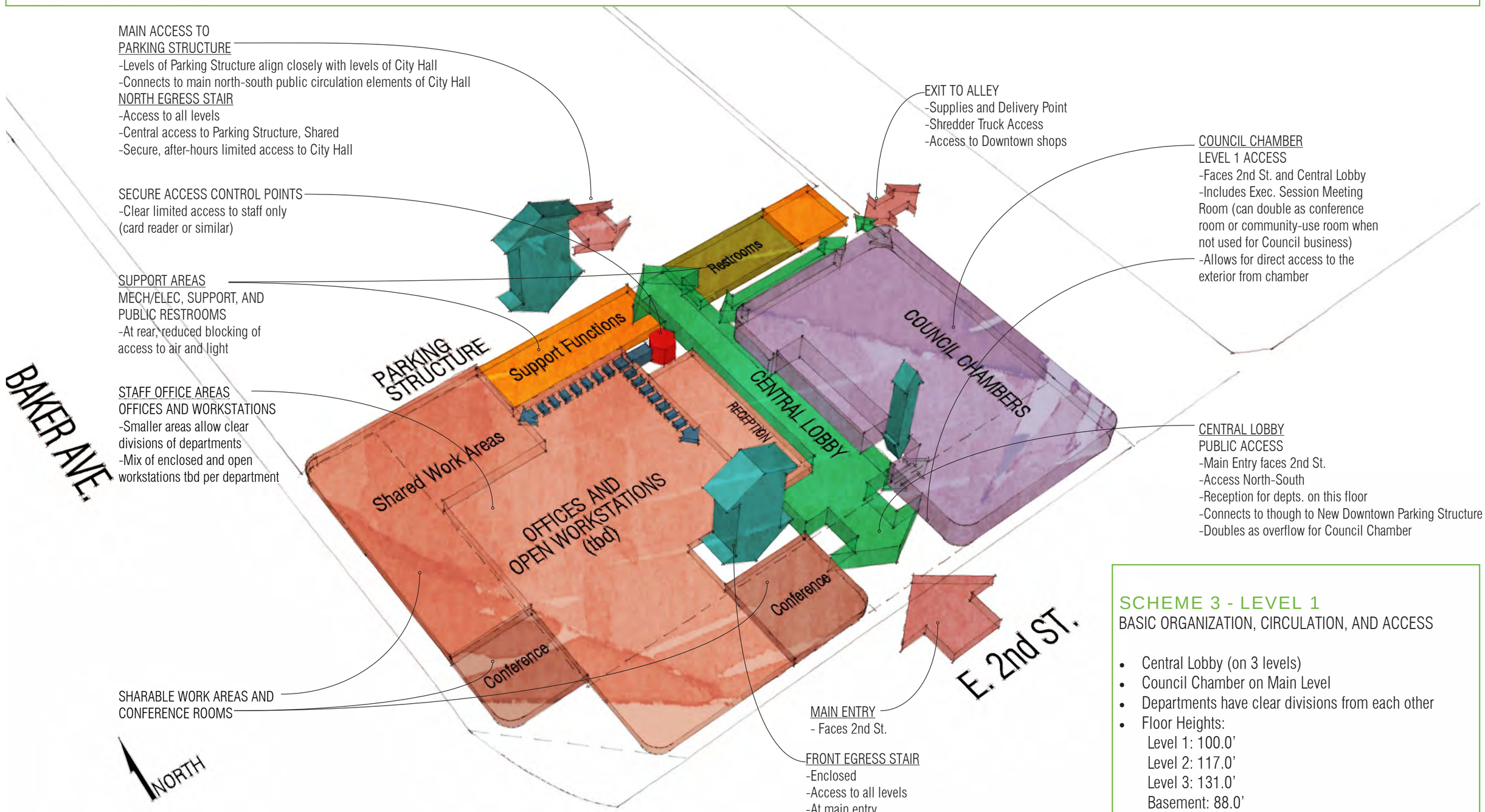
EXIT TO ALLEY
-Supplies and Delivery Point
-Shredder Truck Access
-Access to Downtown shops

COUNCIL CHAMBER
LEVEL 1 ACCESS
-Faces 2nd St. and Central Lobby
-Includes Exec. Session Meeting
Room (can double as conference
room or community-use room when
not used for Council business)
-Allows for direct access to the
exterior from chamber

CENTRAL LOBBY
PUBLIC ACCESS
-Main Entry faces 2nd St.
-Access North-South
-Reception for depts. on this floor
-Connects to though to New Downtown Parking Structure
-Doubles as overflow for Council Chamber

MAIN ENTRY
- Faces 2nd St.

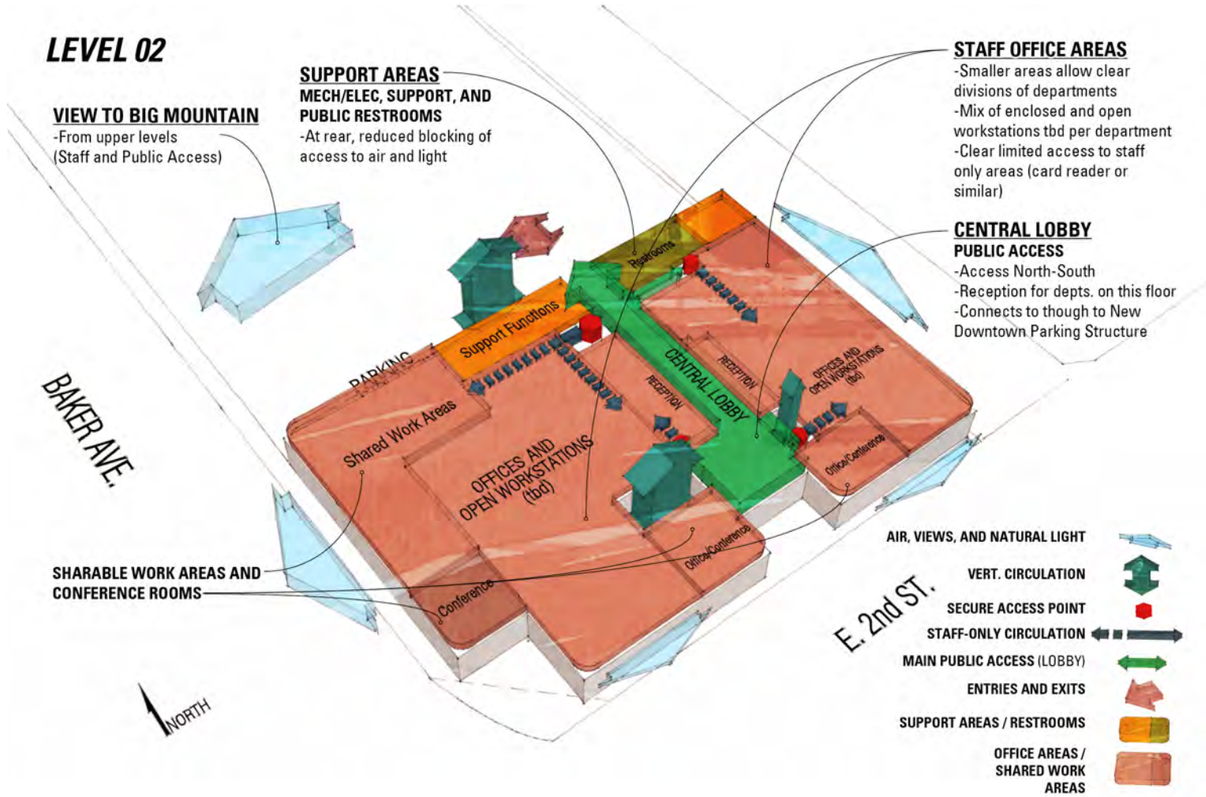
FRONT EGRESS STAIR
-Enclosed
-Access to all levels
-At main entry

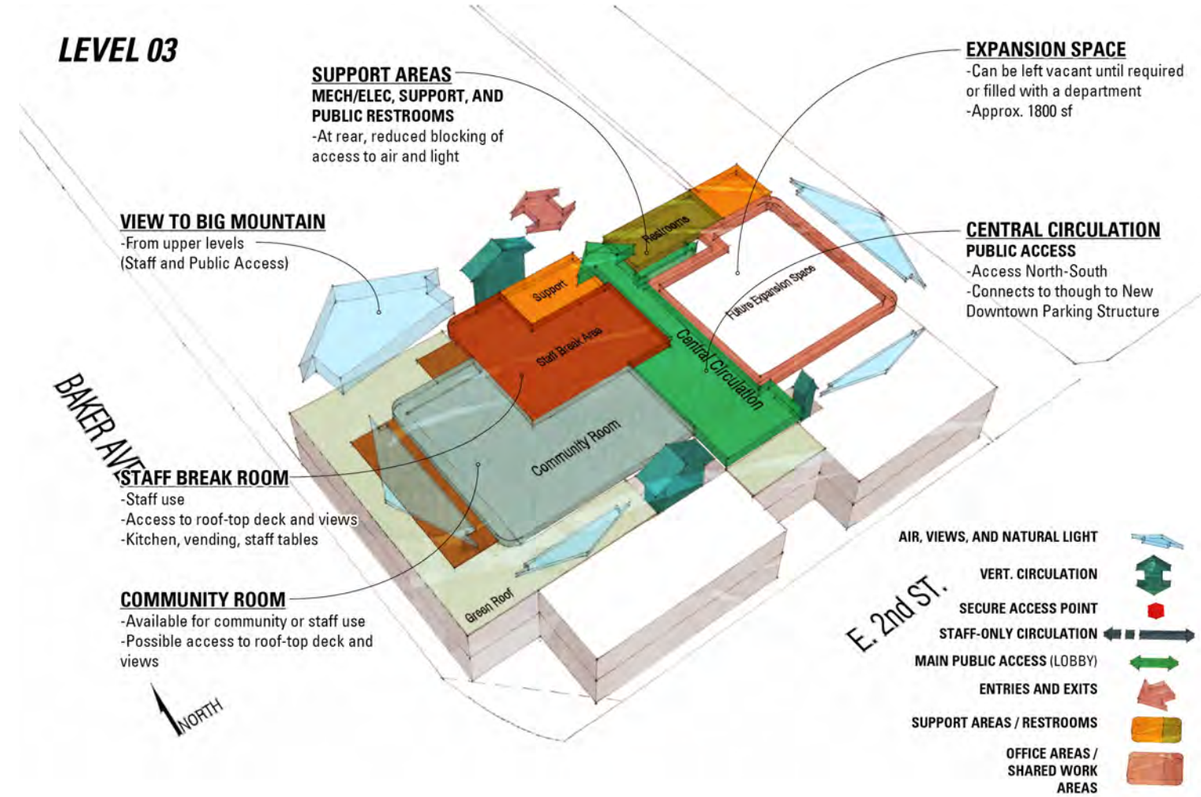


SCHEME 3 - LEVEL 1
BASIC ORGANIZATION, CIRCULATION, AND ACCESS

- Central Lobby (on 3 levels)
- Council Chamber on Main Level
- Departments have clear divisions from each other
- Floor Heights:
  Level 1: 100.0'
  Level 2: 117.0'
  Level 3: 131.0'
  Basement: 88.0'

SCHEME 3
CENTRAL LOBBY, SOUTH ENTRANCE
COUNCIL CHAMBER ON 1ST LEVEL





SCHEME 3 - LEVELS 2&3
BASIC ORGANIZATION, CIRCULATION, AND ACCESS

- Central Lobby (on 3 levels)
- Council Chamber on Main Level
- Departments have clear divisions from each other
- Floor Heights:
  Level 1: 100.0'
  Level 2: 117.0'
  Level 3: 131.0'
  Basement: 88.0'

BASEMENT LEVEL NOT SHOWN
6000-8000sf

SUSTAINABILITY

MOSAIC is committed to providing our clients with the **highest performance buildings,** an integral part of that commitment is the inclusion of **sustainable design principles** in our projects. Every project we undertake is marked by some **'Shade of Green'**. The building environment of the new Whitefish City Hall is an **opportunity to explore long term increased energy efficiency and materials solutions**. Using sustainable design principles, we can design buildings that are healthier **for people, improve productivity, lower energy and maintenance costs and reduce environmental degradation**.

Increase Energy Efficiency by:

- Proper Heating/Cooling system selection and design
- Improved insulation systems
- Better glazing systems
- Lighting design

Healthy Interior Spaces by:

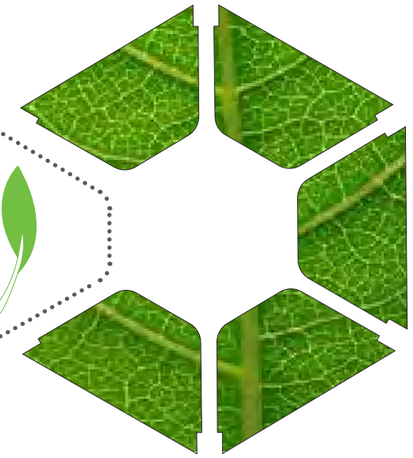
- Selection of benign materials
- Using non-toxic coatings
- Heat recovery ventilation

More enjoyable, more livable spaces by:

- Thoughtful design, utilizing space more efficiently and effectively
- Delivering diffused daylight to living spaces

Reduced resource utilization by:

- Selection of native materials
- Maximizing use of recycled and recyclable content materials
- Choosing low maintenance materials



Energy Efficiency:
Designing an energy efficient building has been established as a core design principle of the project team. Sustainable design leads to better productivity and healthier occupants, energy use savings, less waste, lower maintenance costs and more enjoyable interiors. The new building will be a leading example of sustainability for the City of Whitefish. The concept design was conceived with these goals in mind as well as the potential for pursuing LEED certification.

The new Whitefish City Hall faces the similar challenges to other forward thinking projects in Montana. What is the appropriate level of up-front cost that should be spent to save energy, maintenance and waste costs down the road? These are value judgments that we will make as a project team, but, the site offers ample opportunities. The south facing façade will present the possibility for capturing and using the sun in the building. Good day-lighting, well insulated and sealed wall systems, and low maintenance material selection will be at the top of the list in designing this project. In the end, we hope to succeed at providing a building that achieves a respectable and identifiable level of sustainability while remaining practical and cost effective.

DESIGN ELEMENTS

TAKE ADVANTAGE OF VIEWS WITH ROOF TOP COMMUNITY ROOM AND DECK AT THE THIRD LEVEL.

RECALL 10:00 P.M. SIREN AS A DESIGN ELEMENT ALONG WITH THE IRRESISTIBLE STAIR.

RESPECT HISTORIC QUALITIES AND CREATE A CIVIC SENSE OF ENTRY

INTEGRATION OF SIDEWALK AWNINGS WILL CONNECT WITH WHITEFISH IDENTITY

2. GOAL SETTING

For a collaborative process to succeed, all participants need to understand and support the primary project goals. The new City Hall and Downtown Parking Structure has a number of interested groups, and one group might have different priorities over other groups' interests.

Staff leaders participated in a **Programming Workshop** to identify current and 15-year projections of broad and specific departmental necessities and desires, preferred adjacencies, space requirements, and staffing.

Staff leaders and the building committee were invited to attend a **Goal Setting Workshop** to review the planning/programming process, review the identified spatial requirements, and identify goals and priorities on a number of categorized "sliding scales", from which a list of top project goals could be identified.

Representatives from the building committee, staff, and council joined Mosaic Architecture on a **Case-study Road Trip** and tour of recently completed similar-sized new city halls in the Seattle area, with the intention to hear from their users the successes and failures of each of those city halls; perhaps changing or expanding the expectations of the new Whitefish City Hall.

Finally, interested parties were invited to participate in a **Design Charrette/Studio.** Members of the public, and interested staff and building committee participants were again asked to identify project goals and diagrammatically layout the city hall and parking structure in small groups.

ARCHITECTURE & ENVIRONMENT

COMMENTS

The new CITY HALL should be the 'iconic pillar' of the community.

The new CITY HALL is a functional office building - aesthetics should take a second seat to function and cost.

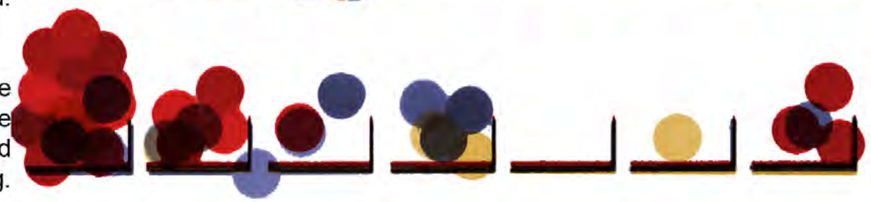
Celebrating the main entrance as the 'Front Door to Whitefish' is an important design feature.

While orientation to the entry is important, an austere facade and entry is more prudent and appropriate.

Maximize views out AND in to the building. Transparency physically and figuratively is desired.

Provide functional work space - too many windows cause distractions and cost.

The parking structure should be disguised as much as possible through architectural elements and landscaping.



A simple, cost effective parking structure is the primary goal.

Setbacks and outdoor spaces should provide ample landscaping and pedestrian use.

With zero lot line setbacks, the building footprint should be maximized, leaving little room for landscaping.

Brick and heavy timbers are the dominant exterior materials designed in a more traditional 'main street' design aesthetic.

Steel and glass are the dominant materials with a mix of wood and concrete in a contemporary, state-of-the-art structure.

- **Public**
  DESIGN WORKSHOP - July 29-31, 2014
- **Staff and Building Comm.**
  GOAL-SETTING - June 19-20, 2014
- **Pre-competition**
  WORKSHOP - Nov. 12-14, 2013

GAUGING COMMUNITY **VALUES**

CITY HALL **HISTORY / VISION**

The new CITY HALL Building should represent the historic vernacular of Whitefish.

The new CITY HALL Building should be cutting edge architecture, exploring new materials and style.

Whitefish is built on community values and the CITY HALL should embody those values through its architecture and function.

The changing demographic of Whitefish suggests that the architecture of CITY HALL should appeal to a world-wide audience.

The 10:00pm SIREN should not only be kept but should be an architectural element that represents a part of Whitefish history.

The 10:00pm SIREN should not be celebrated or used in the new building.

Celebrate the culture of Whitefish through a sense of permanence and stability in the architecture of CITY HALL.

The culture of Whitefish is represented through the many businesses in the heart of downtown. It's more important to keep cost down than establish CITY HALL permanent 'architecture'.

Create a sense of professionalism, quality, and image that promotes the partnership of City government and community.

Create a functional, good place to do business, but spare the extravagances of establishing image.

The new Whitefish CITY HALL should establish an architecture that indicates our historic point in time

The new Whitefish CITY HALL building should be timeless in its style and architecture.

COMMENTS

- **Public** — DESIGN WORKSHOP - July 29-31, 2014
- **Staff and Building Comm.** — GOAL-SETTING - June 19-20, 2014
- **Pre-competition** — WORKSHOP - Nov. 12-14, 2013

SUSTAINABILITY / COST BENEFIT

COMMENTS

CITY HALL should be the shining example of 'Green Building' in Whitefish (up to 10% premium Construction Cost).

Bottom line cost is more important than meeting 'Green Building' standards.

US Green Building Council LEED Certification is a priority for CITY HALL/Parking (Cost up to $100,000 for documentation and certification).

Recognition of sustainable efforts and LEED certification is not necessary for this project.

Natural daylight and views are a priority for the design of work spaces.

While daylighting is nice, it is not necessary if more windows drive up construction costs.

The architecture and indoor environment (temp, noise, smells, daylight, quality) significantly enhances work productivity.

Indoor environment has little impact on productivity. Function, cost, and space efficiency should drive design decisions.

Low maintenance and high quality materials is a priority, even at a higher cost. The buildings should require little maintenance and last 100 years.

Again, first cost of the project is a priority. While cost benefit of design decisions must be weighed, a major goal is to keep the cost down.

Using local/regionally made/harvested materials and workforce is a goal. The project should be of this place and built by this place.

Using the best materials and labor force at the most effective cost is the priority for this project.

- **Public** — DESIGN WORKSHOP - July 29-31, 2014
- **Staff and Building Comm.** — GOAL-SETTING - June 19-20, 2014
- **Pre-competition** — WORKSHOP - Nov. 12-14, 2013

COMMUNITY USE AND STAFF SUPPORT

COMMENTS

For security, cost, and control, CITY HALL is closed to the community after hours except for City functions.

The new CITY HALL has an opportunity to function as a 'Community Center' with multiple use by outside groups.

Community partnerships happen as needed but are not essential for the function of CITY HALL.

Community Partnerships are leveraged to the greatest extent possible in expanding the resources and use of the new facilities.

Personal and property safety through lighting, security cameras, door hardware control , and architectural design is essential.

While safety is important, special controls are not necessary in our small community.

Spaces inside and outside the facility should be dedicated to community use such as meetings, events, and recreation.

CITY HALL and the parking garage have specific uses and functions beyond those uses are not necessary.

Public access and orientation to City departments should be central and convenient.

Controlled access to staff by the public is paramount for safety, efficiency of work, and privacy.

Upper level space with views should be reserved as public space (i.e. council chambers) with views of Big Mountain and the surroundings.

Upper level spaces with views should be reserved for staff as employee break space. Public spaces should be easily accessed on the first floor.

- **Public** — DESIGN WORKSHOP - July 29-31, 2014
- **Staff and Building Comm.** — GOAL-SETTING - June 19-20, 2014
- **Pre-competition** — WORKSHOP - Nov. 12-14, 2013

ARCHITECTURE, MATERIALITY, AND ENVIRONMENT

Ordered by preference.

53% **8|||||||||**
Provide a balanced traditional/modern building which will fit in to the character of Whitefish and not look too "cutting edge".

40% **6||||||**
On the exterior, a mixture of materials [in addition to brick/masonry], including glass and timber, should be used appropriately to provide variety, but still provide a low-maintenance building.

33% **5|||||**
Large areas of glass should be used to provide an open, airy, and naturally lit interior space where possible, while still preventing glare to the office environment.

33% **5|||||**
Provide an iconic building which will "bookend" the city core of Whitefish with the new city hall and parking structure on one side and Central School on the other.

33% **5|||||**
On the exterior, the primary material of the new building should be brick masonry to exhibit strength, solidarity, longevity, and durability.

PREFERRED TOP GOALS
AND GUIDING PRINCIPLES

Provide top-level views to the spectacular landscape around the city, such as Big Mountain.

Provide human-scale canopies around it with the double-purpose of providing pedestrian protection from the elements and continuing the downtown Whitefish streetscape and image.

Provide variety by breaking-up large expanses of the façade with setbacks and/or separation of materials.

The interior environment should consist of low-maintenance materials, but still provide warmth (particularly with wood where appropriate).

On the north side of the parking structure (particularly the intersection of Baker Ave. and 1st Street), provide an active attraction for pedestrian visitors.

The flooring selected for City Hall should accommodate muddy boots, common with contractors coming in and out of the building.

Provide a balance of mixed zero-lot-line and setbacks from the street to allow for areas for conversation away from the noisy street.

Provide areas of greenery and plantings inside the building.

SECONDARY GOALS

Comments/Other Goals:

- This is going to be a challenge. The Arch Review Committee consistently sees super heavy beamed/giant rock projects that someone along the line decided was Whitefish, but that look is over-used and doesn't really speak to the town. I worry that in a few years it will be a very dated look. Historic photos of Whitefish show painted lap siding, but I don't think that would be appropriate either. There are only a few brick buildings in town, which I think really points to the lack of real money in town at the time the town was built – it all went to Kalispell, Whitefish was the working town. You notice that across MT – the towns that had a lot of money all have downtowns filled with brick buildings (Lewistown, Kalispell, Missoula, Butte, etc.). It will be fun to see what creative ideas you come up with!
- All materials used for the building, inside and out, should be well thought out as to the maintenance. There is no City facility maintenance department or person to handle a lot of maintenance issues.
- Any design must be able to meet the test of time.
- The recent trend in Whitefish has been to encourage large private and public buildings to be 'broken-up' – Safeway, Emergency Services. I think both of these efforts have failed and end up looking contrived. Thee city hall and parking structure should be designed as a single, iconic structure – Central School is a good example from a massive standpoint, that the city fabric can support a larger structure.
- As far as exterior spaces are concerned, I would be very cautious about bring too generous with courtyards and building setbacks. I think these will still be relatively 'hostile' pedestrian spaces – truck noise and climate – and on such a compressed site we should consider putting most of this space 'inside' in the form of an open and airy lobby/public space. I also am cautious about a large amount of roof deck space. City staff works 9-5 and then leaves, and the public has plenty of 'open air' alternatives elsewhere in the community. However a green roof element that can be viewed and enjoyed though windows on to workspaces, public spaces, or circulation might be an amenity.
- Having as many "active edges" as possible is critical to ped. success of this project.
- The interface between the garage and the building is really important as it will "open up" the garage. *possible light well opportunity.

WHITEFISH CITY HALL and DOWNTOWN PARKING STRUCTURE
Top Goals and Guiding Design Principles

In an effort to gauge and weigh priorities from the city staff, leaders, and citizens, the following goals were identified from goal-setting sessions held at City Hall with staff leaders, Building Committee, and technical staff. We heard a number of ideas and goals for the city hall and parking structure: some minute, some massive; some tangible, some intangible. These goals have been ranked according to preferences.

Top goals are in bold; however, the remaining goals are still valid and efforts to achieve them should still be pursued.

HISTORY AND VISION

Ordered by preference.

67% **10|||||||||||**
Celebrate the history of Whitefish, incorporating a display of historic data/images in some way, perhaps in the lobby or main corridor.

47% **7|||||||**
Feature sustainable elements to provide an example of environmental stewardship to the community.

40% **6||||||**
Include a mix of traditional and contemporary design elements.

33% **5|||||**
Celebrate the natural beauty of Whitefish.

PREFERRED TOP GOALS
AND GUIDING PRINCIPLES

Include and feature the siren in the design of the new city hall.

Reflect the "story" of Whitefish by careful selection of appropriately historic building materials (particularly timber and brick).

Reuse and feature the existing soft-brick of the current existing city hall in an appropriate and interesting way.

Incorporate elements of interest and tourism into the building.

Incorporate and integrate the banners of Whitefish (city, state, and American flags) into the design of the new city hall.

Incorporate holiday decorations and creative year-round lighting into the city hall and parking structure.

SECONDARY GOALS

Comments/Other Goals:

- Not all residents like the siren. I know it's not a popular view, but it can be pretty distracting during meetings when everything has to stop for several minutes while we wait for it to stop. If it stays, maybe it could be 'sound-proofed' in some fashion so our meetings don't have to stop. I've observed some members of the public act irritated with it – especially if they are the ones providing public comments. Also, that sound is used in other cities/towns across the country to provide a community-wide warning – such as for tsunamis – and so they find the sound terrifying.
- I would not draw literally from history.
- Celebrate the history of Whitefish, incorporating a display of historic data/images in some way, perhaps in the lobby or main corridor. (Along Baker Ave walk)
- I don't really have strong feelings about this section. I do think the material should be primarily brick – similar to you comp. entry. I appreciated how the massing of you design tipped its hat to the old building w/ the arch. And the mix of vertical, punched openings and curtain walls. I am cautious about your use of the diagonal and the "flying" entry canopy. I think these elements risk being "portfolio" gestures and can compromise the long-term integrity of a timeless design.
- As for using local iconography in the lobby I think this can work, but I would first want you to focus on a timeless design from a form & material standpoint – photos, displays, or mural should be thought of evolving over time.
- The public/tourists should want to enter this building because of a great lobby environments. For me that is one of the primary reasons to keep it in the downtown, urban context – despite higher $. Some form of tourism info/kiosk/imagery would fit well with this.

SUSTAINABILITY ELEMENTS/BENEFIT

Ordered by preference.

67% **10|||||||||||**
Incorporate sustainable elements where appropriate and consider the long-term cost benefits of items which may come at a premium initially.

53% **8||||||||**
Incorporate naturally-lit interiors into the city hall for its users.

40% **6||||||**
Provide the means to allow fresh air to be available within the building.

33% **5|||||**
Reduce energy costs by carefully selecting efficient elements.

PREFERRED TOP GOALS
AND GUIDING PRINCIPLES

Select recycled and sustainable building materials to set an example of stewardship for the City.

Incorporate convenient and accessible recycling stations, for both staff and public use.

Investigate and use photo-voltaics and solar-energy systems where appropriate.

Provide easily accessible and straightforward control of artificial lighting in the building, while still allowing for automation to conserve energy when natural light is available and sufficient.

Select minimally off-gassing materials, to provide for a healthier interior environment.

Incorporate user-level sustainable elements where possible, such as bottle-fill stations at drinking fountains.

Investigate and incorporate the use of rain-water run-off from the building.

SECONDARY GOALS

Comments/Other Goals:

- We should be a showcase of sustainability and "green" design.
- Natural lighting is one of the most impt. Design elements for me. Any way you can "bridge' the connection between the garage & city hall using natural light would be great. I think this could help both parts of the project feel less like they have a back side.

STAFF/COMMUNITY USE

Ordered by preference.

47% **7|||||||**
Provide and integrate a clear plan layout and flow of departments which, with the addition of well-defined signage/wayfinding, give visitors an unencumbered understanding of where they need to go.

47% **7|||||||**
Provide dedicated staff-only restrooms separate from public restrooms.

40% **6||||||**
Provide for the public easy and accessible access to the city hall, but still provide secure and controlled limits to private staff-only areas during business hours.

33% **5|||||**
Provide a safe, secure, and accessible "grandma-friendly" environment in the parking structure for visitors to the city hall and downtown.

27% **5|||||**
Provide a very accessible and welcoming front entry for the public.

27% **4||||**
Provide meeting rooms which are available for staff and city business first, and community activities second when available.

PREFERRED TOP GOALS
AND GUIDING PRINCIPLES

Provide automated or remote security options to allow for community access to "flex" spaces after hours, while still limiting public access to secure staff-only areas.

Allow views to the surrounding landscape from upper-level meeting areas.

Provide roof-top exterior space for staff use, with the option to allow community use as well.

Provide flexible workspace for future reconfiguration and expansion of departments.

Provide a dedicated staff-only break area, which will be unencumbered by public or private meetings in an adjacent room.

Provide for staff a mix of areas consisting of both open and closed offices, appropriate for each department's users.

Provide spaces available for community use within the new city hall, potentially available after business hours.

Provide a dedicated area for bulletins regarding city business and public information.

SECONDARY GOALS

Comments/Other Goals:

- Almost all of these goals are very important. Hard to select just top three. Many more of these goals should be easily achievable.
- One other matter we didn't discuss was the possibility of a locker room/shower for staff. I worked at a newly constructed city hall in a previous job (Lacey, WA – population approx. 40,000). They were going to have a large staff lunch room, but realized that it was a waste of space and for the same cost, they could have a smaller break room with a built-in bar with stools around the long-narrow room (still had a fridge, microwave, nice views, etc.) and put in two showers/locker rooms in each of the staff bathrooms. This encouraged staff to workout during their lunch hours and/or commute to work via bikes. It was a win-win for staff. I think you would find that most people, with the exception of front counter folks, eat lunch at their desks and a large spacious breakroom isn't really needed. Conference rooms can be used for staff potlucks and other staff gatherings.
- The safe/secure parking environment should be a given.
- The lobby needs to be thought of as the whole "backbone" between 2nd St. and the garage. I think this will be a challenge like they have at Bainbridge.
- Creating an "active" lobby will have a positive effect on the mood of the space. Whitefish departments have a lot of visitors, so I think it would be great to position those interface points between citizen/customer & staff in a prominent location. Bainbridge had the most positive "feel" for me because it felt like things were happening in the space.
- The connection between the garage & the city hall will be really important to the success of the garage.
- I am really cautious about spending $ on an accessible rooftop deck. As I mentioned before, staff mostly works 9-5 and it doesn't seem like the public will be "hanging out" – they have Casey's for that.

July 24-25 - SCHEDULE

LEARNING FROM OTHERS: 2 DAYS, 4 CITY HALLS, THOUSANDS OF IDEAS.

Questions and comments to:

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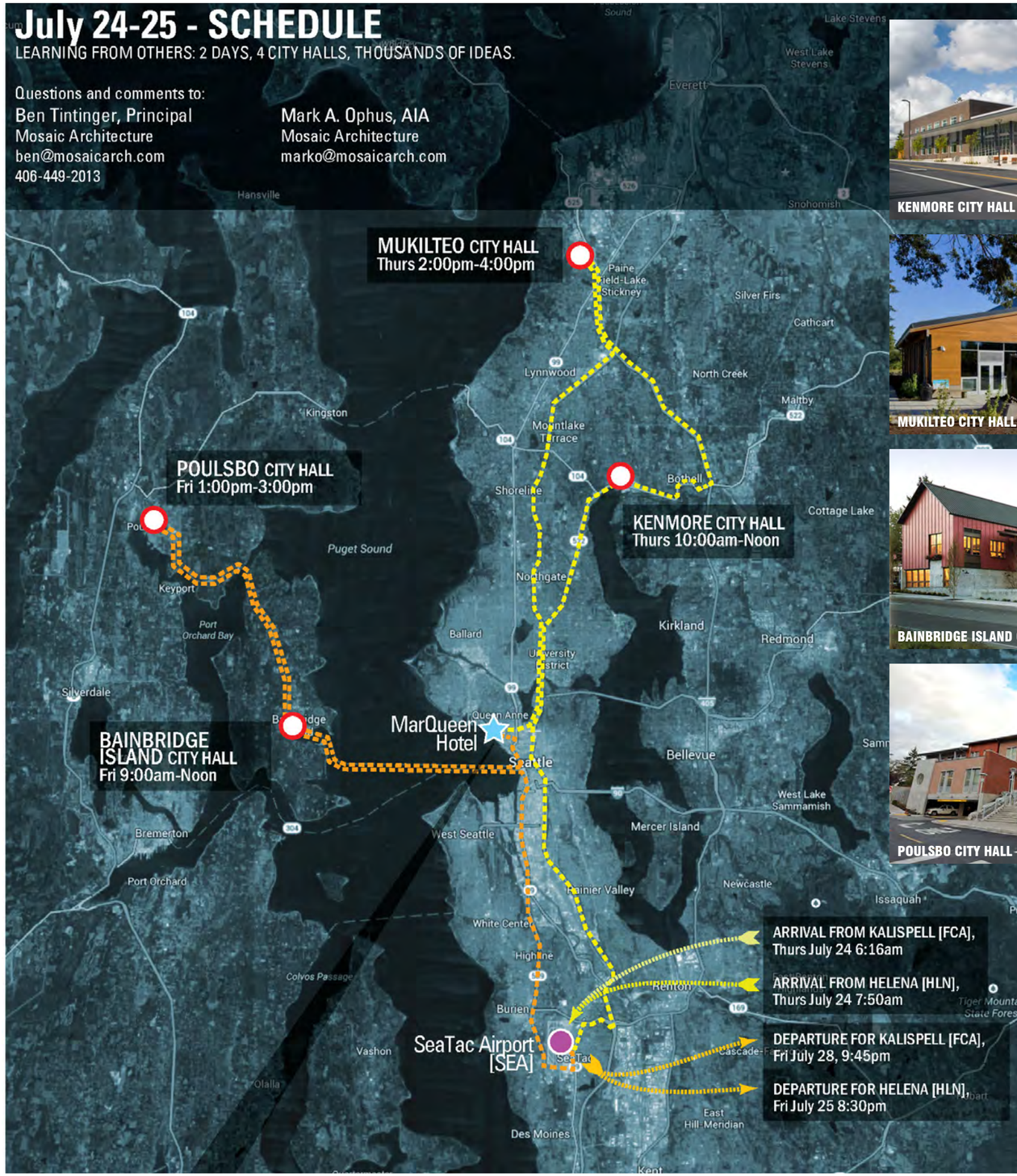
marko@mosaicarch.com



KENMORE CITY HALL

MUKILTEO CITY HALL

BAINBRIDGE ISLAND CITY HALL

POULSBO CITY HALL

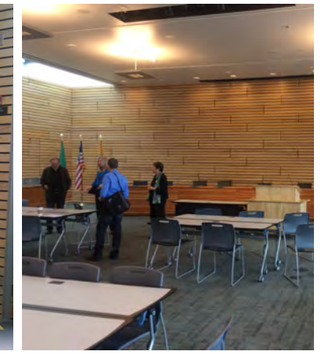
CASE STUDY ROAD TRIP
Similar recently built city halls, Seattle Area

Representatives from the building committee, staff, and council joined Mosaic Architecture on a Case-study Road Trip and tour of recently completed similar-sized new city halls in the Seattle area at Kenmore, Mukilteo, Bainbridge Island, and Poulsbo, with the intention to hear from their users the successes and failures of each of those city halls; perhaps changing or expanding the expectations of a new Whitefish City Hall.

None of the civic buildings visited matched exactly the conditions or programmatic requirements that have been identified at the City of Whitefish; however, there were a number of elements and features from each city hall that could be recognized as applicable and/or desirable in a new City Hall. Some were centered in their downtowns, others were removed from their city's core; all were two stories; all had a main level council chamber, accessible from the main entry and lobby or directly from the exterior; some had integrated structured parking on site along with the city hall. All of them had successes and failures.

COUNCIL CHAMBER

- Located on main level directly off of lobby.
- Dais level with audience, noted as too wide and open.
- Very flexible chambers space with attached Exec. Session Meeting Room and council work area.
- Clear private entrance and exit for council, separate from the public if desired.
- Movable wall in chamber space allowed division of large space into two smaller rooms.
- Opens directly on to exterior patio.
- Chamber space available to be used by community groups (even a wedding reception).



KENMORE CITY HALL

The Kenmore City Hall was a really good example of a well sited and very functional City Hall. For the most part, the materials and finishes were appropriate and creative without being over done. Finishes in the public spaces were more refined than the staff offices areas but overall the worry of exceeding the budget led to a fairly austere but well detailed finish.

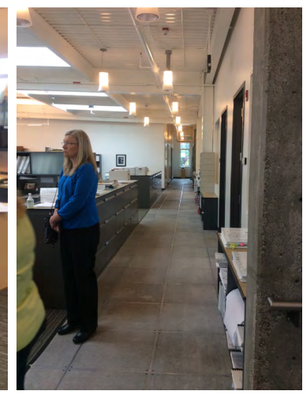
LEED GOLD
Size: 21,000sf City Hall, 16,000sf Parking Structure
Completed: 2010
Architect: Weinstein A+U, www.weinsteinau.com

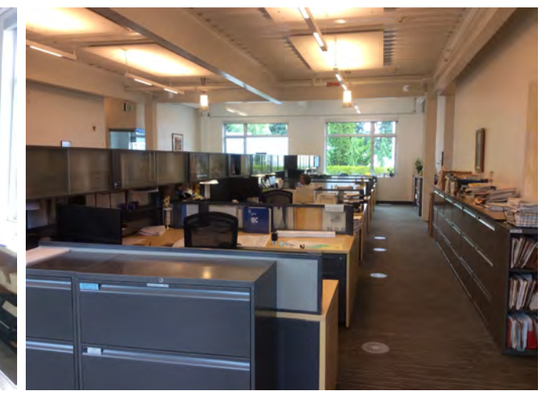
ENTRY/RECEPTION/LOBBY

- Doors from northside street and south parking area enter into the same lobby space.
- Generous exterior entry and landscaping.
- Features a "one stop shop" at the front reception counter. Very large and wide counter space. Reception/public area separated from staff areas by transparent glass wall.
- Staff generally meet with public at the counter or in lobby meeting room.
- Lobby is reportedly noisy with a lot of visitors.
- Securable single-access door from public area (lobby) into staff areas.
- Meeting Room included in lobby space, very convenient.

STAFF WORKSPACES

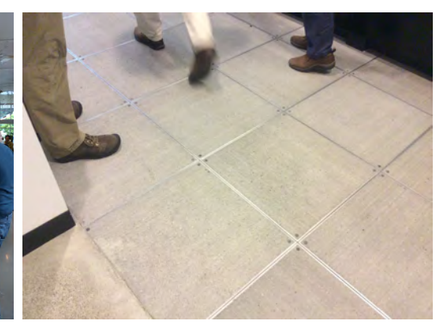
- Staff areas are a mix of open and closed offices.
- Generously sized open workstations
- All workstations have a lines-of-sight to an exterior window. Skylights at interior.
- No physical departmental divisions in open workstations, promotes interdepartmental communication and collaboration.
- Offices are 'right' sized. Generous offices. City Manager office is approx 300 sf but used to be a conference room. Manager moved to that space to be closer to the public.
- Clear and straightforward division between public and staff-only areas.





DESIGN FEATURES/MATERIALITY

- Raised access floor throughout the office areas. Access panels left exposed in circulation areas as the finished floor.
- Design considerations for small functional spaces like a hidden coat rack/equipment area for field staff
- Underground staff, fleet, and public parking area, surface parking.
- Well designed site with storm drainage collection/ retention system.
- The building was design the easily expand office areas to the north.



COUNCIL CHAMBER

- Located on Main Level
- Dais one step up.
- Seating for approx. 60 or so, and a bench for overflow.
- Council chambers is accessible from the lobby and available to community groups.
- Adjacent to street, council meetings are be visible from the exterior and street. Glare from vehicles problematic.
- High ceilings.
- Noticeably loud HVAC system.
- Presentation screen not convenient for council viewing.

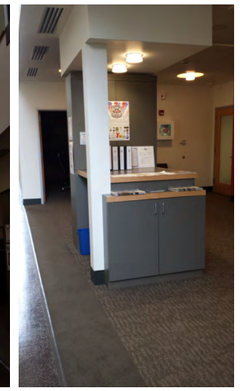
MUKILTEO CITY HALL

The Mukilteo City Hall was built on a site selected as a compromise between downtown and the edge of town. The first impression from the grass parking areas and pervious concrete drive aisles was that the project would be purposely designed with sustainability in mind. Although, after touring, the building and site were not nearly as refined in detail and functional as the Kenmore City Hall.

LEED GOLD
Size: 19,000sf
Completed: 2008
Architect: Arc Architects, www.arcarchitects.com

ENTRY/RECEPTION/LOBBY

- 2-story entry and lobby.
- Exterior landscaping and entry court.
- Reception desk one side, council chambers on the other.
- Entry hall/lobby felt relatively cramped and narrowed uncomfortably toward its end.
- Reception desk is one stop shop for all departments.
- 2nd level reception desk not staffed and often neglected.
- Staff areas are secured from the public by key-card access at both levels.

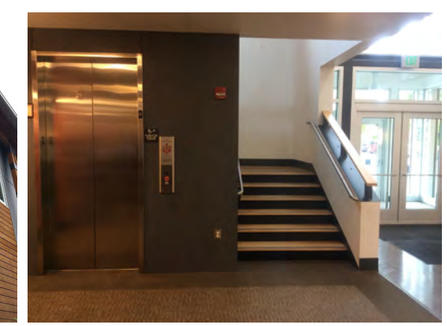


STAFF WORKSPACES

- Staff areas are a mix of open and closed offices.
- Office layout matches rigid division of departments.
- Small conference rooms unsuccessful.
- Main level depts: Planning, Engineering, Permits, Cashier/Information
- Upper level depts: Admin/Exec., Public Works
- Open workstations have a lines-of-sight to an exterior window.
- Work areas and copy rooms reportedly tight.
- Overflow expansion space on second floor became storage.
- Staff mudroom and shower area, accessible from parking area

DESIGN FEATURES/MATERIALITY

- Greenroof - sloped and inaccessible, not visible from the interior of the building.
- Mid-quality finishes at staff areas
- Concrete floor at lobby
- Wood acoustic paneling at council chamber
- Pervious concrete parking lot.



COUNCIL CHAMBER

- Located on Main Level directly off of lobby and public parking.
- Dais one step up, noted as most functional by WF councilmembers in attendance.
- Meeting room for staff adjacent.
- Theatre lighting reportedly never used.
- Council chambers is divisible at the lobby from the remainder of the city hall and available to community groups.

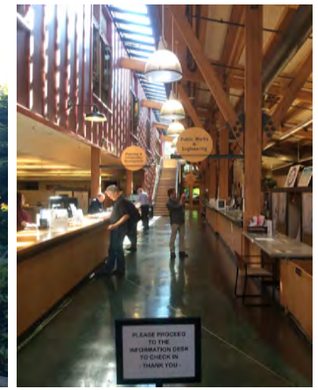
BAINBRIDGE ISLAND CITY HALL

Bainbridge City Hall is impressive in its arrival, siting, and entry, although the two entry places from the street and the parking area make it difficult to control the public flow. The attention to detailing, daylight in the public areas and the signage make the architecture of the building fun, energetic and inviting. The architecture 'fits' the context of Bainbridge very well. The material use and windows/skylights bring the outside in and the exterior patio spaces bring the inside out. For the most part the building is very functional, but with a few quirks or shortages compromise a complete success.

2000 AIA/COTE National Top Ten Green Project
Size: 24,000sf
Completed: 2000
Architect: Miller | Hull Partnership, www.millerhull.com

ENTRY/RECEPTION/LOBBY

- Exterior landscaping and entry court.
- 2-story entry and long circulation lobby. Double-sided reception desks for depts.
- Clear signage indicating depts.
- Info/cash payment desk hidden and inconvenient from major streetside entrance.
- Tall lobby space with continuous skylight allowed for fantastic natural light throughout the lobby and interior office space.
- Meeting space immediately off of lobby reportedly awkward and ill-designed, could be useful if enclosed and table redesigned.

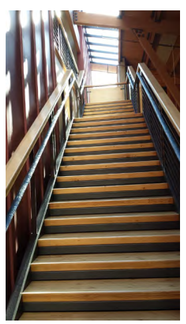


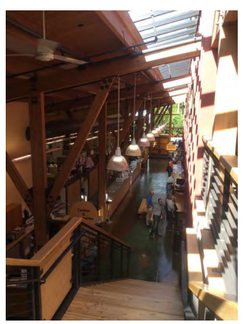
STAFF WORKSPACES

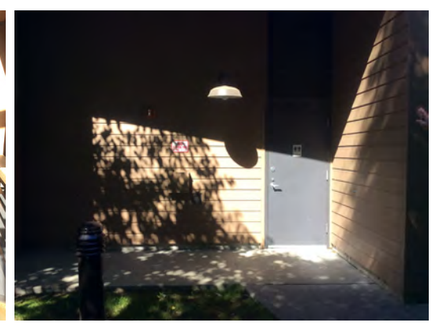
- Departments organized directly behind reception -> open workstation -> enclosed offices.
- PW & Engineering, Planning & Development, and Council Chambers on main level. Administration, Finance, and Legal Services on upper level.
- Shared work areas and meeting spaces interspersed with open workstation areas.
- Reported deficiency of enclosed meeting spaces.
- Storage needs inadequate at Planning, Building, and Public Works depts; files stacked everywhere, likely due to administrative policy.
- High ceilings and open feeling, without overly noisy environment.
- Kitchenettes at staff areas.

DESIGN FEATURES/MATERIALITY

- Public restroom accessible from the exterior.
- Self-help / meeting area off of lobby unsuccessful and not often used.
- Community activities regularly happen on the grounds.
- Benches at exterior paths along the building.
- Generous landscaped entryways.
- Exterior seating outside of council chamber
- Inviting open stair from lobby to upper level functions.

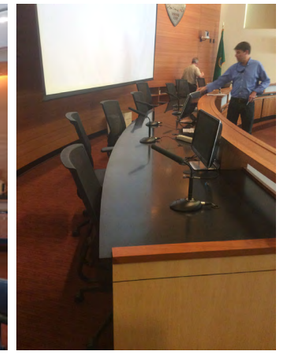
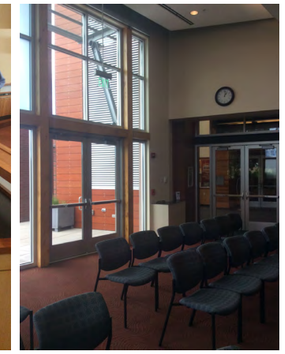






COUNCIL CHAMBER

- Located on Main Level directly off of lobby.
- Dais one step up from audience floor.
- Executive Session Conference Room adjacent, but not acoustically private.
- Seating for 60-70 people
- AV closet and kitchenette integrated at head of space.
- Remote operated shades.
- Council chambers is accessed from the lobby and exterior and available to community groups, when not in use for city or council business.

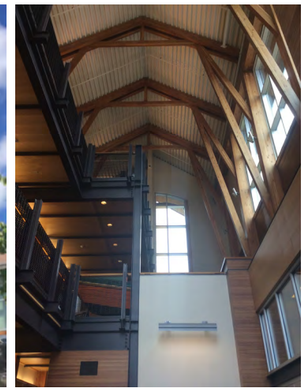
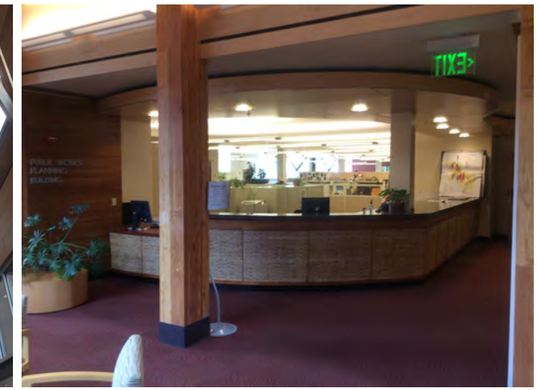
POULSBO CITY HALL

The Poulsbo City Hall is located adjacent to the downtown area. 3 levels. Approx. 30,000sf (overbuilt space need by 40%). Council Chamber off of main level lobby. Referred to as the "people's building" with the intention to provide public service and amenities. After a lengthy and bitter fight regarding its location, design, and financing, the mayor finally pushed forward the city hall at its current location after a design was nearly complete for a different site. The design process completely started over after the dust was settled on the site location. Completely financed by a loan, requiring a debt service of $1m per year.

Size: 30,000sf
Completed: 2010
Architect: Lewis Architects, www.lewisarchitects.com

ENTRY/RECEPTION/LOBBY

- Large 3-story height space.
- No front welcoming reception (no staff), very uninviting.
- Signage only directing to departments from lower level to upper level depts.
- Secondary entry at second level from rear of building, convenient for visitors to Building Dept.
- Large reception desks at individual depts, upper levels.
- Large historical display (fishing boat in 2nd level lobby).

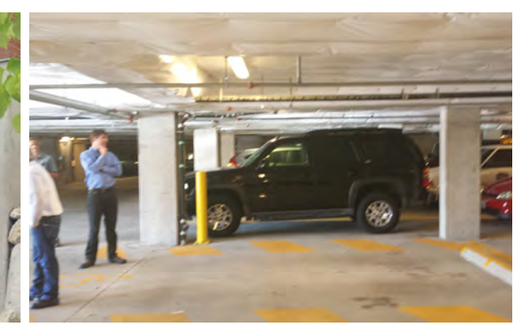



STAFF WORKSPACES

- Departments organized directly behind dedicated reception areas-> open workstations -> enclosed offices at rear.
- Significant open and vacant spaces (due to excessive overbuilding beyond current space needs).
- Only city hall with dedicated work station for council members.
- Workstation areas have lines-of-sight to windows.
- Police dept. moved in after completion, not originally planned; required security retrofit.
- Large windows to exterior.
- Generous work/copy rooms
- Kitchenettes near staff areas.

DESIGN FEATURES/MATERIALITY

- Overly generous and landscaped entryway.
- Extraneous and extravagant use of materials at exterior and interior.
- Open stair from lobby to upper level functions.
- 70+ parking spaces under part of first level.
- Staff and police-only second-level structured parking.



NEW WHITEFISH CITY HALL and PARKING STRUCTURE

PUBLIC WELCOME DESIGN SESSION

YOUR INPUT IS NEEDED!

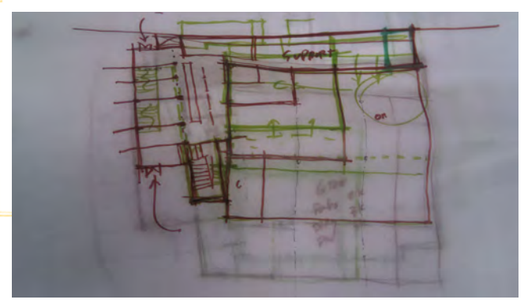
10-20 minutes of your time will assist in defining the future design of the **new city hall.**

WHEN: TUESDAY, JULY 29 - **PUBLIC DESIGN CHARRETTE**
7:00pm - 9:00pm (immediately following the Farmers' Market)

IF YOU CAN'T MAKE THAT, drop-in anytime on
Wed July 30 - Thurs July 31, 9:00am-5:00pm

WHERE: City Council Chambers, City Hall
402 East 2nd Street (2nd and Baker)

Please join **Mosaic Architecture** in a community design charrette for the **new Whitefish City Hall** and Downtown Parking Structure.

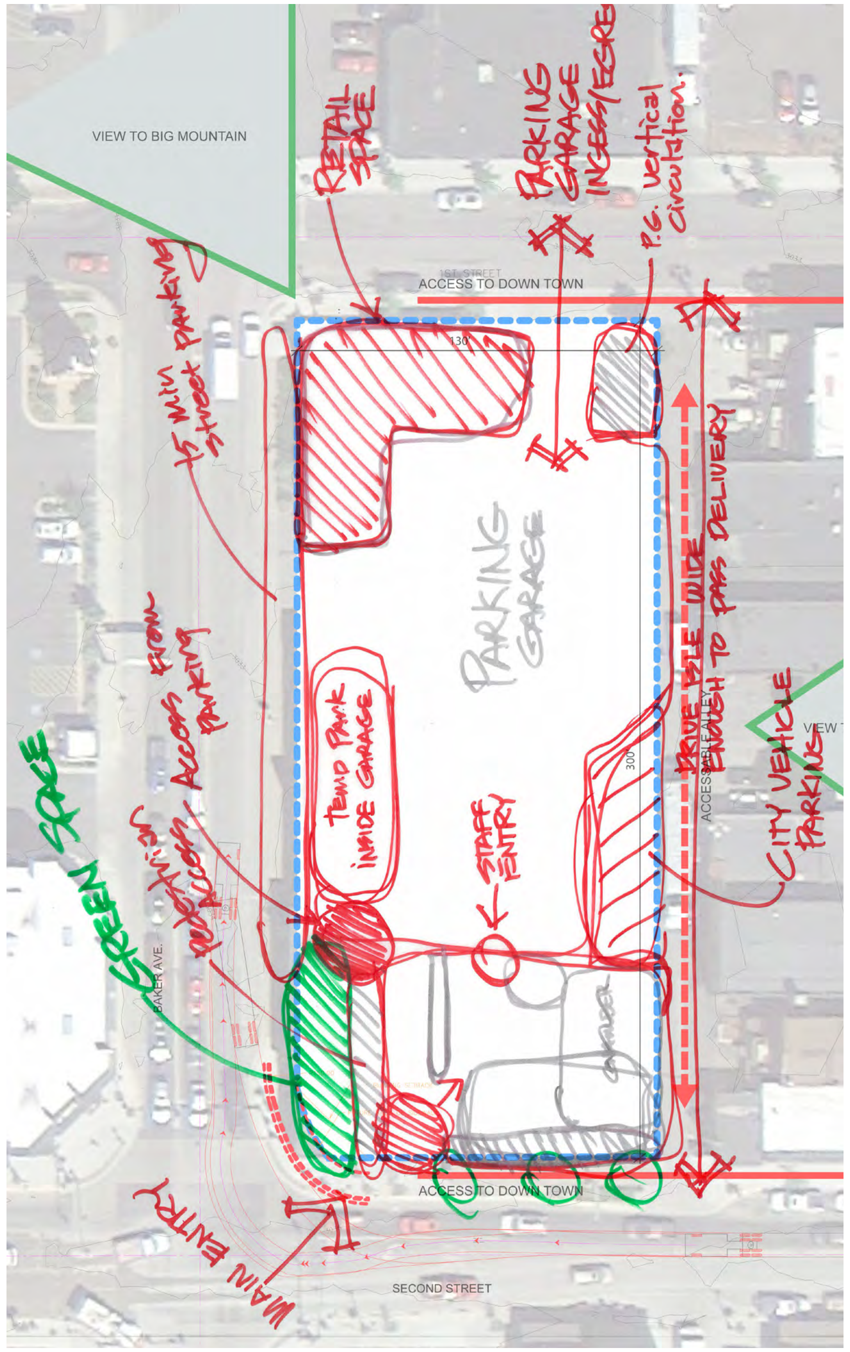


City of Whitefish

mosaic
architecture | planning | design

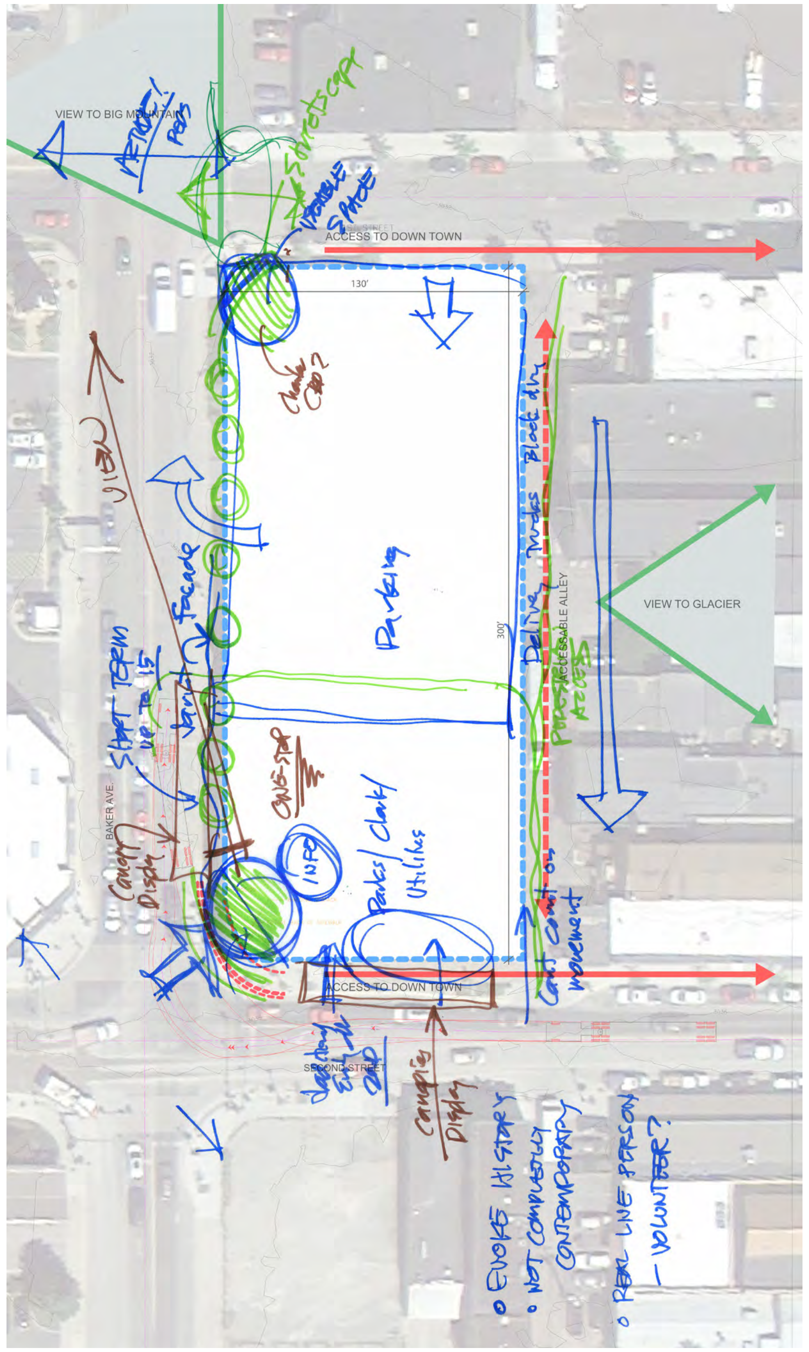
PUBLIC DESIGN CHARRETTE

Interested members of the public were invited to participate in a **Design Charrette/ Studio.** Members of the public, and interested staff and building committee participants were asked to identify project goals, diagrammatically layout the city hall and parking structure in small groups, and consider the goals and priorities of others.



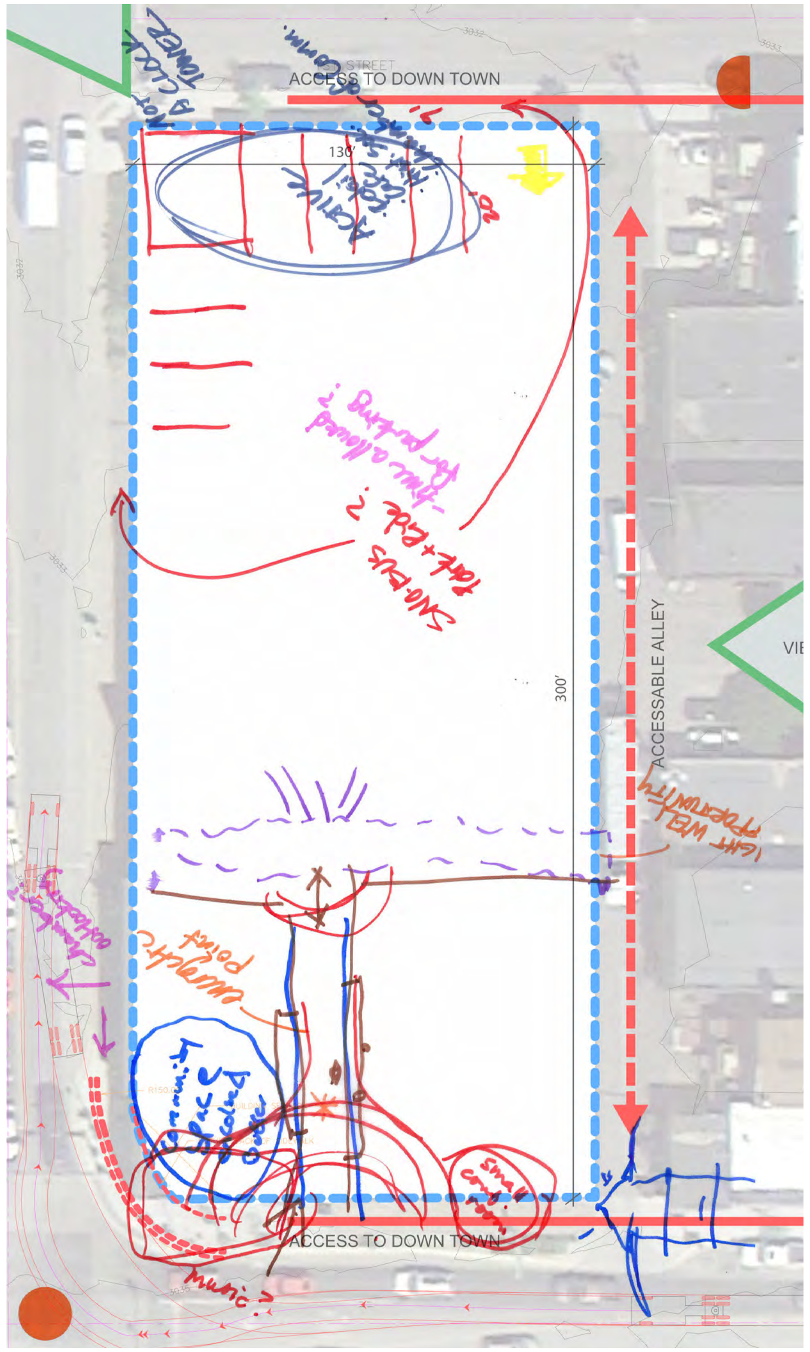
SITE DIAGRAM, GROUP 1

- Retail Space at 1st Ave.
- Alley w/ dedicated drive aisle
- Main Entry to City Hall at corner of 2nd and Baker
- Provide access from parking structure to City Hall
- Private Staff entry from PG to CH
- 15min. Street Parking (Baker)
- Temporary (short term) parking in PG
- Green space at Baker side of City Hall
- Street trees



SITE DIAGRAM, GROUP 2

- Visible/active pedestrian corner at Baker/1st Ave.
- Entry to City Hall at corner of Baker and 2nd Ave.
- Display elements at canopies
- Level 01: P&R, Clerks, Utilities
- Parking ingress on 1st
- Parking egress (rt turn) on Baker
- Provide access to view to NW (Big Mountain)
- Provide info. center “one-stop shop” at lobby
- Street trees at Baker



SITE DIAGRAM, GROUP 3

- Active component at Baker/1st Ave. - retail, cafe, historical society or chamber of commerce.
- Consider allowing Sno-Bus park-and-ride all day parking for skiers in the parking structure
- Continue covered sidewalks along street fronts at city hall
- Grande central lobby, with access to parking structure
- Consider chamber on 1st level, facing Baker?
- Enclosed community space at SW corner of city hall
- Integrate a light-well into lobby
- Consider short-term limited parking

WHITEFISH CITY HALL

Space Needs & Staff Summary

	Current Staff	SF./Staff	15 Year Staff	Program SF		Overall non-assignable	15 Yr Space	Current SF (Net)
AD- Administration	5	354	8	2,465		+15%	2,835	1,120
PR - Parks & Recreation	5	338	6	1,690		+15%	1,944	597
LS - Legal Services	2	646	4	1,293		+15%	1,486	841
BPZ - Building, Planning & Zoning	7	361	11	2,528		+15%	2,907	2,504
PW- Public Works	8	310	13	2,478		+15%	2,849	2,003
Common & Support Spaces	NA	NA	NA	11,122		+15%	12,790	4,750
Sub-totals	**27**		**42**	**21,574**	**+**	3,236	**24,810 sf**	**11,814 sf**
Overall non-assignable		**15%**						

NEW **WHITEFISH CITY HALL** FACILITY SPACE REQUIREMENT **GROSS TOTAL** (15-year program) **24,810 sf**

42 planned staff FTE

(Identified Basement Area) **4,255 sf**

Levels Above Grade **20,555 sf**

Existing Buildings Approximate Areas

2nd Street Buildings (1917 Building and Add-on: Admin, Legal, PW) [Net Area]	4,810 sf
+ Council Chambers and Meeting [Net Area]	2,523 sf
+ Storage [Net Area]	1,380 sf
(not icluding old police, fd, and other vacated spaces)	
Depot Park Building (PR, BPZ) [Net Areas]	3,101 sf
Total Exist S.F. **[Net Area]**	11,814 sf
2nd Street Buildings Other Unassignable (Approx.)	2,178
Depot Park Building Other Unassignable (Approx.)	1,499
Total Exist S.F. [Gross Area] (Approx.)	**15,492**

2nd Street Building (Admin, Legal, PW)	15 current staff
Depot Park Building (PR, BPZ)	12 current staff
	27 total current staff

- Values are approximate

Staff Workstations (from depts):	Count	Total SF	
Closed offices	14	2,773	
Open office workstations	28	4,830	-includes in-departmental storage and layout spaces
	42	7,603	

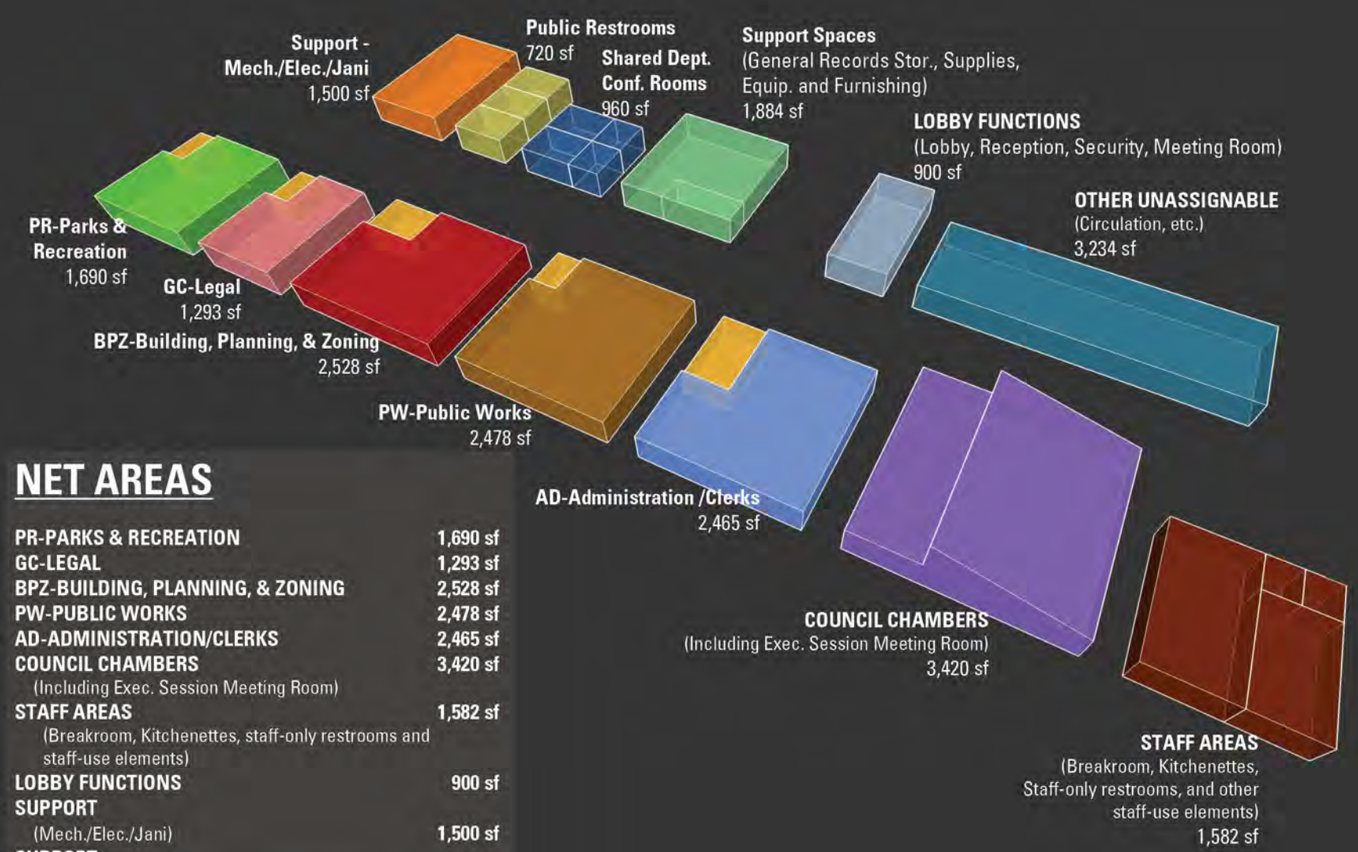
Programming Standards - Office Sizes

Work Area Sizes	Size	Area	Diagram	Notes
City Manager	12.5x20	250		
Department Director	12x16	192		
Leadership Office	12 x 13	156		
Staff Office	10 x 12	120		
Staff Station #1	8 x 10	80		
Staff Station #2	8 x 8	64		
Inter-departmental non-assignable		**25%**		

3. BUILDING PROGRAM AND DEPT. SUMMARIES

After a series of staff interviews and workshops, we have determined and preliminarily reviewed current and projected staffing, square-footages, and desired adjacencies. A 15-year projection is used because it is reasonable to foresee and estimate this amount of time given current facility and city trends. It is, however a predictive process and as such, may not account for all future growth needs over the use of the building; department staff, policy, leadership, and function will change over the life of this building. Technologies will also advance and change. Ideally the spaces ultimately designed will allow for flexibility and versatility in order to continue to be useful and functional.

The next phase of the project (Schematic Design) will hone-in on exactly the layouts and adjacencies of each department, as well as the overall appearance and function of the entire city hall.

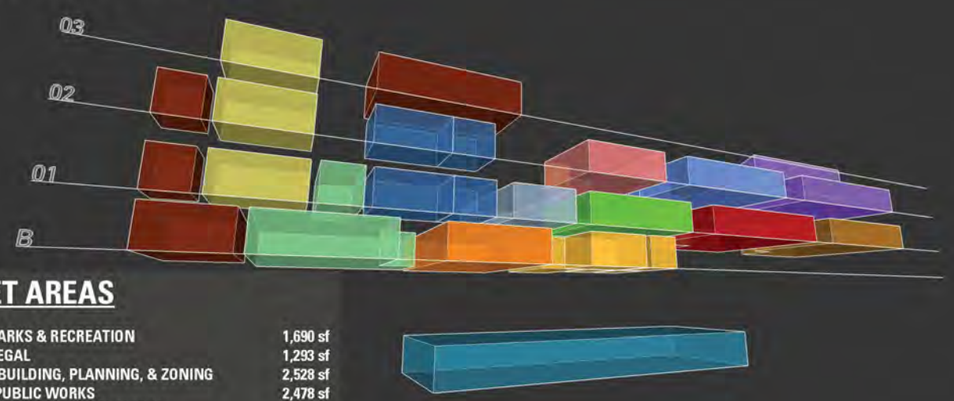


NET AREAS

PR-PARKS & RECREATION	1,690 sf
GC-LEGAL	1,293 sf
BPZ-BUILDING, PLANNING, & ZONING	2,528 sf
PW-PUBLIC WORKS	2,478 sf
AD-ADMINISTRATION/CLERKS	2,465 sf
COUNCIL CHAMBERS (Including Exec. Session Meeting Room)	3,420 sf
STAFF AREAS (Breakroom, Kitchenettes, staff-only restrooms and staff-use elements)	1,582 sf
LOBBY FUNCTIONS	900 sf
SUPPORT (Mech./Elec./Jani)	1,500 sf
SUPPORT (General Stor., Supplies, Equip. and furnishing)	1,884 sf
PUBLIC RESTROOMS	720 sf
OTHER UNASSIGNABLE	3,234 sf
TOTAL	**~24,810 SF**

(~**4,442 sf** intended for Basement, **20,367 sf** Above Grade)

LEVEL ALLOCATIONS



NET AREAS

PR-PARKS & RECREATION	1,690 sf
GC-LEGAL	1,293 sf
BPZ-BUILDING, PLANNING, & ZONING	2,528 sf
PW-PUBLIC WORKS	2,478 sf
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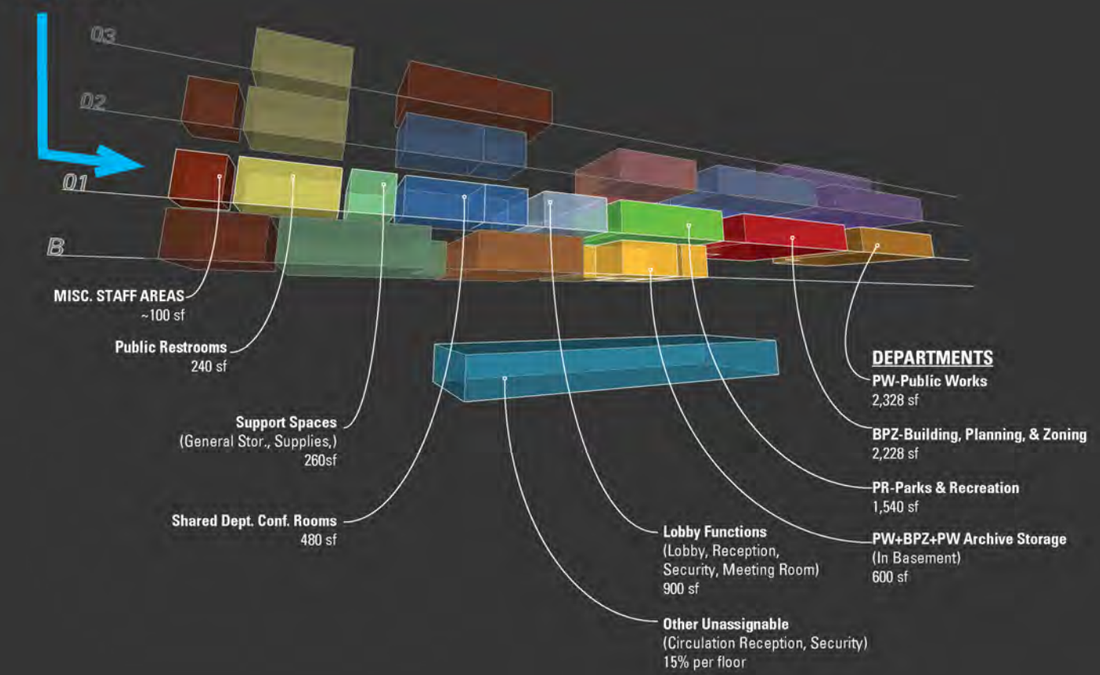
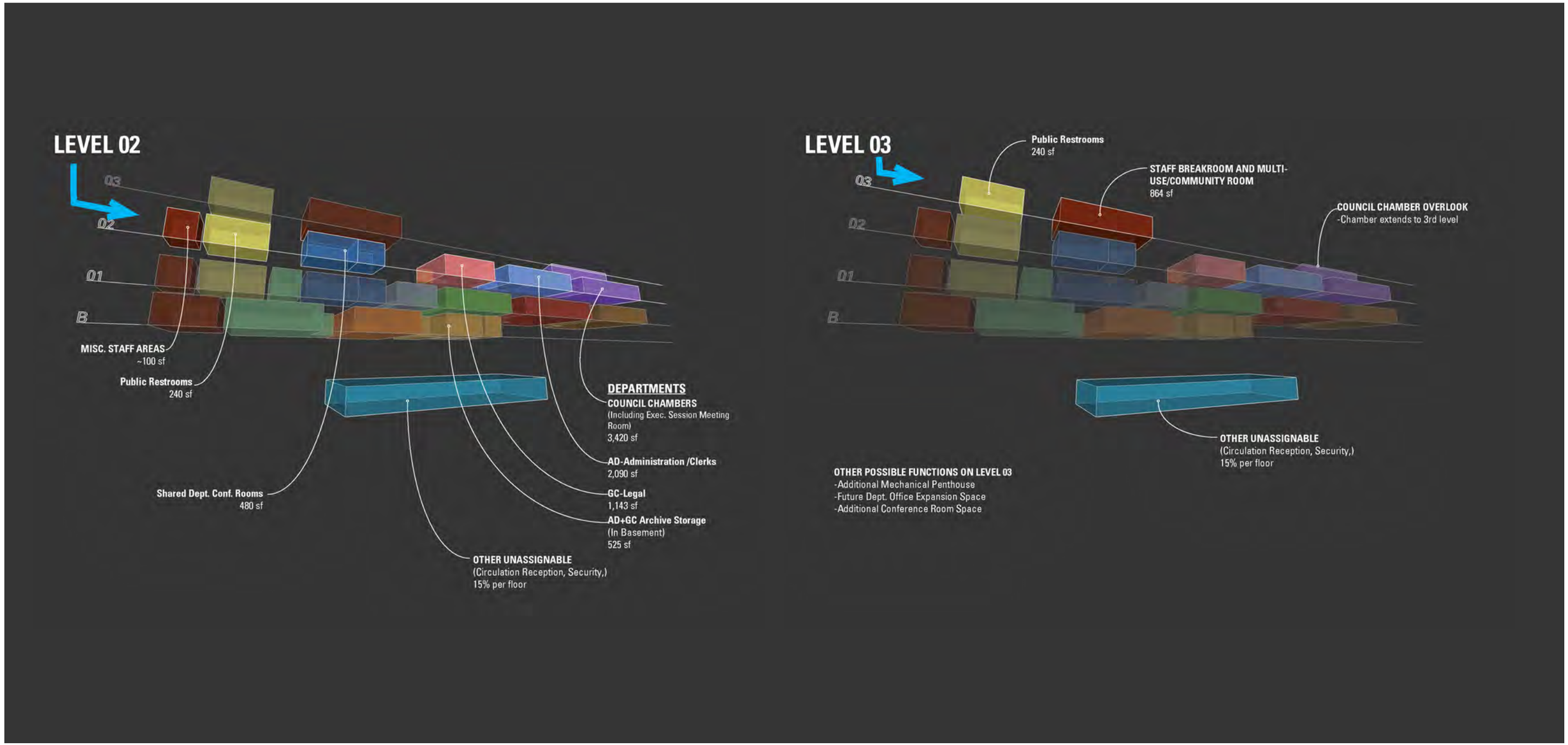
TOTAL	**~24,810 SF**

(~4,442 sf intended for Basement, 20,367 sf Above Grade)

LEVEL 01




LEVEL 02
03
02
01
B
MISC. STAFF AREAS
~100 sf
Public Restrooms
240 sf
Shared Dept. Conf. Rooms
480 sf
DEPARTMENTS
COUNCIL CHAMBERS
(Including Exec. Session Meeting Room)
3,420 sf
AD-Administration /Clerks
2,090 sf
GC-Legal
1,143 sf
AD+GC Archive Storage
(In Basement)
525 sf
OTHER UNASSIGNABLE
(Circulation Reception, Security,)
15% per floor
LEVEL 03
03
02
01
B
Public Restrooms
240 sf
STAFF BREAKROOM AND MULTI-USE/COMMUNITY ROOM
864 sf
COUNCIL CHAMBER OVERLOOK
-Chamber extends to 3rd level
OTHER UNASSIGNABLE
(Circulation Reception, Security,)
15% per floor
OTHER POSSIBLE FUNCTIONS ON LEVEL 03
-Additional Mechanical Penthouse
-Future Dept. Office Expansion Space
-Additional Conference Room Space

AD-Administration /Clerks
2,465 sf

AD- Administration

Administration	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty	Notes	Current	15-Year SF
Reception Area		120			1	Cashier station-lobby	116	120
Waiting		120			1		126	120
City Manager		250	1 CS		1		170	250
Fin. Dir./Asst. City Manager		192	1 VAC		1		140	192
City Clerk		156	1 NL		1		81	156
HR Director		156		1	1	Plan to add HR(comb. w/ fin. dir.)		156
HR Clerk		64		1	1			64
~~Staff Office~~		~~120~~						~~0~~
Staff Work Station #1		80	2 MH/VW		2		160	160
Staff Work Station #2		64		1	1	Plan to add staff (clerical)		64
~~Hot Office~~		~~120~~						~~0~~
LS/AD Large Conference Rm.-share	10p @ 25sf/p	250				Incl. in LS-Legal area		
Large Conference Room	10p@25sf/p	250				Incl. in Common area		
Small Conf Room	6p @ 25sf/p	150				Incl. in Common area		
Kitchenette/Coffee Bar	incl. in common area					Incl. in Common area		
File Storage	(office)	120			1			120
Archive Storage	(basement)	300			1			300
Vault	(office)	120			1		68	120
Work Area/Room		150			1		168	150
SUB-TOTALS			5	3			1,028	**1,972**
Inter-department Non-assignable		25%						493
TOTALS							1,120	**2,465**

AD- Administration Summary

	STAFF Current	STAFF Add'l 15 Year	total closed/open stations		Space Req. 15-Year SF
Offices	3	1	4		
Staff Work Stations	2	2	4	Current sf	
	5	**3**		1,120	**2,465**

8 total AD

Workstation Breakout	SF		Non-assign.	SF
Closed offices sf	754		add 25%	943
Open plan workstations sf	408		add 25%	510
Other	810		add 25%	1,013
				2,465

Department: **AD - Admin/City Clerk/City Council/HR Personnel**

General overview of department:

- Primary reception area
- Cash receipting area (Michelle)
- City Manager
- Finance – finance admin, payroll, receipting, accounts payable (2 people)
- City Clerk functions – records, City Council, central files, record vault (2 people)
- Human Resources – Personnel (1 HR in the future)
- Central Administration of the City **(Need total of 7-8 staff planned)**

Review staff – staff size, job descriptions, space needs:

- City Manager (Chuck Stearns) – Need 200-225 s.f. office with room for 4 person conference
- Assistant City Manager (Vacant) – Need 200 s.f. office with room for meetings with staff (position likely combined with Finance Director)
- City Clerk (Necile Lorang) – Need 200 s.f. office with room for meetings with staff
- Asst. City Clerk (Vanice Woodbeck) – 8x10 work station but requires some confidentiality, but visible to reception area
- Customer Service Clerk (Michelle Howke) – 8x10 work station but requires some privacy for HIPPA ambulance conversations, visible to reception area
- Finance Director (vacant) – Need 160 s.f. office (position likely combined with HR/Personnel Director below)
- HR/Personnel Director (future) – Need 160 s.f. office with room for meeting with staff
- Clerical/Reception (future) 8x8 work station
    - Reception counter

Future growth:

- HR Director
- HR Clerk
- Clerical/Reception

Detailed review of amenities of each space type, i.e. workstation amenities, size, layout, data needs, etc.:

- One concept is to have a central reception area at the lobby where Utility Billing, Parks, Cash Receipting, and Building/Planning could have their receptionist available to customers, acting as the gateway to the departments behind them.
- We all need wiring for data terminals/laptops/workstations
- Shared printer areas centrally located (some staff may need localized printer for privacy concerns including HR, payroll, city manager
- Lay-out space at the front reception for spreading plats and maps, bid openings, etc.
- Meeting space for 4 in city manager's office
- Postage machine near the copy station accessible by the receptionist
- Nearby conference room for quick meetings and bid openings
- Separate restrooms for staff
- Copy/Work room very accessible to all in administration

Specialty spaces: storage, filing, Etc.:

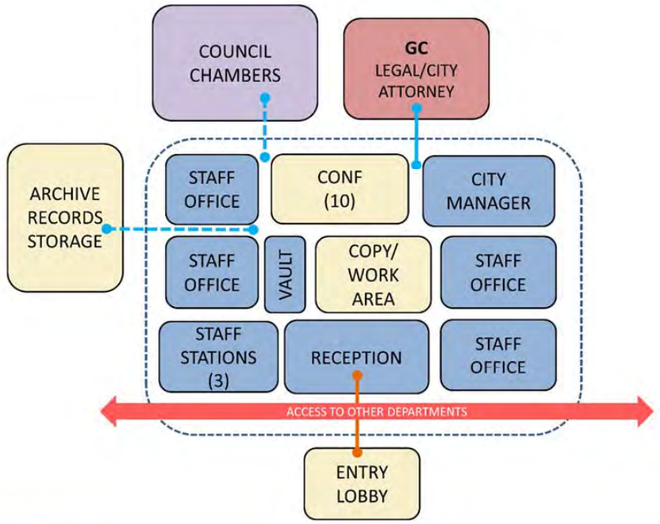
- Large storage area for records needed. At least as large as the current city hall basement. A basement space as large as the 1st floor for all department record storage.
- Need a vault for secure records – consider using one of the existing vault doors.
- Electronic kiosk in the lobby/reception area so people can access documents, records, application forms, etc.
- Flat file storage for plats and maps – below a layout table
- Need file storage at the workstations and within the offices as well

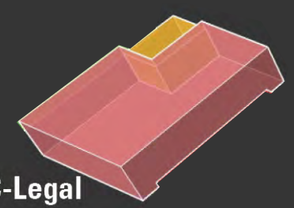
Review relationship of subject department to other uses/departments – Who should you be next to and who should you be separated from:

- Should be close to Legal Services/City Attorney.
- Public works utility billing adjacency is the next priority

What are the most important goals for the project for THIS department?

- Adequate and functional space to meet our needs
- Inviting reception area for the public
- Obvious way finding /directional signage so the public doesn't have to ask staff where to go
- Room for growth
- Some privacy information concerns for meetings, phone calls, and copies/printing
- An efficient and workable HVAC system requested





GC-Legal
1,293 sf

LS - Legal Services

Legal	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty	Current	15-Year SF
Attorney Office (city/prosecutor)	office	192	1 MV	1	2	155	384
Legal Assist. Workstation	adj. to work area/files	80	1 KH	1	2	155	160
~~Paralegal~~	~~work station~~	~~80~~					~~0~~
~~Staff Office~~		~~120~~					~~0~~
~~Small Conference Room~~	~~4p @ 25sf/p~~	~~100~~					~~0~~
LS/AD Large Conference Rm.-shared	10p @ 25sf/p	250			1	242	250
~~Law Library/Conference~~	~~10p @ 20sf/p~~	~~250~~					~~0~~
Archive Storage	(basement)	120			1	263	120
Files/work area-Legal specific	(office)	120			1		120
SUB-TOTALS			2	2		815	**1,034**
Inter-department Non-assignable		25%					259
TOTALS						841	**1,293**

LS - Legal Services Summary

	STAFF Current	STAFF Add'l 15 Year	total closed/open stations		Space Req. 15-Year SF
Offices	1	1	2		
Staff	1	1	2	Current sf	
	2	**2**		841	**1,293**

4 total LS

Workstation Breakout	SF	Non-assign.	SF
Closed offices sf	384	add 25%	480
Open plan workstations sf	280	add 25%	350
Other	370	add 25%	463
			1,293

Department: LS-Legal Services

General overview of department:

- The City Attorney is the legal advisor and attorney for the City. The City Attorney and staff:
  - Provides legal advice to the Mayor, City Council, City Manager, City Departments, City Committees and Boards
  - Prepares or reviews ordinances, resolutions, contracts, and other municipal documents
  - Represents the City before all trial and appellate courts (criminal-future), administrative agencies, and all legal proceedings
  - Prosecutes ordinance violations and (future) state misdemeanor and traffic violations committed within the City limits
- Present needs are two attorneys and two staff. Legal Department would like to utilize law students and interns over the summer months
- Work includes hours outside normal work hours and on weekends – needs safe access to office and surroundings when in office.

Review staff – staff size, job descriptions, space needs:

- City Attorney (Mary V.) – Needs 200 s.f. office with room for meeting with up to four people
- Legal Assist. (Keni H.) – Needs 8x10 work station or office adjacent to attorney
- Assist. or Deputy City Attorney(s) (future FY2015?) – Needs 200 s.f. office with room for meeting with up to four people
- Legal Assist. (future FY2015?) – Needs 8x10 work station or office adjacent to attorney

Future growth:

- Additional Attorneys and Staff (future)
- Summer interns (future)

Detailed review of amenities of ea. space type, ie. workstation amenities, size layout, data needs, etc.:

- Private printer and layout areas within legal area @ Legal Assistant desk
- Adjacent private conference room for 8-10 people available for attorney, Mayor, City Councilors, City Departments, Staff, members of the public, and legal representatives
- Would like accessible copy/work room with area for layout of legal packets (documents and briefs)
- Need law library shelves, filing cabinets or shelves, but could be incorporated into the hall space
- Would like centralized office supply closet/room available to all departments

Specialty spaces: storage, filing, Etc.:

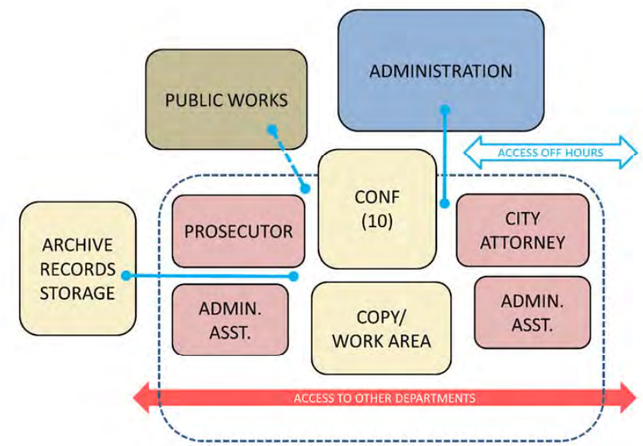
- Short term file storage ongoing legal issues (4 tall file cabinets and 8 low cabinets currently)
- Need archive file storage room readily available throughout the day

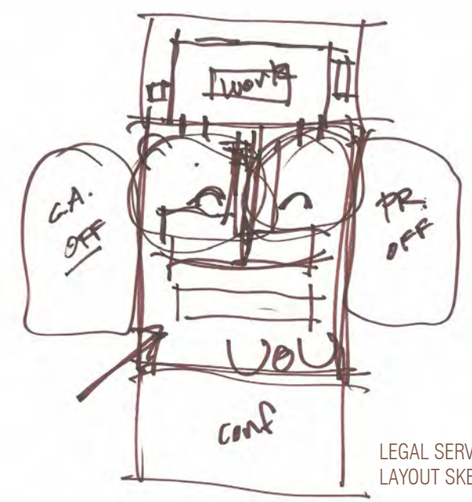
Review relationship of subject department to other uses/departments – Who should you be next to and who should you be separated from:

- Would like to be close to City departments and administration (working with City Clerks could reduce file duplication)
- Works often with Staff preparing or reviewing ordinances, resolutions and other municipal documents, legal advice and review and on permitting and enforcement issues

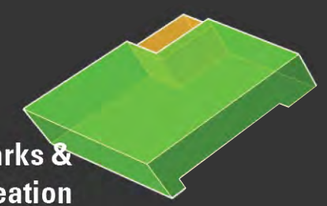
What are the most important goals for the project for THIS department?

- Availability for the seamless delivery of legal advice and services
- Access to other City Staff and their records





LEGAL SERVICES OFFICE LAYOUT SKETCH



PR-Parks & Recreation
1,690 sf

Parks & Recreation	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty	Current	15-Year SF	
Director Office		192	1 MBu		1	117	192	
Staff Office	Rec Coord.-vacant	156	1 vac.	1	2	80	312	Add'l Asst. D
Recept/Wait/Kids Area	forms	250			1	140	250	
Add'l Admin Assist Station		80	1 MBl		1	80	80	
~~Staff Station #1~~		~~80~~					~~0~~	
Staff Station #2	Fac. & Main.	64	1 JL		1	60	64	Could be
Hot Seat	Fac. & Main.	64	1 AH		1		64	combined
Work/Copy/Print Area		150			1	60	150	
Small Conference room #1	see Common	120					0	
Large Conference Room	see Common	250					0	
Storage	(office)	120			1	60	120	
Archive Storage	(basement)	120			1		120	
SUB-TOTALS			5	1			**1,352**	
Inter-department Non-assignable		25%					338	
TOTALS						597	**1,690**	

PR - Parks & Recreation Summary	STAFF Current	STAFF Add'l 15 Year	total closed/open stations		Space Req. 15-Year SF
Offices	2	1	3		
Staff Work Stations	3	0	3	Current sf*	
	5	1		597	**1,690**
		6 total PR			

- does not include in/out/seasonal staff

*does not include unassignable spaces

Workstation Breakout	SF	Non-assign.	SF
Closed offices sf	504	add 25%	630
Open plan workstations sf	578	add 25%	723
Other	270	add 25%	338
			1,690

Department: **PR - Parks and Recreation**

General overview of department:

- Assist public (particularly families with kids) in recreational opportunities. This includes providing fliers and general information, scheduling, and registration (filling out forms)
- Rental of Parks facilities
- Take in money for registrations and rentals
- Maintain recreational facilities
- Marketing and mass copying of recreational materials
- 4-5 deep in waiting area with kids (need area to keep kids occupied)
- Parks and Recreation **(Need total of 6 (5 current & 1 future) staff planned)**

Review staff – staff size, job descriptions, space needs:

- Director of P&R (Maria B.)– Need 200 s.f. office with room for meeting with up to four people
- Recreation Coordinator – Need 8x10 work station or office, some privacy needs and space to meet with 2 people
- Facilities Director (Andy H.) - Need 'hot spot' workstation - in and out of the office frequently.
- Parks Maintenance Super (Jason L.)- Need 'hot spot' workstation - in and out of the office some.
- Admin. Assist. (Mary B.)- Reception Desk and help for Parks Depart. needs layout space for packets of printed material.

Future growth:

- Assistant Director in the future

Detailed review of amenities of each space type, i.e. workstation amenities, size, layout, data needs, etc.:

- Central reception for public
- Printer and layout areas centrally located next to reception
- Waiting area for families with kid area
- space to display and pickup forms in the lobby
- Adjacent conference room for 10 people to accommodate staff meetings and recreational committee meetings
- Copy/Work room very accessible to all in P&R with area for layout of committee packets

Specialty spaces: storage, filing, Etc.:

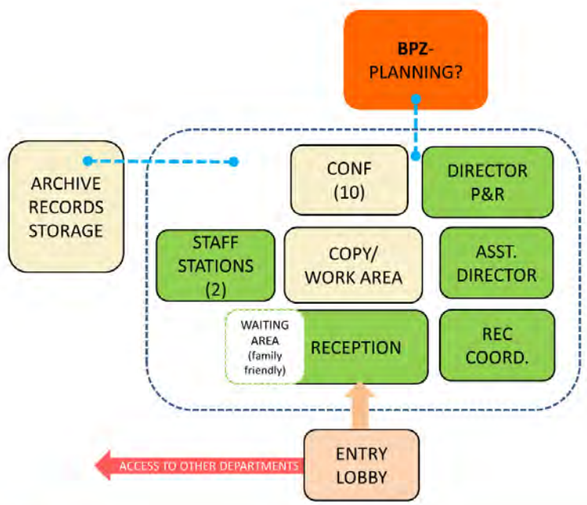
- File storage for marketing material
- information rack at waiting/reception for current information
- Need archive file storage room
- Common storage for office supplies
- Drop box for registration forms

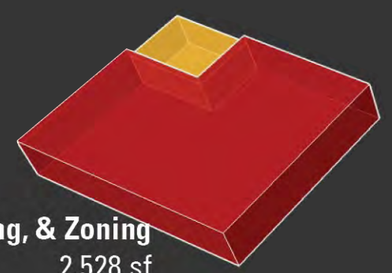
Review relationship of subject department to other uses/departments – Who should you be next to and who should you be separated from:

- Being close to Planning might be convenient but not imperative

What are the most important goals for the project for THIS department?

- Room for future growth
- Easy access to the front door and lobby with room for 5 groups with kids waiting
- Need short term parking available close.
- A counter that separates staff from the public.





BPZ-Building, Planning, & Zoning
2,528 sf

BPZ - Building, Planning & Zoning

Building Department	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty	Current*	15-Year SF**
Director Office (Chief Building Official)		192	1 VB		1	209	192
Reception/Waiting		150		1	1	304	150
~~Add'l Admin. Assist~~		~~80~~				~~inc. in PR~~	~~0~~
Building Inspectors		80	2 TL/PH	1	3	209	240
Permit Technician		64	1 LB		1	inc above in rec.	64
Hot Seat		80			1		80
Work/Copy/Print Area/Plotting		200			1	inc. in PR	200
Small Conference room #1	see Common	150					0
Large Conference Room	see Common	250				209	0
Storage		120			1	264	120
Archive Storage		120			1	inc above	120
SUB-TOTALS			4	2		1,195	**1,166**
Inter-department Non-assignable		25%					292
TOTALS						1,195	**1,458**

Planning & Zoning	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty	Current*	15-Year SF**
Director Office		192	1 DT		1	223	192
Reception/Wait	shared above	150				inc. above	0
~~Add'l Admin. Assist~~		~~80~~					~~0~~
Planners		120	2 WC/BM	1	3	209	360
Permit Technician		64		1	1		64
Hot Seat	shared above	80					0
Work/Copy/Print Area/Plotting	shared above	150				inc. above	0
Small Conference room #1	see Common	150					0
Large Conference Room	see Common	250				inc. above	0
Storage	(office)	120			1	inc. above	120
Archive Storage	(basement)	120			1	inc. above	120
SUB-TOTALS			3	2		432	**856**
Inter-department Non-assignable		25%					214
TOTALS						432	**1,070**

BPZ - Building, Planning & Zoning Summary	STAFF Current	STAFF Add'l 15 Year	total closed/open stations		**Space Req. 15-Year SF
Offices	2	0	2		
Staff Station #1	5	4	9	Current sf*	
	7	**4**		2,504	**2,528**

11 total BPZ
- total does not include in/out/seasonal staff

*Includes existing common area
**Common spaces totaled elsewhere

Workstation Breakout	SF	Non-assign.	SF
Closed offices sf	384	add 25%	480
Open plan workstations sf	1198	add 25%	1,498
Other	440	add 25%	550
			2,528

Department: **BPZ - Building Planning Zoning**

General overview of department:

- Building Planning assist contractors, developers, real estate professionals and the general public with their development options and controlling regulations
- Take in money for permits
- Review drawings (building and development submittals)
- Very fluid staff in and out of the building
- 30-40 customers per day 8am-10am and 12-1pm are hot times (generally waiting in the morning)
- walk ins for code enforcement
- Building, Planning, Zoning **(Need total of 11 (7 current & 4 future) staff planned)**

Review staff – staff size, job descriptions, space needs:

- Building - Currently Building has one permit technician, the Chief Official, and two inspectors. Space will be needed for an additional inspector.
  - Chief Building Official (Virgil Bench) – Need 200 s.f. office with room for meeting with up to six people
  - Building Inspectors/Plan Review (2) – Need 8x10 work station or shared office, some privacy needs and space to meet with 2 people
  - Permit Technician (1) – front desk space to help the public with permits and payments. Need area for files and plans short term storage.
- Planning/Zoning – Currently: Planning Director and two additional planners. Future space will be needed for an admin./permit technician and 1 additional planner. GIS technician should be close. Because planners often meet with clients and are on the phone continuously, private offices are preferred.
  - Planning Director – Need 200 s.f. office with room for meeting with up to four people w/ library space
  - Planner 1&2 (2) – Need 8x10 work station or shared office, some privacy needs and space to meet with 2 people
  - Utility Operations Super (Greg A.) – Need 120 s.f. office, in/out of office all day

Future growth:

- Building
  - 1 Building inspector
  - 1 full time code enforcement position (currently done by an inspector 1/2 time)
- Planning - Plan for growth (the department had 6 staff in 2007)
  - 1 additional planner
  - 1 permit technician - should be near building permit technician and have access to large flat layout area

Detailed review of amenities of each space type, i.e. workstation amenities, size, layout, data needs, etc.:

- Central reception for Permits.
- Shared printer areas centrally located
- Large standing counter area for spreading drawings and maps with public
- Wall space to hang zoning maps for public viewing
- Adjacent conference room for 10 people to accommodate staff meetings, meetings with clients, Architectural Review and Lakeshore meetings with multimedia capabilities
- Space for large format plotter
- Copy/Work room very accessible to all in BPZ with area for layout of committee packets
- Need staff/public computer in lobby to access GIS maps
- High reception counter for security
- View of the reception counter from all areas in order to cover for each other

Specialty spaces: storage, filing, Etc.:

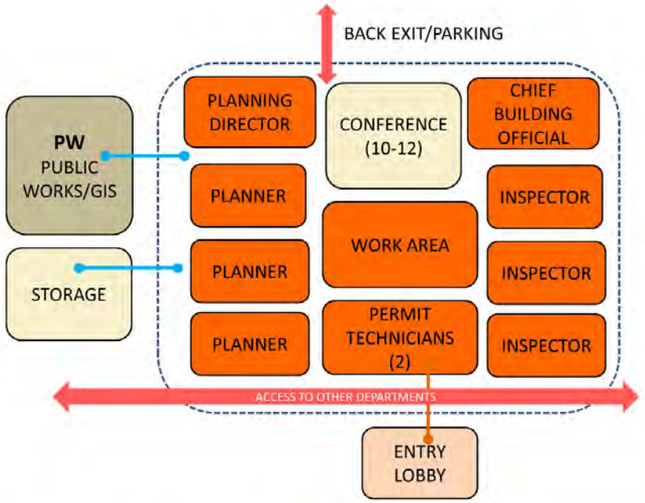
- Flat file storage for drawings, plats and maps w/ layout table
- Hanging files for current projects
- Need large file storage room with separate areas for building and planning. (currently too small with many files stored off-site)
- Common storage for office supplies

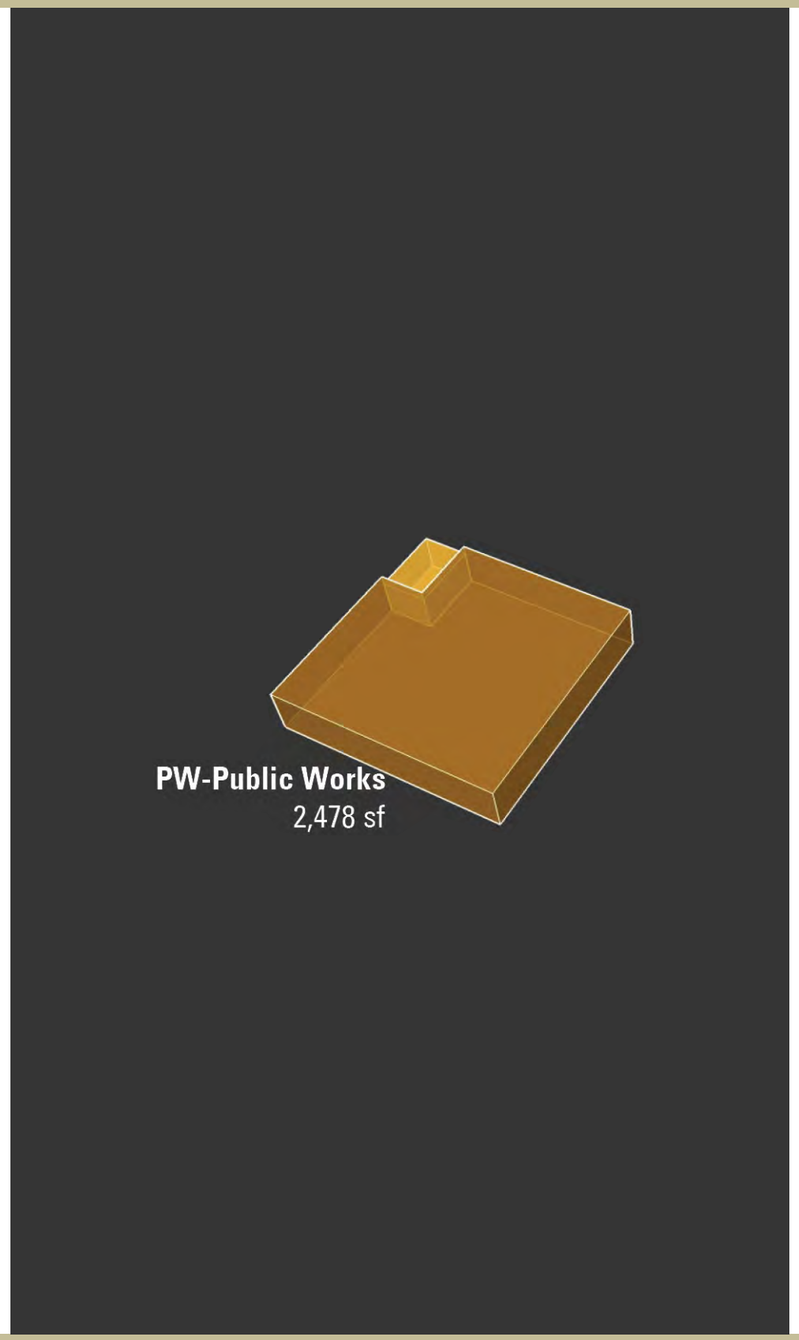
Review relationship of subject department to other uses/departments – Who should you be next to and who should you be separated from:

- Should be near Public Works engineers and the GIS area.

What are the most important goals for the project for THIS department?

- Customer service should be intuitive and friendly for customers. We receive 40-50 walk-ins per day.
- Easy access to the front door and lobby with room for 5-10 waiting and access to work table, printers, computer work station (to view GIS maps).
- Need short term parking available close that can accommodate contractor trucks.
- A counter that separates staff from the public.





PW- Public Works

Public Works	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty	Current	15-Year SF
Reception - In Department		120			1	58	120
Director Office		192	1 JW		1	132	192
Staff Office - Engineers	(shared office/open layout)	120	1 KH	1	2	144	240
Staff Office - Util. Serv. & Op Sup		120	2 RE/GA		2	288	240
Staff Office - PM/Const. Insp.	(shared office/open layout)	120	1 RR	1	2	inc. above	240
Exec. Assist	Large Work Area nearby	80	1 SB		1	55	80
IT/GIS Tech		80	1 vac	1	2	183	160
Staff Station #2	Util. Cust. Serv./Intern	64	1 vac	2	3	138	192
Hot Seat		64			2		128
Work/Copy/Print Area		150			1	138	150
Small Conference room #1	see Common	150				80	0
Large Conference Room	see Common	200				165	0
Storage	(office)	120			1	72	120
Archive Storage	(basement)	120			1		120
SUB-TOTALS			8	5		1,453	**1,982**
Inter-department Non-assignable		25%					496
TOTALS						2,003	**2,478**

PW- Public Works Summary	STAFF Current	STAFF Add'l 15 Year	Total closed/open stations		Space Req. 15-Year SF
Offices	3	0	3		
Staff Station #1	5	5	10	Current sf	
	8	**5**		2,003	**2,478**

13 total PW

- total does not include in/out/seasonal staff

Workstation Breakout	SF	Non-assign.	SF
Closed offices sf	192	add 25%	240
Open plan workstations sf	1400	add 25%	1,750
Other	390	add 25%	488
			2,478

Department: **Public Works**

General overview of department:

- Administration and engineering, maintenance and capital improvements for infrastructure
- Divisions include Admin., Engineering, Water, Waste water, Storm water, Streets, Solid Waste, Street lighting and signs
- Customer reception for utilities
- Utility billing
- Public Works of the City **(Need total of 13 (7 current & 6 future) staff planned)**

Review staff – staff size, job descriptions, space needs:

- Director of PW (John Wilson) – Need 200 s.f. office with room for meeting with staff
- Assistant to PW Director (Sherri Baccaro) – Need 8x10 work station, some privacy needs
- Senior Project Engineer (Karen H.) – Need 120 s.f. office with layout space for drawings
- Project Manager (Randy R.) – Need 120 s.f. office with layout space for drawings, in/out of office all day
- GIS/IT (vacant) – 8x10 work station but requires work bench and storage area
- Utility Services Super. (Rose E.) – Need 120 s.f. office
- Utility Operations Super (Greg A.) – Need 120 s.f. office, in/out of office all day
- Utility Billing/Customer Service - 8x8 work stations, storage for water meters
    - Reception counter
- Field Staff - Need hot spot open-office work area, in/out of office all day

Future growth:

- 2nd. Utility billing clerk
- College intern - seasonal
- 1-2 staff engineers
- Part time clerical staff
- 1 Project manager
- Separate GIS/IT functions to add 1 position

Detailed review of amenities of each space type, i.e. workstation amenities, size, layout, data needs, etc.:

- Central reception for Utility Billing. Could be in same area as Parks, Cash Receipting, and Building/Planning.
- IT - workbench to accommodate 3 stations for maint./config. of computers plus staff work area
- Shared printer areas centrally located
- Separate restrooms for staff
- Flat file area for spreading plats and maps.
- Dedicated PW conference room for 6 people
- Copy/Work room very accessible to all in PW

Specialty spaces: storage, filing, etc.:

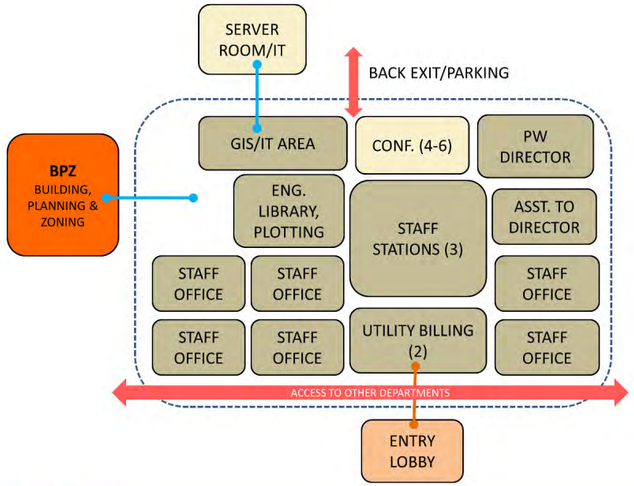
- Water meter storage in utility reception area
- Electronic kiosk in the lobby/reception area so people can access documents, records, application forms, etc.
- Flat file storage for drawings, plats and maps w/ layout table
- Box file storage (100 boxes currently)
- Hanging files for current projects
- Dedicated, cooled, server room 10x16'
- Engineering library, printer/plotter area
- Need file storage at the workstations and within the offices as well
- Common break area with full kitchen
- Common area janitorial and supply room

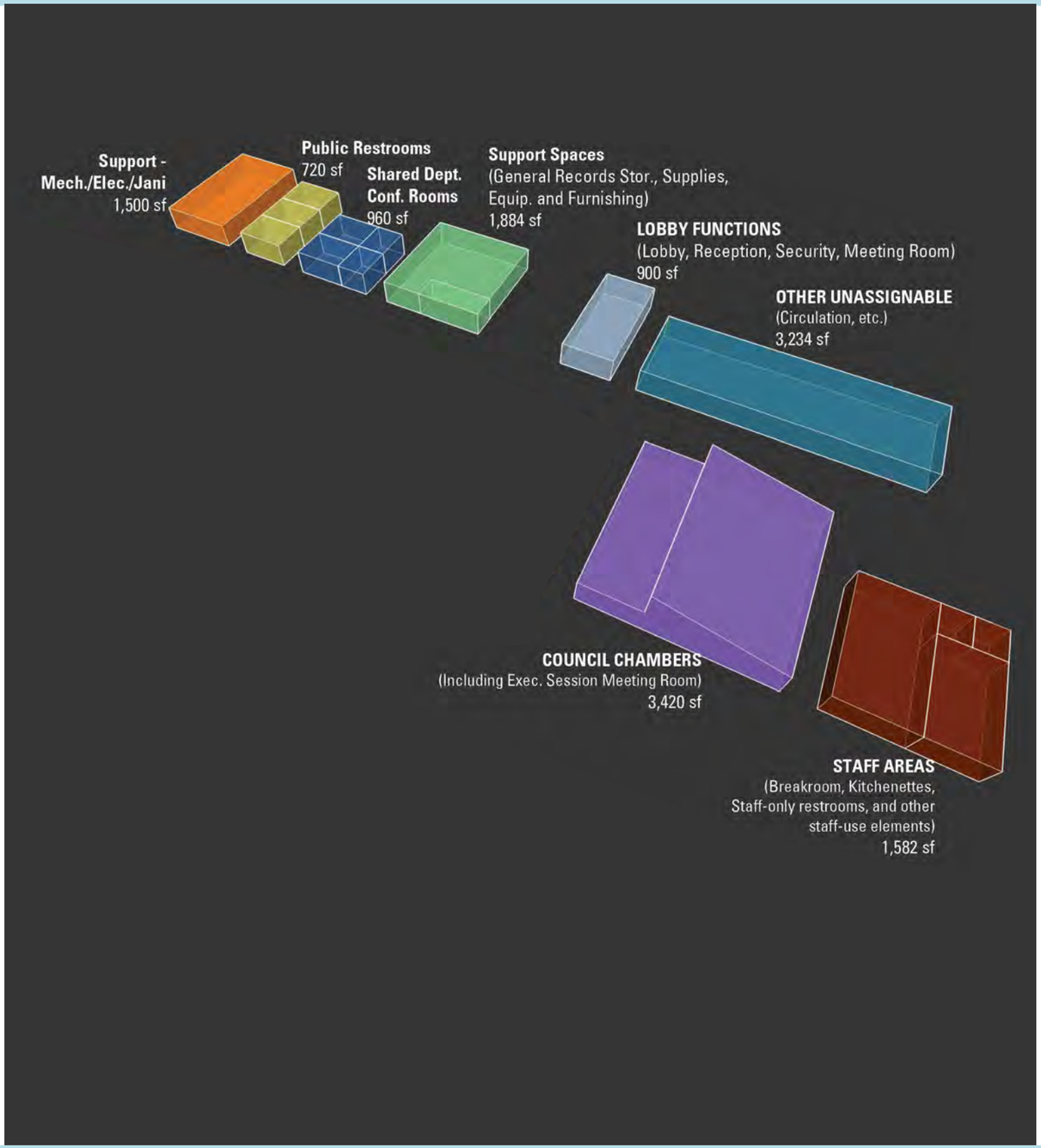
Review relationship of subject department to other uses/departments – Who should you be next to and who should you be separated from:

- Utility Ops Super adjacent to PW Director and Asst. to Director
- Field staff in and out - need secondary building entrance adjacent with short term parking (consider muddy boots of staff and contractors)
- Utility billing near entry - easy access for public
- Don't want public access to office areas - need reception/'gate keeper
- Could be near Building/Planning/Zoning

What are the most important goals for the project for THIS department?

- Adequate and functional meeting space for PW
- Separate staff restrooms
- How will building be maintained?
- Room for growth
- Public access to utility billing/PW reception





Common & Support Spaces

Reception & Entry	notes	Area	STAFF Current	STAFF Add'l 15 Year	QTY	Current	15-Year SF	
Lobby		400			1	inc. in depart	400	
Reception/security	Level 1	250			1	inc. in depart	250	
Public restrooms	each floor	120			6	473	720	
~~Lobby conference~~	~~20x20~~	~~400~~					~~0~~	
Public meeting room	10x10 two entry/secure	100			1		100	
SUB-TOTALS			0	0		473	1,470	
Inter-department Non-assignable		20%				0	294	
TOTALS						473	**1,764**	

Council Chamber and Meeting Rooms	notes	Area	STAFF Current	STAFF Add'l 15 Year	QTY	Current	15-Year SF	
Council Chambers		2,100			1	1,952	2,100	
Council Exec. Session Mtg Rm	18x45	450			1	439	450	
Chamber Lobby		240			1	132	240	
Coat Room/Closet	6x10	60			1		60	2,850
~~Training Room~~		~~800~~					~~0~~	
Shared Large Conference	Each Floor	250			2	inc. in depart	500	
Shared Small Conference	Each Floor	150			2	inc. in depart	300	900
~~Shared Team Conference~~							~~0~~	
SUB-TOTALS			0	0			3,650	
Inter-department Non-assignable		20%					730	
TOTALS						2,523	**4,380**	

Staff Support	notes	Area	STAFF Current	STAFF Add'l 15 Year	QTY	Current	15-Year SF
Staff coat areas	3x6 sf	18			1		18
Staff Restrooms	6x8	48			2	inc. above	96
~~Mom's room~~	~~private~~	~~100~~					~~0~~
Sick room	private-basement	100			1		100
Kitchenette/Coffee	ea. floor + near council	72			3	inc. above	216
~~Small Break 2~~		~~300~~				~~80~~	~~0~~
Multi-use Room/Break Area	24x30-dividable	720			1	294	720
Copy/work areas	assigned to individual depts. - 5 shown - (1)@120sf, (3)@150sf, and (1)@200sf = 770sf						
~~Fitness Area~~	~~20 x 40~~	~~1,200~~					~~0~~
Locker/shower	2x120 - basement?	240			1		240
~~Day Care~~	~~30x40~~	~~1,200~~					~~0~~
							0
SUB-TOTALS			0	0			1,390
Inter-department Non-assignable		20%					278
TOTALS						374	**1,668**

Records, Supplies, & Delivery	notes	Area	STAFF Current	STAFF Add'l 15 Year	QTY	Current	15-Year SF	
General Records Storage	500 boxes	600			1	1,380	600	
Records-evidence		150			1		150	
Supplies and Forms		200			1	inc. above	200	
Equipment and Furnishings		400			1		400	
Delivery/receiving/shredding		120			1		120	
Mail Room		100			1		100	1,570
~~Garage~~		~~800~~					~~0~~	
Telecomm DATA/Control Room	(basement)	100			1		100	
Data/elect closets	(1) per each floor	36			3		108	
Main Electrical Room	10x20-basement	200			1		200	
Mechanical	20x30-basement	600	or (3) at 200 s.f. ea. Floor		1		600	
Janitorial closets	each floor	60			3		180	1,188
SUB-TOTALS			0	0			2,758	
Inter-department Non-assignable		20%					552	
TOTALS						1,380	**3,310**	

Common & Support Spaces Summary	STAFF Current	STAFF Add'l 15 Year	Current sf	Space Req. 15-Year SF
			4,750	**11,122**

BREAKOUT - Archive Storage Areas (intended for basement)

	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty		15-Year SF
AD-Admin Storage		300			1		300
LS-Legal Storage		120			1		120
PR-Parks & Rec Storage		120			1		120
BPZ-Building Planning & Zoning Storage		240			1		240
PW-Public Works Storage		120			1		120
Common Area General Storage		600			1		600
Records Evidence Stor		150			1		150
Equipment Storage		400			1		400
							0
							0
SUB-TOTALS			0	0			**2,050**
Inter-department Non-assignable		25%					513
TOTALS							**2,563**

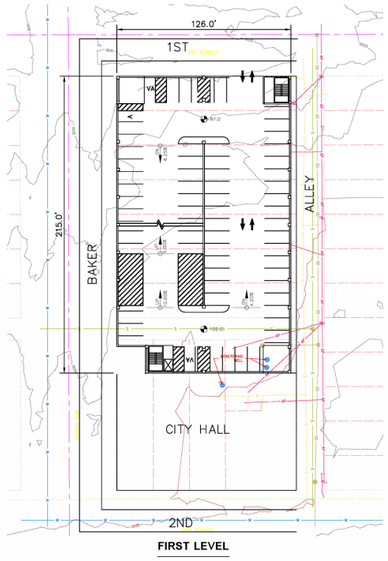
BREAKOUT - Work/Copy room areas

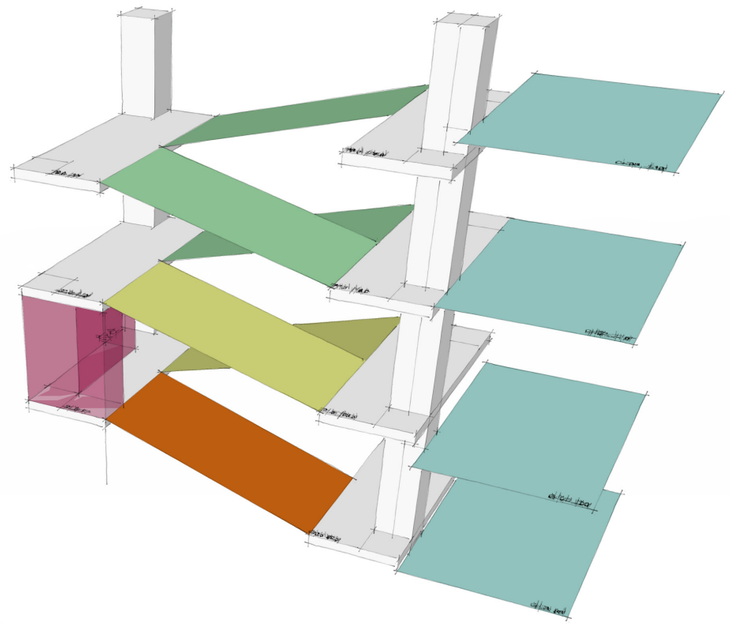
	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty		15-Year SF
AD-Admin Work room		150			1		150
LS-Legal work room		120			1		120
PR-Parks & Rec work room		150			1		150
BPZ work room		200			1		200
PW-Public Works work room		150			1		150
Common Area work rooms	assigned to individual depts. - 5 shown - (1)@120sf, (3)@150sf, and (1)@200sf = 770sf						
SUB-TOTALS			0	0			**770**
Inter-department Non-assignable		25%					193
TOTALS							**963**

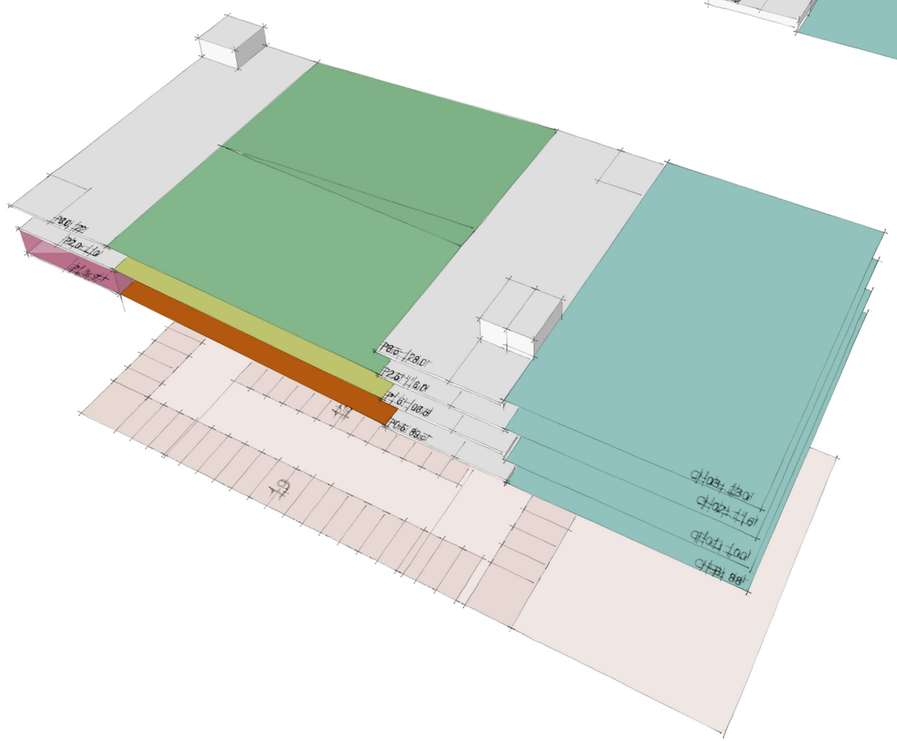
BREAKOUT - Intended Basement Spaces

	notes	Area	STAFF Current	STAFF Add'l 15 Year	Qty		15-Year SF
Archive Storage		2,050			1		2,050
Main Electrical Room		200			1		200
Mechanical		600			1		600
Telecomm DATA/Control Room		100			1		100
Staff coat areas		18			1		18
Staff Restrooms		48			2		96
Sick room		100			1		100
Locker/shower		240			1		240
SUB-TOTALS			0	0			**3,404**
Inter-department Non-assignable		25%					851
TOTALS							**4,255**

***Items broken-out on this sheet are assigned to and accounted for in other areas and departments space totals.**

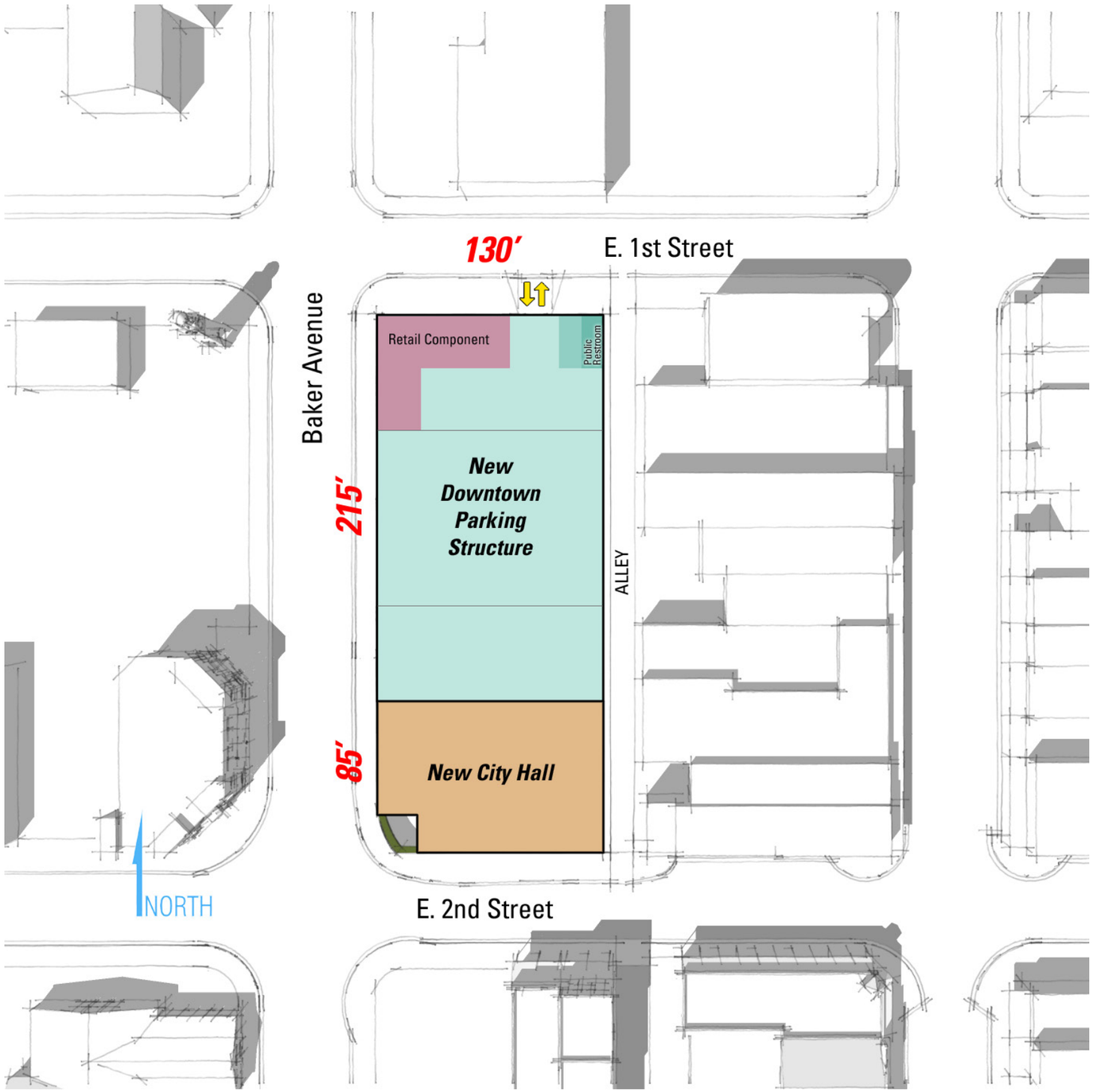






4. PARKING STRUCTURE

The New Downtown Parking Structure has been under study for a number of years prior to Mosaic Architecture's involvement. In late 2012, six parking concepts were developed, presented, and considered for the existing city hall block location between E. 2nd and 1st Streets. At the time, concept and planning for the city hall was very preliminary, and it was not possible for the parking structure layouts to confirm that they could fully integrate with a new City Hall facility (it having yet to be developed). Nor could they fully assimilate other priorities and metrics directly related to the City Hall and its presently developing design. Therefore, the process of developing the parking structure concepts has been revisited, integrating newly determined priorities and goals for the city hall and project site as a whole with the objectives and priorities of the parking structure during the previous study. This improves the likelihood that the new City Hall and the new Downtown Parking Structure will not only integrate with the downtown core, but also integrate with each other.



SITING, SIZE, AND ACCESS

General siting was determined and mirrored almost exactly the previous "Alternatives 1-A", "1-B", and "1-C" sitings of the previous parking structure studies, placing the Downtown Parking Structure on the northern two-thirds of the site leaving the approximately one-third southern end of the site for the City Hall. This siting scheme fit with the reconfirmed desire and priority for the new City Hall to face East 2nd Street and be a stately and iconic building in the downtown core.

Parking structures tend to have minimum critical dimensions, depending on their configuration type, which determine their size. Most of these concepts were presented in previous studies and will be skipped here. Summarily, the critical width is approximately 130 feet and the length can vary some, depending on desired maximum ramp slopes and floor-to-floor heights. This varying of length allowed further study of the depth of the new City Hall. Ultimately, the parking scheme presented here has a length of 215 feet **[CONCEPT 1]**, which affords the City Hall 85 feet in which to contain its identified functions and spaces. An alternative length 200' was studied **[CONCEPT 2]**, to afford the City Hall more depth (100') but was quickly determined to exceed desire ramp slopes; the extra footprint was ultimately unnecessary for the City Hall to function.

1ST STREET ACCESS

Car ingress and egress was largely a part of the original studies. They show a preference for only one point of entry and exit access from the north end of the site on 1st Street, although a Baker Ave. exit was explored, and ultimately abandoned from this scheme. A Baker Avenue access point into the Downtown Parking Structure would have complicated and thwarted efforts to minimize ramp slopes, and it was predicted drivers would attempt to enter the parking structure at any Baker opening, regardless of whether it was clearly marked and designed to be and exit-only configuration.

CRITICAL FEATURES

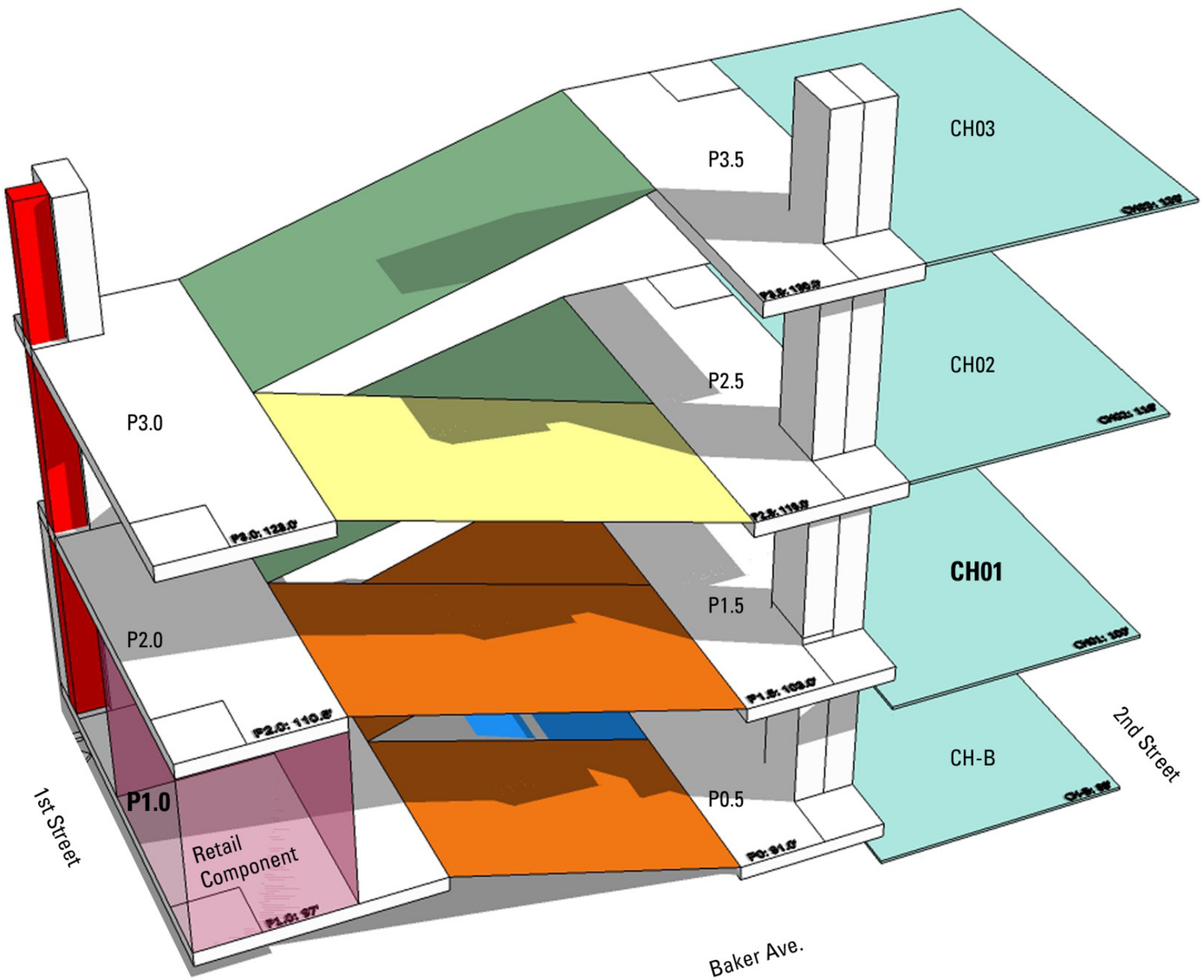
Some desired features and amenities critically determine the overall width, length, and height of the new Downtown Parking Structure.

230+ PARKING SPACES

Parking spaces will be available for visitors to Whitefish Downtown and the new City Hall, city staff and fleet vehicles included. Street parking along Baker Ave. will be converted into short-term parking to facilitate drop-in visits to City Hall.

RETAIL COMPONENT

One key feature identified as a priority of this project and notably absent from the previous parking structure studies is an active use function on the 1st Street side of the site. This has been envisioned to be a retail space, visitor center, or future expansion space for city hall if needed. In order to achieve a desirable and flexible space a potential for the space to be occupied by a number of different tenants over the life of the building, a retail-level floor-to-floor height of a minimum 13' between the first and second level should be employed. This added height has a direct impact on the minimum possible slope of the parking ramps.



CONCEPT 1C
PARKING/CITY HALL LEVELS 2 & 3 **ALIGN**

CRITICAL FEATURES

BASEMENT LEVEL ACCESS

P0.5 to CH-B

One element not fully present in previous studies was access from the parking structure to a basement level of the new City Hall. Although basement level can be considered as undesirable, due to its potential to be unattractive to downtown visitors and it potential to increase construction costs, it can be utilized for city fleet and staff reserved parking, providing direct access to staff areas (including locker-rooms) or delivery to/from basement storage areas.

ADDITIONAL FEATURES AND AMENITIES

Additional desired features and amenities will also integrate into the new Downtown Parking Structure.

"GRANDMA-FRIENDLY" AISLE SLOPES

Level of Service (LOS) is dependent on a number of factors relating to comfort and navigability of the parking structure for vehicular or pedestrian traffic. Variables include stall size, aisle widths, and distances to exits and elevators. Ramps slopes are desired to be minimized as much as possible. A LOS of level A includes 9' wide X 18' deep parking stalls, with 26' wide drive aisles; large enough to accommodate a typical full-size truck (design vehicle 6'-7" x 17'-1"). These metrics were used in the layout and tabulation of the parking.

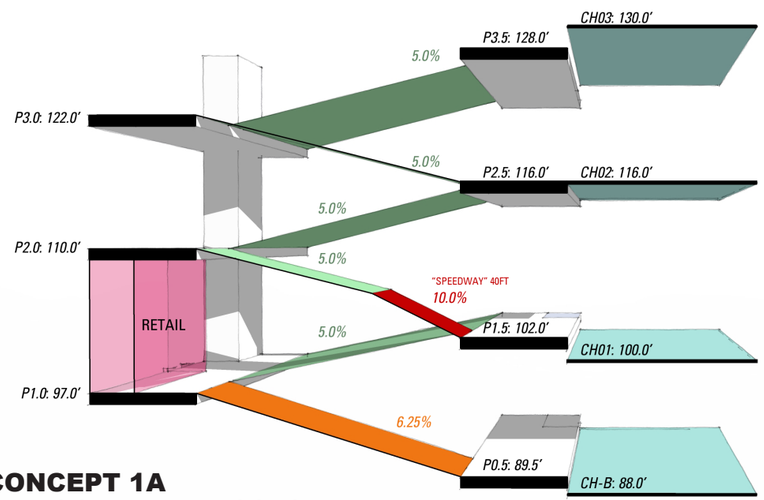
Building Code prohibits vehicle ramps from exceeding 1:15 (6.67%) [2012 IBC 406.4]. Ramp slopes of 5% are considered most desirable and is the target for much of the structure; however, to adequately reach above the retail-component of the north end and the basement level of the city hall, greater than 5% will be necessary to those areas. Lighting systems will be explored to provide safe levels of lighting while still being energy efficient.

PUBLIC RESTROOMS

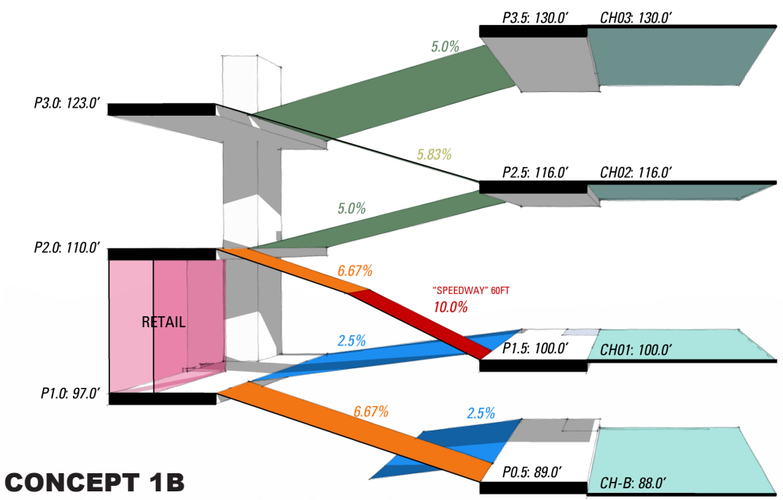
Public restrooms, accessible from the exterior, will be integrated into the new Downtown Parking Structure or new City Hall. Likely, this restroom will be included in the NE corner of the parking structure, at ground level.

ARCHITECTURAL FACADES

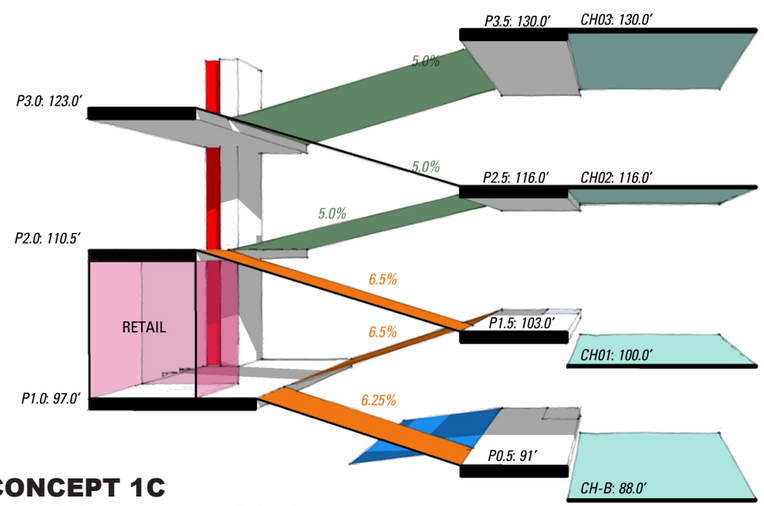
The aesthetic appearance of the parking structure will be contextually sensitive to the rhythmic facades and covered walkways typical in Downtown Whitefish.



CONCEPT 1A
PARKING/CITY HALL LEVELS OFFSET
40' LONG SPEEDWAY RAMP FROM P1.5 TO P2.0



CONCEPT 1B
PARKING/CITY HALL LEVELS **ALIGN EXACTLY**
60' LONG SPEEDWAY RAMP FROM P1.5 TO P2.0



CONCEPT 1C
PARKING/CITY HALL LEVELS OFFSET
PREFERRED SCHEME

ADDITIONAL FEATURES AND AMENITIES

CONNECTIONS TO LEVELS OF THE NEW CITY HALL AND RETAIL-HEIGHT FLOORS AT 1ST STREET

Aligning floor levels of the parking structure to meet the new City Hall floor levels have been identified as secondary to maintaining reduced drive aisle slopes. This is complicated due to the priority of a retail component on the north end of the parking structure, at 1st Street.

However, the concept was studied because it would simplify any pedestrian connections between the Downtown Parking Structure and the new City Hall. It was determined that a "speed-way" or "jump-ramp" of 10% slope would be required for **60 feet** if the levels were to align exactly (and parking would not be possible on this portion) **[CONCEPT 1]**. If the levels do not align exactly, pedestrian connections to each level of the new City Hall can be created with additional intermediate stairs or ramps, landings, and a dual-sided elevator **[CONCEPTS 1A and 1C]**.

Instead of a "speedway" or "jump-ramp", ramp slopes can be minimized, the trade-off requiring a greater offset of levels between the city hall and parking structure **[CONCEPT 1C]**.

With Parking Concepts 1A and 1C, the slopes and ramps will result in the second floor of the parking structure being able to align exactly with the second level of City Hall, at which will be the Council Chamber; which should be convenient when a meeting is scheduled and adjourned. The basement and levels 1 and 3 may have an offset, of which will be dependent on designed aisle slopes.

SUMMARY OF LEVEL OF SERVICE PROVIDED BY DESIGN CONCEPTS

Tables 2, 3 and 4 provide a listing of the LOS provided in Concepts 1, 1A and 2

Table 2 – Summary of LOS for Concept 1 (215' x 126' Footprint)

DESIGN CONSIDERATION	*PROVIDED*	*LEVEL OF SERVICE*
% Spaces on flat floor	≈39%	C +
Parking on ramp slope	5.0% to 6.67%	A to D
Speed ramp slope	10% for length of 60 feet	B
Turning bay dimension	27 feet	B-
Parking geometrics	9'-0" by 18'-0", 90 degree stalls in a parking module of 60'-0"	B+
Turning bay offset, back of stall, 90 degrees, both ends	3'-0"	C
360 degree turns to top	2 ½ turns	A
Maximum walking distance to elevator	less than ≈ 200 feet	A+
Clear height in beam/slab construction	10 + feet on above grade levels	A+

Table 3 – Summary of LOS for Concept 1A (215' x 126' Footprint)

DESIGN CONSIDERATION	*PROVIDED*	*LEVEL OF SERVICE*
% Spaces on flat floor	≈40%	C +
Parking ramp slope	5% typical with ramp to Basement Level at 6.25%	A-
Speed ramp slope	10% for length of 40 feet	B
Turning bay dimension	27 feet	B-
Parking geometrics	9'-0" by 18'-0", 90 degree stalls in a parking module of 60'-0"	B+
Turning bay offset, back of stall, 90 degrees, both ends	3'-0"	C
360 degree turns to top	2 ½ turns	A
Maximum walking distance to elevator	less than ≈ 200 feet	A+
Clear height in beam/slab construction	9 + feet on above grade levels	A+

Table 4 – Summary of LOS for Concept 2

DESIGN CONSIDERATION	*PROVIDED*	*LEVEL OF SERVICE*
% Spaces on flat floor	≈35%%	C +
Parking ramp slope	4.6% to 6.5%	A to D
Speed ramp slope	10% for length of 60 feet	B
Turning bay dimension	27 feet	B-
Parking geometrics	9'-0" by 18'-0", 90 degree stalls in a parking module of 60'-0"	B+
Turning bay offset, back of stall, 90 degrees, both ends	3'-0"	C
360 degree turns to top	2 ½ turns	A
Maximum walking distance to elevator	less than ≈ 200 feet	A+
Clear height in beam/slab construction	9 + feet on above grade levels	A +

LEVEL OF SERVICE DESIGN APPROACH

In order to quantify how well a particular aspect of a parking facility functional design meets user needs, a "Level of Service" (LOS) approach to parking design is utilized. It is derived from the standard methodologies used by traffic engineers, with Levels of Service ranging from A to F. LOS A equates to a high level of wayfinding and/or comfort, generous parking dimensions, little or no delay, etc. LOS F equates to systems that do not work, dimensions that are too tight to function properly, traffic gridlock, etc.

A major factor in selecting the LOS for a facility is the familiarity of the user. When arriving and departing vehicle activity occurs throughout most of the day, a better level of service should be provided than if there is one rush period in the morning and another one in the evening. If students and employees represent the end of the scale with high familiarity/low turnover, visitors usually represent the converse situation of low familiarity/high turnover. Finally, the more urban and congested the setting of the facility, the more tolerant users are of lower levels of service. LOS D is generally only used in the core areas of the largest cities where land values and parking fees are at a premium level. Therefore, issues related specifically to the user can be addressed by selecting a LOS appropriate to the circumstance. Table 1 relates level of service criteria to the needs/concerns of users.

The level of service approach is applicable to a number of design considerations in parking facilities, including entry/exits, geometrics, flow capacity, travel distance, turning radii, and floor slopes. The specific type of user, duration of stay, frequency of use, and user expectation plays a major role in the selection of the design LOS. For this project, we have generally designed to minimum LOS C.

Table 1 – Level of Service Criteria

DESIGN CONSIDERATION	*CHIEF FACTOR*	*ACCEPTABLE LEVEL OF SERVICE*
		D C B A
Turning radii, ramp slopes, travel distance etc.	Freedom to maneuver	Employees……Visitors
Geometrics	Freedom to maneuver	Employees……Visitors
Flow capacity	*v/c* Ratio	Visitors……..Employees
Entry/exits	Average wait	Visitors……Employees

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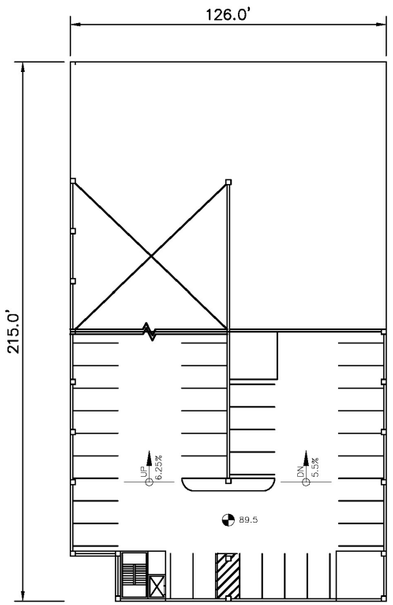
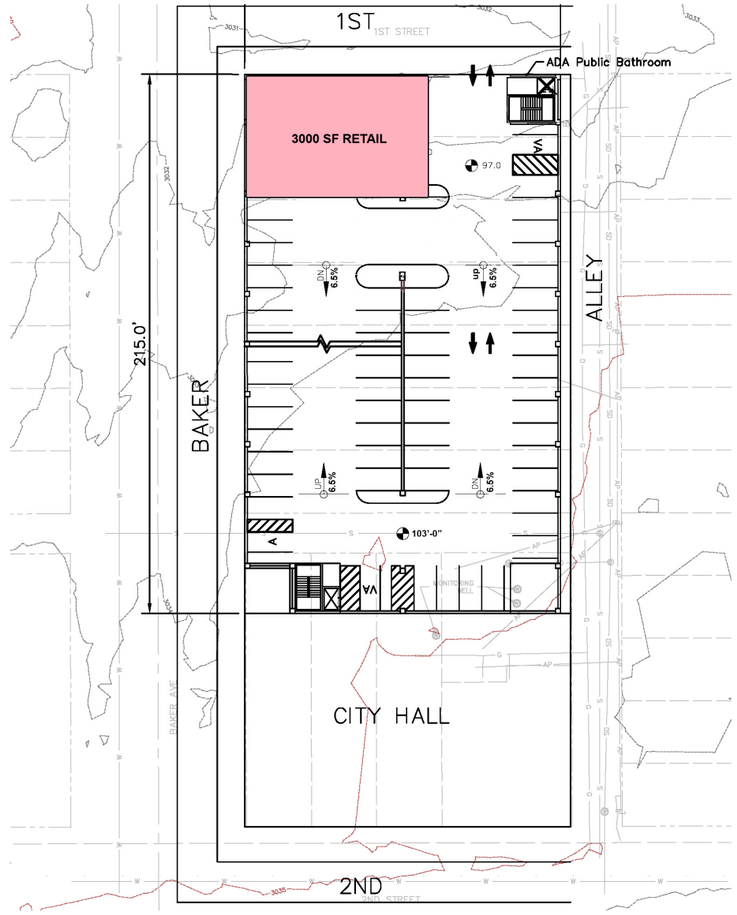
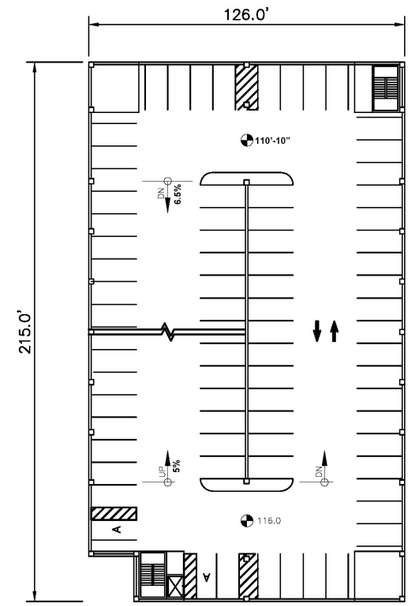
PREFERRED PARKING CONCEPT



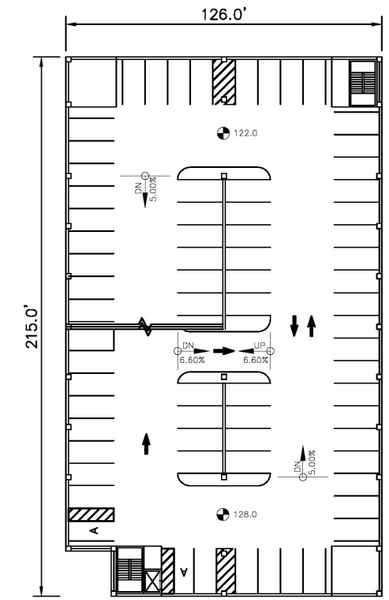
BASEMENT LEVEL



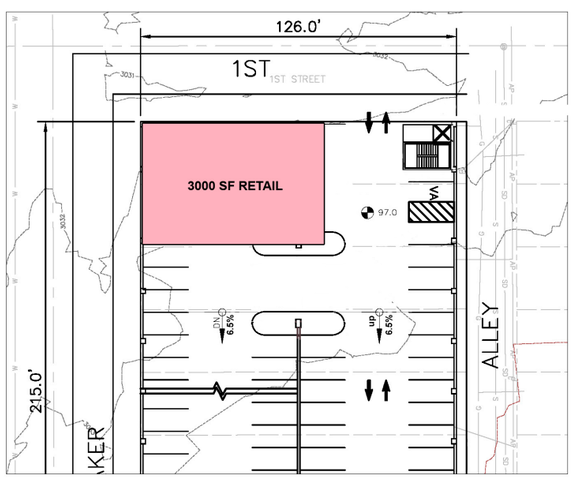
FIRST LEVEL



SECOND LEVEL



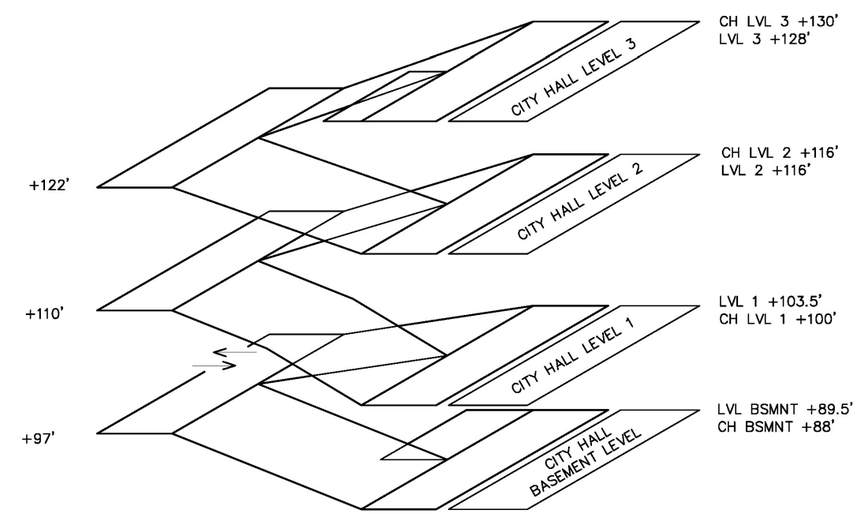
THIRD LEVEL



PROPOSED COMMERCIAL AREA 1ST FLOOR

SPACES LOST: 16
AREA: 1950 SQFT

CAR COUNT 9'–0" x 18'–0" SPACE						
TIER	STANDARD	CAR ACCESSIBLE 8'–0" x 18'–0" WITH 5'–0" LOADING ZONE	VAN ACCESSIBLE 8'–0" x 18'–0" WITH 8'–0" LOADING ZONE	TOTAL	AREA (SQ. FT.)	
BASEMENT	34	0	0	34	13284	
FIRST	**54**	1	2	**57**	26766	
SECOND	75	2	0	77	26766	
THIRD	69	2	0	71	26704	
TOTAL	**232**	5	2	**239**	93520	



PARKING CONCEPT 1A - 215' LENGTH
PREFERRED PARKING CONCEPT
PARKING/CITY HALL LEVELS OFFSET

Kimley»Horn

5. MECHANICAL/ELECTRICAL SYSTEMS SUMMARY

HVAC Systems
The Heating, Ventilating, and Air Conditioning system will incorporate industry recognized standards to achieve the requirements of the 2012 International Energy Conservation Code and American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) Standard 90.1 (Energy Standards for Buildings). The system will also meet ASHRAE Standard 62.1 (Ventilation for Acceptable Air Quality). The temperature control system will incorporate direct digital technology and will be compatible with the Honeywell / Allerton system serving the Emergency Services Center.

Plumbing Systems
The main water service entrance will consist of a water meter, backflow preventer, and pressure reducing valve. This equipment will be in the basement of City Hall. Plumbing fixtures will incorporate "touchless" technology whenever possible and will be designed to use a small amount of water to operate. All roof water will be collected and introduced into the city stormwater system rather than the sanitary waste system.

Fire Protection Systems
The facility will incorporate fire protection (fire sprinkling) systems throughout. The main water service will be in the basement of City Hall. Server and Radio Rooms will utilize waterless technology for fire protection.

Electrical Power Systems
An electrical service will be provided per NEC requirements. Service voltage and size will be determined in schematic design. General power and receptacles will be provided throughout the building. The Conference Rooms will utilize floor boxes to provide flexibility in power and data locations.

Radio Room and Server Rooms will be designed to the owners and manufacturers requirements. Including dedicated panels and surge protection. Grounding and specialized circuiting will be provided to meet the needs of the owner.

Electrical Lighting Systems
Lighting in Conference Rooms and office spaces will be either direct/indirect pendant style fixtures, or recessed volumetric style fixtures, depending on the ceiling type, height, and use of the space. LEDs will be used in all of the spaces to maximize controllability, reduce the maintenance and the need to store spare lamps. Emergency Egress Lighting shall be integral to each fixture. The lighting system will incorporate industry recognized standards to achieve the requirements of the 2012 International Energy Conservation Code.

The lighting control system will be a low voltage control system, similar to the Wattstopper DLM system. Features and controls will include: daylight sensors, occupancy sensors, scheduling, and where practical, basic toggle light switches. In areas such as conference rooms that will require different scenes and possible integration with A/V, there may be a need to install more advanced switches.
Exterior lights will be controlled with a time clock and a central photo cell, to turn on only when it is dark out.
Voice and Data Systems
All voice and data outlets will be selected, located, and specified by others. The location of all voice and data devices will be coordinated with the owner to ensure that the appropriate raceway and utilities are provided for that equipment.

Fire Alarm Systems
A fully addressable Fire Alarm System will be installed throughout the building. An annunciator will be located at the entrance, as determined by the AHJ.

Standby Power Systems
Standby power will be explored for systems deemed necessary by the Occupants. Size and type will be determined ad design development.

Surveillance Systems
All security equipment will be selected, located, and specified by others. The location of all security devices will be coordinated with the owner to ensure that the appropriate raceway and utilities are provided for that equipment. These systems will consist of Security cameras, Intrusion alarm, etc. Power will also be provided, where required for each piece of equipment.

Audio / Visual Systems
All AV equipment will be selected, located, and specified by others. The location of all AV devices will be coordinated with the owner to ensure that the appropriate raceway and utilities are provided for that equipment. **This includes cable TV and the consideration for live video feed of Counsil meetings to the local cable network.**

Security and Locking Systems
A security and locking system will be installed to control and limit access to staff and office areas during regular business hours. After hours access points will be integrated to allow to-be-determined access to select areas of the building, thereby extending the use of the building to community groups while only requiring limited or remote interaction by city staff.

MORRISON MAIERLE, INC.
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS

6. PROJECT ESTIMATES

The current cost estimate is based on costs per sf for each area of the building. These costs are derived from past experience, case studies, and cost estimating publications (including RSMeans Building Construction Cost Data). As we move forward into the next phases of the project, the cost estimates will become more details and will identify costs for building systems and materials.

The areas shown are derived from the square foot calculations of the conceptual design floor plans. These areas won't necessarily match exactly to the amounts shown in the programming document as adjustments are made to fit the plan and the non-assignable space is somewhat variable.

The programmed area for the City Hall stands at 24,800 sf, although the building concept floor plans fits those spaces into 23,537sf as shown on the following cost estimate. This is up from the program completed in 2007 showing 19,228 sf by Cole & Russell because it did not account for growth and some added spaces (i.e. meeting rooms, more lobby space, etc.). We have shown options, as discussed with the Building Committee, for a third floor expansion space and community room as well as a full basement totaling an approximate 7700sf for a total building area of about 31,000sf.

The previous 2007 estimate from Cole & Russell for the 19,228 sf was $5,332,000 compared to the current $6,340,000 (for the programmed building, not including the 3rd floor and added basement). Inflation at 2%/yr would put the 2007 estimate at $6.125 Million for 2014.

NEW WHITEFISH CITY HALL AND DOWNTOWN PARKING STRUCTURE
PROJECT BUDGET ESTIMATE

A. General Conditions				Cost/Unit				Total
Demolition - Buildings	250	mcf		$750.00	PER	mcf	=	$187,500
Demolition - Site Clearing	39000	sf		$1.00	PER	sf	=	$39,000
Staging area costs	1	ls	@	15,000.00	PER	ls	=	$15,000
Temp wall/fencing re-staging	2.00	ea	@	2,500.00	PER	ea	=	$5,000
Temp utilities	1.00	ea	@	30,000.00	PER	ea	=	$30,000
						SUB TOTAL (A.)		$276,500

B. Site Development & Parking Garage				Cost/SF				Total
Parking Structure	231	spaces	@	22,000.00	PER	ST	=	$5,082,000
Plazas/Walks	5,800	SF	@	8.00	PER	LF	=	$46,400
Landscape - tree wells	18	ea	@	2,000.00	PER	ST	=	$36,000
Landscaping / Irrigation	1	LS	@	75,000.00	PER	SF	=	$75,000
Utilites	1	LS	@	50,000.00	PER	SF	=	$50,000
Signage	2	LS	@	5,000.00	PER		=	$10,000
						SUB TOTAL (B.)		$5,299,400

C.1 Building (as programmed) - construction cost less site/GC								
Parks & Recreation	1878	SF	@	$210	PER	SF	=	$394,380
Legal	1310	SF	@	$210	PER	SF	=	$275,100
Building, Planning, & Zoning	2283	SF	@	$210	PER	SF	=	$479,430
Public Works	2300	SF	@	$210	PER	SF	=	$483,000
Administration	2436	SF	@	$210	PER	SF	=	$511,560
Council Chambers	2606	SF	@	$210	PER	SF	=	$547,260
Staff/Community Room *(at basement level if no third floor)*	720	SF	@	$210	PER	SF	=	$151,200
Shared Spaces (meeting rooms, etc.)	1709	SF	@	$210	PER	SF	=	$358,890
Restrooms	988	SF	@	$210	PER	SF	=	$207,480
Utility (mech & elect.) - Upper floors	972	SF	@	$210	PER	SF	=	$204,120
Circulation (open stair, other stairs, elev, halls)	2800	SF	@	$210	PER	SF	=	$588,000
Basement Space - Finished	3535	SF	@	$140	PER	SF	=	$494,900
Basement Space - Unfinished		SF	@	$100	PER	SF	=	$0
Elevator	1	EA	@	$125,000	PER	SF	=	$125,000
Outdoor plaza/decks etc		LS	@	$70	PER	SF	=	$0
	23,538	not inc decks				SUB TOTAL C.1		$4,820,320

C.2 Building (added basement and third floor) - construction cost less site/GC								
Staff/Community Room	730	SF	@	$210	PER	SF	=	$153,300
Shared Spaces (storage, etc.)	391	SF	@	$210	PER	SF	=	$82,110
Restrooms	442	SF	@	$210	PER	SF	=	$92,820
Circulation (open stair, other stairs, elev, halls)	2000	SF	@	$210	PER	SF	=	$420,000
Basement Space - Finished	0	SF	@	$140	PER	SF	=	$0
Basement Space - Unfinished	4145	SF	@	$100	PER	SF	=	$414,500
New - Outdoor plaza/decks etc	480	LS	@	$70	PER	SF	=	$33,600
	7,708	not inc decks				SUB TOTAL C.2		$1,196,330

C.3 Building - (Added Retail space at Parking Garage)								
Retail Space (shell)	3000	SF	@	$140	PER	SF	=	$420,000
Restrooms	100	SF	@	$200	PER	SF	=	$20,000
Utility (mech & elect.		SF	@	$140	PER	SF	=	included
Elevator	1	EA	@	$125,000	PER	SF	=	$125,000
New - Outdoor plaza/decks etc		LS	@	$70	PER	SF	=	$0
	3,101	not inc decks				SUB TOTAL C.3		$565,000

BUILDING CONTINGENCY	@	5%	$519,811	$	88,067
			As Programmed	Add basement & 3rd flr	
PROJECT CONSTRUCTION BUDGET	$221.70 per SF construction cost (does not include administrative costs)	SUB TOTAL	$10,916,031	$12,765,428	

D. Development Costs					
	estimated	PROFESSIONAL FEES	8.6%	$938,779	$1,097,827
		A/E Reimbursables	1.00%	$109,160	$127,654
		Hazardous Materials Investigation		completed	completed
		Site Survey (estimated amount)		$4,000	$4,000
		Geotech Investigation (estimated amount)		$30,000	$30,000
		Civil Engineering (estimated amount)		$25,000	$25,000
		Fire Protection Design (estimated amount)		$30,000	$30,000
		LEED Documentation (hourly not-to-exceed)		verify	verify
		Fundemental Commissioning Services (estimated amount)		$30,000	$30,000
		CONSTRUCTION TESTING	@ 0.60%	$65,496	$76,593
			SUB TOTAL (D.)	$1,232,435	$1,421,074
TOTAL PROJECT COST				$12,148,466	$14,186,501

E. Furnishings								
Furnishings Estimate	20000	SF	@	$18	PER	SF	=	$360,000
AV Equipment	3	RM	@	$20,000	PER	SF	=	$60,000
						SUB TOTAL (E)		$420,000

PROGRAM OF REQUIRED SPACES - FORMAT
CITY OF WHITEFISH NEW CITY HALL
Grover + Company / Cole + Russell Architects, Inc.
February 16, 2007

PROGRAM SUMMARY

Space Type	Required Areas
NET USABLE AREAS (sq. ft)	
PARKS AND RECREATION	650
ADMINISTRATION/CLERKS	4,984
LEGAL	850
BUILDING, PLANNING AND ZONING	2,325
PUBLIC WORKS	2,100
SHARED FACILITIES	3,320
TOTAL NET USABLE AREAS (sq. ft.)	14,229
Mechanical & Electrical Spaces	1,126
Circulation (corridors, stairs, elevators)	1,506
Walls, partitions, structure, shafts, etc.	2,367
TOTAL GROSS BUILDING AREA	19,228
ESTIMATED TOTAL PROJECT COST	$5,332,000

NOTES.

MEMORANDUM
#2014-029

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Future City Hall Design Costs and options

Date: September 30, 2014

Introduction/History

Sherri Baccaro, Assistant to the Public Works Director and Chair of the Ad-Hoc Future City Hall Steering Committee has a recommendation memo in the packet which outlines the history of the committee's work to date. Planning for a new City Hall has existed since the 1987 Urban Renewal Plan was adopted.

Current Report

Again, Sherri's memo describes the current status of the work. At some point, the City Council needs to decide and give direction on four different issues:

1. What general conceptual scheme to pursue as we move into the next phase of architectural design which is called Schematic Design. Ben Tintinger and Mark Ophus of Mosaic Architecture will attend the October 6th work session and public hearing to discuss the committee's recommendation to pursue conceptual scheme No. 1 as we move into Schematic Design phase. Ben will point out that he believes he can incorporate many of the suggestions from Crandall Arambula PC into their designs during schematic design. Sherri's memo addresses further the committee's recommendation for pursuing Scheme #1. The packet also contains concepts submitted to the committee from John Kramer and a memo from Crandall Arambula PC commenting on the conceptual plans pursuant to a request to and contract amendment with Crandall Arambula.

2. What general cost parameters and square footages of the building to pursue. I will discuss this aspect below in the Financial Requirements section.

3. Authorization to proceed to the next phase of architectural design which begins with Schematic Design.

4. Timing of when we want to go to construction. I will discuss this aspect further below as well.

Financial Requirement/Impact

The committee's second motion deals with square footage of the proposed architectural scheme #1 (and therefore costs).

Since 2007, we have used $4,500,000 as the estimate of TIF funds earmarked for a new City Hall. See the attached TIF financial spreadsheet. Later the parking structure was added with an estimate cost of $6,500,000 for a total of $11,000,000. If, as shown on the TIF Financial forecast, we began construction in 2019 (i.e. cash financed – no debt or bond issue), the breakdown of our planned revenues can be summarized as follows:

Accumulated funds in City Hall Construction Fund (annual TIF contributions pursuant to Resolution No. 03-63)	$3,300,000
FY19 TIF contribution	$1,250,000
City Hall Sub-total	$4,550,000
Plus revenues we haven't historically estimated, but will be available:	
Interest earnings up to FY19 (estimate)	$ 20,000
City Hall Impact Fees (7/1/14 balance equaled $309,475) (estimate)	$ 700,000
Estimated funds available in FY19 for City Hall construction	$5,270,000

Currently the cost estimates for City Hall range quite a bit. The original $4,500,000 earmark was based on an 18,000 square foot building (two levels of 9,000 square feet each on a slab (no basement) north of the Library). See March 15, 2007 cost estimate attached to this report.

While there are several options available to the City Council, currently the largest City Hall shown in the attached documents would be 31,246 feet (two levels of offices of 10,000 square feet each, a basement of 3,135 square feet to 7,680 square feet, and a third story to build to the maximum allowed square footage and have a community room on the top level of 3,563).

However, additional square feet come at a significant cost increase. I have a spreadsheet in the attachments to this memo which uses the Mosaic Architecture cost information (also attached to the memo) and breaks costs and square footages down into the basic City Hall building, basic Parking Structure, and other options.

The Committee made the motion to recommend funding the new City Hall to include a full basement and the third floor option. Their reasoning was that construction costs will never be cheaper and with a constrained site, the options to expand in the future are limited (can only do the basement at the beginning) and there is some doubt that, if the 3rd floor were eliminated now,

but could be added later, would it ever be approved. The majority of the committee felt that if we have available TIF funds now, it is the best time to do it all. The current cost of this option, including new furniture and furnishings is $7,738,054 as shown on the spreadsheet in the packet.

As you can see from the above information, there are a lot of options for the City Council to consider at various cost levels. One committee member pointed out, as you get into more detailed Phase 2 schematic drawings, the costs above never go down and usually go up. Also, Ben Tintinger of Mosaic is somewhat nervous about whether the $205 per sq. ft. City Hall building cost will hold up because of the resurgence of construction and tighter demand for contractors.

The Parking Structure was originally estimated at $6,500,000 and as you can see in my spreadsheet, it is currently estimated at $6,868,448 which is not too far off. Again, costs may rise with more detailed drawings. Also, you have given general direction for $750,000 of the parking structure construction costs to be borne by a Special Improvement District in the downtown area, so that means we may not need all of the $6,500,000.00 of TIF funds for the Parking Structure.

Regarding the funding and timing of the City Hall building and Parking Structure, if we want to construct it before 2019, we will have to do at least some short term borrowing. Having talked to two bond underwriters, I believe we can easily finance the TIF portion of a City Hall and Parking Structure using both funds on hand and some borrowing. Given that this summer's Tax Increment Fund financial forecast showed that we would have $ 4,201,052 left in the TIF fund in 2020, we should easily be able to fund and finance any level of the City Hall and Parking Structure building that you want to fund.

There has been some discussion of trying to begin construction next year. To do that we would have to borrow against the TIF fund for probably a five year loan or bond. However, tax-exempt bond rates are very good right now and for a five year financing, we might be able to finance it in the range of 2% to 2.5% (our current TIF bonds have interest rates of 4% to 4.625% and we can likely refinance those beginning in 2015 to lower the interest rate on those existing bonds as well). So, the current interest rate levels, if they hold through July 1, 2015 (or don't go up much), make it very attractive to finance it with debt if the Mayor and City Council wanted to start construction in 2015.

Ben Tintinger of Mosaic Architecture said earlier this year that they were planning for and could be ready for construction in 2015, but we would also have to start making decisions and get working on the TIF bonds, finish the SID financing, and finish all the design and bidding documents. However, the Mayor and City Council also need to take sufficient time to consider all these options, get good, informed input from citizens, and doing so might mean that you want to take a couple of extra weeks to consider all the options. If you wanted to continue the public hearing to October 20th, we can certainly do so and Ben Tintinger can advise us as to the time requirements for the next phases of design to see if it is possible to begin construction next year.

To summarize available funds for the project:

Original amount of funds saved from TIF contributions to City Hall reserve fund		$ 2,250,000
TIF Funds in 2019 or by using a bond or loan sooner		8,750,000
Original TIF earmark estimate		$11,000,000
Additional available funds		
Interest earnings	$10,000 to	20,000
City Hall Impact fee funds	$ 309,475 on hand to	700,000
Downtown Parking SID		750,000
Sub-total of funds without increasing TIF commitment		$12,470,000
Available TIF Funds by 2020 (assuming no refinance of existing bonds)		$ 4,201,052
Total		$16,671,052

So there is financial capacity to do all of the City Hall options and still have uncommitted TIF funds available. However, the Mayor and City Council also don't want to commit all of the TIF funds in case other priority redevelopment projects such as the former North Valley Hospital or the Idaho Timber site come forward.

Recommendation

Staff respectfully recommends the City Council give direction and authorization to proceed in the following four areas:

1. What general conceptual scheme to pursue as we move into the next phase of architectural design which is called Schematic Design.

2. What general cost parameters and square footages of the building to pursue. If you want to reduce the cost of City Hall, I would recommend delaying or eliminating the third floor first and then reduce the basement to a ½ basement. The basement cannot be expanded in the future, so there is good reason to build a full basement now if possible.

3. Authorization to proceed to the next phase of architectural design which begins with Schematic Design. Costs

4. Timing of when we want to go to construction.

	A	B	F	G	H	I	J	K	L	M
37	TIF Financial Plan July 2013 through July 2020									
38			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020		Total
39	**Beginning Cash Balance**		$ 1,777,777	$ 503,931	$ 1,662,755	$ 3,421,712	$ 5,002,241	$ 4,692		
40	**Revenues**									
41	Property Taxes [1]		$ 4,635,234	$ 4,866,996	$ 5,110,345	$ 5,365,863	$ 5,634,156	$ 5,915,864		31,528,458
42	State Entitlement Payment		148,194	148,194	148,194	148,194	148,194	148,194		889,164
43	Miscellaneous		35,000							35,000
44	Total Revenues		$ 4,818,428	$ 5,015,190	$ 5,258,539	$ 5,514,057	$ 5,782,350	$ 6,064,058		32,452,622
45	**Expenditures**									-
46	TIF Bond Debt Service (last yr use 1.5mill reserve)		$ 1,769,988	$ 1,778,886	$ 1,776,586	$ 1,780,933	$ 1,779,898	$ 240,512		9,126,803
47	Semi-annual School Payment [1]		650,000	682,500	716,625	752,456	790,079	829,583		4,421,243
48	Transfer to City Hall Fund [2]		$250,000	250,000	250,000	250,000	1,250,000			2,250,000
49	Salaries and O&M [3]		368,653	379,713	391,104	402,837	414,922	427,370		2,384,599
50	Business Rehab Loan		30,000	30,000	30,000	30,000	30,000	30,000		180,000
51	Land Purchase									-
52	Urban Renewal Projects:									-
53	Misc Urban Renewal Projects		300,000	15,000	15,000	15,000	15,000	15,000		375,000
54	High School TIF project		750,000							750,000
55	Depot Park ($2 million) (phase 2-4)		300,000	620,267	220,267	602,302		225,233		1,968,068
56	Ped-Bike bridge to Skye Park (Total ~$829k)		360,000		?					360,000
57	Develop additional downtown parking		?				6,500,000			6,500,000
58	Assist Private Developer - Boutique Hotel		513,633	?	?	?	?			513,633
59	Assist Private Developer - Idaho Timber		?	?	?	?	?			-
60	Assist Private Developer - N. Valley Hospital		?	?	?	?	?			-
61	Assist Private Developer - Other Redevelopment		200,000	?	?	?	?			200,000
62	Downtown/O'Shaugnessy Restrooms		100,000							100,000
63	Other Real Estate Committee Land Purchase Options		?	?	?	?	?			-
64	Housing Authority									-
65	Chamber ($96k)	$96,000								-
66	Depot Park Snow Lot (phase 5 of depot park)	$550,000								-
67	Install/refurbish water & sewer lines throughout district		?	?	?	?	?			-
68	Miscellaneous		-	-	-	-	-	-		-
69	Contingency		500,000	100,000	100,000	100,000		100,000		900,000
70	Total Approximate Non-Committed	$646,000								-
71	Total Expenditures		$ 6,092,274	$ 3,856,366	$ 3,499,582	$ 3,933,528	$ 10,779,899	$ 1,867,698		30,029,346
72	Revenues less Expenditures		$ (1,273,846)	$ 1,158,824	$ 1,758,957	$ 1,580,529	$ (4,997,549)	$ 4,196,360		$ 2,423,275
73	**Ending Cash Balance**		$ 503,931	$ 1,662,755	$ 3,421,712	$ 5,002,241	$ 4,692	$ 4,201,052		
74	1 Assumes 5% growth per year									
75	2 Assumes City Hall construction for $4,800,000 in 2014, $750k land already purchased. Current available, July, 2014 = $2,260,050									
76	3 Assumes 3% growth per year						Prepared	6/26/2014		

These figures plus $2,250,000 currently on hand in the City Hall Construction Fund (separate fund) equal the $11,000,000 that we have been preliminarily earmarking for City Hall and Parking Structure

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
5	Future City Hall and Parking Structure		Current Cost Estimates	09/26/14										
6														
7														
8						Additional Cost for	Additional Cost for	Additional Cost						
9			Basic City Hall w/ 3,535 sq. ft. basement	Basic Parking Structure	Basic City Hall + Parking Structure	Full City Hall Basement	3rd Floor City Hall	for Retail at 1st & Baker		City Hall Totals	Parking Structure Totals		Total	
10														
11	Square Footage		23,538	90,419	113,957	4,145	3,563	3,101		31,246	93,520		124,766	
12														
13	Basic Construction Cost		$4,820,320	$5,082,000	$9,902,320	$414,500	$781,830	$565,000		$6,016,650	$5,647,000		$11,663,650	
14	Allocation of General Conditions		$114,271	$120,475	$234,746	$9,826	$18,534	$13,394		$142,631	$133,869		$276,500	
15	Allocation of Site Development		$89,846	$94,724	$184,570	$7,726	$14,573	$10,531		$112,145	$105,255		$217,400	
16	Allocation of Contingency		$251,222	$264,860	$516,082	$21,603	$40,747	$29,446		$313,572	$294,306		$607,878	
17	Allocation of Development Costs		$587,297	$619,180	$1,206,477	$50,502	$95,256	$68,838		$733,056	$688,018		$1,421,074	
18														
19	Sub-totals		$5,862,957	$6,181,239	$12,044,196	$504,157	$950,940	$687,210		$7,318,054	$6,868,448		$14,186,502	** varies by
20	Add Furnishings		$420,000							$420,000			$420,000	$1 - $2 by
21	Total Cost		$6,282,957	$6,181,239	$12,044,196	$504,157	$950,940	$687,210		$7,738,054	$6,868,448		$14,606,502	rounding error
22														
23	Basic Construction Cost per square foot		$205	$56	$87	$100	$219	$182		$193	$60		$93	
24	Total cost per square foot		$267	$68	$106	$122	$267	$222		$248	$73		$117	
25														
26														

City of Whitefish City Hall

Space Needs Analysis

March 15, 2007

Cole + Russell Architects/ Grover + Company, PLLC

Programmed space	Suggested Needs
Summary	
Shared Space	4500
Parks and Recreation	813
Administration/ Clerks	6230
Legal	1063
Building, Planning, Zoning	2906
Public Works	2625
City Hall Total SF	**18137**

	New Construction Cost Range		
Cost per square foot	$170	to	$180
Total opinion of probable building hard cost	$3,083,290	to	$3,264,660
Total opinion of probable cost with 4% escalation for one year	**$3,206,622**	to	**$3,395,246**

Building Hard cost assumptions do not include:

Architectural/Engineering design fees (Approx. 10% of Hard Costs)	$326,466
Land Acquisition	0
Landscaping	$15,000
Geotechnical investigation	$8,000
Surveys	$7,000
Soils, concrete, and construction inspection fees	$10,000
Bidding costs (printing costs, advertisement costs)	$10,000
Technology and Security System	$100,000
Furniture, Fixtures and Equipment	$400,000
Unforeseen site conditions	Unknown
Permit and Tap Fees	Unknown
TOTAL:	$4,271,712
Note: Cole+Russell Architects advises all government clients to maintain a 10% project contingency above and beyond all soft and hard costs for unforeseen conditions arising during design and construction	$427,171
Land Acquisition	$1,500,000
Total Opinion of Probable Project Cost	**$6,198,884** + unknown costs

These two figures equal $4,698,883 which is the basis for why we have been earmarking $4,500,000 from TIF (plus impact fees) for City Hall

PROGRAM OF REQUIRED SPACES - FORMAT
CITY OF WHITEFISH NEW CITY HALL
Grover + Company / Cole + Russell Architects, Inc.
February 16, 2007

PROGRAM SUMMARY

Space Type	Required Areas
NET USABLE AREAS (sq. ft)	
PARKS AND RECREATION	650
ADMINISTRATION/CLERKS	4,984
LEGAL	850
BUILDING, PLANNING AND ZONING	2,325
PUBLIC WORKS	2,100
SHARED FACILITIES	3,320
TOTAL NET USABLE AREAS (sq. ft.)	14,229
Mechanical & Electrical Spaces	1,126
Circulation (corridors, stairs, elevators)	1,506
Walls, partitions, structure, shafts, etc.	2,367
TOTAL GROSS BUILDING AREA	19,228
ESTIMATED TOTAL PROJECT COST	$5,332,000

This was a 2/16/07 cost estimate that I assumed was superseded by the March 15,2007 cost estimate on the prior page.
As Ben Tintinger points out, March 15, 2007 estimate did not have identified space for walls, partitions etc.

Whitefish City Hall Building & Parking Garage

9/25/14 - Mosaic Architecture

Project Budget Estimate

A. General Conditions				**Cost/Unit**				**Total**
Demolition - Buildings	250	mcf		$750.00	PER	mcf	=	$187,500
Demolition - Site Clearing	39000	sf		$1.00	PER	sf	=	$39,000
Staging area costs	1	ls	@	15,000.00	PER	ls	=	$15,000
Temp wall/fencing re-staging	2.00	ea	@	2,500.00	PER	ea	=	$5,000
Temp utilities	1.00	ea	@	30,000.00	PER	ea	=	$30,000
						SUB TOTAL (A.)		**$276,500**

B. Site Development & Parking Garage				**Cost/SF**				**Total**
Parking Structure	231	spaces	@	22,000.00	PER	ST	=	$5,082,000
Plazas/Walks	5,800	SF	@	8.00	PER	LF	=	$46,400
Landscape - tree wells	18	ea	@	2,000.00	PER	ST	=	$36,000
Landscaping / Irrigation	1	LS	@	75,000.00	PER	SF	=	$75,000
Utilites	1	LS	@	50,000.00	PER	SF	=	$50,000
Signage	2	LS	@	5,000.00	PER		=	$10,000
						SUB TOTAL (B.)		**$5,299,400**

C.1 Building (as programmed) - construction cost less site/GC								
Parks & Recreation	1878	SF	@	$210	PER	SF	=	$394,380
Legal	1310	SF	@	$210	PER	SF	=	$275,100
Building, Planning, & Zoning	2283	SF	@	$210	PER	SF	=	$479,430
Public Works	2300	SF	@	$210	PER	SF	=	$483,000
Administration	2436	SF	@	$210	PER	SF	=	$511,560
Council Chambers	2606	SF	@	$210	PER	SF	=	$547,260
Staff/Community Room *(at basement level if no third floor)*	720	SF	@	$210	PER	SF	=	$151,200
Shared Spaces (meeting rooms, etc.)	1709	SF	@	$210	PER	SF	=	$358,890
Restrooms	988	SF	@	$210	PER	SF	=	$207,480
Utility (mech & elect.) - Upper floors	972	SF	@	$210	PER	SF	=	$204,120
Circulation (open stair, other stairs, elev, halls)	2800	SF	@	$210	PER	SF	=	$588,000
Basement Space - Finished	3535	SF	@	$140	PER	SF	=	$494,900
Basement Space - Unfinished		SF	@	$100	PER	SF	=	$0
Elevator	1	EA	@	$125,000	PER	SF	=	$125,000
Outdoor plaza/decks etc		LS	@	$70	PER	SF	=	$0
	23,538	not inc decks				**SUB TOTAL C.1**		**$4,820,320**

C.2 Building (added basement and third floor) - construction cost less site/GC								
Staff/Community Room	730	SF	@	$210	PER	SF	=	$153,300
Shared Spaces (storage, etc.)	391	SF	@	$210	PER	SF	=	$82,110
Restrooms	442	SF	@	$210	PER	SF	=	$92,820
Circulation (open stair, other stairs, elev, halls)	2000	SF	@	$210	PER	SF	=	$420,000
Basement Space - Finished	0	SF	@	$140	PER	SF	=	$0
Basement Space - Unfinished	4145	SF	@	$100	PER	SF	=	$414,500
New - Outdoor plaza/decks etc	480	LS	@	$70	PER	SF	=	$33,600
	7,708	not inc decks				**SUB TOTAL C.2**		**$1,196,330**

C.3 Building - (Added Retail space at Parking Garage)								
Retail Space (shell)	3000	SF	@	$140	PER	SF	=	$420,000
Restrooms	100	SF	@	$200	PER	SF	=	$20,000
Utility (mech & elect.		SF	@	$140	PER	SF	=	included
Elevator	1	EA	@	$125,000	PER	SF	=	$125,000
New - Outdoor plaza/decks etc		LS	@	$70	PER	SF	=	$0
	3,101	not inc decks				**SUB TOTAL C.**		**$565,000**

BUILDING CONTINGENCY	@	5%	**$519,811**	**$ 88,067**
$221.70 per SF construction cost			**As Programmed**	**Add basement & 3rd flr**
PROJECT CONSTRUCTION BUDGET	**(does not include administrative costs)**	**SUB TOTAL**	**$10,916,031**	**$12,765,428**

D. Development Costs					
	estimated PROFESSIONAL FEES		8.6%	$938,779	$1,097,827
	A/E Reimbursables		1.00%	$109,160	$127,654
	Hazardous Materials Investigation			completed	completed
	Site Survey (estimated amount)			$4,000	$4,000
	Geotech Investigation (estimated amount)			$30,000	$30,000
	Civil Engineering (estimated amount)			$25,000	$25,000
	Fire Protection Design (estimated amount)			$30,000	$30,000
	LEED Documentation (hourly not-to-exceed)			verify	verify
	Fundemental Commissioning Services (estimated amount)			$30,000	$30,000
	CONSTRUCTION TESTING	@	0.60%	$65,496	$76,593
			SUB TOTAL (D.)	**$1,232,435**	**$1,421,074**
TOTAL PROJECT COST				**$12,148,466**	**$14,186,501**

E. Furnishings								
Furnishings Estimate	20000	SF	@	$18	PER	SF	=	$360,000
AV Equipment	3	RM	@	$20,000	PER	SF	=	$60,000
						SUB TOTAL (E)		**$420,000**

Handout from John Kramer to City Hall Steering Committee on 9-11-14

Whitefish City Hall and Parking Structure

CITY HALL CONCERNS:

- Staggered building frontage at corner creates a 'suburban' form. It is not consistent with downtown buildings, which generally all engage the sidewalks.
- Scheme 1 - midblock City Hall entry minimizes the importance of the Baker frontage "active edge".
- Midblock entry creates an internal building function –All internal uses pinwheel off a meandering/confusing internal corridor.
- Scheme 1 lacks consideration of compatibility, or lessons learned from neighboring existing and future buildings.

CITY HALL SUGGESTED REVISIONS -using Scheme 2 as the basis for revisions:

- **Provide a corner entry that celebrates the important intersection and provides a prominent civic presence on both Baker and Second Street by orienting the lobby to the corner (two story space).**
- **Build upon/strengthen existing and future corner entry concept as a theme for this important intersection.**
- Provide a corner vestibule that is large enough to function properly; provides an opportunity for public art and a seating/ waiting area. Consider a large Conference Room/ Community Room with a door (secured) from the vestibule.
- Eliminate corner landscaping.
- To create a more active edge on Second, provide a hallway corridor along the ground floor rather than offices.
- Layout of department work spaces and offices is conceptual only, and can accommodate either Scheme 1 or Scheme 2 configurations.

Whitefish City Hall and Parking Structure

PARKING STRUCTURE CONCERNS:

Lack of an elevator to serve retail Central Avenue and First Street customers effectively.

Mixing City Hall and retail parking is problematic. A location for city employee and elected official vehicles should be reserved/ secured.

Retail Space proposed is very limited and may not provide a usable layout.

The basement parking level may not be necessary. Cost of constructing a basement level vs. number of spaces provided is questionable.

Driveway width may not be adequate to accommodate peak periods/ surges of traffic (three lanes) and ingress/egress point on First Street.

PARKING STRUCTURE REVISIONS SUGGESTED:

Provide an elevator at the northeast corner of the parking structure. This is absolutely necessary to serve retail customers effectively.

Flip ramping concept. Ramp up immediately with 10% slope after entering the garage to gain clearance over the first floor of the garage.

Eliminate basement level parking.

Consider reserving ground floor parking spaces for City Hall visitors, city employees and elected officials.

Provide separate ground floor parking access from alley.

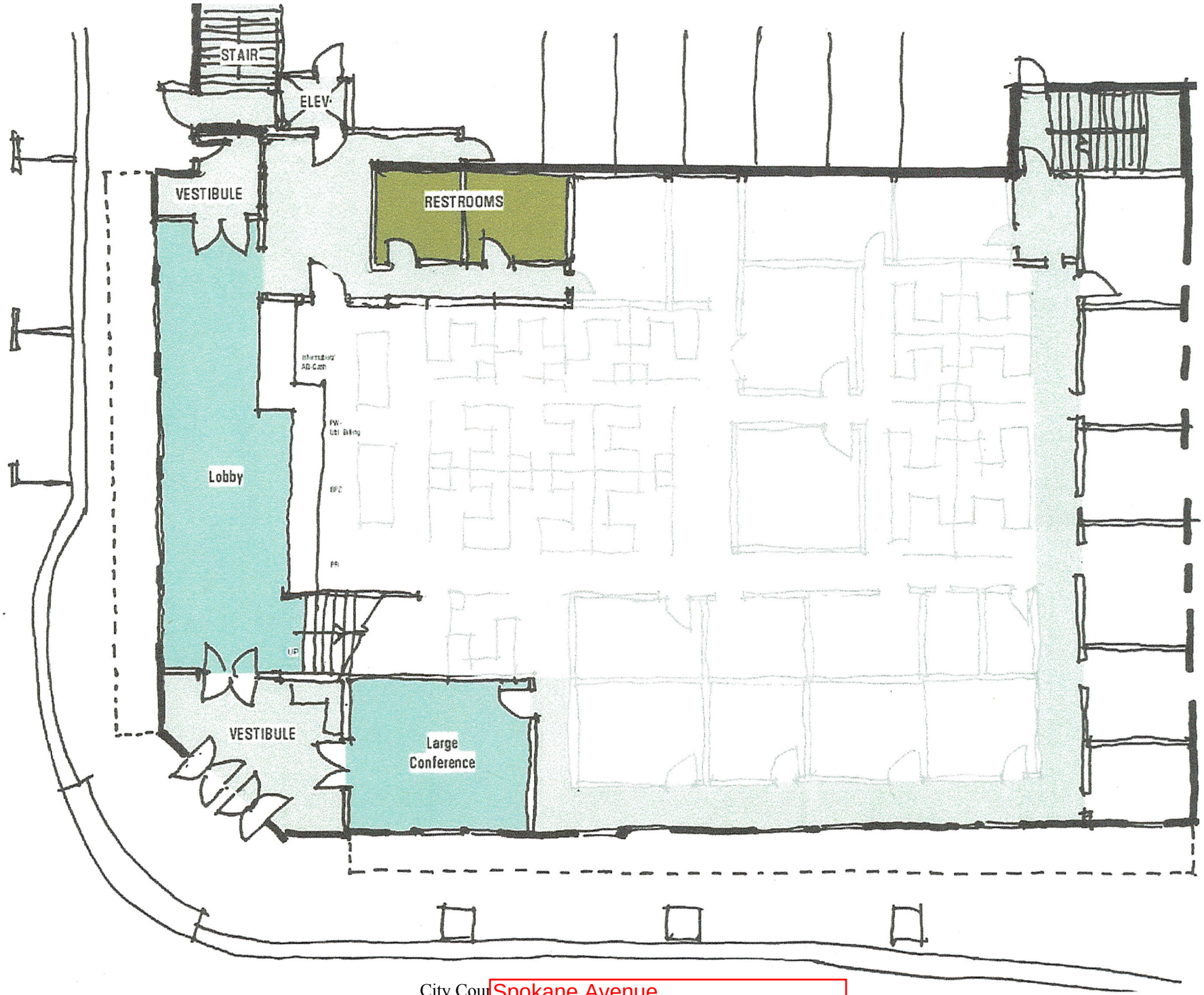
Relocate vertical circulation: stairs and elevators to the southwest corner of the garage. Provide stair exit to the street; elevator access to City Hall.

Construct vehicular pass-through on third level to eliminate dead-end.

Enlarge the entry to have three lanes. Design the lanes so that they are reversible to facilitate better access/egress at peak periods.

Provide enlarged ground floor retail space at First and Baker.

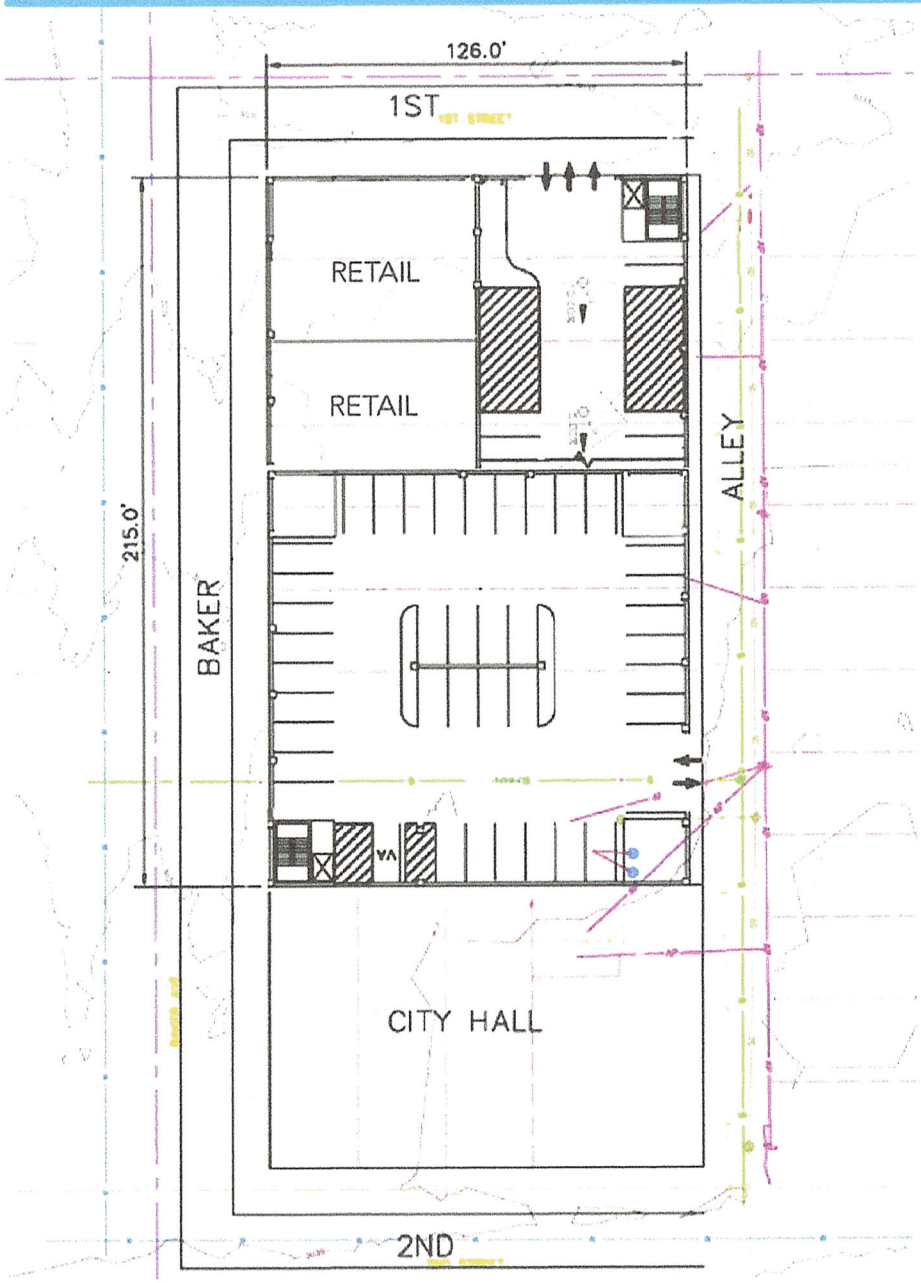
CITY HALL — MAIN LEVEL CONCEPT (SCHEME 2)



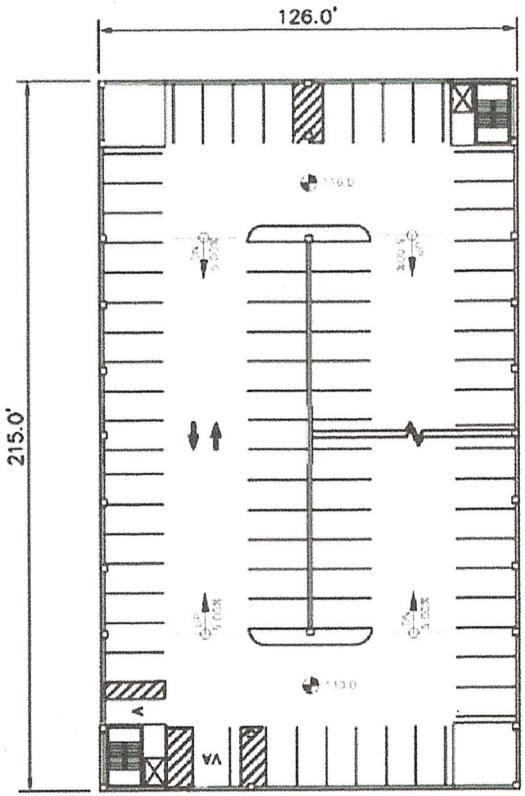
City Cou

Spokane Avenue

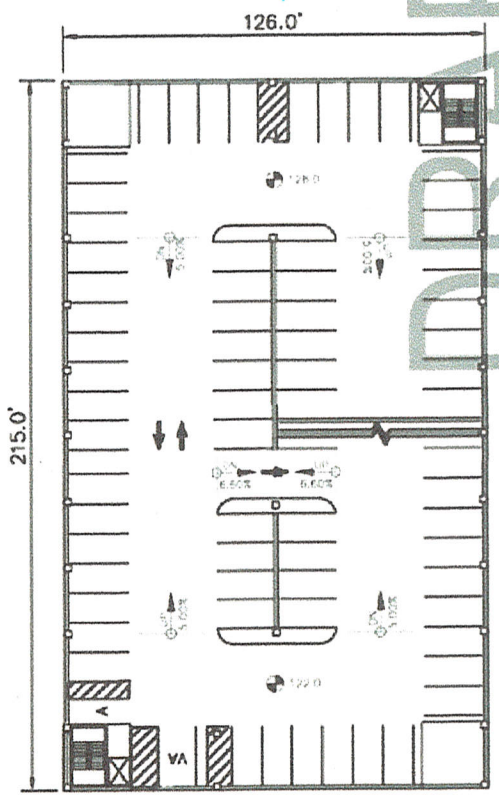
PARKING CONCEPT



FIRST LEVEL



SECOND LEVEL



THIRD LEVEL

DRAFT

From Crandall Arambula PC

WHITEFISH CITY HALL CRITIQUE

This initial review is for the Whitefish City Hall and Parking Structure Phase 1— Concept and Program (dated September 2, 2014) provided by Mosaic Architecture to Crandall Arambula on September 11, 2014. Schemes 1, 2, and 3 conceptual floor plans and program were reviewed. The review did not include assessment of building elevations. However, the plan and program elements that have been reviewed will in large measure dictate the building massing and form, therefore it is of critical importance to resolve fundamental site and building plan issues prior to initiating building elevation development and review.

Subsequently on September 12, 2014 Crandall Arambula discussed the schemes with Ben Tintinger of Mosaic, Mayor John Muhlfeld and City Hall Steering Committee member, Ian Collins.

CRITERIA

The assessment of the city hall design was not arbitrary; it was based upon adopted Downtown Master Plan design principles and City of Whitefish Architectural Review Design Standards. Additionally, the building proposal was reviewed in terms of its consistency with the Downtown Master Plan land use and transportation framework elements. Assessment includes the following criteria:

- **Historic Character—**Respect for the historic character and development patterns that make Whitefish unique and distinctive. City Hall should be designed to comfortably fit in with existing development.
- **Retail Strategy**—The building should contribute positively to the expansion of retail and commercial opportunities in the downtown. The building should provide a linkage that unites and unifies the retail core with the Railway District.
- **'Timeless' Design**— It should not include contemporary elements that will date the structure. Contemporary design ornamentation, forms and massing foreign to the historic downtown are inappropriate.
- **Materials**—The building should include high quality, long lasting durable materials that can withstand the challenging climatic conditions of Montana with minimal maintenance.
- **Civic Presence**— Located at the corner of Second and Baker, the building's location provides an opportunity to strengthen Downtown Whitefish's role as the civic heart of the community. As such, the building should engage and welcome the public rather than being inwardly oriented or focused away from the intersection.

SUMMARY

The following summarizes Crandall Arambula's findings:

- **Scheme 1 City Hall & Parking Structure Conceptual Design (Steering Committee Preferred Alternative)—**Does not adequately address and meet fundamental Whitefish design principles. As a result, the building will not contribute positively to the character of the historic downtown, nor will it strengthen the investment environment of the urban core.
- **Building Program—**Refinement of the robust building program should be reduced to better reflect initial programmatic estimates. Lessening building area may result in not only reduced construction costs but also a smaller building that is in scale with historic downtown buildings. Potential reductions might include those uses identified on the third floor and basement levels. Additionally, elimination of the basement level of the parking structure might also be explored as a means of reducing costs.
- **Parking Structure**— The function of the parking structure needs to be reassessed. The primary function of the parking structure is to provide parking for downtown retail and commercial customers and provide additional ground floor retail space as a linkage between Central Avenue and Railway District retail areas. As currently designed, the structure is biased toward City employees and city hall visitors rather than shoppers. To better meet the needs of shoppers, additional viable retail storefront space needs to be provided. The structure needs to be designed to be 'shopper friendly'. Vehicle circulation and vertical circulation (stairs and elevator) design needs to be refined to better address short term parker needs.

Next Steps—

- Scheme 2 may better meet fundamental design requirements. Crandall Arambula recommends that this scheme should be further refined and assessed prior to the selection of either scheme 1 or 2 as the preferred alternative.

CITY HALL DESIGN FUNDAMENTALS

Active Edge Intent: *Downtown Whitefish is most welcoming where there is interplay between activities along the sidewalk and within the buildings. Buildings with active edges foster pedestrian activity which increases shopping and restaurant activity which in turn creates a safe environment throughout the day and evening. Animated active edges can be described as buildings that provide a great amount of transparency (50-75% length of ground floor facades) coupled with internal ground floor uses that engage and draw interest. Public rather than private internal uses should line these edges. Reflective or tinted glass, curtains or other means that block views into the building should discouraged.*

Assessment: Scheme 1 City Hall ground floor conceptual plan does not adequately meet on either Baker or Second frontage requirements. The lobby, information desk, and department counters that have the potential to activate the street frontages have been internalized and office uses that require more privacy generally line the majority of the street edges.

Build-to Line Intent: *Build-to lines reinforce the street as an 'outdoor room' by establishing a consistent vertical wall that results in a comfortable sense of enclosure for pedestrians. All key streets in the historic downtown core of Whitefish consists of buildings that are built (at the ground floor) to the sidewalk edge/property line. Exceptions to this requirement are limited setbacks for building fenestration – columns, windows, recessed doorway entries, screened service bays or restaurant courtyards.*

Assessment: Scheme 1 responds poorly to the build-to line requirement. The stepped massing at the corner of Second and Baker (including the mid-building entryway and landscaped corner) is foreign to the historic character of the downtown. These characteristics are more consistent with contemporary auto-oriented Highway 93 commercial corridor development outside the downtown core.

Compatibility Intent: *Buildings should be 'good neighbors'. New buildings should be consistent with existing adjacent building form and massing, thereby creating a sense of unity and order. Existing successful building development characteristics, materials and design elements should be reinforced and strengthened.*

Assessment: Scheme 1 responds poorly to the compatibility requirement. The Second Street mid-building entrance ignores existing corner entry development massing established by the American Bank Building and the new building at the southeast corner of Second and Baker. Corner entries signal to pedestrians and motorists that this intersection is of importance; architectural fenestration such as an arched building entrance and massing can further emphasize this important intersection.

Ground Floor Retail Requirement: *Development parcels and existing buildings along First Street are part of the retail framework. Ground floor retail shops must be provided along the building frontages.*

Assessment: Scheme 1 does not adequately address this requirement. While Scheme 1 provides retail space along First Street, indicated storefront spaces are not viable (too shallow) for most retail uses. Additionally, retail frontage that should be provided for retail use is instead dedicated to parking and circulation.

Current Contract with Mosaic Architecture so Mayor and City Council can see what is in future phases of work (see page 10 of contract)

PROFESSIONAL ARCHITECTURAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 6th day of May, 2014, by and between the **CITY OF WHITEFISH, MONTANA,** a municipal corporation organized and existing under the laws of the State of Montana, PO Box 158, Whitefish, Montana 59937, hereinafter referred to as "City", and Mosaic Architecture, 428 North Last Chance Gulch, Helena. Montana 59601, hereinafter referred to as "Architect/Engineer".

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to hire Architect/Engineer as an independent contractor to perform for City services described in the Scope of Services attached hereto as Exhibit "A" and by this reference made a part hereof.

2. **Effective Date:** This Agreement is effective upon the date of its execution and will terminate 30 months after the start of construction unless terminated earlier per other sections of this contract.

3. **Scope of Work:** Architect/Engineer will perform the work and provide the services in accordance with the requirements of the Scope of Services.

4. **Payment:** City agrees to pay Architect/Engineer an amount not to exceed Sixty Five Thousand Seven Hundred Dollars ($65,700) for Phase 1 services performed pursuant to the Scope of Services. In addition, an amount of not-to-exceed $5,000 will be paid for the Parking Garage consultant's (Kimley Horn) on-site labor charge ($5000 per visit) and $3000 in project reimbursables (travel expenses) for $8,000 total. Payment for subsequent phased services will be added through addendum to this contract as agreed by both parties. Any alteration or deviation from the described work that involves extra costs will be performed by Architect/Engineer after written request by the City, and will become an extra charge over and above the contract amount. The parties must agree in writing upon any extra charges.

The anticipated phases, additional services, and methodology for estimating fees based on scope of construction cost is attached as Exhibit B. This worksheet will be used at the completion of Phase 1 in order to establish fees for later phases of the work.

5. **Independent Contractor Status:** The parties agree that Architect/Engineer is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Architect/Engineer is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Architect/Engineer is not authorized to represent the City or otherwise bind the City in any dealings between Architect/Engineer and any third parties.

Architect/Engineer shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Architect/Engineer shall maintain workers' compensation coverage

for all members and employees of Architect/Engineer's business, except for those members who are exempted by law.

Architect/Engineer shall furnish the City with copies showing one of the following: **(1)** a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or **(2)** proof of exemption from workers' compensation granted by law for independent contractors.

6. **Indemnity and Insurance:** Architect/Engineer agrees to indemnify, defend and save the City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Architect/Engineer or Architect/Engineer's agents or employees. For this purpose, Architect/Engineer shall provide City with proof of Architect/Engineer's liability insurance issued by a reliable company or companies for personal injury and property damage, in an amount not less than $1.5 million for each occurrence. The insurance must be in a form suitable to City.

Architect/Engineer shall maintain, during the term of this contract, **Professional Errors and Omissions Insurance** in the minimum amount of $1.5 million.

7. **Professional Service:** Architect/Engineer agrees that all services and work performed hereunder will be accomplished in a professional manner.

8. **Compliance with Laws:** Architect/Engineer agrees to comply with all federal, state and local laws, ordinances, rules and regulations, including the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA. Architect/Engineer will purchase a City business license.

9. **Nondiscrimination:** Architect/Engineer agrees that all hiring by Architect/Engineer of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

10. **Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement. Moreover, either party may terminate this Agreement for any reason at the end of each Phase of services as described in Exhibit A.

11. **Modification and Assignability:** This document contains the entire agreement between the parties and no statements, promises or inducements made by either party or agents of

either party, which are not contained in this written Agreement, may be considered valid or binding. This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Architect/Engineer may not subcontract or assign Architect/Engineer's rights, including the right to compensation or duties arising hereunder, without the prior written consent of City. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

12. Ownership and Publication of Materials: All reports, information, data, and other materials prepared by the Architect/Engineer pursuant to this Agreement are the property of the City. The City has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any re-use without written verification or adaptation by the Architect/Engineer for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the Architect/Engineer. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the City.

13. Liaison: City's designated liaison with Architect/Engineer is Charles C. Stearns, City Manager, and Architect/Engineer's designated liaison with City is Ben Tintinger, President.

14. Applicability: This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF WHITEFISH, MONTANA
a municipal corporation

By: _____
Charles C. Stearns, City Manager

Mosaic Architecture
ARCHITECT/ENGINEER (Type Name Above)

By: _____
Printed Name: Ben Tintinger
Printed Title: President

EXHIBIT A

DESCRIPTION OF SERVICES:

1) Article 1, Services to be Performed, shall include services as described below. This scope of work includes full architectural and engineering services to complete a new facility for **the Whitefish City Hall and Parking Structure**. Each portion of these services will be considered a separate phase (Phase 1, 2, 3, etc.) and the Description of Services for each phase shall be added to **Exhibit A**.
2) Add **Exhibit B, Compensation for Additional Phased Services** attached hereto.

A. DESIGN SERVICES TO BE PERFORMED

A.1 PROJECT ADMINISTRATION AND MANAGEMENT

A.1.1 The Architect/Engineer shall be responsible for managing all the Architect/Engineer's services and administration of the Project in accordance with this Agreement. The Architect/Engineer shall consult with the City, research applicable design criteria, attend Project meetings, maintain a Project contact list, communicate with members of the Project team, issue progress reports and meeting minutes. The Architect/Engineer shall coordinate the services provided by the Architect/Engineer and the Architect/Engineer's consultants with those services provided by the City and the City's consultants.

A.1.2 Upon request of the City, the Architect/Engineer shall make presentations to explain the Program, concepts, and basis for design of the Project to representatives of the City.

A.1.3 The Architect/Engineer shall submit documents to the City at intervals appropriate to the programming and concept process for purposes of evaluation and approval by the City. The Architect/Engineer shall be entitled to rely on approvals received from the City in the further development of the design.

A.1.4 The Architect/Engineer shall assist the City in connection with the City's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

A.1.5 The Architect/Engineer shall consider the value of alternative materials, building systems and equipment, and life-cycle costs together with other considerations based on program, budget and aesthetics in developing the design for the Project.

PHASE 1

B. PROGRAMMING AND CONCEPTS

B.1.1 The Programming shall commence with the execution of the Agreement and shall be complete with the City's approval and acceptance of the Programming Documents.

B.1.2 The Programming effort shall provide the following:

B.1.2.1 develop and define the needs for the Project based upon the City's preliminary project program (if any) and other information acquired through the data gathering process, review of the City's Downtown Master Plan, interviews, charettes, surveys and operational parameters;

B.1.2.2 plan and provide a design charette to include city employees and the City Hall Steering Committee members early in the programming effort; it may be before or after interviews with all City departments;

B.1.2.3 review, develop, and document detailed requirements for the project, covering items such as design objectives, limitations, and criteria; gross area and space requirements; spatial relationships; needs and options for flexibility or expandability; special equipment and systems; site requirements; project schedule and budget requirements;

B.1.2.4 space concepts and flow diagrams, functional relationships, access, circulation, and flow patterns within the building and on the site;

B.1.2.5 existing facilities will require additional research to review existing conditions, assembling and reviewing information to identify and document areas to be involved in alterations, additions, repairs or demolition; and,

B.1.2.6 define and develop programmatic and conceptual level documents per the following:

B.1.2.6.1 Architectural - services responding to the programming and project requirements and consisting of preparation of conceptual site and building diagrams for each level or floor, investigation of alternative approaches, key diagrammatic sections, typical diagrammatic elevations, preliminary selection/recommendation of building systems and materials, development of approximate dimensions, areas and volumes, and review of project documents presently consisting of site surveys;

B.1.2.6.2 Structural - recommendations regarding conceptual structural materials and systems;

B.1.2.6.3 Mechanical and Electrical - for mechanical design, consideration and recommendations regarding systems and equipment, development of conceptual design solutions for energy sources/conservation and general space requirements. For electrical design, consideration and recommendations regarding basic electrical systems and equipment, analysis and development of conceptual design solutions for energy sources/conservation, service distribution, emergency back-up power, and general space requirements; Coordinate with City's telecommunications and data contractor for telephone, IT, and technology requirements. Coordinate with City's electrician while working on electrical design.

B.1.2.6.4 Civil - site planning analysis including layout of site features, building position, general topography, location of paving for walkways, driveways and parking. Also includes normal connections for building utilities such as water, sewer, gas/steam and power. Coordinate with Montana Department of Transportation regarding turn radius requirements for the intersection at East 2nd Street and Baker Avenue.;

B.1.2.6.5 Budget - develop the project budget in conjunction with the City and assist in the analysis of soft or development costs and establishment of a construction cost. Provide a conceptual level cost estimate of the master plan concept designs; and,

B.1.2.6.6 Scheduling/Phasing - review and analysis of the project schedule and phasing plan developed along with the project program.

B.1.3 The Programming Document shall contain the following items:

B.1.3.1 Executive Summary with Project Statement;

B.1.3.2 Project Summary and Design Goals;

B.1.3.3 Space Program including work flow analysis and an update of the City's space needs study;

B.1.3.4 Planning and Design Criteria including, but not limited to, codes, zoning, clustering and layout criteria, building massing, blocking and stacking diagrams, space planning module, dimensional criteria, envelope interface, physical accessibility and ADA, style issues and constraints;

B.1.3.5 Building Performance Criteria including, but not limited to, general notes and comments on: building envelope, structure, interior construction, HVAC systems, plumbing systems, fire suppression systems, electrical systems, security systems, and telecommunications/information technology systems;

B.1.3.6 Site Requirements including, but not limited to, preliminary building siting, site analysis, parking, traffic flow, grading and landscaping;

B.1.3.7 Budget and cost of the work involving estimates of construction, design fees and all other identifiable costs; and,

B.1.3.8 Schedules for funding, design and construction.

B.1.4 For the purposes of Commissioning, the Architect/Engineer shall provide a separate Basis of Design describing the general scope of systems to be incorporated into the Project.

B.1.5 The Architect/Engineer shall provide **a digital pdf file** of Programming Documents including Estimate of Construction for review and approval to the City's point of contact.

B.2 EVALUATION OF THE BUDGET AND ESTIMATE OF CONSTRUCTION COST

B.2.1 When the Project Program requirements have been sufficiently identified, the Architect/Engineer shall prepare an Estimate of Construction Cost. This estimate may be based on current area, volume, similar conceptual or recent construction history estimating techniques. As the programming process progresses through the end of the preparation of the Programming Documents, the Architect/Engineer shall update and refine the Estimate of Construction Cost. The Architect/Engineer shall advise the City of any adjustments to previous Estimates indicated by changes in Project requirements or general market conditions. If at any time the Architect/Engineer's Estimate of Construction Cost exceeds the City's budget, the Architect/Engineer shall make appropriate recommendations to the City to adjust the Project's size, quality or budget, and the City shall cooperate with the Architect/Engineer in making such adjustments.

B.2.2 Evaluations of the City's budget for the Project, the Estimate of Construction Cost and updated Estimates of Construction Cost prepared by the Architect/Engineer represent the Architect/Engineer's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect/Engineer nor the City has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect/Engineer cannot and does not warrant or present that bids or negotiated prices will not vary from the City's budget for the Project or from any Estimate of Construction Cost or evaluation prepared or agreed to by the Architect/Engineer.

B.2.3 The Construction Cost is part of the Project Budget and shall be the total cost or, to the extent the Project is not completed, the estimated cost to the City of all elements of the Project designed or specified by the Architect/Engineer. Estimates of Construction Cost shall include the cost at projected market rates of labor and materials and equipment designed, specified, selected or specially provided for by the Architect/Engineer, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. The Estimate of Construction Cost does include "Development Costs" which identify lines items for professional fees, additional services, construction materials testing, etc., and any line items provided by the City that will be helpful in defining the total 'Project Cost'.

B.3 SITE SERVICES

B.3.1 Access and Protection of Property. The Architect/Engineer shall contact the City for information regarding access to the site and shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Architect/Engineer's entry, including, but not limited to, repair of curbs, sidewalks, lawns and plantings, alleys, and adjacent buildings in the same block.

B.3.2 Site and Topographical Surveys. The Architect/Engineer shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site unless such surveys are specifically provided by the City. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark that is permanent and readily identifiable and of the City's choosing.

B.3.2.1 Site Survey Requirements

B.3.2.1.1 Show boundary lines (if any), giving length and bearing (including reference of basis) on each straight line; interior angles; radius, point of tangency and length of curved lines. Where no monument exists, set permanent iron pin (monument) or other suitable permanent monument at property corners; drive pin into ground adequately to prevent movement, mark with wood stake; state on drawings whether corners were found or set and describe each;

B.3.2.1.2 Confirm or furnish a legal description which conforms to the Record Title Boundaries. Prior to making this survey, the Surveyor shall, insofar as possible, acquire data including, but not limited to, deeds, maps certificates or abstracts of title, section line and other boundary line locations in the vicinity;

B.3.2.1.3 Give area in square feet if less than one acre, in acres (to .001 acre) if over one acre;

B.3.2.1.4 Note identity, jurisdiction and width of adjoining streets and highways, width and type of pavement. Identify any landmarks;

B.3.2.1.5 Plot location of structures on the property and on adjacent property within 50 feet. Dimension perimeters in feet and inches to nearest ½ inch. State the character and number of stories. Dimension to property lines and other buildings. Vacant parcels shall be noted as VACANT;

B.3.2.1.6 Show encroachments, including cornices, belt courses, etc., either way across property lines;

B.3.2.1.7 Describe fences and walls, identify party walls and locate them with respect to property lines;

B.3.2.1.8 Show recorded or otherwise known easements and rights-of-way; state the City of right of each;

B.3.2.1.9 Note possibilities of prescriptive rights-of-way and the nature of each;

B.3.2.1.10 Show individual lot lines and block numbers; show street numbers of buildings if available;

B.3.2.1.11 Show zoning of property; if more than one zone, show the extent of each. Show zoning of adjacent property and property across the street(s) or highway(s);

B.3.2.1.12 Give names of City's of adjacent property; and,

B.3.2.1.13 Reconcile or explain any discrepancies between the survey and the recorded legal description.

B.3.2.2 Topographical Survey Requirements:

B.3.2.2.1 Provide minimum of one permanent benchmark on site for each four acres; description and elevation to nearest .01';

B.3.2.2.2 Draw contours at 1 foot intervals;

B.3.2.2.3 Spot elevation at each intersection of a grid covering the property at sufficient spacing to assure reasonable accuracy in constructing contour lines;

B.3.2.2.4 Spot elevations at street intersections and at 20 foot intervals on curb, sidewalk and edge of paving, including far side of paving;

B.3.2.2.5 Plot location of structures, above and below ground, man-made (e.g., paved areas) and natural features; all floor elevations and elevations at each entrance of buildings on the property. Include invert elevations of utility tunnel floors and overhead slabs;

B.3.2.2.6 Location, size, depth and, where available, pressure of water and gas mains, central steam and other utilities including, but not limited to, buried tanks and septic fields serving, or on, the property;

B.3.2.2.7 Location of fire hydrants available to the property and the size of the main serving each;

B.3.2.2.8 Location and characteristics of power and communications systems above and below grade;

B.3.2.2.9 Location, size, depth and direction of flow of sanitary sewers, combination sewers, storm drains, culverts serving, or on the property; location of catch basins and manholes, and inverts of pipe at each;

B.3.2.2.10 Name of the operating authority of each utility;

B.3.2.2.11 Flood plain, flood level of streams or adjacent bodies of water and analysis of site for potential flooding;

B.3.2.2.12 Locations of test borings if ascertainable and the elevation of the top of the holes;

B.3.2.2.13 Trees of 1½ inch and over (caliper 3' above ground); locate within 1' tolerance and give species where identifiable; and,

B.3.2.3 Accuracy Standards. Precision of the survey shall be based on the Positional Accuracy Concept. The Architect/Engineer shall recommend positional accuracy limits and error of closure limits for the property being surveyed.

B.3.2.4 Drawing and File Requirements. The Architect/Engineer shall require the licensed Land Surveyor to sign and seal each drawing and certify to the best of the Surveyor's knowledge, information and belief all information thereon is true and accurately shown. Drawings and drawing files shall contain written scale, graphic scale, North arrow (oriented to the top of the sheet), legend of symbols, and abbreviations used on the drawing(s), and all dimensions and elevations in English units. Spot elevations on pavement and other hard surfaces shall be to the nearest .01', on other surfaces to the nearest .05'. State elevation datum on each drawing. Use National Vertical Geodetic Datum and give location of benchmark used.

B.4 GEOTECHNICAL SERVICES

B.4.1 Access and Protection of Property. The Architect/Engineer shall contact the City for information regarding access to the site and shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Architect/Engineer's entry, including, but not limited to, repair of curbs, sidewalks, lawns and plantings.

B.4.2 Geotechnical Investigation and Reports. The Architect/Engineer shall furnish the services of a licensed geotechnical engineer. Services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, soil corrosion/resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations unless such services are specifically provided by the City. City specifically wants a cone penetrometer test done in addition to other tests recommended by parking structure engineering firm.

B.4.2.1 Drawing Requirements. The Architect/Engineer shall require the geotechnical engineer to sign and seal each drawing and certify to the best of the geotechnical engineer's knowledge,

information and belief all information thereon is true and accurately shown. Drawings and drawing files shall contain written scale, graphic scale, North arrow (oriented to the top of the sheet), legend of symbols and abbreviations used on the drawing(s), and all dimensions and elevations in English units.

B.4.2.2 Investigation.

B.4.2.2.1 The geotechnical engineer shall perform borings and subsurface investigations shall be performed in accordance with accepted geotechnical engineering practices and in the quantity and location as coordinated with the Architect/Engineer in order to determine the subsurface soil strata, obtain representative samples for laboratory analysis, investigate the in-situ soil conditions, and investigate the subsurface water conditions.

B.4.2.2.2 All samples shall be classified in accordance with ASTM D-2488, "Standard Practice for Description and Identification of Soils."

B.4.2.2.3 Testing shall be performed in accordance with:

B.4.2.2.3.1 Standard Test Method for Penetration Test and Split Barrel Sampling of Soils, ASTM D-1586;
B.4.2.2.3.2 Thin-Walled Tube Sampling of Soils, ASTM D-1587;
B.4.2.2.3.3 Moisture Content Tests, ASTM D-2116;
B.4.2.2.3.4 Atterberg Limits, ASTM D-4318;
B.4.2.2.3.5 Sieve/Grain Size Analysis Tests, ASTM D-422 and C-136;
B.4.2.2.3.6 Consolidation/Swell, ASTM D-2438 and D-4546;
B.4.2.2.3.7 Shear Strength, ASTM D-2850, D-4767, and D-2166;
B.4.2.2.3.8 California bearing ratio, ASTM D 1883;
B.4.2.2.3.9 Proctor, ASTM D-698 and D-1557; and,
B.4.2.2.3.10 Corrosion tests such as resistivity, pH, and sulfates.

B.4.2.2.4 Percolation tests shall be performed in accordance with the Montana Department of Environmental Quality's currently accepted practices and procedures.

B.4.2.2.5 Other methods of investigation may be used upon prior approval of the Architect/Engineer. Such methods include test pits, rotary borings, had auger borings, subsurface strata delineation or other generally accepted geophysical methods.

B.4.2.3 Reports. The Architect/Engineer shall require the geotechnical engineer to sign and seal each report and certify to the best of the geotechnical engineer's knowledge, information and belief all information thereon is true and accurately shown. Reports shall provide descriptive information of the scope of the investigation describing the tasks and analysis performed along with the following:

B.4.2.3.1 Sub-surface investigation. General description of the samples taken, locations, elevations, the testing methods performed, site geology, subsurface soils profiles, and groundwater observations.

B.4.2.3.2 Laboratory Investigations. General description of the examinations and classification of tests performed.

B.4.2.3.3 Design and Construction Recommendations. General description of the Project to be constructed with loading information obtained from the Architect/Engineer. The geotechnical engineer shall perform a historical

search regarding any previous construction on the site. The Report shall provide design criteria and make recommendations for the performance of earthwork, foundations, slabs, pavement, flooring system, and all other geotechnical-related issues for the site and building based upon the loading information and the soil/geological conditions; seismic conditions and considerations; lateral earth pressures; and, site grading, drainage, and fill work; corrosion potential of buried metals and concretes; percolation rates; groundwater and surface water seepage; specification requirements for fill material, base course, concrete, materials testing, and other requirements as appropriate for the type of Project.

B.5 LEED CRITERIA AND SUSTAINABLE PLANNING

B.5.1 As directed by the City, the Architect/Engineer shall define and develop conceptual level requirements for the project that include sustainable planning and design concepts covering items such as:

B.5.1.1 building design analysis and building performance as it relates to energy use, life-cycle costs, sustainability concepts and productivity of the interior, built environment;

B.5.1.2 energy use effectiveness including natural convection in HVAC, natural lighting and water use / recycling / integration;

B.5.1.3 development of integrated systems for environmentally responsible architecture;

B.5.1.4 potential application of green building concepts for LEED certification including re-use of existing materials and/or recycled materials; and,

B.5.1.5 special equipment and systems for use of alternative energy and energy consumption modeling.

B.5.2 It is the City's intent that the Project be programmed to include sustainable architectural and engineering solutions, environmentally efficient materials, and shall include consideration of "state of the art" design solutions in all areas of the project design whether or not LEED certification is pursued.

PHASE 2

C. DESIGN SERVICES

C.1.1 The Architect/Engineer's design services consist of the phases described herein and are inclusive of the necessary structural, civil, mechanical, fire protection, electrical engineering and other services as required for a complete and integrated design.

C.1.2 **SCHEMATIC DESIGN**

C.1.2.1 The Schematic Design Phase shall commence with a Notice To Proceed to Phase 2.

C.1.2.2 The Architect/Engineer shall provide Schematic Design Documents based on the mutually agreed-upon Project Program Project Schedule, and Project Budget including the preliminary Construction Cost. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan and preliminary building plans, sections and elevations. As coordinated between the Architect/Engineer and the City, the Schematic Design Documents may include study models, perspective sketches, electronic

modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

C.1.2.3 The Schematic Design Phase effort shall provide the following:

C.1.2.3.1 Define the needs for the project based upon changes to the current design and other data gathered from the City;

C.1.2.3.2 Define detailed requirements for the project, covering items such as design objectives, limitations, and criteria; gross area and space requirements; spatial relationships; needs and options for flexibility or expandability; special equipment and systems; site requirements; project schedule and budget requirements;

C.1.2.3.3 Define space concepts and flow diagrams, functional relationships, access, circulation, and flow patterns within the building and on the site; and,

C.1.2.3.4 Investigation and define data concerning existing conditions, assembling and reviewing information to identify and document areas to be involved in alterations, additions, repairs or demolition.

C.1.2.3.5 Decide on method of construction for the project between Design/Bid/Build, Design/Build, or Construction Manager At Risk (CMAR).

C.1.2.4 The Schematic Design submitted to the City shall at a minimum contain the following:

C.1.2.4.1 Architectural Design - Services responding to the programming and project requirements and consisting of preparation of a site plan and building plans for each level or floor, key sections, all elevations, preliminary selection of building systems and materials, development of approximate dimensions, areas and volumes, and review of project documents presently consisting of the project program and budget and incorporation of site soil investigation and surveys;

C.1.2.4.2 Structural Design - Recommendations regarding basic structural material and systems, selection of the foundation system, outline structural systems plan, analysis and development of conceptual design solutions;

C.1.2.4.3 Mechanical Design - Consideration and recommendations regarding materials, systems and equipment, development of conceptual design solutions for energy sources/conservation, heating, ventilating and air conditioning, plumbing, fire protection and general space requirements;

C.1.2.4.4 Electrical Design - consideration and recommendations regarding basic electrical materials, systems and equipment, analysis and development of conceptual design solutions for power service, distribution, lighting, communication, tele-communications and IT, fire detection, building security, alarms and general space requirements;

C.1.2.4.5 Commissioning Assistance - The mechanical and electrical design is to be summarized to provide a comprehensive description of the operation of the mechanical and electrical systems in the building with specific reference to meeting the requirements included in the Design Intent Document. This document is to be revised as necessary throughout the design and the original and all revisions are to be submitted to, and approved by, the City;

C.1.2.4.6 Civil Design - Site planning analysis including layout of site features, building position, preliminary grading, location of paving for walkways, driveways and parking. Also includes normal connections for building utilities such as water, sewer, gas/steam and power;

C.1.2.4.7 Budget - Review the project budget and assist in the analysis of soft costs and establishment of a Construction Cost;

C.1.2.4.8 Specifications - Outline specifications necessary to indicate the general scope of services that will form the basis of the specifications for the construction documents.

C.1.2.4.9 Scheduling/Phasing - Review and analysis of the project schedule and phasing plan developed along with the project program. The Architect/Engineer's involvement in the planning and implementation of a temporary relocation of City Hall offices would be an extra service performed and payable in addition to the services of this Agreement.

The Architect/Engineer shall provide revised and updated information for incorporation into the Programming Document.

C.1.2.5 For the purposes of Commissioning, the Architect/Engineer shall provide a Design Intent Document for review and approval by the City, for the commissioning of the project which shall include the basis of the design in a room-by-room itemization of mechanical and electrical requirements as described in the Programming Document with the following information:

C.1.2.5.1 Temperature requirements;
C.1.2.5.2 Humidity requirements (if special needs are identified);
C.1.2.5.3 Exhaust requirements (e.g. fume hoods);
C.1.2.5.4 Pressurization requirements and number of air exchanges per hour;
C.1.2.5.5 Maximum permissible sound level;
C.1.2.5.6 Maximum occupancy;
C.1.2.5.7 Schedule of occupancy;
C.1.2.5.8 Number of computers or specialized equipment;
C.1.2.5.9 Special power quality;
C.1.2.5.10 Light levels; and,
C.1.2.5.11 Special lighting systems or levels.
C.1.2.5.12 Tele-communications and IT requirements

C.1.2.6 The Architect/Engineer shall provide **a digital pdf** of Schematic Design Documents including the updated Programming Document, the Design Intent Document, and the updated Estimate of Construction for review and approval to the City.

C.1.3 DESIGN DEVELOPMENT

C.1.3.1 The Design Development Phase shall commence with the City's approval of the Schematic Design Documents and shall be complete with the City's approval of the Design Development Documents.

C.1.3.2 The Architect/Engineer shall prepare, for approval by the City, Design Development Documents consisting of drawings, sketches, specifications, Estimate of Construction Cost, and similar documents necessary to fix and describe the size and character of the entire Project as to the architectural, structural, mechanical, electrical systems, tele-communications/IT, and other project elements.

C.1.3.3 Design Development Services shall consist of the following:

C.1.3.3.1 Architectural Design - Services consisting of the continued development and expansion of the schematic design documents (or preliminary project program of the City if Preliminary Design) in order to proceed with establishment of the final design documents. Documents shall consist of the final scope, relationships, forms, size and appearance. Building plans, sections and elevations, selection of building systems and materials, development of dimensions, areas and volumes are also included;

C.1.3.3.2 Structural Design - Development of specific structural material and systems, analysis and development of design solutions. Basic structural system and

dimensions, design criteria, foundation design criteria, sizing of structural components and clearances, earthquake resiliency;

C.1.3.3.3 Mechanical Design - Development of specific mechanical materials and systems, analysis and development of design solutions. Basic mechanical system and dimensions, design criteria for energy sources/conservation, heating, ventilating and air conditioning, plumbing, fire protection, vibration and acoustical control, visual impacts, equipment layouts, sizes and weights of major components, chases and specific space requirements;

C.1.3.3.4 Electrical Design - Development of specific electrical materials and systems, analysis and development of design solutions. Basic electrical system and dimensions, design criteria for energy sources/conservation, power service, distribution, lighting, communication, fire detection, alarms, chases, equipment layouts and clearances and specific space requirements. Coordinate with City's telecommunications and data contractor for telephone, IT, and technology requirements. Coordinate with City's electrician while working on electrical design.

C.1.3.3.5 Commissioning - Coordinate with and support the commissioning and building optimization process;

C.1.3.3.6 Civil Design - Basic civil engineering features regarding building position, preliminary grading, location of paving for walkways, driveways, parking, all utilities, easements, boundary conditions, property limits;

C.1.3.3.7 Project Budget - Maintain the design development in accordance within the established Construction Cost, continually review the project budget to coordinate appropriate design factors and limitations;

C.1.3.3.8 Specifications - Development and coordination of outline specifications necessary to delineate the appropriate functions and minimum quality of the project; and,

C.1.3.3.9 Scheduling - Develop and maintain a CPM or bar chart project schedule of all activities to include investigations, data gathering, design phases, reviews, advertising, bidding, contract award, construction, construction phasing, punch list and project completion. Perform reviews and revisions of schedule indicating all milestones and anticipated impacts upon delivery of the project based upon issues and factors discovered during the design development phase.

C.1.3.4 The Architect/Engineer shall provide **a digital pdf** of Design Development Documents including the updated Estimate of Construction Cost for review and approval to the City.

PHASE 3

D. CONSTRUCTION DOCUMENTS

D.1 The Construction Documents Phase shall commence with the City's approval of the Design Development (or Preliminary Design) Documents and shall be complete with the City's approval of the Construction Documents.

D.2 The Architect/Engineer shall provide Construction Documents based on the approved Design Development (or Preliminary Design) Documents and updated Construction Cost. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

D.3 During the development of the Construction Documents, the Architect/Engineer shall review and assist the City in the development and preparation of: (1) bidding and procurement information; (2) bidding or proposal forms; and, (2) the Conditions of the Contract for Construction (General, Supplementary

and other Conditions). The Architect also shall compile the Project Manual (Specifications) that includes all of the City's "boiler plate" information and the City's Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

D.4 The Architect/Engineer shall provide those services necessary to prepare final construction documents consisting of specifications, drawings and other documents of sufficient detail to fix and describe the final size and character of the project for approval by the City.

D.5 Construction Document Services consists of the following:

D.5.1 General – Review and checking of Design Development (or Preliminary Design) Documents to ensure all City criteria is incorporated. The Architect/Engineer shall perform continuous review of the design and design process to ensure the highest level of quality control. 95% complete documents relate to the total effort required by the Architect/Engineer and all consultants to produce construction documents that are ready for bidding. The effort to perform final coordination checking, final corrections, incorporation of comments, and inclusion of the City's boilerplate constitutes the remaining 5% of the total effort necessary to produce the Contract Documents. Drawing index contains all drawings and all sheet titles agree. All alternates have been identified and properly delineated. All details are referenced. All details are complete with dimensions, notations and materials. All details (A, S, M, P, E, C, etc.) are specific to the project and have been edited to reflect the actual project conditions.

D.5.2 Architectural Design Services - Continued development and expansion of the design in order to proceed with and result in the final design documents. Documents shall consist of the final scope, relationships, forms, size and appearance. Complete floor plans, sections and elevations, selection of building systems and materials, development of dimensions, areas and volumes are to be included. Reflected ceiling plans must contain all light fixtures and HVAC grilles, registers and diffusers. Door and room finish schedules must be complete. Floor plans, elevations, and sections are completely dimensioned;

D.5.3 Structural Design - Continued development of specific structural material and systems, analysis and development of design solutions. Complete and detailed structural system and dimensions, design, foundation, sizing of structural components and clearances, details, elevations plans and specifications. All details are specific to the project and ready for fabrication drawing development. All plans have been coordinated and verified against architectural and mechanical drawings;

D.5.4 Mechanical Design - Continued development of laboratory utilities, specific mechanical materials and systems, analysis and development of design solutions. Complete and detailed mechanical system and dimensions, heating, ventilating and air conditioning, plumbing, fire protection, vibration and acoustical control, equipment details, sizes, elevations, schedules, plans and specifications. Coordination of utilities leaving the building with locations shown on civil plans;

D.5.5 Electrical Design - Continued development of specific data systems, electrical materials and systems, analysis and development of design solutions. Complete and detailed electrical system and dimensions, power service, distribution, lighting, communication, fire detection, alarms, chases, equipment layouts, circuits, panel board schedules, plans and specifications;

D.5.6 Communications Design – Continued development of telephone, computer networks, radios, city's wireless system and other tele-communications/IT plans.

D.5.7 Civil Design – Incorporate completed site survey and geotechnical analysis including layout of the entire site. Complete and detailed civil design regarding building location, final grading, location of paving for walkways, driveways, parking, all utilities, easements, boundary conditions, property limits, plans and specifications. All benchmark information, building corners, essential topographical information has been included;

D.5.8 Budget - Ensure the design is in accordance with the established construction cost. Continually review the project budget to coordinate appropriate design factors and limitations

D.5.9 Specifications - Complete development and coordination of all specifications necessary to describe and detail the entire project and to set the level of quality acceptable to the City. All Boiler Plate and Division 1 items (General Conditions of the construction contract including, but not limited to, staging, fencing, temporary restrooms, utilities, cranes, etc.) pertain to the specific project

and have been edited for completeness. Index contains all sections in the body of specifications. All specification sections apply to the specific project;

D.5.10 Scheduling - Maintain the established project schedule. Perform reviews and revisions of the schedule indicating all milestones and anticipated impacts upon delivery of the project based upon issues and factors discovered during the design;

D.5.10.1 Coordination Review – The City may choose to have the documents reviewed through an independent third-party. This does not relieve the Architect from the responsibility to provide the City with a fully-coordinated set of construction documents;

D.5.10.2 Coordinate with the commissioning authority as required.

D.5.10.3 The Architect/Engineer shall assist the City in filing the required documents for the approval of governmental authorities having interest in the Project. The City may request the Architect/Engineer to pay the plan review fee to the building code jurisdiction. The City shall then compensate the Architect/Engineer for the plan review fee through an addendum or as a supplemental service.

D.5.10.4 The Architect/Engineer shall request the "Boiler Plate" and essential bidding information from the City upon submission of the Plans and Specifications for final review. The Architect/Engineer shall review and coordinate the Division One specifications with the General Conditions of the Contract for Construction.

D.5.10.5 Prior to bidding, the Architect/Engineer shall provide **as many sets as necessary including digital pdf** set(s) of Construction Documents including the Estimate of Construction for review and approval to the City. This review shall constitute the 95% submission of the design effort where the remaining 5% consists of incorporation of final review comments and the City's "boiler plate" information.

D.5.10.6 The Architect/Engineer shall incorporate code review comments and make all corrections, additions, or deletions to the Plans and Specifications prior to distribution for bidding purposes, without the use of addenda, unless approved by the City.

D.5.10.7 The total Construction Documents Phase shall constitute 100% of the design effort inclusive of any responses and alterations due to comments received upon review from the City, building codes officials, user groups or other interested third parties.

PHASE 4
E. BIDDING SERVICES

E.1.1 The Bidding Phase shall commence with the incorporation of final review comments and the City's approval of the Plans and Specifications and the final Estimate of Construction cost and shall be complete with the issuance of the Notice to Proceed of the Construction Contract. Depending on the construction delivery method used, the bidding may happen in stages to facilitate an accelerated construction schedule or to accommodate the establishment of a GPM (guaranteed maximum price). While construction alternates delivery methods will not change the 'Bidding Phase' scope of work, it may spread the work out over a greater time period.

E.1.2 The Architect/Engineer shall provide **as many sets as necessary** of Construction Documents for bidding purposes, two (2) sets to the City. The Architect/Engineer shall procure and administer the reproduction of Bidding Documents and distribution to prospective bidders. If the number of sets for bidding purposes is not established in this Agreement, the City shall reimburse the Architect/Engineer for the direct costs of reproduction for all sets determined to be necessary. However, the Architect/Engineer and City shall agree on the number sets necessary at the time of bidding and the Architect/Engineer shall not exceed that number without approval of the City.

E.1.3 The Architect/Engineer, following the City's approval of the Plans and Specifications and the final Estimate of Construction Cost, shall assist the City in obtaining bids and in awarding the Construction Contract(s). Any interpretation of the Plans and Specifications by the Architect/Engineer will be issued by addenda to all plan holders. The Architect/Engineer will not issue any addenda within seven (7) days of the bid opening without the permission of the City.

E.1.4 The Architect/Engineer shall arrange, attend and conduct a pre-bid meeting and walk-through for the project. The Architect/Engineer shall prepare and submit to the City an agenda for the pre-bid walk-through. As a minimum the agenda shall address thorough coverage of the Instruction to Bidders, Conditions of the Contract for Construction, site conditions, construction staging, permits, scope of the Work, and all unique situations. The Architect/Engineer shall require the attendance and participation of any consultants when the cost, size and/or complexity of the Work in the opinion of the City necessitate their attendance.

E.1.5 The Architect/Engineer shall provide bidding services to include the following:

E.1.5.1 Organizing, coordinating, publishing, handling and distribution of all bidding documents including addenda and receipt and return of deposits;

E.1.5.2 Assist the City in obtaining either competitive bids or negotiated proposals and maintaining the plan holders' list;

E.1.5.3 Assist in contacting and informing prospective bidders;

E.1.5.4 Coordination and responses between the disciplines for all questions, clarifications, and addenda;

E.1.5.5 Continue to coordinate with, and support, the commissioning process. The commissioning authority (CA) may make a presentation during the pre-bid walkthrough to explain the commissioning process to all interested parties;

E.1.5.6 Addenda - Preparation and distribution as may be required including any and all supplementary drawings, specifications, instructions and notices of changes;

E.1.5.7 Budget - Stay aware of bidding climate and perform analysis of possible bid results in comparison to the project budget if market conditions alter from the final Estimate of Construction Cost or if errors/omissions are discovered in the final Estimate;

E.1.5.8 Substitutions - Consideration, analysis, comparisons and recommendations relative to substitutions proposed by bidders;

E.1.5.9 Bid Evaluation - Perform validation of the bids received and provide recommendations regarding the award of contracts as requested by the City;

E.1.5.10 Coordinate and conduct negotiations in cooperation with the City and the Contractor in the event that the bids received are over the project budget should the City choose this option. If negotiations are successful, develop all documentation, drawings, specifications, changes, and alterations including all related pricing in a manner similar to an addendum for formal pricing and signature by the contractor; and,

E.1.5.11 Redesign - Perform redesign in coordination with the City and publication of construction documents for re-bidding or after negotiations if the project is not awardable during the initial bid.

PHASE 5

F. CONSTRUCTION ADMINISTRATION SERVICES

F.1.1 The Construction Administration Phase shall commence with the issuance of the Notice to Proceed of the Construction Contract and shall be complete when the Contractor has completed the corrections from the warranty inspection.

F.1.2 The Architect/Engineer shall provide administration of the Construction Contract as set forth in this Agreement inclusive of the General Conditions of the Contract for Construction. The Architect/Engineer shall provide those services necessary to perform construction administration to provide a quality product for the City which shall be inclusive of the following:

F.1.2.1 Construction contract administration involves all aspects of consultation, communication, progress reports, observations, meetings and functions necessary to maintain the project quality, budget, schedule and coordination;

F.1.2.2 Upon issuance of a notice to proceed from the City, coordinate and conduct a pre-construction conference with the City and the successful contractor and appropriate subcontractors. Describe the overall project administration, all Division 1 requirements, general scope of the project, City issues and concerns to be met by the Contractor during construction;

F.1.2.3 Continue to coordinate with, and support, the commissioning process. The commissioning authority (CA) may make a presentation during the pre-construction conference to explain the commissioning process to all interested parties. Direct questions regarding commissioning to the CA. One (1) copy of approved submittals related to the CA's efforts will be routed to the CA for use in developing inspections and tests. Presence of the CA on the job does not diminish the Architect/Engineer's responsibilities;

F.1.2.4 Coordination - Services between the architectural work and all disciplines involved in the design of the project;

F.1.2.5 Documents - Maintain sufficient sets of construction documents with all requests for information, requests for clarification, change orders, addenda, pay requests, shop drawings, submittals, etc. necessary to deliver a quality project within budget and on time. Services consist of preparation, reproduction and distribution of all clarification/information/change order documents in response to the Contractor or the City. Documents shall describe in sufficient detail, all work to be added, deleted, modified, review of proposals, review recommended changes for impacts on substantial completion date;

F.1.2.6 Shop Drawings and Submittals - Perform review and comparison of all drawings and submissions by the Contractor for general conformance to the construction documents. Provide appropriate actions in a timely fashion in order to inform the Contractor regarding the shop drawings and submittals but in no instance shall responses or actions be longer than seven (7) calendar days:

F.1.2.6.1 Review and approve or take appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques,

sequences or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component;

F.1.2.6.2 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect/Engineer shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect/Engineer. The Architect/Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals; and,

F.1.2.6.3 The costs and expenses to the Architect/Engineer of more than one (1) review of each Shop Drawing, Product Data item, sample and submittals of the Contractor may be billed by the Architect/Engineer directly to the Contractor. The City shall not be liable to the Architect/Engineer for multiple reviews.

F.1.2.7 Representation - Serve as the representative of the City throughout the duration of the project, protecting the City's interest in obtaining delivery of the project in accordance with the Construction Documents. The Architect/Engineer shall be the representative of the City throughout the duration of this Contract and as such shall advise and consult with the City. The Architect/Engineer shall have authority to act on behalf of the City to the extent provided in the General Conditions of the Construction Contract unless otherwise modified in writing;)

F.1.2.8 Schedules - Monitor the Contractor's progress relative to established schedules and make status reports accordingly. Compare the Contractor's schedule to current pay requests for accuracy and stage of completion. The Architect/Engineer shall take no action concerning the Contractor's schedule which may be interpreted as an approval or endorsement. However, the Architect/Engineer shall provide comments, concerns, inaccuracies, conflicts, etc. to the Contractor;

F.1.2.9 Pay Requests - Review and take appropriate action on all pay requests with regard to the Contractor's Schedule of Values, Progress Schedule, stored materials and stage of construction observed. Provide recommendations to the City with regard to payment based on observations at the site and the Contractor's Form 101, Periodic Estimate for Partial Payment request, the Architect/Engineer shall determine the amount owing to the Contractor and shall act upon the Contractor's Periodic Estimate for Partial Payment within seven (7) days of receipt. Certification of the Contractor's Form 101 shall constitute a representation by the Architect/Engineer to the City that the work has progressed to the point indicated; that to the best of the Architect/Engineer's knowledge, information and belief, the quality of the work is in accordance with the Plans and Specifications; and that the Contractor is entitled to payment in the amount certified. If in the Architect/Engineer's opinion the Contractor is not entitled to the amount indicated on Form 101, he shall evaluate what percentage is due and revise the form accordingly and forward it to the City or return the Periodic Estimate for Partial Payment to the Contractor for revision. The Architect/Engineer shall send the Contractor a copy of any revised pay request forwarded to the City.

F.1.2.10 Change Orders - Prepare, reproduce and distribute change orders for signature. Perform estimates of cost, negotiate price, and determine impacts upon the Contractor and the date for project completion.

F.1.2.10.1 The Architect/Engineer shall complete the areas of "Justification for Change," "Justification for Cost Adjustment," and the "Justification for

Schedule Adjustment" on the Change Order are comprehensive and complete.

F.1.2.10.2 It is the Architect/Engineer's responsibility to review Change Order pricing and time extension requests for their appropriateness and to make recommendations to the City regarding cost and time.

F.1.2.10.3 The Architect/Engineer may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect/Engineer shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

F.1.2.10.4 The Architect/Engineer shall not order or direct any changes in the Work that involve adjustment of the Contract Sum or Contract Time without the approval of the City;

F.1.2.11 Construction Change Directives - Prepare, reproduce and distribute construction change directives for those items where time is critical and/or a reasonable price cannot be negotiated with the Contractor. If the Contractor and City cannot agree on price and/or time for the change but the City directs that it be performed, price and/or time will be negotiated at a later date;

F.1.2.12 The Architect/Engineer shall visit the project site a minimum of **weekly** and as appropriate to the stage of construction:

F.1.2.12.1 to become generally familiar with and to keep the City informed about the progress and quality of the portion of the Work completed;

F.1.2.12.2 to endeavor to guard the City against defects and deficiencies in the Work; and,

F.1.2.12.3 to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents.

F.1.2.13 Meetings - The Architect/Engineer shall conduct weekly job meetings with the Contractor and the City. The Architect/Engineer shall take minutes of the meeting and distribute typewritten copies to all parties attending the meeting within five (5) calendar days. The Architect/Engineer shall furnish the City with written field reports within five (5) calendar days of a project site visit. Any representative of the Architect/Engineer sent to the Project site shall be subject to the City's approval.

F.1.2.14 Field Observations - Services consisting of site visits at intervals appropriate to the stage of construction and/or as otherwise generally agreed upon in order to become familiar with the overall progress and quality of the work in accordance with the Construction Documents. The Architect/Engineer shall maintain a photographic log of the progress of the work and shall prepare and distribute field reports along with meeting minutes. The Architect/Engineer shall report to the City known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor;

F.1.2.15 Requests For Information (RFI) – The Architect/Engineer shall investigate and respond to Contractor requests for information in a timely fashion and in no instance in less than seven (7) calendar days. Should an RFI require additional time, the Architect/Engineer shall inform the City and Contractor of such within the seven (7) day period. The Architect/Engineer's costs for investigating and responding to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other City-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation may be billed by the Architect/Engineer to the Contractor. The City shall

not be liable to the Architect/Engineer for the Contractor's failure to carefully study and compare the Contract Documents or if the Contractor should use the request for information process to seek extensions of the Contract for Construction, compensation, or hinder the Work in any manner;

F.1.2.16 Cost Accounting - Maintain records of the Project Budget and all impacts thereupon which include, but are not limited to, testing services, incidental impacts, potential claims and all changes; and,

F.1.2.17 Project Closeout:

F.1.2.17.1 Services to be initiated upon notice from the Contractor that the work is substantially complete, in accordance with the Construction Documents, to permit beneficial occupancy or utilization, and consisting of a detailed inspection for conformity of the Work, compilation of a punch list, inspection of punch list items as completed by the Contractor, issuance of certificate of substantial completion, final inspections, review and approval of operations and maintenance manuals, receipt and transmittal of warranties, affidavits, lien waivers, permits and issuance of final certificate for payment.

F.1.2.17.1.1 The costs and expenses to the Architect/Engineer of more than one (1) substantial completion and one (1) final acceptance inspection may be billed by the Architect/Engineer directly to the Contractor. The City shall not be liable to the Architect/Engineer for multiple inspections.

F.1.2.17.1.2 The Architect/Engineer shall endeavor to have the Contractor complete all punch list items within thirty (30) calendar days of issuing Substantial Completion. The Architect/Engineer shall conduct inspections as part of his contracted site visits to determine Substantial Completion and Final Acceptance. The Architect/Engineer shall not authorize Substantial Completion or Final Completion without the approval of the City. Final payment shall not be approved by the Architect/Engineer prior to receipt and approval of all closeout items and consent of the City;

F.1.2.17.2 Record Documents – the Architect/Engineer shall furnish the City two (2) sets of final, reproducible as-built Record Drawings that have incorporated changes made during the construction process which reflect the as-built conditions. The Architect/Engineer shall also furnish the City with two (2) full sets of Record Drawings and Project Manuals (Specifications) in AutoCAD electronic media format on compact discs labeled with the Project name and the City's project number. All items shall be provided to the City not less than thirty (30) calendar days after the date of Final Acceptance.

F.1.2.17.3 O&M Manuals - Processing, reviewing and taking appropriate action on Operations and Maintenance Manuals provided by the Contractor. Approved O&M Manuals are to be provided to the City ;

F.1.2.17.4 The Architect/Engineer shall receive from the Contractor and forward to the City:

F.1.2.17.4.1 consent of surety or sureties to reduction in or partial release of retainage or the making of final payment; and,

F.1.2.17.4.2 affidavits, receipts, releases and waivers of liens or bonds indemnifying the City against liens.

F.1.2.17.5 Commissioning Report - The CA will prepare the commissioning report for submittal to the City, Architect/Engineer, Contractor and the agency. The Architect/Engineer shall respond to issues in the commissioning report;

F.1.2.17.6 Warranty Period - Investigate contractual and construction problems which arise during the warranty period. Perform inspection of the project, document warranty problems, and assist the City in having the Contractor provide corrective action.

F.1.2.17.6.1 The Architect/Engineer shall conduct a warranty inspection within thirty (30) calendar days prior to the expiration of the warranty period to determine if any defects in the work exist. The Architect/Engineer shall notify the City, both verbally and in writing of defects, and whether or not the defective work is covered by the warranty. All warranty work or repairs shall be under the direction of the Architect/Engineer. The Architect/Engineer shall notify the City of defective work and shall then, in conjunction with the City, notify the Contractor in accordance with the General Conditions of the Construction Contract.

F.1.2.17.6.2 The warranty period commences upon substantial completion and continues for a period of one year (or two years depending on the cost as a bidding alternate) from the date of Final Acceptance as defined in the General Conditions of the Contract for Construction. Unless noted otherwise, the date of Final Acceptance shall be the date of the Architect/Engineer's approval of the final pay request.

F.1.3 The Architect/Engineer shall be the interpreter of the requirements of the Contract Documents. All interpretations, responses to requests for information, and decisions concerning the Contract Documents shall be in writing and issued to the Contractor and City by the Architect/Engineer. The Architect/Engineer shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect/Engineer shall be responsible for the Architect/Engineer's negligent acts, errors, or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

F.1.4 The Architect/Engineer shall have authority to reject work that does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable, the Architect/Engineer will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect/Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work. The Architect/Engineer shall advise the City of any and all rejected work and whether or not it may be necessary to stop work. The City will issue any Stop Work Orders to the Contractor. The Architect/Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

F.1.5 A change in services or fees will be negotiated for work done on Change Orders only if the Change Order is City initiated. Change Orders as a result of errors or omissions through defective design, insufficient information in the Contract Documents, unforeseen conditions, deficient planning, phasing and foresight, deficient coordination between disciplines or negligence by the Architect/Engineer shall be performed at his expense as follows:

F.1.5.1 Errors - The Architect/Engineer shall be responsible for all cost in order to make the City whole which shall include, but not be limited to, design, testing, and construction expenses.

F.1.5.2 Omissions - The Architect/Engineer shall be responsible for all design and those costs over-and-above what the City would have paid had the omission been included in the as-bid Contract Documents. Over-and-above costs shall be negotiated between the City and Architect/Engineer but shall not be less than 10% of the total cost of the change agreed upon between the City and Contractor.

F.1.6 The Architect/Engineer shall not be reimbursed nor receive additional fees for time extensions of the Construction Contract for deficient or poor responsiveness to: submittals and shop drawings, requests for information, pay requests, all Change Orders other than City-initiated Change Orders. Should the Contract for Construction be delayed for an extended period, regardless of fault or cause, any additional fees for the Architect/Engineer shall be determined after Substantial Completion or after all claims and/or disputes have been resolved. In all instances, compensation shall be limited to additional site visits, processing of pay requests, and participation in disputes/claims as defined in this Agreement that occur between City and Contractor.

F.1.7 The Architect/Engineer shall interpret and provide recommendations on matters concerning performance of the City and Contractor under and requirements of, the Contract Documents upon written request of either the City or Contractor. The Architect/Engineer's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

F.1.8 Interpretations and recommendations of the Architect/Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial recommendations, the Architect shall endeavor to secure faithful performance by both City and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or recommendations so rendered in good faith.

F.1.9 The Architect/Engineer shall render initial recommendations on claims, disputes or other matters in question between the City and Contractor as provided in the Contract Documents.

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P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

City of Whitefish PARKS & RECREATION

September 26, 2014

Mayor Muhlfeld and Whitefish City Council
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Members of Whitefish City Council,

Request to Increase TIF Funding for 2nd Street Bridge and Stumptown Inn Stairways

Introduction/History

The Whitefish City Council approved $15,000 of Tax Increment Funding on October 21, 2013 for a stairway attaching the Stumptown Inn to the Whitefish bike/pedestrian trail system and $16,300 of Tax Increment Funding on February 3, 2014 for a stairway on the north side of the 2nd Street Bridge near Kay Beller Park. The Bike Pedestrian Committee requested staff seek updated cost estimates for both projects. North Valley Steel provided the updated cost estimates in July of 2014. As the value of steel has increased, the costs to complete the projects have exceeded the initial TIF allocations.

Current Report

The Stumptown Inn stairway cost estimate for stairs, concrete, paint, and signs totals $19,587. This is a difference from the initial allocation of $4,587.

The 2nd Street Bridge stairway cost estimate for stairs, concrete, paint, and signs totals $16,438. This is difference from the initial allocation of $238.

Financial Requirement

The cost estimate to complete the Stumptown Inn stairway is $14,587 for materials/installation and $5,000 approximated for concrete, paint and signs. The total cost estimate is $19,587.

The cost estimate to complete the 2nd Street Bridge stairway is $11,438 for materials/installation and $5,000 approximated for concrete, paint and signs. The total cost estimate is $16,438.

Recommendation

It is staff's recommendation that Council approve Tax Increment Funding for the Stumptown Inn stairway not to exceed $20,000 and Tax increment Funding for the 2nd Street Bridge stairway not to exceed $17,000.

Sincerely,

Maria Butts

Maria Butts, Parks and Recreation Director

distribution system. If the hydrants cannot meet the minimum fire flow requirements then residential structures shall include residential fire sprinkler systems."

Councilor Kahle asked if the last few homes would have low flow. Tom Cowan said the flow is required at the hydrants, so they will know it before the homes get built. Director Wilson said staff will ask for modeling results and then staff will test the flow of the hydrants.

The amendment passed unanimously.

Councilor Kahle recognized Dave Means.

Dave Means said further study needs to be done especially about the calming device and water issues. He said it is apparent that they don't have the information to make a decision.

Councilor Anderson said if Public Works and Emergency Services can come up with a traffic calming device then the builder shall implement it.

The original motion, as amended, passed unanimously.

7. COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

7a. Consideration of application from Whitefish Credit Union, on behalf of Lookout Ridge Investors, LLC, for a two year extension of the Lookout Ridge Preliminary Plat (p. 403)

This item has been postponed at the request of the applicant.

8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

8a. Consideration of authorizing up to $30,000 of tax increment funds to build a stairway to the Whitefish River Trail by Stumptown Inn in exchange for a trail easement (p. 444)

Public Works Director Wilson said that in order to continue an existing bicycle and pedestrian path along the Whitefish River south of 6th Street, the City requires a 20 foot easement from the owner of the Stumptown Inn. The attached figure on page 446 in the packet shows the location of the future path and easement. The path would follow a relatively flat bench above an existing sewer line.

The owner of the Stumptown Inn has requested that the City provide access to the future path, in exchange for the easement, by installing a metal staircase. He has also requested stairs extending beyond the path to the river. The Public Works Department has collected estimates on the cost to install the metal staircase. The staircase would consist of 5 to 6 foot wide grip strut metal stairs with hand rails on each side. The location of the proposed stairs is shown on the attached figure.

There are two sections of the staircase that have been requested by the owner of the Stumptown Inn, Dan Cutforth, in exchange for the easement. The upper section would extend from the Stumptown parking lot to the bike path. The lower section would extend from the path to the river. The upper section is estimated to cost up to about $30,000 to fabricate and install (including concrete pads) when the trail is constructed at some point in the near future. To construct and install the entire requested

staircase, from the parking lot to the river, is estimated to cost about $40,000. He said that subsequent to the staff report prepared for the Council Packet, Doug Adams has done some work and they believe it would be a cost not to exceed $15,000.

The Public Works Department is requesting authorization from the City Council to proceed with easement negotiations with the Stumptown Inn. Acquiring the easement will involve a commitment from the City to build the metal stairs.

Councilor Anderson offered a motion, seconded by Councilor Hyatt, to approve authorizing up to $15,000 of tax increment funds to build a stairway to the Whitefish River Trail by Stumptown Inn in exchange for a trail easement. The motion passed unanimously.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 448)
None.

9b. Other items arising between October 16th and October 21st
None.

9c. Resolution No. 13-32; A Resolution adopting a revised and reformatted Personnel Policy (p. 455)

Manager Stearns said that he, Mary VanBuskirk, Rich Knapp, and Necile Lorang have worked on revisions and updates to the City's Personnel Policy on and off for the past two to three years. They finally completed their work and had the insurance provider, MMIA, review the document. MMIA has given its tentative approval to our draft revised Personnel Policy. Then the Department Directors reviewed the draft policy and staff incorporated some changes based on their suggestions. Finally, staff scheduled five (5) two hour review meetings for employees and unions to ask questions and make comments. The Council reviewed the changes in a work session before the Council meeting tonight. He said there is a memo on page 456 in the packet outlining the major changes proposed.

Councilor Hyatt offered a motion, seconded by Councilor Anderson, to approve Resolution 13-32; A Resolution adopting a revised and reformatted Personnel Policy. The motion passed unanimously.

Mayor Muhlfeld thanked Attorney VanBuskirk and Manager Stearns for their work on this.

10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

10a. Standing budget item. None.

10b. Consideration of appointment to County Solid Waste Board (p. 508)

Manager Stearns said that Greg Acton would like to continue in this position.

Councilor Kahle offered a motion, seconded by Councilor Anderson, to appoint Greg Acton to the County Solid Waste Board. The motion passed unanimously.

Avenue is only 16 feet wide and his property is constantly being driven on. He asked if they could make it a safety concern to fix this intersection before someone dies.

Dee Blank, 725 W. 7th Street, said she is concerned about the street rebuild and utilities. It is a rural area and they have fought long and hard to keep the rural character. She asked them to give the 7th Street residents more time to learn about this. She said a lot of traffic came down 7th Street during the road construction on the highway. She said they have already born enough construction impact. She said bigger utilities would make for easier access for contractors to build new subdivisions and there would be a major impact on this low density neighborhood. They like the dark skies and quiet neighborhood. She already clears her driveway by hand, she doesn't want to have to shovel the proposed sidewalks, too. Urban street design does not work here. She asked them to give the Resort Tax money to another neighborhood where the rebuild would be more welcome.

Judy Husslender, 786 W. 7th Street, said she bought a house on a ½ acre in the County. Now she has been incorporated and her property taxes went up $900/year. She said there are no curbs or sidewalks and it is a peaceful setting. She doesn't want to have to shovel the sidewalk. She was on the Growth Policy Committee and there were 16 community meetings and they talked and listened to a lot of people in the community. Street lights were left out because of the night skies. They don't need street lights on every street in the community. She said her property taxes were high enough. She said Grouse Mountain has no street lights or sidewalks and she would like the feel of her neighborhood to remain the same as theirs. She said she agreed with Dee Blank that they need a break after all the road construction on Highway 93.

Dave Streeter, 910 Abby Road, supported Dee Blank's comments about the traffic on 7th Street. He said it might be wise to delay the 7th Street project until they know what is going to happen on Karrow Avenue. He said they also don't know about the jurisdiction on Karrow Avenue yet, so it would be good to wait.

4. COMMUNICATIONS FROM VOLUNTEER BOARDS

4a. Recommendation from Pedestrian and Bicycle Trail Advisory Committee to install a stairway from 2nd Street to the pedestrian trail underneath the 2nd Street Bridge over the Whitefish River (p. 29)

City Engineer Hilding reported that with the new bridge over the river they put in a bike and pedestrian path under the new bridge. She said it dead-ends on the north side of Highway 93. The long term plan, part of the City's Bike/Ped Master Plan for about 15 years, is to construct a path along the river adjacent to the Riverbend Condos. The committee wants to put stairs to connect pedestrians to Miles Avenue. This would create a safe route for locals and visitors traveling towards City Beach from Kay Beller Park. Staff got estimates for a 5-6 foot wide grip strut metal stairs with hand rails. She said signage will be important, too, because of the way the trail dead ends.

Councilor Hildner asked and Karin Hilding said she estimated that to construct and install the entire requested staircase it would cost about $16,300. This includes concrete pads, sonotubes supports, painting the stairs and signage.

Councilor Anderson asked if other funding sources were considered. Director Cozad said Resort Tax can be considered for this type of construction, but not until 2015. Councilor Frandsen asked and Engineer Hilding said the stairway would be a permanent structure. She said they have an easement along the Riverbend condos and they are working on that for the future. Councilor Frandsen asked about a future plan for bicycles to avoid crossing the highway there. Engineer Hilding said people can carry bikes up the stairs. There is an option some cities have where people can run their bikes up a gutter alongside them as they climb stairs. She didn't get an estimate on that concept. Councilor Frandsen asked if they considered the noise intrusion for the neighbors. Engineer Hilding said it will mostly be people who are trying to get to the beach, so she didn't imagine it would be very busy early in the morning or late at night. Councilor Sweeney said $16,300 seems like a lot of money for about 10 feet of stairs. She said there are two 19 foot sections that total about $10,000 and a different contractor will do the cement. She said they always get three bids before they proceed with the project and they will go with the least expensive.

Councilor Hildner offered a motion, seconded by Councilor Feury, to approve installing a stairway from 2nd Street to the pedestrian trail underneath the 2nd Street Bridge over the Whitefish River to connect with Miles Avenue at a cost not to exceed $16,300.

Councilor Hildner said this has come up more than once at the Bike/Ped Committee and every time they have voted unanimously in support of the stairway. He said people will continue to walk up and down that hill if there is no stairway and may cause significant erosion.

The motion was approved on a 5 to 1 vote, Councilor Frandsen voted against the motion.

Councilor Hildner reported on the Bike/Ped Committee meeting and said DHC presented drawings for the Skye Bridge project. The bridge will be accessible for emergency vehicles and they will bring the bridge up about 10 feet with fill which will also make it ADA compatible. The public hearing will be February 27th. He said Karin Hilding and Bruce Boody are working out the cost of materials on the bike trail between Town Pump and the Rygg property. The Committee said that there should be a line item in the Public Works budget for maintenance. The Committee would like to encourage the City to get an epoxy marking machine to stripe the streets and to get it done early in the year. He said Mr. Cutworth, was supposed to sign an agreement today regarding the stairs between Stumptown Inn and the bike path.

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 January 21, 2014 Council special meeting (p. 33)
5b. Minutes from the January 21, 2014 Council regular meeting (p. 35)

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

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)

Proposal

North Valley Steel
199 Brunner Rd.
Columbia Falls, MT, 59912
(406) 892-3578

Recipient Name: Doug Adams
Recipient Fax:
Job Name: Stumptown
Job Location:

Materials & Services

Main stair w/ landing
C12x20.7 stringers, grip strut treads and landing, 1.25" tube picketed rail w/ single line grab rail (attached) and 2pcs. 4x4x1/4 tube supports
Primer finish, shop drawings, bolts
Delivery to job site and installation

5-0 wide Total: $14,587.00

Notes: Placement of tube steel supports by other. 2 -3 week lead time from approval of drawings.

Signed: Jake Knudsen Date: 07/28/14

1. Any alteration from the above specifications which involves extra costs will be executed on written orders only, and will become a separate charge in addition to the charges contained in this Proposal. 2. All specifications are contingent on the non-occurrence of accidents, strike, or other delays beyond our control. 3. All materials to be delivered for use at the Project Site for building or other improvement. 4. We reserve the right to record and enforce a construction lien under Title 71, Chapter 3, part 5, MCA. 5. We are entitled to recover costs of collection, court costs, and attorney's fees for any efforts to collect any amounts owed us. 6. By requesting this Proposal, you acknowledge and state that you have authority from the owner of the Project Site to accept this Proposal for owners benefit. 7. If you have requested this Proposal as a representative of a business or other entity, you acknowledge and state that you have the authority to bind the business or entity by your signature. 8. If you accept this Proposal, you an/or the business or entity you represent are bound to all its terms. 9. Price subject to change after 30 days from date of proposal

Acceptance of Proposal

Signed:_____ Date:_____

Proposal

North Valley Steel
199 Brunner Rd.
Columbia Falls, MT, 59912
(406) 892-3578

Recipient Name: Karin, City of Whitefish
Recipient Fax:
Job Name:
Job Location:

Materials & Services

steel stairs with landing
C12x20.7 stringers, Grip Strut treads, and 2 support columns
Primer Finish
Delivery to jobsite
installation
shop drawings
Total: $11,438.00

Notes: No concrete work included. Will require field shooting of elevations

Signed: Jake Knudsen Date: 07/28/14

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Acceptance of Proposal

Signed:_____ Date:_____

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MANAGER REPORT

October 1, 2014

NEW FIRE PUMPER ARRIVES

Our new $498,784.00 Rosenbauer Commander fire engine and pumper is due to arrive today (10/1). We will get a picture of it for my next Manager's Report in two weeks. It also has a foam suppression system and with any new pumper, the Fire Department will take a couple of weeks for training on driving and operating the pumper prior to putting it into operation.

HWY 93 NORTH (WHITEFISH WEST) CONSTRUCTION PROJECT (Karrow to Mountainside)

From Schellinger Construction:

The following information provides details about the Highway 93 West reconstruction project from Karrow Avenue to Mountainside in Whitefish during the weeks of September 29 and October 6. This update is presented on behalf of Schellinger Construction.

Please note that below we have provided two contact numbers - one for daytime use and the other for evenings/overnights to ensure someone is available to answer questions at all times.

As a reminder, starting tonight, October 1 at midnight, work hours will transition to 24 hours a day, seven days a week. This schedule will continue through approximately November 10. The new schedule has been implemented to ensure maximum progress is made on the Karrow to Mountainside project during months with the lowest traffic and tourism volume.

During November and October, there will be occasional one-lane traffic and delays. Choosing alternate routes, when possible, is suggested. Planning for delays and occasional one-lane traffic is recommended.

We encourage you to visit http://www.mdt.mt.gov/pubinvolve/karrow or tune into 106.3 FM, 103.1 FM, and 880 AM for weekly updates. Additionally, a meeting will be held every Tuesday at 9 a.m. at 2005 Lion Mountain Road and the public is welcome to attend.

Those people with questions or concerns are welcome to contact Schellinger Construction at the following numbers:

- **Marc Blanden at 253-3730 from 7am-7pm**
- **Robert Ragland at 253-2178 from 7pm-7am**

Regards,

Courtenay Sprunger
Principal
Big Sky Public Relations
406.270.2949
courtenay@bigskypublicrelations.com
www.bigskypublicrelations.com

EAST 2ND STREET CONSTRUCTION PROJECT UPDATE

From the Robert Peccia and Associates construction engineer and inspector:

Knife River is 107 days into an estimated 116.5 day operation which equates to the project being about 92% complete. When looking at job costs to date (for items installed or billable to), the project is projected at 71% complete.

Last week
Neumann Construction: Crews nearly completed the remaining storm drainage improvements west of Armory Road. Crews finished the grading of the Cow Creek box culvert and removed the temporary culvert. The creek is now flowing through the new box culvert. Crews completed water and sewer services to 1515 East Second. Crews completed the hydrant relocation at Wild Rose Land and the 8" water main extension north of Armory. Crews completed the prep work for the Armory Restroom Building.
Knife River: Crews shaped and compacted subgrade, placed fabric, edge drains, street light conduits and gravel from the top of the hill down to about 100 feet east of Armory Road. Crews worked on sidewalk subgrade and gravel between the dog park and the top of the hill just east of Armory Road.
White Resources: Crews completed most of the curb work east of Armory Road (they stopped about 150 feet east of Armory Road). Crews framed up several remaining curb sections in this area and also framed up several curb inlet aprons.

This week:

Neumann Construction: Crews are expected to complete the remaining gravity sanitary sewer testing (air tests for mains and leakage tests for manholes). Crews are expected to complete TV inspection of the gravity sanitary sewer mains. Crews are expected to complete the remaining storm drainage improvements between Cow Creek and Armory Road. Crews are expected to complete remaining water testing work at the Armory Intersection. Crews are expected to complete the grading and slab prep work at the Armory Restroom.
Knife River: Crews are expected to resume roadway and sidewalk construction activities (subgrade prep, fabric, edge drain and gravel) throughout the project corridor.
White Resources: Crews are expected to continue with curb and gutter installation. Crews are expected to start sidewalk installations throughout the project corridor.

MEETINGS

Meeting with Amtrak Officials (9/9) – I met with Robert Eaton and Ray Lang of Amtrak. Mr. Lang is the Senior Director of Government Affairs for Amtrak and is based in Chicago. We discussed the Empire Builder delays and what the future might hold. They gave me the chart of on-time performance for the Empire Builder and we discussed the U.S. Court of Appeals July 2, 2013 decision that is on appeal to the U.S. Supreme Court. That decision diminished passenger rails ability to influence delays caused by freight railroads and freight railroads had to make fewer changes to accommodate passenger rail. They said that the schedule will remain as it is through Christmas, but they are evaluating to see if they can change the schedule back by 1 hour after the holidays. They also said BNSF is installing a lot of double tracks in North Dakota and Montana where only single tracks exist today and additional double tracks should help reduce delays in the long term.

They also said that the dark sky light shields for our Depot area are fabricated and will likely be installed within a few weeks.

Tourism Branding Workshop (9/22) – I attended this workshop sponsored by the Whitefish Convention and Visitor's Bureau. The speaker went through the creation of the State of Montana's brand campaign and how well Whitefish fit the brand that they are trying to portray.

Department of Revenue – Reappraisal Update Meeting (9/23) – Dana Smith and I attended this presentation on the status of the six year reappraisal by the Department of Revenue (DOR). Mike Kadas, Director of the Department of Revenue, gave information on the statewide reappraisal, the reappraisal process, and on Flathead County statistics. As the DOR sheet attached with this report in the packet shows, at this preliminary point in time, the taxable value in Flathead County would go down by 9.04% next year. That decrease may even be larger for Whitefish because high priced home valuations have not rebounded as much as lower priced properties and there are a large number of high priced properties in Whitefish. DOR assumes that most local governments will raise mill levies to at least raise the same amount of revenue plus ½ the rate of inflation next year as compared to what was raised in the current (FY15) budget.

Montana League of Cities and Towns District Meeting (9/24) – I attended the MLCT District meeting in Kalispell. Dave Nielson, the Interim Director of MLCT presented the handout attached to this report. Most of the discussion centered around the upcoming Legislative session and what bills might be sponsored.

Flathead Regional Wastewater Management Committee (9/29) – This group organized the "5th Monday" meeting held at the Red Lion on wastewater discharge permit standards, future costs to meet those standards, and options to avoid or deal with those future costs. There was also a presentation on the septic system location and density study that was done for

Flathead County. There were about 80-100 people in attendance for this presentation and discussion.

Rotary Club (9/30) – I spoke to the Whitefish Rotary Club yesterday about the proposed 911 Special District funding proposal which is on the November 4th election ballot.

Whitefish Face Working Group (10/2) – This group of diverse people with many interests in the Flathead National Forest area of the Whitefish Face (south face of the Whitefish Range north of Whitefish) will meet on Thursday up at Whitefish Mountain Resort to review their master plan for mountain and residential development.

UPCOMING SPECIAL EVENTS

REMINDERS

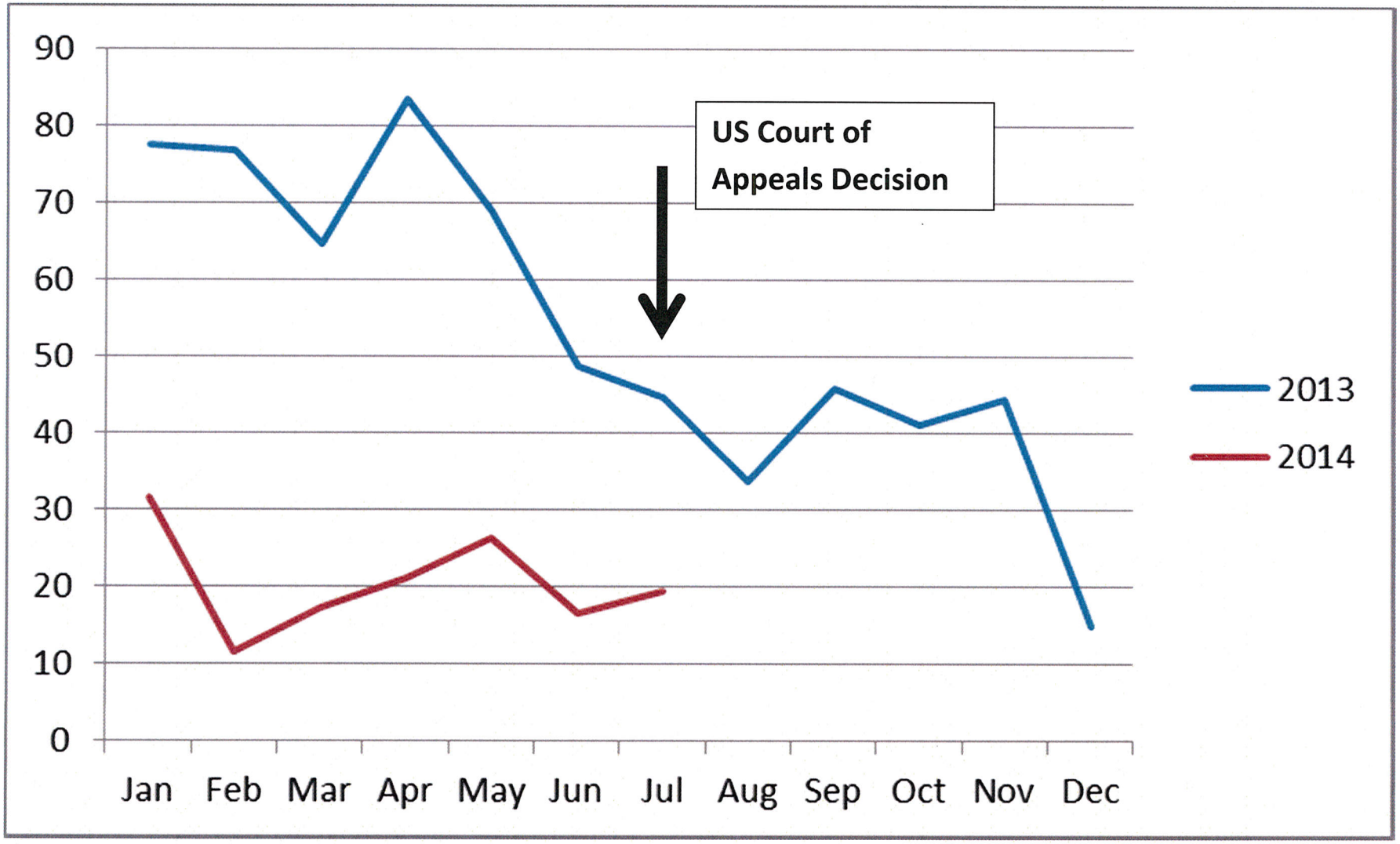
Monday, October 13th – Columbus Day state holiday. City Hall will be closed.

Respectfully submitted,

Chuck Stearns, City Manager

Empire Builder

Endpoint On-Time Performance

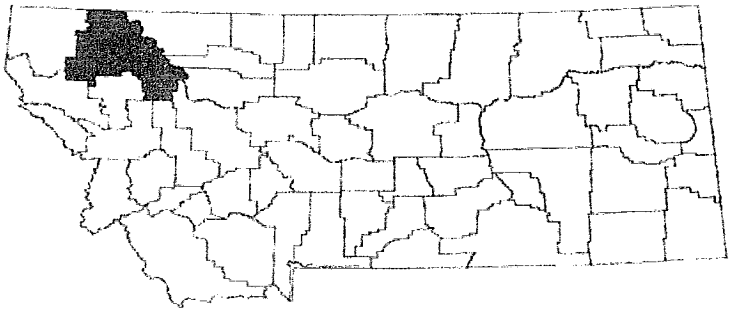


Department of Revenue Handout

Change In Market Value Relative to TY14 Est.

Tax Class	2014	2015	% Change
Class 3-Ag.	$32.665	$37.466	14.70%
Class 4-Res.	$14,228.836	$12,516.174	-12.04%
Median Home*	$231,983	$204,060	-12.04%
Class 4-Com.	$2,155.326	$1,982.324	-8.03%
Other Classes	$1,133.179	$951.449	-16.04%
Total	$17,550.006	$15,487.414	-11.75%

Flathead



Change In Taxable Value Relative to TY14 Est.

Tax Class	2014	2015	% Change
Class 3-Ag.	$1.269	$1.116	-12.07%
Class 4-Res.	$186.424	$171.786	-7.85%
Median Home*	$3,037	$2,747	-9.54%
Class 4-Com.	$41.222	$31.860	-22.71%
Other Classes	$29.119	$29.936	2.81%
Total	$258.035	$234.698	-9.04%

County & School Taxes Relative to TY14 Est.

Tax Class	2014	2015	% Change
Class 3-Ag.	$0.499	$0.487	-2.36%
Class 4-Res.	$73.321	$75.030	2.33%
Median Home*	$1,194	$1,200	0.45%
Class 4-Com.	$16.213	$13.915	-14.17%
Other Classes	$11.453	$13.075	14.17%
Total	$101.486	$102.508	1.01%

Change In County & School Mills Relative to TY14 Est.

Tax Class	2014	2015	% Change	2014 Eff. Rate	2015 Eff. Rate
Class 3-Ag.	393.30	436.77	11.05%	1.53%	1.30%
Class 4-Res.	393.30	436.77	11.05%	0.52%	0.60%
Median Home*	393.30	436.77	11.05%	0.51%	0.59%
Class 4-Com.	393.30	436.77	11.05%	0.75%	0.70%
Other Classes	393.30	436.77	11.05%	1.01%	1.37%
Average	393.30	436.77	11.05%	0.58%	0.66%

City Taxes Relative to TY14 Est.

Tax Class	2014	2015	% Change
Class 3-Ag.	$0.003	$0.004	15.76%
Class 4-Res.	$6.097	$6.371	4.50%
Median Home*	$99	$102	2.59%
Class 4-Com.	$3.264	$2.870	-12.06%
Other Classes	$1.219	$1.440	18.07%
Total	$10.583	$10.685	0.96%

Change In City Mills Relative to TY14 Est.

Tax Class	2014	2015	% Change	2014 Eff. Rate	2015 Eff. Rate
Class 3-Ag.	2.39	3.15	31.66%	0.01%	0.01%
Class 4-Res.	32.70	37.09	13.41%	0.04%	0.05%
Median Home*	32.70	37.09	13.41%	0.04%	0.05%
Class 4-Com.	79.18	90.09	13.78%	0.15%	0.14%
Other Classes	41.88	48.09	14.85%	0.11%	0.15%
Total	41.01	45.52	11.00%	0.06%	0.07%

State Taxes Relative to TY14 Est.

Tax Class	2014	2015	% Change
Class 3-Ag.	$0.128	$0.113	-12.07%
Class 4-Res.	$18.829	$17.350	-7.85%
Median Home*	$307	$277	-9.54%
Class 4-Com.	$4.163	$3.218	-22.71%
Other Classes	$2.941	$3.024	2.81%
Total	$26.061	$23.704	-9.04%

Change In State Mills Relative to TY14 Est.

Tax Class	2014	2015	% Change	2014 Eff. Rate	2015 Eff. Rate
Class 3-Ag.	101.00	101.00	0.00%	0.39%	0.30%
Class 4-Res.	101.00	101.00	0.00%	0.13%	0.14%
Median Home*	101.00	101.00	0.00%	0.13%	0.14%
Class 4-Com.	101.00	101.00	0.00%	0.19%	0.16%
Other Classes	101.00	101.00	0.00%	0.26%	0.32%
Total	101.00	101.00	0.00%	0.15%	0.15%

Total Taxes Relative to TY14 Est.

Tax Class	2014	2015	% Change
Class 3-Ag.	$0.630	$0.604	-4.25%
Class 4-Res.	$98.246	$98.752	0.51%
Median Home*	$1,600	$1,579	-1.33%
Class 4-Com.	$23.640	$20.003	-15.38%
Other Classes	$15.613	$17.538	12.33%
Total	$138.130	$136.897	-0.89%

Change In Total Mills Relative to TY14 Est.

Tax Class	2014	2015	% Change	2014 Eff. Rate	2015 Eff. Rate
Class 3-Ag.	496.69	540.91	8.90%	1.93%	1.61%
Class 4-Res.	527.01	574.85	9.08%	0.69%	0.79%
Median Home*	527.01	574.85	9.08%	0.69%	0.77%
Class 4-Com.	573.48	627.85	9.48%	1.10%	1.01%
Other Classes	536.18	585.86	9.27%	1.38%	1.84%
Total	535.32	583.29	8.96%	0.79%	0.88%

Assumptions

Phase-In: No	Class 3 & Class 4 Rate: 2.20%	HomeStead: 38.86%	CommStead: 27.72%

Montana League of Cities and Towns handout

2014 District Legislative Meetings
Problems and Possibilities

Revenue and Finance

Economic conditions and political circumstances in Montana have changed significantly in the last 25 years, while city and town tax collections are still tangled up in old laws based on the twisted assumption that all financial decisions must be made in Helena. This tradition of central authority goes back a long way in our history, and while it is obvious that the times are changing, the municipal finance laws stay the same.

Property taxes are the foundation of city budgets. They are also the principal means of support for counties and local schools. This may have been an appropriate arrangement during the time of the "Treasure State" when natural resource industries and supporting businesses covered a much larger share if not a majority of these costs. Today, the property tax system leans heavily on the value of residential and commercial property, and people in their homes pay for most of the services and facilities required by an energy boom in the East and an exploding tourist economy in the West.

There is clear evidence of the need to diversify the local government finance system, and one statistic tells the real story. In 1992, residential and commercial property made up about 40% of the total taxable value across the state. Today, these Class Four properties represent nearly 60% of total value, which means that homeowners are paying a bigger share of the cost of local government.

The League has been the most consistent and aggressive advocate of proposals intended to align the local finance system with what was going on in the economy. Over more than 20 years, cities have promoted a variety of local option tax measures that were inevitably turned back by a wall of sometimes inane and often selfish obstruction.

Logic suggests that this fight has been lost, but there are guys with crooked noses who believe that "you are never beat until you quit". Maybe it is time to give the dreamers another shot.

Expansion of the Resort Tax This law has been a bonanza for cities and towns, like Whitefish, West Yellowstone and Red Lodge, that meet the population limits and other requirements to be designated as a "resort community". The 3% tax on the receipts of hotels, bars, restaurants and specialty stores generates enough money to protect and serve tourists, finance public improvements and build stronger and more attractive communities. This law works, and the League has always believed that the resort tax should be a financing option for every city, town and county in the state.

In recent years, the Legislature has killed several bills that would have expanded the resort tax. This happened because there always seems to be a way to find one more than half the members of any representative assembly to vote to do nothing.

If the state cannot find a way to assist cities and towns to manage the impacts of energy development, it should, at least, open the resort tax up to those places in Eastern Montana that are being pounded every day by a stampede of transient workers and camp followers. Recent news articles about drug trafficking and serious criminal activity in the oil patch make these arguments even more persuasive.

Reallocation of the Bed Tax In 2003, the state was facing one of its periodic budget breakdowns The general fund was $240 million in the hole and there were gloomy predictions of financial calamity. To restore balance, the Legislature increased the lodging tax by 3%. It also tacked another 3% tax on rental cars.

The budget crisis passed. Today, the state has a $400-million surplus. The lodging and car tax revenues are no longer needed to balance the budget and logic suggests that the time has come to send most of this $20-million in state "cookie jar" money back to where it is collected --- the cities, towns and counties across Montana.

The bed tax is a perfect example of how the state's finance mechanisms are not geared to the economy. Travelers pay nearly $42-million in lodging taxes each year, but not one nickel of this money goes back to those local governments that are the foundation of the tourist economy. If the state sent some or all of the general fund share of this money back to where it comes from, it would stabilize local government finances, ease the pressure on property taxes and end the sequence of special levies that are becoming a condition of survival for many cities and counties.

Local Motor Fuel Tax A law enacted in 1979 allows voters in a county to authorize an excise tax of up to 2 cents per gallon on the retail sale of gasoline. Yellowstone, Missoula and Flathead Counties have put the question on the ballot and all three referendums were rejected. League members suggested during the recent district meetings that the law be amended to allow city voters to decide the fuel tax question because there might be a higher level of support for specific projects in urban areas.

Impact Assistance Wide majorities of the 2013 Legislature passed House Bill 218 to provide $35 million in grant assistance to local governments impacted by energy development in Central and Eastern Montana. The Governor vetoed this bill because it conflicted with the administration's stated objective to maintain a $300-million general fund balance.

The Governor has now proposed a $45-million aid package for an 18-county area in or near the oil fields. The program will be financed by state bonds, but it may take a P.T. Barnum selling job to convince two-thirds of a generally conservative legislature to borrow the money to fund the program.

The Legislative Finance Committee is also looking at ways to help local governments manage the effects of energy development. The committee may not recommend specific bills to the next Legislature, but it does intend to put together formulas to assure fair and effective allocation of impact aid. The criteria that will be considered include taxable value, median family income, local effort and several methods of measuring the real impacts of energy development, including traffic counts and crime rates.

Development is occurring, the impacts are concussive, the need for help is obvious and the hope now is that the Legislature and the Governor can find a way to beg, borrow or steal the money needed to protect a special way of life in Eastern Montana.

Entitlement Payments The growth factor on the Entitlement Program will be 3.5% for the coming fiscal year, which will bump up payments to cities and towns by about $2.15-million. The Department of Revenue will mail these checks in equal amounts every three months beginning September 15th.

This law is vitally important to cities and towns. Under the League's agreement with the 2013 Legislature, entitlement payments intended to provide a secure and predicable stream of revenue with a growth adjustment geared to state tax collections. Payments to cities have increased from $42-million in 2002 to a projected $64-million in 2015. The Entitlement Program is a partnership between the state and local governments, and the growth factor works like a dividend. It sends more money back to cities and counties when the economy is strong and ratchets the numbers down, but never below zero, when personal and corporate tax collections turn in the other direction.

This agreement should be permanent and the League is committed to making sure that this statutory appropriation becomes as automatic as the sunrise.

The Department of Revenue will also be sending checks out next month to reimburse local jurisdictions for the money they lost from legislative reductions in the business equipment tax collections.

Local Control and Self -Government Powers

The 1972 Constitution directed the Legislature to establish self-government powers for cities, towns and counties. Somehow, these good intentions were largely forgotten when the 1975 Legislature wrote the enabling act. This law is a confusion of limitations, prohibitions, delegations and exemptions.

Every time a business or special interest had a disagreement with a local agency, real or imagined, they asked the Legislature to pass a law to protect them from those they elected back home. Cities killed many of these bills, but there is still an extensive list of protected interests that includes: garbage haulers, vagrants, landlords, fertilizer manufacturers, licensed professionals and amateur radio operators.

The Contractors and Motor Carriers Associations are likely to push legislation in 2015 that will prohibit local ordinances to that require nominal permit fees to transport mega-loads through cities and towns.

Some members of the Legislature may also try bring back the 2011 bill that would have prohibited cities from passing anti-discrimination ordinances.

Water Rights

Most of the time, water is in short supply and the question of who has the right to use this critical resource has been the subject of contentious and almost continual debate since territorial days. Cities cannot expand or even survive without adequate water supplies and legal or legislative attacks against municipal rights must be opposed with a ferocity that is equal to the seriousness of the issue.

A recent district court decision in Helena, which is now being appealed, held that rights are not abandoned as long as the city has made improvements and has plans in place to use the water.

The Legislature has considered several measures in recent years to limit the number of exempt wells. State law exempts wells that draw less than 10 acre feet of ground water in a year. There is concern that a proliferation of non-permitted wells is a threat to the water rights of adjacent or downstream users. The Legislature has looked for a workable compromise on this issue but it has been elusive.

City water rights are attached to "a place of use". Every time a city annexes new areas or extends service, it is required, under the strictest application of the law, to file for a different permit. Cities are working to find ways to extend and adjust place of use boundaries without having to go through a course of cumbersome and generally unnecessary obstacles.

Water rights have been a dormant issue for a number of years, but this renewed interest is like a lot of other things that seem to be gone but never really go away.

Wastewater Regulation

The League has been working with state and federal environmental agencies for more than seven years to develop a plan that will allow cities and towns to comply with numeric nutrient standards over an extended period at a cost people can afford to pay. The plan relies on variances that will be available over the next 20 years.

From the beginning, representatives of the cities insisted that that there had to be four basic elements in the compliance plan.

1. It must be fair by recognizing that cities should not be required to cover the entire cost of nutrient removal.
2. It must be affordable with compliance costs tied to median family income.
3. The standards must be applied effectively to assure that ratepayers are not on the financial hook for treatment upgrades that do not measurably improve water quality.
4. Finally, it must work in the real world not just on paper, which means that treatment standards cannot exceed the limits of technology.

All of these criteria are in the nutrient standards package that is before the Board of Environmental Review.

There are also several important points about the rules package that are important to understand.

1. It does not apply to sewage lagoons.
2. The compliance schedule extends out to 20 years.
3. More stringent standards cannot be implemented if the technology is not available.
4. The Department of Environmental Quality is directed to develop methods of reducing nutrient loading from septic systems and other non-point sources.

The Department will be offering "Optimization Training" this summer to show treatment plant operators ways to move toward compliance through land application and other practical and low cost practices.

Public Employees Pension Reform

The 2013 Legislature considered about 50 measures to revise, stabilize and otherwise rectify the ominous accumulation of uncovered costs clouding the future of the Public Employees Retirement System. House Bill 454 increases employee and agency contributions by 1%, adds $35-million a year in natural resource tax revenues and reduces cost of living adjustments for retirees. These changes combined with higher returns on investments were intended to reduce the PERS amortization period to less than 25 years, which is the generally accepted measurement of actuarial balance.

The courts are likely to strike the benefit adjustments, and the question now is whether the other elements of the measure will work to bring the gap between assets and liabilities into the acceptable range.

The 2013 actuarial analysis showed that the trend lines were moving in the right direction. The 2014 review will be released in September and the results will determine if HB-454 solved the funding problem for now and out into the future.

Cities should also expect to deal with another bill to allow police officers to include overtime pay as wages for the purpose of calculating pension benefits. If the Legislature approves this change, city contributions to the police retirement fund would increase by about 20%. This estimate is based on the assumption that overtime pay is about one-fifth of total compensation.

Cats and Dogs

In every session of the Legislature, there is an assortment of ragtag bills that the wise guys who hang around the halls of the Capitol categorize as "cats and dogs".

These measures are often innocuous, generally silly, but sometimes troubling.

The following is a list of bad ideas that may be looking for a home next winter:

The Legislature has considered several bills in recent time that would allow non-resident property owners to vote in city elections. These measures probably violate the Voting Rights Act and the Federal Constitution, and a good legal opinion would probably put an end to this exercise in non-representative government.

There is likely to be continued agitation over a 2011 revision to the special district laws. The 2013 Legislature dropped the protest threshold to 10%, but this may not be good enough to satisfy some of the more extreme attitudes on this issue.

Finally, there will be the usual list of bills dealing with planning, zoning, annexation and other land use issues that are as much a part of the Legislature as cold days and long, dark nights.

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RESOLUTION NO. 14-___

A Resolution of the City Council of the City of Whitefish, Montana, adopting findings of fact in support of the City Council's denial of the petitions for exclusion of land, Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, from the City of Whitefish.

WHEREAS, the City of Whitefish received a petition dated October 20, 2005, from T. Warren Schweitzer and Ingela Schnittger, Petitioners and the owners of Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, Whitefish, Montana, requesting that the City annex their real property into its corporate limits, acknowledging that their petition is irrevocable; and

WHEREAS, the City Council of the City of Whitefish annexed the Petitioner's real property by Resolution No. 05-53 on November 7, 2005; and

WHEREAS, on April 19, 2010, the City of Whitefish considered the Petitioners' March 29, 2010 petition to de-annex and the April 13, 2010 staff report and exhibits, and denied the petition to de-annex, and entered findings that the petition was contrary to the planned symmetry of the City's growth and not in the best interest of the City and its inhabitants; and

WHEREAS, the Petitioners appealed the Whitefish City Council's denial of their petition to de-annex their property to the State District Court in *T. Warren Schweitzer and Ingela Schnittger v. City of Whitefish*, Cause No. DV-10-728B, alleging that the City failed to address the mandatory elements to exclude land as set forth in MCA §7-2-4805, and was therefore void; and

WHEREAS, the property lies within the City's Urban Growth Boundary, used as a guide for the provision of services in the City's Extension of Services Plan, based on the availability of City services, community growth, and the logical extension of City utility services planning conducted by the City; and

WHEREAS, at its August 5, 2013 City Council work session on annexation priorities, the City identified Houston Lake Drive and Houston Lake Shore Tracts as the second priority area for annexation because the properties are wholly surrounded by the City boundaries; and

WHEREAS, at its March 3, 2014 City Council work session on annexation priorities, Houston Lake Drive and Houston Lake Shore Tracts advanced to the first priority area for annexation; and

WHEREAS, on August 4, 2014, the Eleventh Judicial District Court entered its Order and Rationale on the City's motion to dismiss with prejudice, granting the City's requested dismissal of the case with prejudice for failing to serve the City within three years after filing the complaint and because the refiling of this action would be precluded by the six-month statute of limitations; and

WHEREAS, by petitions for exclusion dated September 5, and September, 24, 2014, Petitioners petitioned the City for the second time to de-annex their real property; and

WHEREAS, the petitions are signed by all of the owners of Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, Whitefish, Montana; and

WHEREAS, Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, Whitefish, Montana, are currently within the corporate limits, not on the border, and are wholly surrounded by the City of Whitefish; and

WHEREAS, on October 6, 2014, the Whitefish City Council considered the Petitioners' September 5, and September 24, 2014 petitions to de-annex, the factors of MCA §7-2-4805, and staff reports and exhibits, and denied the petitions to de-annex having determined the properties should remain within the City's boundaries since the properties are wholly surrounded and in symmetry with the City's growth plan, all in the best interest of the City and its inhabitants.

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

Section 1: In support of its denial of the petitions for exclusion from the boundaries of the City Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, Whitefish, Montana, the City Council adopts all of the recitals set forth above, referenced staff reports, and the following as Findings of Fact:

a) the property is wholly surrounded by the City and not on the border of the City;

b) the property lies within the City's urban growth boundary in the City's Extension of Services Plan;

c) the location of the property is within the City, symmetrical with City's boundaries and its planned growth;

d) the property lies within an area wholly surrounded by the City and designated by the City as the next priority area for annexation;

e) annexation protects the City from indiscriminate growth patterns, with the purpose to develop a just and equitable system of adding to and increasing City boundaries for sound urban development, essential to the continued economic development of a community;

f) as a condition of annexation and for the purpose of promoting health, safety and the general welfare of the community, and the protection of its natural resources for the community, the City is authorized to expand its governmental services, essential for sound urban development; and

g) it would be in the best interest of the City and its inhabitants to deny the Petitioners' second petitions for exclusion.

Section 2: The City Council hereby denies the Petitioners' September 5 and September 24, 2014 petitions for exclusion from the boundaries of the City requested for Lots 28 and 29 of Houston Lake Shore Tracts, 2154 Houston Drive, Whitefish, Montana.

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

received
9-25-2014
City Clerk's Office

Warren Schweitzer and Ingela Schnittger
80 Why Worry Lane
Woodside, CA 94062

September 24, 2014

Necile Lorang
Clerk, City of Whitefish
418 East 2d Street
Whitefish, MT 59937

Re: Petition for Exclusion

Dear Madame Clerk:

Please find enclosed our Petition to the City of Whitefish, its mayor and council members. Would you kindly file the petition and deliver it to the Mayor and the City Council for their consideration?

Thank you for your assistance.

Sincerely,

Warren Schweitzer

Ingela Schnittger

State of California, County of San Mateo
Subscribed and sworn to before me
On 24 day of September, 2014
By Warren Schweitzer & Ingela Schnittger
Proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Notary Public Helen Sutherland

HELEN SUTHERLAND
COMM. # 2031794
NOTARY PUBLIC • CALIFORNIA
SAN MATEO COUNTY
Comm Expires JULY 27, 2017

Warren Schweitzer and Ingela Schnittger
80 Why Worry Lane
Woodside, CA 94062

September 24, 2014

John Muhlfield, Mayor
Members of the Whitefish City Council
418 East 2d Street
Whitefish, MT 59937

Re: Petition for Exclusion

Dear Mayor Muhlfield and Whitefish City Council:

We own 100% in value of the property at 2154 Houston Drive in Whitefish, MT. We hereby petition the City of Whitefish to enact a resolution excluding our property from the boundaries of the City. The legal description of the property is Lots 28 & 29 Houston Lake Shore Tracts.

The exclusion of our property from the City will not alter the continuous boundary of the City or its symmetry, since our property lies outside said boundary and is wholly surrounded by Flathead County property. The only contiguity with the City is our west property line, which follows the shoreline of Whitefish Lake. We understand that the City represented at the time it annexed Whitefish Lake that it would not use the lakeshore for annexation purposes to claim contiguity with riparian properties. That being the case, for annexation purposes, our property shares no common property line with any property within the City of Whitefish. Nor is the separation only the width of a street or other narrow strip of land.

All Whitefish streets, avenues, alleys, or public places will remain unchanged. None are in the area sought to be excluded, because our property is entirely within and wholly surrounded by an area under the jurisdiction of Flathead County.

In 2005, at the time our property was annexed into the City of Whitefish, the City, by agreement with Flathead County, was exercising planning and zoning authority over the Houston Drive neighborhood. We were told that the City anticipated annexing the entire Houston Drive area within a few years. That would have been 2007. To date, nearly ten years later, the City has not issued an intent to annex the Houston Drive neighborhood.

Also in 2005, the Whitefish/Flathead County interlocal agreement that purported to authorize the City's jurisdiction over the Houston Drive neighborhood was in effect. Earlier this year, however, that agreement was terminated, and county planning and zoning was reinstated. We are now in the difficult position of having all properties on every side of us (other than the lake) under the planning and zoning jurisdiction of Flathead County. Our property is an island with different laws, regulations, and authorities. Because, different from everyone else in our neighborhood, we are subject to the jurisdiction of the City of Whitefish, we have been excluded

from our homeowners' association, the Houston Lakeshore Tract Property Owners Association. Thus, we can no longer participate in homeowner planning for the area in which our property is located.

Further, being "in" the City of Whitefish devalues our property, because it is subject to planning and building restrictions and taxes that do not burden other properties in our neighborhood.

In the nearly a decade during which we have been within the City of Whitefish, we have not used or had extended to us a single service of the City of Whitefish. We arrive at our home having traveled on federal, state, and county roads and highways. We do not have City water, sewer or solid waste pick up. Under an agreement with the county, Whitefish police and fire personnel respond to emergencies in our neighborhood, but they do not respond to non-emergencies. To our knowledge, the City does not provide winter maintenance on any roadway we use to access our property.

In fact, our only interface with the City is the payment of property taxes to it. The only impact exclusion of our property would have on the City is the loss of that revenue. Because fairness is valued by the residents of Whitefish, excluding our property would be in the best interest of the City.

Accordingly, we pray that the Council of the City of Whitefish enact a resolution altering the boundaries of the City of Whitefish and excluding there from our property herein described.

Sincerely,

Warren Schweitzer and Ingela Schnittger

State of California, County of San Mateo
Subscribed and sworn to before me
On 24 day of September, 2014
By Warren Schweitzer & Ingela Schnittger
Proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Notary Public Helen Sutherland

HELEN SUTHERLAND
COMM. # 2031794
NOTARY PUBLIC • CALIFORNIA
SAN MATEO COUNTY
Comm. Expires JULY 27, 2017

Warren Schweitzer and Ingela Schnittger
80 Why Worry Lane
Woodside, CA 94062

received
9-8-2014
City Clerk's Office

September 5, 2014

John Muhlfield, Mayor
Members of the Whitefish City Council
418 East 2d Street
Whitefish, MT 59937

RE: Petition for Exclusion

Dear Mayor Muhlfield and Whitefish City Council:

We own 100% in value of the property at 2154 Houston Drive in Whitefish, MT. We hereby petition the City of Whitefish to enact a resolution excluding our property from the boundaries of the City. The legal description of the property is Lots 28 & 29 Houston Lake Shore Tracts.

The exclusion of our property from the City will not alter the continuous boundary of the City, since our property lies outside said boundary and is wholly surrounded by Flathead County property. The only contiguity with the City is our west property line, which follows the shore of Whitefish Lake. We understand that the City represented at the time it annexed Whitefish Lake that it would not use the lakeshore for annexation purposes to claim contiguity with riparian properties. That being the case, for annexation purposes, our property shares no common property line with any property within the City of Whitefish. Nor is the separation only the width of a street or other narrow strip of land.

All Whitefish streets, avenues, alleys, or public places will remain unchanged. None are in the area sought to be excluded, because our property is entirely within and wholly surrounded by an area under the jurisdiction of Flathead County.

In 2005, at the time our property was annexed into the City of Whitefish, the City, by agreement with Flathead County, was exercising planning and zoning authority over the Houston Drive neighborhood. We were told that the City anticipated annexing the entire Houston Drive area within a few years. That would have been 2007. To date, nearly ten years later, the City has not issued an intent to annex the Houston Drive neighborhood.

Earlier this year, the Whitefish/Flathead County interlocal agreement that purported to authorize the City's jurisdiction over the Houston Drive neighborhood was terminated, and county planning and zoning was reinstated. We are now in the difficult position of having all properties on every side of us (other than the lake) under the planning and zoning jurisdiction of Flathead County. Our property is an island with different laws, regulations, and authorities. Because, different from everyone else in our neighborhood, we are subject to the jurisdiction of the City of Whitefish, we have been excluded from our homeowners' association, the Houston

Lakeshore Tract Property Owners Association. Thus, we can no longer participate in homeowner planning for the area in which our property is located.

Further, being "in" the City of Whitefish devalues our property, because it is subject to planning and building restrictions and taxes that do not burden other properties in our neighborhood.

In the nearly a decade during which we have been within the City of Whitefish, we have not used or had extended to us a single service of the City of Whitefish. We arrive at our home having traveled on federal, state, and county roads and highways. We do not have City water, sewer or solid waste pick up. Under an agreement with the county, Whitefish police and fire personnel respond to emergencies in our neighborhood, but they do not respond to non-emergencies. To our knowledge, the City does not provide winter maintenance on any roadway we use to access our property.

In fact, our only interface with the City is the payment of property taxes to it. The only impact exclusion of our property would have on the City is the loss of that revenue.

Accordingly, we pray that the Council of the City of Whitefish enact a resolution altering the boundaries of the City of Whitefish and excluding there from our property herein described.

Sincerely,

Warren Schweitzer and Ingela Schnittger

9/5/14 9-5-14

State of California
County of San Mateo
Subscribed and sworn (or affirmed) to before me this 5 day of September 2014

Betine Lee
(Signature of Notary)

BETINE LEE
Commission # 2019407
Notary Public - California
San Mateo County
My Comm. Expires Apr 12, 2017

Staff Report

October 6, 2014

To: Mayor Muhlfeld and City Councilors

From: Mary VanBuskirk, City Attorney

Re: T. Warren Schweitzer and Ingela Schnittger
Petitions for Exclusion (De-Annex from City)

Introduction/History.

In 2005, Petitioners T. Warren Schweitzer and Ingela Schnittger filed a petition for annexation of their property, described as Lots 28 and 29 of Houston Lake Shore Tracts, located at 2154 Houston Drive, Whitefish, Montana. By their petition for annexation, Petitioners agreed their petition would be irrevocable. The City Council approved their petition and expanded the boundaries of the City limits by Resolution No. 05-53.

First Petition to De-Annex.

However, in 2010, Petitioners filed their first petition to de-annex their property as provided by Part 48, MCA §§7-2-4801 through -4810.

City Attorney John Phelps prepared his April 13, 2010 staff report and proposed resolution of intention should the City Council find the Petitioners met the MCA §7-2-4805 criteria to approve their petition to de-annex the property. In his staff report, Phelps explained that the Petitioners' property is located in the Houston Lake Shore Tracts, an area surrounded on all sides by the City following the City's annexation of Whitefish Lake in 2005. Prior to the City's annexation of the lake, in 1987 the Attorney General issued his opinion that properties similar to Petitioners' property were "wholly surrounded" for annexation purposes because there was no land access to the area without traveling through the City. 42 Op. Att'y Gen. No. 41. Despite the Attorney General's opinion, the City had not proceeded with the annexation of the wholly surrounded area at that time and annexed properties on a case-by-case basis.

In the April 19, 2010 City Council Agenda Report, City Manager Chuck Stearns recommended the Council not adopt the resolution of intention:

> As City Manager, I do not recommend excluding this property from the City limits. We should try to annex more properties in this vicinity and other areas of Whitefish rather than exclude those properties already inside city limits. Therefore, I respectfully recommend that the City Council consider the request, but **not** adopt the Resolution of Intention.

As required by Part 48, Exclusion of Land, MCA §§7-2-4801 through -4810, their first petition was placed on the Whitefish City Council agenda and considered at the

Council's April 19, 2010 meeting. The Whitefish City Council denied their first petition to de-annex because the Council determined the Petitioners had failed to meet the 7-2-4805 criteria. Petitioners' property was part of the City's planned growth along Whitefish Lake and not in the best interests of the City and its inhabitants to de-annex the property

Petitioners appealed the City Council's denial to District Court in *T. Warren Schweitzer and Ingela Schnittger v. City of Whitefish,* Cause No. DV-10-728B. By their amended Complaint, Petitioners alleged the City had failed to address the mandatory elements of 7-2-4805 to exclude land and other claims, and was therefore void.

On August 4, 2014, the District Court granted the City's motion to dismiss the Petitioners' lawsuit against the City *with prejudice* due to Petitioners' failure to serve the City within three years as required by Rule 4(t), Montana Rules of Civil Procedure, and within the applicable six-month statute of limitations. Usually a successful Rule 4(t) motion would not preclude bringing the same action again (dismissal without prejudice). However, under the facts of this case, the Court reasoned in its Order and Rationale that the Petitioners could not bring the same action to challenge the Council's 2010 denial of their petition because more than six months have passed from the date of the Council's 2010 decision. MCA §27-2-209(5). Because of the District Court's dismissal with prejudice, Petitioners may not re-file their lawsuit based on the 2010 City Council's denial of their petition to de-annex.

<u>Second Petitions for Exclusion</u>.

On September 5, 2014, the Petitioners filed their 2014 petition for exclusion of their property from the City. On September 25, 2014, the City Clerk's office received an additional, almost identical petition for exclusion dated September 24, 2014. For this report, both 2014 petitions for exclusion are referred to as the second petitions.

<u>City has Planned Priority Areas for Annexation</u>.

The Houston Point and Houston Lake Shore area is the next priority area for City annexation as determined at the March 3, 2014 Council work session. As shown on the attached map, the Houston Point and Houston Lake Shore area properties are wholly surrounded by the City. Also, Petitioners' proposed property for exclusion lies within the same area surrounded by the City.

Under Montana law, "wholly surrounded" property is subject to annexation under MCA §§7-2-4501 to -4511. The definition of "wholly surrounded" has been well established:

1. where all lands on the side of the tract are within the city; and
2. where it is impossible to reach the tract without crossing such territory.

> *Missoula Rural Fire District, et al., v. City of Missoula,* (1997) 950 P.2d 758, 763; *Missoula Rural Fire District, et al., v. City of Missoula*, (1997) 938 P.2d 1328, 1329-30 (quoting *Calvert v. Great Falls*, (1969) 462 P.2d 182, 184.).

Montana case law is clear that the above "wholly surrounded" test is the sole criteria to establish whether annexation is proper under Part 45, §§7-2-4501 through 4511, Annexation of Wholly Surrounded Land. Since the location of the property within the City boundaries is the critical and sole consideration for this method of annexation, once the City Council determines the area wholly surrounded, the annexation is not subject to area landowners' protest or vote. MCA §7-2-4502.

In addition to clear Montana authority supporting the wholly surrounded method of annexation, the City sought an Attorney General's opinion on whether a parcel bordered on only three sides by City property and Whitefish Lake would be considered wholly surrounded. As explained in the attached 1987 Attorney General's Opinion, a parcel of property is considered "wholly surrounded" when bordered on three sides by the City of Whitefish and on the remaining side by Whitefish Lake, a large navigable lake. 42 Op. Att'y Gen. No. 41. Following *Calvert*, the Attorney General reasoned:

> The term "wholly surrounded" in section 7-2-4501, MCA, must therefore be practically interpreted to achieve the legislative objective of permitting annexation when a particular parcel has become, in essence, landlocked by a municipality. Under this analysis, the first tract is "wholly surrounded" because, as to all sides bordered by land, it is surrounded by the municipality. The applicability of section 7-2-4501, MCA, is not vitiated by the lake's presence on the remaining side since all land access to the parcel must be through the municipality.

Following the 1987 Attorney General's Opinion, the City annexed the Whitefish lakebed from low-water mark to low-water mark making the parcels bordered on all four sides by the City of Whitefish after 2005.

As demonstrated by the attached map, City property encircles the proposed property for exclusion. Wisconsin Avenue and East Lakeshore Drive beginning at the intersection of Reservoir Road to the North boundary of Lot 1, Block 1 of Houston Point Subdivision were annexed into the City by the attached City Resolution No. B-916 on August 17, 1981. The proposed property for exclusion meets the *Calvert* test "where all lands on the side of the tract are within the city and where it is impossible to reach the tract without crossing such territory". All properties lie within the City of Whitefish and it is impossible to reach the property without crossing City property. Therefore, the proposed property for exclusion is not a proper candidate under 7-2-4805 factors because its exclusion would be asymmetrical with the City's boundaries.

Consideration of 7-2-4805 Factors for Second Petitions.

Generally, city councils have the sole discretion to determine the city's best interests under State law. Under Part 48, it lies within the sole discretion of the city council to determine the outcome of a petition to exclude land. In particular, a city council is granted the power to enact resolutions to alter the city's boundaries and exclude property, if it is determined by the city council to be within the best interest of the city and its inhabitants to alter city boundaries by a petition for exclusion. In its sole discretion and in its exercise of its legislative function, the Council is required to consider whether Petitioners satisfied the following threshold factors of 7-2-4805:

a) The petition is signed by the requisite number of qualified electors of the City of Whitefish or by the owners of not less than three-fourths in value of the territory to be excluded;

b) The property petitioned to be excluded is within the corporate limits and on the border of the corporate limits; and

c) Granting the petition to de-annex is in the best interest of the City of Whitefish and the inhabitants and will not materially mar the symmetry of the City of Whitefish.

The City record demonstrates the Petitioners have failed to meet all statutory factors. The petition signed by all of the property owners met the criteria in subsection (a) as to a written *petition signed by owners of not less than three-fourths in value of the territory sought to be excluded.* Although the property lies within the City limits, it does not lie on the City's border required in the balance of subsection (b). Instead, Petitioners' property is encircled by the City. Finally, Petitioners failed to meet the best interests and symmetry criteria in subsection (c). This property has been located within City limits and a part of the City since its annexation in 2005. The property lies within the City's Urban Growth Boundary. The City has plans to annex the remaining properties in the location of the property as its next priority for annexation. It is in the best interests of the City and its inhabitants to have a symmetrical boundary with all properties located within City limits to be annexed into the City boundaries.

If the Council determines the Petitioners met the above threshold factors, the Council should adopt the necessary findings and proceed with its consideration of the petition by adopting a resolution of intent setting the matter for hearing at the next Council meeting. On the other hand, if the Council determines the Petitioners have not met the threshold factors, the Council should deny their second petitions, review the proposed resolution and findings that the necessary factors have not been met by the Petitioners, and approve the resolution.

Financial Requirement

None.

Recommendation

Staff respectfully recommends that the City Council review prior staff reports, memorandum, and exhibits and deny the second petitions for exclusion as failing to meet the 7-2-4805 factors. Rather than denying the second petitions by motion or by failing to pass a proposed resolution of intent, staff prepared a proposed resolution to deny the second petitions for exclusion based on the 7-2-4805 factors as findings for the Council's consideration.

The City Council's discussion and determination to deny the Petitioners' second petitions should be made with the necessary findings that the property is not on the City's boundary, exclusion would materially mar the symmetry of the City, and exclusion of the property would not be in the best interest of the City and its inhabitants.

Recommended Motion:

I move to approve Resolution No. 14-___, a resolution to deny the petitions for exclusion and adopting findings of fact in support of the City Council's denial of the petition for exclusion from the City of Whitefish Lots 28 and 29 of Houston Lake Shore Tracts.

Attachments

TITLE 7. LOCAL GOVERNMENT
CHAPTER 2. CREATION, ALTERATION, AND ABANDONMENT OF LOCAL GOVERNMENTS

Part 48. Exclusion of Land

7-2-4801. Use of terms contiguous and adjacent. For the purposes of this part, the words "contiguous" and "adjacent" shall include property on the opposite side of a street or alley from the property sought to be withdrawn.

History: En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; R.C.M. 1947, 11-502(part).

7-2-4802. Exclusion of land from municipalities. The boundaries of any incorporated city or town of this state may be altered and a portion of the territory thereof excluded therefrom, and the councils of such cities and towns are hereby granted power to enact resolutions for that purpose after proceedings had as required in this part.

History: En. Sec. 1, Ch. 33, L. 1927; re-en. Sec. 4979.1, R.C.M. 1935; R.C.M. 1947, 11-501.

7-2-4803. Petition to exclude land. (1) A petition in writing, signed by a number of the qualified electors residing within the corporate limits of such city or town equal to a majority of the votes cast at the last city election held therein or by the owners of not less than three-fourths in value of the territory sought to be excluded, shall be filed with the clerk of such city or town.

(2) Such petition shall be presented to the council of such city or town at the next regular meeting after the filing thereof.

History: En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; R.C.M. 1947, 11-502(part).

7-2-4804. Contents of petition. (1) Such petition shall set out and describe the territory to be excluded from the corporate limits, which territory must be on the border of such city or town, and the alteration of the boundaries desired by the petitioners, together with the boundaries of the city or town as it will exist after such change is made. Said petition shall also describe the streets, avenues, alleys, and public places, if any, in the territory sought to be excluded and shall distinctly specify which of said streets, avenues, alleys, or public places are to be retained for the use of the public after the territory has been excluded from the corporate limits of such city or town.

(2) Such petition shall pray that the council of such city or town shall enact a resolution altering the boundaries of such city or town and excluding therefrom the territory therein described.

History: En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; R.C.M. 1947, 11-502(part).

7-2-4805. Resolution of intent to exclude land -- notice. If the council by resolution finds that the petition is signed by the requisite number of qualified electors of the city or town or by the owners of not less than three-fourths in value of the territory to be excluded, that the territory petitioned to be excluded is within the corporate limits and on the border of the corporate limits, and that the granting of the petition is in the best interest of the city or town and the inhabitants and will not materially mar the symmetry of the city or town, the city or town clerk shall publish a notice as provided in 7-1-4127.

History: En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; R.C.M. 1947, 11-502(part); amd. Sec. 10, Ch. 354, L. 2001.

7-2-4806. Contents of notice -- protest period. The notice shall be to the effect that:

(1) such resolution has been duly and regularly passed; and

(2) for a period of 20 days after the first publication of such notice, such city or town clerk will receive from the owners of the territory proposed to be excluded expressions of approval or disapproval, in writing, of the proposed alterations of the boundaries of such city or town by the exclusion of the territory petitioned to be excluded.

History: En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; R.C.M. 1947, 11-502(part).

7-2-4807. Hearing on question of exclusion -- resolution of exclusion. (1) The clerk shall, at the next regular meeting of the city or town council after expiration of the 20 days, provide the council with all written communications received by the clerk for its consideration. If after considering the communications the council adopts a resolution to that effect, the boundaries of the city or town must be altered to exclude the territory described in the petition. The resolution must also describe the streets, avenues, alleys, and public places in the excluded territory that are to be vacated and abandoned.

(2) The resolution becomes effective 30 days after its passage and approval, and the boundary of the city or town is as set forth in the resolution.

(3) The resolution may not be finally adopted by the council after written disapproval by a majority of the owners in value of the territory proposed to be excluded or after written disapproval or protest by a majority of the owners in value of property within the corporate limits of the city or town immediately adjacent and contiguous to the territory sought to be excluded.

History: (1), (3)En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; Sec. 11-502, R.C.M. 1947; (2)En. Sec. 3, Ch. 33, L. 1927; re-en. Sec. 4979.3, R.C.M. 1935; Sec. 11-503, R.C.M. 1947; R.C.M. 1947, 11-502(part), 11-503(part); amd. Sec. 289, Ch. 61, L. 2007.

7-2-4808. Resolution and revised municipal map to be filed. (1) Within 30 days after the passage and approval of said resolution, a copy thereof, duly certified by the clerk of said city or town, together with a map showing the corporate limits of said city or town as altered and changed, shall be filed in the office of the county clerk and recorder of the county in which said city or town is located.

(2) Upon the filing of the certified copy of the resolution, all such streets, avenues, alleys, and public places to be abandoned or vacated, unless expressly excepted in said resolution, shall be deemed to be vacated and abandoned and the title thereto shall revert to the owners of the adjacent property.

History: (1) En. Sec. 3, Ch. 33, L. 1927; re-en. Sec. 4979.3, R.C.M. 1935; Sec. 11-503, R.C.M. 1947; (2)En. Sec. 2, Ch. 33, L. 1927; amd. Sec. 2, Ch. 130, L. 1935; re-en. Sec. 4979.2, R.C.M. 1935; Sec. 11-502, R.C.M. 1947; R.C.M. 1947, 11-502(part), 11-503(part).

7-2-4809. Liability of excluded territory for existing indebtedness. Such alteration shall not relieve any territory excluded from the limits of a city or town from its liability on account of any outstanding bonded indebtedness of such city or town or any indebtedness of any improvement district of which the excluded territory is a part, existing at the time of the passage of such resolution.

History: En. Sec. 4, Ch. 33, L. 1927; re-en. Sec. 4979.4, R.C.M. 1935; R.C.M. 1947, 11-504.

7-2-4810. Jurisdiction of municipality to levy tax to pay existing indebtedness. For the purpose of levying any tax or assessment necessary for the collection of any of the indebtedness specified in 7-2-4809, the territory so excluded shall be and remain under the jurisdiction of such city or town.

History: En. Sec. 5, Ch. 33, L. 1927; re-en. Sec. 4979.5, R.C.M. 1935; R.C.M. 1947, 11-505.

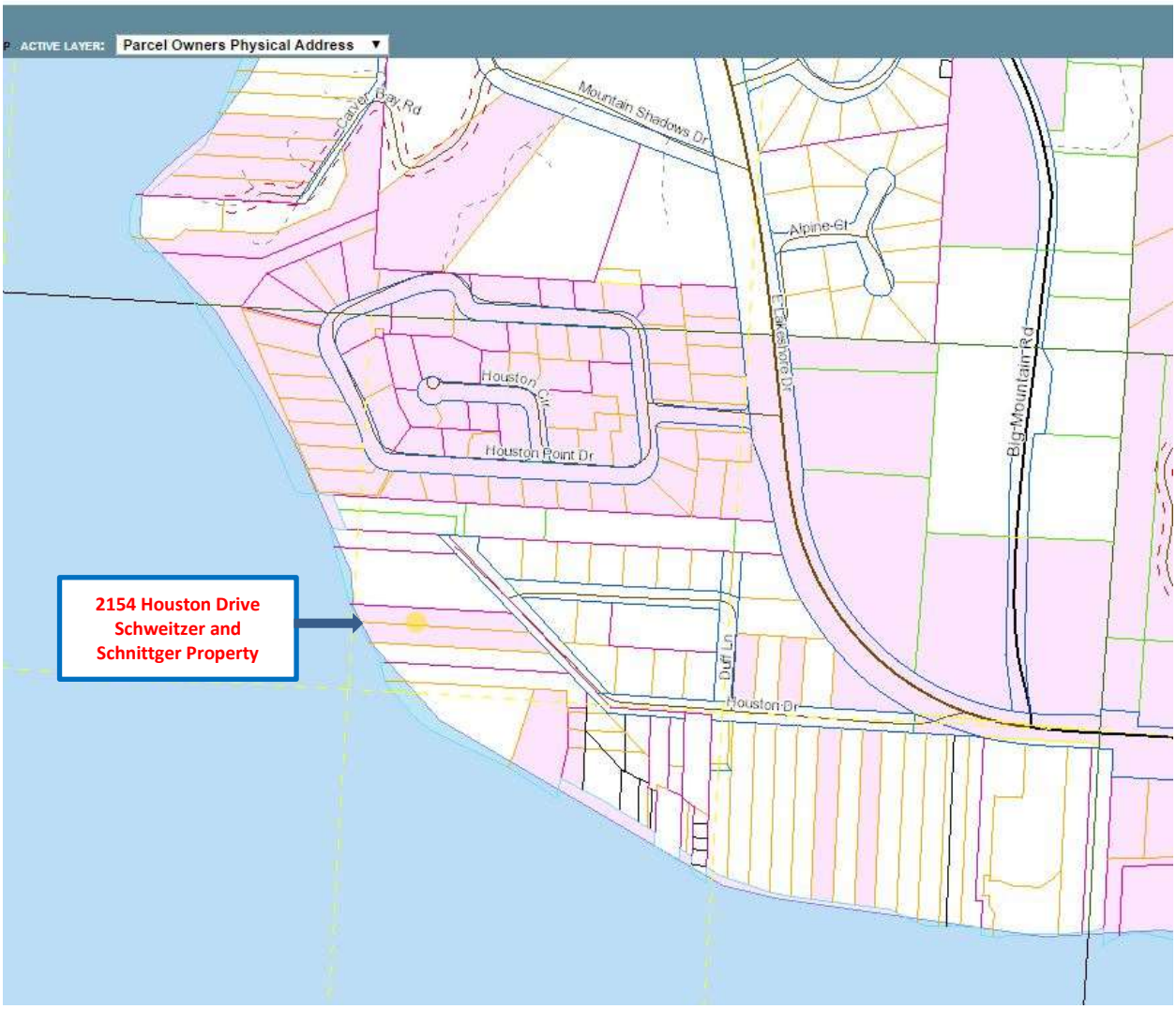
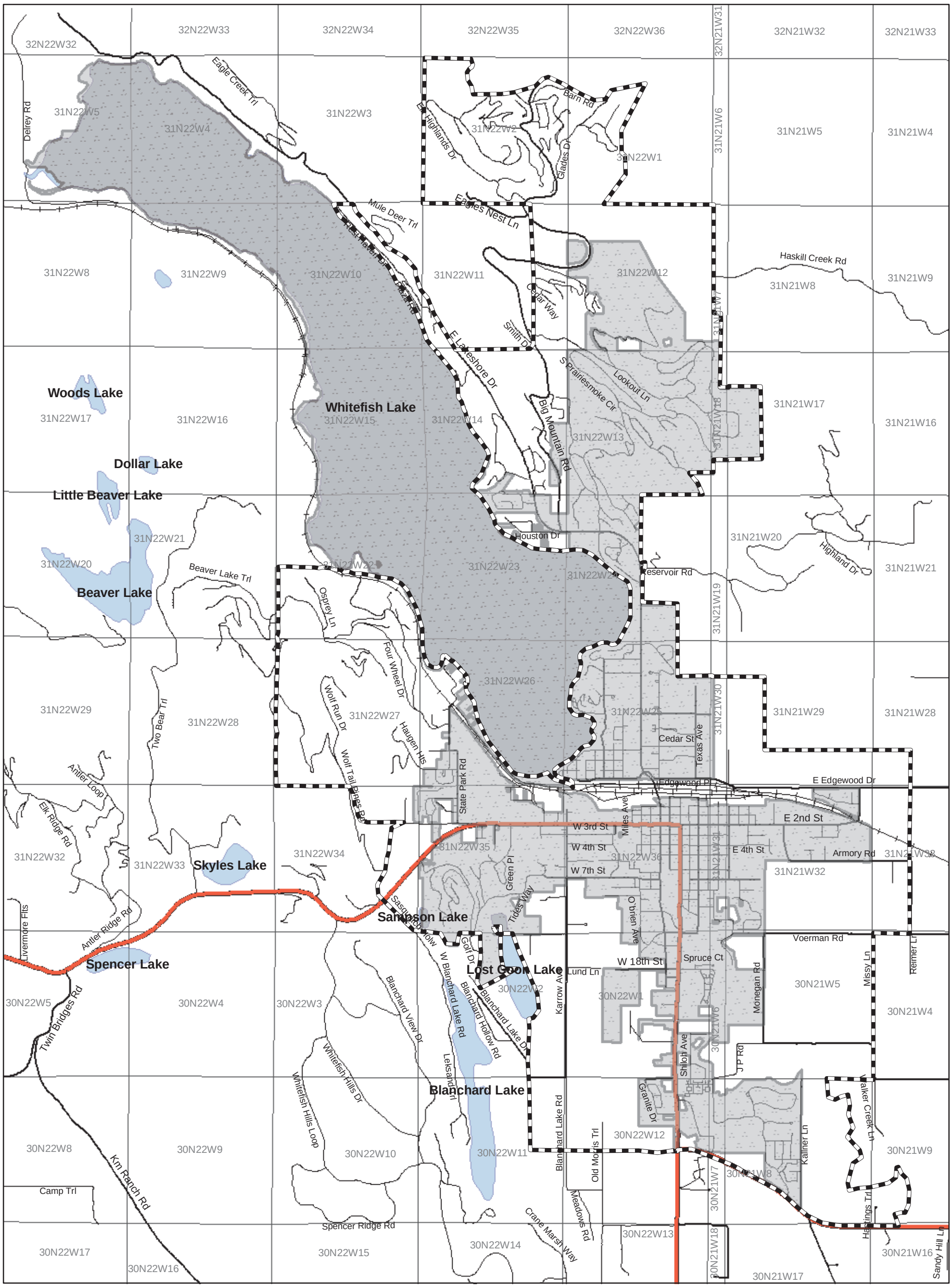

ACTIVE LAYER:
Parcel Owners Physical Address
Mountain Shadows Dr
Alpine Cir
Houston Cir
Houston Point Dr
Big Mountain Rd
Houston Dr
2154 Houston Drive
Schweitzer and
Schnittger Property

EXHIBIT B
WHITEFISH URBAN GROWTH BOUNDARY & WHITEFISH CITY LIMITS



City of Whitefish Planning Department
December 2008

Robert B. Allison, District Judge
Department No. 2
Flathead County Justice Center
920 South Main Street, Suite 310
Kalispell, Montana 59901
Telephone: (406) 758-5906

RECEIVED
AUG - 6 2014

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

* * * * * * * * * * *

T. WARREN SCHWEITZER and INGELA SCHNITTGER Plaintiffs, vs. CITY OF WHITEFISH, Defendant.	Cause No. DV-10-728B ORDER AND RATIONALE ON MOTION TO DISMISS

This matter is before the Court on Defendant's motion to dismiss. On the basis of said motion, supporting and opposition memoranda, the Court, having considered same and being fully advised in the premises, now enters the following:

ORDER

IT IS HEREBY ORDERED that Defendant's motion to dismiss is GRANTED and the above-entitled matter is dismissed WITH PREJUDICE.

RATIONALE

Defendant moves to dismiss this action pursuant to Rule 4(t), M.R.Civ.P. on the basis that Plaintiffs have failed to accomplish service within three years after the filing of the complaint. Defendant asserts that, because the statute of limitations for the action has passed, the claims should be dismissed with prejudice. Plaintiffs do not oppose the motion to dismiss but request that it be without prejudice.

Actions dismissed pursuant to Rule 4(t), M.R.Civ.P. are dismissed without prejudice. Plaintiffs' complaint is subject to dismissal because service has not been accomplished within

three years after the filing of the complaint. However, if the statute of limitations has run, should Plaintiffs file the action again, it would be subject to dismissal pursuant to Rule 12(b)(6), M.R.Civ.P. for failure to state a claim upon which relief can be granted.

The Plaintiffs brought this action against the City of Whitefish alleging that the City's decision to deny their petition for de-annexation made on April 19, 2010, was incorrect and void. There are several claims for declaratory judgment and one for mental and emotional distress and consequential damages. All claims are based upon the City's decision to deny Plaintiffs' petition for de-annexation.

Section 27-2-209(5), MCA, governs the time period for bringing an action against a local government: "[t]he period prescribed for the commencement of an action against a municipality arising from a decision of the municipality relating to a land use, construction, or development project is 6 months from the date of the written decision." Plaintiffs do not contest that this is the appropriate statute of limitations. This time period has long passed. Therefore, in the interests of judicial economy, because re-filing of this action is precluded by the statute of limitations, the matter is dismissed with prejudice.

DATED this 4th day of August, 2014.

Robert B. Allison
District Judge

cc: Angela Jacobs Persicke/Benjamin J. Hammer Esqs.
Sharon Morrison/Sean S. Frampton, Esqs.

Sharon Morrison
Sean S. Frampton
MORRISON & FRAMPTON, PLLP
Frank Lloyd Wright Building
341 Central Avenue
Whitefish, Montana 59937
Telephone: (406) 862-9600
Facsimile: (406) 862-9611

Attorneys for Plaintiffs

RECEIVED BY
JUN 17 2010
WHITEFISH CITY ATTORNEY
COPY COPY

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

T. WARREN SCHWEITZER and INGELA SCHNITTGER, Plaintiffs, -vs- CITY of WHITEFISH., Defendant.	Cause No. DV-10-727 (B) Honorable Katherine R. Curtis **AMENDED COMPLAINT**

COME NOW Plaintiffs, and, for a claim against Defendant City of Whitefish state as follows:

FACTS COMMON TO ALL CLAIMS

1. For several decades, Plaintiffs have owned property, including a home, at 2154 Houston Drive in Flathead County, MT. While located in the vicinity of Whitefish, the property is not contiguous to the City of Whitefish [hereinafter the City], except insofar as the City, in 2005, resolved to annex Whitefish Lake [hereinafter, the Lake], which forms one border of the property. The said Resolution of Annexation expressly mentions the Lake, but not the bed and banks of the lake. The Resolution further prohibits the City using the Lake to establish contiguity in involuntary annexations.

2. During the entirety of their occupancy of their home on Houston Drive, Plaintiffs have drawn water from the Lake for domestic use and utilized a septic system under permit from Flathead County. The septic permit has been and is currently in effect and valid.

3. In 2005, Plaintiffs' home sustained water damage and resultant molds necessitating its being rebuilt. While Plaintiffs intended to continue to draw their water from the Lake and to use their septic system, the contractors working on the project suggested that they connect to City water and sewer for higher quality services and lower cost.

4. Plaintiffs were told by the City that, in order to utilize city services, Plaintiffs would be required to have their property annexed. Plaintiffs understood that, upon annexation, the City would be bound to provide water and sewer service to the property. Plaintiffs further understood their cost of connecting to the city services would be about $3000, the cost of extending service lines from their home to the property boundary.

5. On or about October 20, 2005, Plaintiffs petitioned for annexation to the City so that they would have City water and sewer services to their home.

6. On November 7, 2005, the Whitefish City Council passed and adopted a Resolution annexing Plaintiffs' property. The Resolution did not place any conditions on the annexation.

7. In 2006, Plaintiffs were given an estimate by the engineering firm utilized by the City that the cost of connecting to City water and sewer would be approximately $100,000.00. Plaintiffs then learned that, in addition to having to install service lines to the border of their property, the City required that they finance expansion of the City infrastructure through their county neighborhood and to their property.

8. Plaintiffs are physicians. Neither is or has ever been a subdivider or a developer. The boundaries of their property are the same as they were in the original 1935 Houston Lake Shore Tract subdivision. Plaintiffs do not ever intend to subdivide their property.

9. Since Plaintiffs are not subdividers, there is no statutory basis for the City to require them to pay for City infrastructure. Nor is there any common law authority for the City's demand that Plaintiffs finance the expansion of the City's facilities. Nonetheless, the City would not provide services unless Plaintiffs acceded to its demand.

10. Plaintiffs were unable to accommodate that cost and resolved to continue using Lake water and a septic system.

11. The reason for the annexation having failed, Plaintiffs properly petitioned the City pursuant to MCA §7-2-4805 to de-annex or exclude their property.

12. On April 19, 2010, the City rejected Plaintiffs' petition for de-annexation.

13. Plaintiffs property is well outside the City limits of Whitefish, save for the water of the Lake. Because the City's annexation of the Lake cannot establish contiguity for purposes of involuntary annexation of lakefront property, Plaintiffs' property is not contiguous to the City at any point.

14. Plaintiffs ingress and egress to their property is on roads maintained by Flathead County. Plaintiffs utilize no City services.

15. Because of the annexation, Plaintiffs' property taxes will be ultimately be increased by approximately $14,000.00 per year in addition to the property taxes they would have paid if they were in the county.

CLAIM ONE

DECLARATORY JUDGMENT THAT CITY'S REJECTION OF PLAINTIFFS' PETITION FOR DE-ANNEXATION IS VOID FOR FAILURE TO CONFORM TO STATUTORY REQUISITES

16. For their first claim, Plaintiffs incorporate by this reference the allegations in Paragraphs 1-15 as if fully set forth herein and further state:

17. MCA 7-2-4805 requires that, in considering a Petition for Exclusion or de-annexation, the City must address certain enumerated elements, and, if such elements exist, that the City shall proceed with steps to exclude the property.

18. In its decision rejecting the Petition for De-annexation or exclusion, the City did not address the requisite elements, stating only that exclusion of the property wholly surrounded by county land would "set a bad precedent" and that the area "belongs inside the city limits." The minutes of the council meeting confirm the lack of discussion of the elements. For example, the City Council did not discuss the fact that, if the City must provide services to the area at a cost in excess of $100,000.00 in a time when the City is in a financial crisis, the annexation is not in the best interest of the City and the inhabitants of the City. The absence of this element of the exclusion is surprising given that the minutes reveal that discussion of the financial difficulties of the City occupied a significant portion of April 19, 2010 session.

19. Plaintiffs seek a declaratory judgment by this Court pursuant to MCA §27-8-202 that the City Council's rejection of its Resolution of Intent respecting Plaintiffs' Petition for De-annexation or exclusion failed to satisfy the requirements of Title 7, Chapter 2, Part 48 of the Montana Code Annotated and is therefore void.

CLAIM TWO

DECLARATORY JUDGMENT THAT, WHERE THE CITY HAS FAILED TO PROVIDE SERVICES TO PLAINTIFFS, ANNEXATION OF PLAINTIFFS' PROPERTY IS RENDERED INVOLUNTARY AND THE ANNEXATION IS VOID.

20. For their third claim, Plaintiffs incorporate by this reference the allegations in Paragraphs 1-19, and further allege as follows:

21. Annexation of Plaintiffs' property to the City of Whitefish results in payment by Plaintiffs of significant tax revenue to the City. The consideration for Plaintiffs' agreement to assume this burden was the use of City sewer and water. Since the City has failed and refuses to provide such services, consideration for the annexation fails, rendering the annexation involuntary.

22. The City's 2005 resolution to annex the Lake forecloses it from using the Lake to establish contiguity in an involuntary annexation. Thus, Plaintiffs' property effectively is not at any point contiguous to the City of Whitefish and could not involuntarily be annexed to the City.

23. Plaintiffs therefore seek a declaratory judgment by the Court that the City's annexation of Plaintiffs' property was involuntary and is therefore void for absence of contiguity to the City.

CLAIM THREE

DECLARATORY JUDGMENT THAT THE AUTHORITY GRANTED MUNICIPALITIES PURSUANT TO MCA §76-3-510 IS LIMITED TO SUBDIVIDERS AND DOES NOT APPLY TO INDIVIDUAL PROPERTY OWNERS

24. MCA § 76-3-510 authorizes a municipality to require a subdivider to pay all or part of the cost of extending services to a subdivision. The reach of the statute is thus limited and

does not include a requirement that individual property owners bear the cost of expansion of city services.

25. Plaintiffs seek a declaratory judgment by this Court that the provisions of MCA §76-3-510 are limited to subdividers and subdivisions.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully pray that the Court:

26. Enter Judgment according to the Declaratory Relief requested in Claims One through Three above;

27. Award Plaintiffs their costs in this action'

28. Grant such other further relief to which Plaintiffs may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

DATED this 4 of ~~May~~ June, 2010.

MORRISON AND FRAMPTON, PLLP

Sharon M Morrison

Sharon Morrison
341 Central Ave
Whitefish, MT 59937

DEMAND FOR JURY TRIAL

Plaintiffs make demand for jury trial for all issues triable by a jury.

DATED this 4 of ~~May~~ June, 2010.

MORRISON AND FRAMPTON, PLLP

for

Sharon Morrison
341 Central Ave
Whitefish, MT 59937

said the City needs to do the same thing. He said page 2 scares him because they are already dealing with a $720,000 deficit.

Councilor Kahle asked and Manager Stearns said this is only one side of the equation. They'll save $50,000/year by moving the Planning Department to Depot Park. They need to take a holistic view of the budget. He said he and Finance Director Knapp will identify all the known big ticket items and they'll also have some bright spots for them. It is hard to take these five items and get a comprehensive picture of where the budget is going to be next year. He said the two retirements will hurt them next year, but the positions probably won't be replaced. He said he isn't sure the whole picture will look better, but he can't react just on four pieces of bad news without taking a look at the entire budget. Finance Director Knapp said they will probably have $70,000 less in Resort Tax Rebate. He said there is the potential to leverage the full 24 mills. He said on page 48 they budgeted to spend down $173,000 in Ambulance, and in Fire is another $24,000; the full 24 mills would really help. Councilor Mitchell said they are off the budget 9% and took $1,100,000 out of savings. Councilor Mitchell said he is just trying to do the big numbers. They can't continue to raise the taxes for local people. He said if they can come up with a budget that doesn't raise taxes; he'd like to see the suggestions. Councilor Friel said he shares the same concerns. He said he could wait a month if staff needed it. He has confidence the staff is working hard to mitigate the losses and re-build the reserves. Manager Stearns said he understands no one wants to raise taxes. They lowered taxes by 11% last year. They thought they could afford to do that, but they need to levy back those 12 mills. They will try to have as many options as possible. They want to come to the Council with a comprehensive picture.

9. COMMUNICATIONS FROM CITY ATTORNEY

9a. Resolution 10-____; A Resolution indicating the City Council's intention to exclude from the boundaries of the City of Whitefish Lots 28 and 29 of Houston Lake Shore Tracts (p. 50)

Councilor Friel said he empathizes with people who don't want to pay higher taxes, but these people requested to be in the City and he wasn't inclined to de-annex them. Manager Stearns said he made the recommendation not to de-annex this property. He said the neighbors to this property are the Walton's who will probably connect to the City sewer system. This whole area is one they should consider for inclusion in the City limits rather than exclusion. Councilor Hyatt said if they allow one person out then others will want out and he didn't want to open that can of worms. Councilor Askew agreed. Councilor Askew asked and Director Wilson said bid prices have dropped and the individuals will probably recoup latecomer's fees from those who come after them. Mayor Jenson said Whitefish Lake benefits by getting more people on sewer systems and off septic systems; and noted the Council had just listed protecting water quality as one of their goals in the goal-setting workshop they had just held. Councilor Kahle said something seems counterintuitive to him. He said they are asking someone to pay a large amount of money via impact fees so they can then pay monthly for City water and sewer. He thought they should offer incentives to get people on public sewer and water. Councilor Mitchell said if they already have their own water and sewer then they don't have to hook-up unless their current system failed. Mayor Jenson agreed. Councilor Mitchell asked and Manager Stearns said he thinks the Walton's intend to hook up to City water because their septic permit was denied with the County.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to reject the Resolution indicating the City Council's intention to exclude from the boundaries of the City of Whitefish Lots 28 and 29 of Houston Lake Shore Tracts. The motion passed unanimously.

OFFICE OF THE CITY ATTORNEY

John M. Phelps, City Attorney
jphelps@cityofwhitefish.org
(406) 863-2444

Keni L. Hopkins, Legal Assistant
khopkins@cityofwhitefish.org
(406) 863-2445

Post Office Box 158
Whitefish, MT 59937-0158
Facsimile (406) 863-1249

April 13, 2010

Honorable Mayor Jenson
and City Councilors
City of Whitefish
Whitefish, Montana

Dear Mayor Jenson and City Councilors:

Request to Consider Resolution of Intent to Exclude Lots 28 and 29 of Houston Lake Shore Tracts from the City

Introduction/History

Houston Lake Shore Tracts is an unincorporated area that is surrounded on all sides by the City of Whitefish. In 1987, before Whitefish Lake was annexed by the City, the Attorney General determined that property like Houston Lake Shore Tracts was "wholly surrounded" by the City for annexation purposes, because there was no land access to such property without traveling through the City. "Wholly surrounded" for annexation purposes means that the City can annex the territory, and that the property owners do not have a right to protest the annexation.

Despite the Attorney General's ruling, the City did not annex Houston Lake Shore Tracts. The City's current policy is to annex individual lots, as they connect to City utilities. Several such lots have connected to City utilities and also annexed. In years past, several lots in Houston Lake Shore Tracts connected to either City water or sewer, but were not annexed. They could be annexed, but the City has not yet proceeded with annexation. A map showing Houston Lake Shore Tracts, identifying the City limits, and identifying those lots currently on City utilities but not yet annexed, is attached to this report.

In 2005, the City annexed all of Whitefish Lake. The City did so in order to extend its Zoning Jurisdiction, and at the time the City Council stated that it would not use the annexation of Whitefish Lake as a means to annex properties bordering the Lake. Because the Attorney General had already determined that property like Houston Lake Shore Tracts is wholly surrounded for annexation purposes, however, the City would not need to rely on annexation of Whitefish Lake in order to annex Houston Lake Shore Tracts. It could be annexed at any time.

Current Report

In 2005 T. Warren Schweitzer and Ingela Schnittger, owners of Lots 28 and 29 of Houston Lake Shore Tracts, wanted to connect to City water and sewer. The City's current policy requires annexation in order to connect to City utilities. The owners therefore applied to the City for annexation, and they were annexed in 2005.

The owners of Lots 28 and 29 later decided that they did not need City utilities, and instead relied on water from Whitefish Lake, and on a septic system. They now wish they had not annexed to the City. The City recently received a petition from them, asking that they be allowed to de-annex from the City limits. They state that their property taxes are significantly higher in the City, and that they never connected to City water or sewer. A copy of their petition is attached.[1]

State law requires that when a proper petition for de-annexation is received, the City Council must place the request on its Council Agenda and consider it. Whether or not to grant de-annexation is completely in the City Council's discretion. City Manager Stearns will provide a recommendation to the City Council in his City Manager's Report.

State law uses the word "excluding" to describe de-annexing of property from a city. The process begins with the adoption of a resolution of intent to exclude the property, and ends after a hearing has been conducted at a city council meeting approximately one month later. In case the City Council wishes to grant the property owners' request, a resolution of intent has been prepared and is attached to this report.

Financial Requirement

According to the petition received by the City, the property owners would save, and the City would lose, approximately $2,800 in property tax revenues in the first year. That amount would increase incrementally over the next five years, as the six-year property reappraisal cycle moves forward. City staff will need to invest a small amount of time in accomplishing the exclusion, and there will be a newspaper publication cost of approximately $120-$150.

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[1] Not everything in the attached petition is accurate. The petitioners report that water from Whitefish Lake was of a higher quality compared to City water or to bottled water. In fact, Whitefish Lake water requires extensive treatment in order to be potable. They also report that Thomas, Dean & Hoskins, Inc., estimated a cost of $100,000 to connect to City utilities. TD&H's actual estimate, in the amount of $67,980, is attached. The estimate was made in 2006 when construction costs were at an all-time high. TD&H estimates today the cost to connect to City utilities would be $45,000-$50,000. Any of those numbers, however, represent a significant expenditure.

Recommendation

I respectfully recommend that the City Council consider City Manager's Report and determine whether or not to adopt the resolution of intent, thereby starting the process to de-annex Lots 28 and 29 of Houston Lake Shore Tracts.

Respectfully submitted,

John M. Phelps

JMP/klh
Attachments

RESOLUTION NO. 10-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, INDICATING THE CITY COUNCIL'S INTENTION TO EXCLUDE FROM THE BOUNDARIES OF THE CITY OF WHITEFISH LOTS 28 AND 29 OF HOUSTON LAKE SHORE TRACTS.

WHEREAS, the City of Whitefish has received a petition from the owners of Lots 28 and 29 of Houston Lake Shore Tracts, requesting that the City exclude from its corporate limits both of such Lots; and

WHEREAS, the petition is signed by all of the owners of Lots 28 and 29 of Houston Lake Shore Tracts; and

WHEREAS, Lots 28 and 29 of Houston Lake Shore Tracts are currently within the corporate limits and on the border of the corporate limits of the City of Whitefish; and

WHEREAS, exclusion of Lots 28 and 29 from the City limits is in the best interests of the City of Whitefish, and its inhabitants, and will not materially mar the symmetry of the City; and

WHEREAS, it is the intention of the City Council of the City of Whitefish to exclude such land, subject to the notice and hearing requirements of §§ 7-2-4806 and 7-2-4807, MCA;

NOW, THEREFORE, BE IT RESOLVED 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: The City Council of the City of Whitefish, Montana, hereby indicates its intent to exclude from the boundaries of the City Lots 28 and 29 of Houston Lake Shore Tracts.

Section 3: The City Clerk is hereby directed and authorized to publish a notice in the *Whitefish Pilot*, as required by §§ 7-2-4805 and 7-2-4806, MCA, and a hearing shall be conducted at the May 17, 2010, City Council meeting for the purpose of receiving and considering any expressions of approval or disapproval with respect to the proposed exclusion.

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2010.

_____
MICHAEL JENSON, MAYOR

ATTEST:

_____
Necile Lorang, City Clerk

John M. Phelps

From: "Ian Bailey" <Ian.Bailey@tdhkalispell.com>
Date: Monday, April 12, 2010 12:16 PM
To: "John Phelps" <jphelps@cityofwhitefish.org>
Attach: Engineers Estimate 5.18.06.pdf
Subject: Schweitzer construction estimate

John,

I got your voice message re: Schwietzer

We did do a construction estimate in 2006 for the work you described. I have attached a pdf of the spreadsheet. Please note that these are 2006 construction estimate prices. Today's construction prices are significantly lower.

Ian

Ian J. Bailey, P.E.
Vice President/Regional Manager

Thomas, Dean & Hoskins, Inc.
35 Three Mile Drive, Suite 101
Kalispell, MT 59901
ph: 406-751-5246
www.tdandh.com

Confidentiality Notice:
This message, including attachments, is for the named person's use only. If you receive this message in error, please immediately delete it, notify me and accept my apology.
See http://www.tdandh.com\confidentiality for Thomas, Dean & Hoskins' Confidentiality Policy.

ENGINEER'S ESTIMATE OF CONSTRUCTION COSTS
PREPARED FOR: WARREN SCHWEITZER & INGELA SCHNITTGER
HOUSTON WATER AND SEWER EXTENSION
WHITEFISH, MONTANA

ITEM NO.	QUANTITY	UNITS	DESCRIPTION	Engineer's Estimate Unit Price (Figures)	Engineer's Estimate Total Price (Figures)
WATER AND SEWER EXTENSION					
1	440	LN FT	6" PVC Class 150 AWWA C900	$40.00	$17,600.00
	1	EACH	6" Gate Valve w/ Box	$1,500.00	$1,500.00
	1	EACH	6" Cap	$500.00	$500.00
	1	EACH	Air Release Type Fire Hydrant Assembly	$4,000.00	$4,000.00
	1	EACH	Connection to Existing	$2,500.00	$2,500.00
	2	EACH	1 1/2" Type 'K' Copper Water Service	$2,000.00	$4,000.00
	375	LN FT	2" HDPE SDR 11 Class 150 Sewer Force Main	$25.00	$9,375.00
	1	EACH	2" Sewer Force Main Cleanout	$1,800.00	$1,800.00
	2	EACH	1 1/4" HPDE SDR 11 Class 150 Sewer Service	$1,250.00	$2,500.00
	150	SQ YD	Separation/Stabilization Fabric	$4.00	$600.00
	150	SQ YD	Asphalt Remove & Replace	$75.00	$11,250.00
	70	SQ YD	Concrete Drive Remove & Replace	$35.00	$2,450.00
	1	LS	Traffic Control	$2,000.00	$2,000.00
	1	LS	Mobilization	$2,400.00	$2,400.00
SUB-TOTAL CONSTRUCTION					**$62,475.00**
Construction Inspection & Engineer Certification					**$5,500.00**
TOTAL ESTIMATE					**$67,980.00**

AS ENGINEER OF RECORD FOR THE HOUSTON WATER AND SEWER EXTENSION, I CERTIFY THAT THE ABOVE COST ESTIMATE REPRESENTS REASONABLE COSTS FOR COMPARABLE WORK, RECENTLY PERFORMED IN THE WHITEFISH AREA.

IAN J. BAILEY, 11137PE

received
3-29-2010

T. Warren Schweitzer & Ingela Schnittger
80 WHY WORRY LANE
WOODSIDE, CA 94062-3654

Necile Lorang, City Clerk
City of Whitefish
P.O. Box 158
Whitefish, MT 59937-0158

Reason: Petition to De-annex from the City of Whitefish

In 2005 we were in the planning stage to rebuild our home on 2154 Houston Drive, Whitefish. MT. 59937. We owned Lot 28 & 29 Houston Lake Shore Tracts. Our selected contractor Casey Malmquist and his associate Bruce Boody convinced us to access the Whitefish City Services – City Sewer and Water. Our home on 2154 Houston Drive had a 4 bedroom septic system and water from Whitefish Lake. Their argument was based on the lower cost and higher quality of services provided by the City of Whitefish. Practically I could see that the service to water and sewer was a short distance away on flat land. The City of Whitefish required that we annex to get access to the services. We duly applied on October 20, 2005.

In early 2006, TD&H gave us an estimate of $100,000.00 to allow them to extend the main line! To add to this we would incur monthly costs for City sewer, water and garbage. We compared to this with water from Whitefish Lake and a septic system. Flathead County honored our existing septic system permit and allowed us to move it. The tested water from Whitefish Lake was higher quality than provided by Whitefish or by the bottled water sold in the local stores. With this, we no longer needed any services from the City of Whitefish.

In 2009, our property was reappraised with an increase in value by 5 times. The Flathead County mill levy is .447558. The Whitefish mill level is .525208. This is a 17% increase. Our combined taxes based on the Whitefish mill for the first year is $14,259.60. If we paid taxes based on the County mill levy we would save approximately $2800 in the first year. The tax value will increase over time -- 5 times. This means by the end of the cycle we will pay approximately $14,000 per year more in taxes to belong to the City of Whitefish than if we paid taxes in the County.

Currently we do not pay monthly fees for sewer or water. We do not face the ongoing steady compounded increase in Whitefish Utility fees. At a whim, the City of Whitefish code can force us to connect to city services at such time as the main line passes our property.

What do we gain? Vote? We make our income in California. Please allow us to de-annex.

Sincerely,

T. Warren Schweitzer & Ingela Schnittger

2005326 10470

S

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

RECORDED BY City of WFSH
DATE 11 22 05 TIME 10:47
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PAULA ROBINSON FLATHEAD COUNTY MONTANA

0368740
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RESOLUTION NO. 05-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ANNEXING A CERTAIN TRACT OF LAND KNOWN AS 2154 HOUSTON DRIVE.

WHEREAS, the City Council of the City of Whitefish, Montana, has received a petition signed by 100% of the property owners of the property described below to annex said property to and include the same within the City limits of the City of Whitefish; and

WHEREAS, in the judgment of the City Council of the City of Whitefish, Montana, it will be in the best interests of the City, and its inhabitants, that the boundaries of the City of Whitefish shall be extended so as to include the property described below within the corporate limits of the City of Whitefish; and

WHEREAS, an Extension of Services Plan has been prepared with respect to such annexation, and such Plan consists of the Extension of Services Plan adopted by the City Council pursuant to Resolution No. 98-50 on November 16, 1998.

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

Section 1: That all of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The City Council of the City of Whitefish, Montana, pursuant to Part 46 of Chapter 2, Title 7, MCA, does hereby annex to the City of Whitefish, Montana, Lot 28 and Lot 29 of Houston Lake Shore Tracts, according to the map or plat thereof on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana.

Section 3: The City Council of the City of Whitefish, Montana, hereby approves as an Extension of Services Plan for this annexation the Extension of Services Plan previously adopted by the City of Whitefish pursuant to Resolution No. 98-50.

2005326 10470

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor or Deputy Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 7TH DAY OF NOVEMBER, 2005.

DOUG ADAMS, DEPUTY MAYOR

ATTEST:

Necile Lorang, City Clerk

STATE OF MONTANA
County of Flathead } SS
City of Whitefish

I hereby certify that the instrument to which this certificate is affixed is a true, correct and compared copy of the original on file in the office of the Clerk of the City of Whitefish.

Witness my hand and the seal of the City of Whitefish, Flathead County, Montana, this 9th day of November 2005

by Necile Lorang Clerk

PETITION FOR ANNEXATION
TO THE
CITY OF WHITEFISH

The undersigned petitioner, who owns 100 percent of the real property described below, hereby petitions the City Council of the City of Whitefish, pursuant to Section 7-2-4601(3)(a), for annexation of such real property into the City of Whitefish. Petitioner agrees that this annexation petition is irrevocable, and that the City may act on this petition, and actually accomplish the annexation of such real property, at any time in the future, without limitation. Petitioner has had an opportunity to review the City of Whitefish Plan for Extension of Services applicable to such real property, and petioner is satisfied with such Plan. Petitioner states that there is no need to prepare any amended or revised Plan for this annexation pursuant to Secton 7-2-4610, 7-2-4731, and 7-2-4732, MCA, since petitioner is satisfied with the provision of municipal services to such real property.

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED:

LOT 28 & 29 HOUSTON LAKE SHORE TRACTS (LOT 29 is also 2154 Houston Drive)

Dated this 20 day of October, 2005.

Owner

Owner

STATE OF CALIFORNIA

County of San Mateo

On this 20th day of October, 2005, before me, the undersigned, a Notary Public in and for the State of California, personally appeared Ingela Schnittger

and Timothy W. Schweitzer, ~~known to me personally~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~is~~/are subscribed to the foregoing instrument, and acknowledged to me that he/~~she~~/they executed the same.

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

(SEAL)

STEVEN PAUL MORTIBOYS
COMM. # 1555159
NOTARY PUBLIC-CALIFORNIA
SAN MATEO COUNTY
COMM. EXP. FEB. 26, 2009

Notary Public for the State of California
My Commission expires: Feb 26th 2009

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Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

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

September 22, 2014

Mayor John M. Muhlfeld
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

RE: Tongue River Railroad

Dear Mayor Muhlfeld:

I am in receipt of your letter seeking DEQ action on the Tongue River Railroad and possible impacts to the City of Whitefish due to increased rail car traffic. The State does not regulate rail lines or rail line activities. The federal Department of Transportation, Surface Transportation Board, is conducting an EIS pursuant to the National Environmental Policy Act, on the proposed rail line that would transport the coal from the Otter Creek Coal tracts to various markets. If you follow the links contained in this letter, you will find information on the actions before that department.

The contact for the work is: Ken Bodgett at the Surface Transportation Board – 395 E Street SW, Washington DC 20423, 866-622-4355. More information about the Tongue River Railroad can be found at: http://www.tonguerivereis.com/.

The currently pending coal mine reviews for the Otter Creek Mine, which DEQ are conducting, are being overseen by Kristi Ponozzo who may be reached at 406-444-2813, or e-mail at kponozzo@mt.gov. I will keep your request for public hearings in mind. We will hold hearings when we have completed a draft Environmental Impact Statement (EIS). We have not yet received a complete permit application from Otter Creek, LLC and cannot complete the EIS until we do.

Best regards,

Tracy Stone-Manning
Director

REF#DIR-14-151

Enforcement Division • Permitting & Compliance Division • Planning, Prevention & Assistance Division • Remediation Division

Rec'd Council Meeting 10-6-14
RE: Public Hearing 7A

RE: Agenda 7h) Rec'd Council Meeting 10-6-14

PLAT OF

GROUSE MOUNTAIN ESTATES, Phase I

A SUBDIVISION

IN THE NE1/4SE1/4 SEC. 34 & SW1/4 SEC. 35, T.3N., R.22W., P.M.,M.,
FLATHEAD CO., MONTANA

5.525 AC.

CERTIFICATE OF PRIVATE ROADWAYS

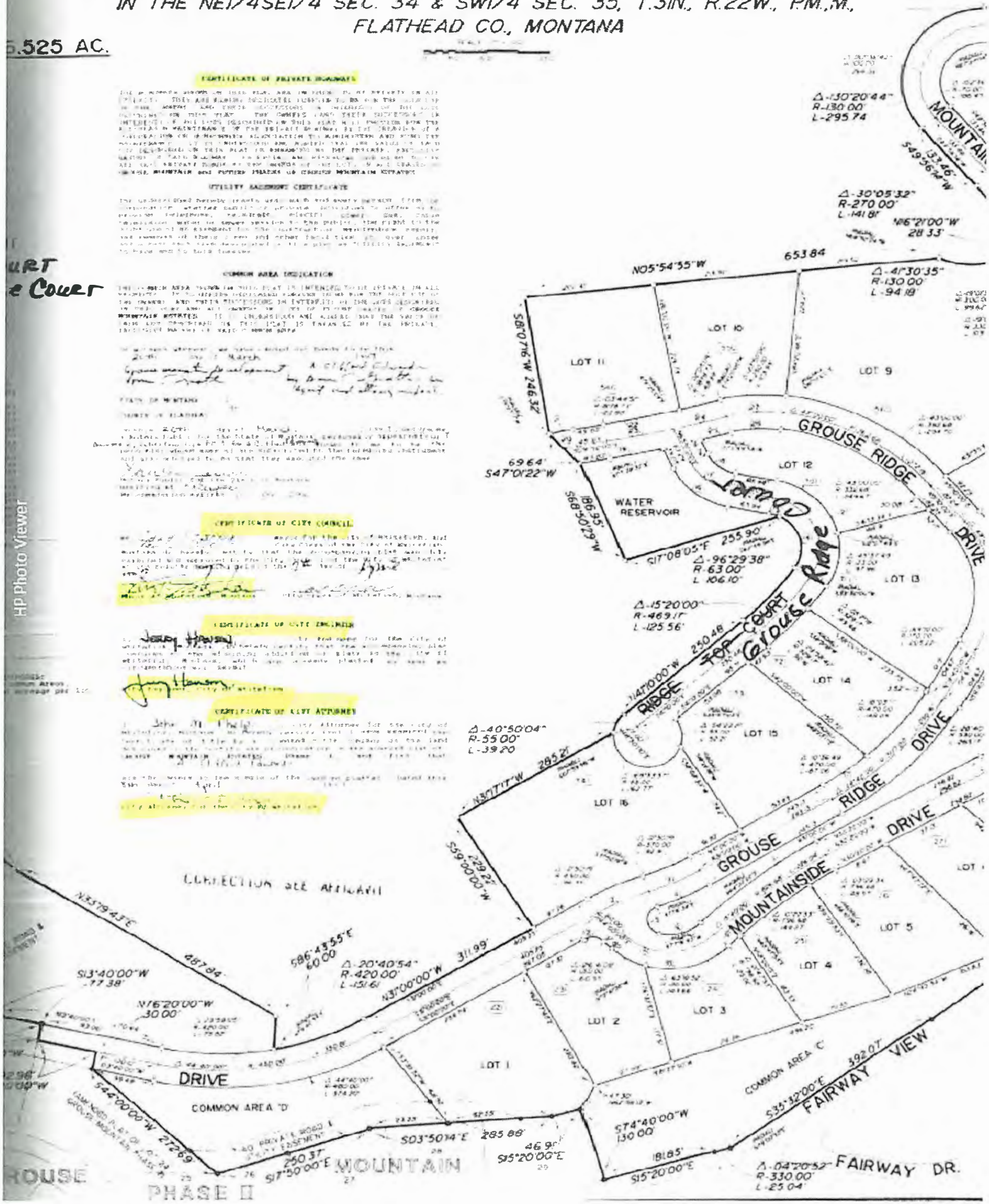
UTILITY EASEMENT CERTIFICATE

COMMON AREA DEDICATION

CERTIFICATE OF CITY COUNCIL

CERTIFICATE OF CITY ENGINEER

CERTIFICATE OF CITY ATTORNEY



CERTIFICATE OF PRIVATE ROADWAYS

THE ROADWAYS SHOWN ON THIS PLAT ARE INTENDED TO BE PRIVATE IN ALL RESPECTS. THEY ARE HEREBY DEDICATED FOREVER TO BE FOR THE SOLE USE OF THE OWNERS (AND THEIR SUCCESSORS IN INTEREST) OF THE LOTS DESCRIBED ON THIS PLAT. THE OWNERS (AND THEIR SUCCESSORS IN INTEREST) OF THE LOTS DESCRIBED ON THIS PLAT WILL PROVIDE FOR THE ALL-SEASON MAINTENANCE OF THE PRIVATE ROADWAY BY THE CREATION OF A CORPORATION OR HOMEOWNERS ASSOCIATION TO ADMINISTER AND FUND THE MAINTENANCE. IT IS UNDERSTOOD AND AGREED THAT THE VALUE OF EACH LOT DESCRIBED ON THIS PLAT IS ENHANCED BY THE PRIVATE, EXCLUSIVE NATURE OF SAID ROADWAY. EXCEPTING AND RESERVING THE RIGHT TO USE ALL SAID PRIVATE ROADS BY THE OWNERS OF THE LOTS IN ALL PHASES OF GROUSE MOUNTAIN and FUTURE PHASES OF GROUSE MOUNTAIN ESTATES.

UTILITY EASEMENT CERTIFICATE

The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "UTILITY EASEMENT" to have and to hold forever.

COMMON AREA DEDICATION

THE COMMON AREA SHOWN ON THIS PLAT IS INTENDED TO BE PRIVATE IN ALL RESPECTS. IT IS HEREBY DEDICATED FOREVER TO BE FOR THE SOLE USE OF THE OWNERS (AND THEIR SUCCESSORS IN INTEREST) OF THE LOTS DESCRIBED ON THIS PLAT AND ALL OWNERS OF LOTS OF FUTURE PHASES OF GROUSE MOUNTAIN ESTATES. IT IS UNDERSTOOD AND AGREED THAT THE VALUE OF EACH LOT DESCRIBED ON THIS PLAT IS ENHANCED BY THE PRIVATE, EXCLUSIVE NATURE OF SAID COMMON AREA.

In witness whereof, we have caused our hands to be this
_____day of_____, 199__.

_____ _____

STATE OF MONTANA)
SS
COUNTY OF FLATHEAD)

On this _____, day of _____, 199__, before me a Notary Public for the State of Montana, personally appeared _____ _____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 _____
My commission expires_____/_____/_____

CERTIFICATE OF CITY COUNCIL

We Mayor for the City of Whitefish and

69.
S47°01

12. a. The roads in Grouse Mountain Estates shall be private roads and the Homeowner's Association shall be entitled to close them to vehicular access by the public.

    b. The Homeowner's Association shall allow public pedestrian and bicycle access over Mountainside Drive to the same degree and so long as the Homeowner's Associations in Grouse Mountain Phase I and II allow public pedestrian and bicycle access over their roads. If the Homeowner's Associations in Grouse Mountain Phases I and Ii restrict public pedestrian and bicycle access over their roads, then the Grouse Mountain Estates Homeowner's Association shall be entitled to impose similar restrictions.

    c. On a permanent basis, the Homeowner's Association shall permit the public to use that portion of Mountainside Drive that extends from Highway 93 to the public access trail in order to reach the public access trail. On a permanent basis, the Homeowner's Association shall permit the public to use the public access trail along its entire length, from its intersection with Mountainside Drive, along the west boundary of the Subdivision, along the east shore of Sampson Lake, and to the southerly boundary of the Subdivision natural area as shown on the plat of Grouse Mountain Estates. This public access trail (and the potion of Mountainside Drive needed to access it) shall be available for use by the public as a pedestrian and bicycle trail, but shall not be used by the public for any form of motorized travel.

This information has been included in the Covenants and other homeowners documents. This condition has been met.

13. The subdivider shall waive protest to the future creation of an SID to upgrade Mountainside Drive and Fairway Drive from Highway 93 to 7th Street in Grouse Mountain Phases I, II, and III to meet City standards, including widening, sidewalk, curb, and gutter.

This condition has been met the Waiver has been submitted.

in the natural area. Grouse Ridge Drive was moved eastward approximately 55 feet to provide a suitable building site for Lot 39 (formerly lot 27) outside of the Natural Area boundary.

11. All streets within the subdivision and all of Mountainside Drive outside the subdivision (extending to Highway 93 and to Fairway Drive) shall be constructed to comply with City standards for paved streets and Section 16.03.09 of the Subdivision Regulations. Plans shall be prepared by a licensed professional engineer and approved by the Whitefish City Manager prior to construction. Any super-elevation of curves on these streets shall be approved by the City Manager, including the switchback curve on Mountainside Drive southeast of the subdivision.

- This condition is met with the acceptance of the SIA. The applicant has not constructed the streets in phase II. The applicant has submitted plans to the Whitefish Public Works department and those plans have been preliminarily approved. The attached SIA includes approximately $300,000 for road construction.

12. a. The roads in Grouse Mountain Estates shall be private roads and the Homeowner's Association shall be entitled to close them to vehicular access by the public.

b. The Homeowner's Association shall allow public pedestrian and bicycle access over Mountainside Drive to the same degree and so long as the Homeowner's Associations in Grouse Mountain Phase I and II allow public pedestrian and bicycle access over their roads. If the Homeowner's Associations in Grouse Mountain Phases I and II restrict public pedestrian and bicycle access over their roads, then the Grouse Mountain Estates Homeowner's Association shall be entitled to impose similar restrictions.

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- This condition has been met. This information has been included in the Covenants and other homeowner's documents.