CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, MARCH 2, 2015, 5:00 to 7:00 PM

1. **5:00 – 6:15 p.m. Lakeshore Regulations and Processes**

   a. Call to Order

   b. Lakeshore Regulations and Processes
      a. Update on Flathead County's Actions
      b. Question on the "Low Water" elevation of Whitefish Lake
      c. Cooperation with Flathead County on permitting
      d. Direction on updating the City Lakeshore Regulations to reflect jurisdictional changes
      e. Direction with regard to the status of the Lakeshore Protection Committee

   c. Public Comment

   d. Direction to staff on above topics

2. **6:15 – 7:00 p.m. Parking Structure SID – Final review and direction**
   a. Explanation and review of proposed assessment spreadsheet

   b. Discussion of future process to propose creation of SID

   c. Public Comment

   d. Direction to staff on creation of SID

   e. Adjourn

Chuck Stearns

From: David Taylor <dtaylor@cityofwhitefish.org>
Sent: Monday, February 23, 2015 4:03 PM
To: 'Chuck Stearns'
Subject: Work session info
Attachments: Info for work session on LS.pdf

Chuck,
The Planning Board didn't act on the PUD blending code amendment (they want to completely re-write the PUD chapter), so that won't be on the agenda.

Here is a list of agenda items for the work session for March 2 on Lakeshore Issues. Each item has a brief summary. Attached is supplementary info on the items.

1. Update on Flathead County's Actions

   The County is moving forward with amending their County Lakeshore Regulations to include Whitefish and Lost Coon Lakes. They are rescinding separate Whitefish and Lost Coon lakeshore regulations. The County Planning Board public hearing will be March 11. BJ Grieve, the Flathead County Planning Director, should be attending the work session to answer questions.

2. Question on the 'Low Water' elevation of Whitefish Lake.

   The City of Whitefish annexed Whitefish Lake up to the 'Low Water' elevation. Mike Koopal of the Whitefish Lake Institute has done an analysis of all low water data to date and has come up with a Mean Low Water figure of 2997.06 (NAVD88). The County Planning Board thinks it should be the lowest level recorded, as the resolution just said 'low water' not Mean Low Water. The Council should decide what the 'low water' elevation is. Mr. Koopal's report is attached, as well as information from the State of Montana regarding the original annexation.

3. County permitting cooperation.

   Direction on cooperation with the County on an MOU or new agreement to solve issue of 'double permitting' for county residents on Whitefish Lake
   Based on our current regulations and on what the County intends, two permits would be required for items that span jurisdictions such as docks and waterlines. The city also has jurisdiction over buoys and shore stations, anything below low water.

4. Direction on updating the City Lakeshore Regulations to reflect jurisdictional changes.

   We brought this up previously and were told to wait to see what direction Flathead County will take. Their direction is pretty clear at this point. Staff needs the go-ahead to pursue a Lakeshore Regulations update.

5. Direction with regard to the status of the Lakeshore Protection Committee.

   If the city wants to continue having a Lakeshore Protection Committee, the Lakeshore Committee administration code should be amended. The make-up of the committee should also be decided. Because our jurisdiction to low water includes county property owners, it should be decided if the Committee make-up should still include county only residents as well as city residents. Right now the committee has eight members. Jim Stack recently

recommended reducing it to 5 members: 2 city, 2 county, 1 planning board appointee. Thoughts? Should we still allow the county to appoint members, with a recourse for the city to appoint if they don't? We could also streamline some functions so more things can be approved administratively to save time (ie, the county commissioners only review variances).

David Taylor, AICP
Director, Planning & Building
City of Whitefish
510 Railway Street
PO Box 158
Whitefish, MT 59937
(406)863-2416

Please consider the environment before printing this e-mail.

Whitefish Lake Elevation Analysis

Memo

February 5, 2015

To: John Muhlfeld, Mayor, City of Whitefish
Pam Holmquist, Chair, Flathead County Commissioners
Anne Moran, Land Use Planner, Montana DNRC
Ronald Buentemeier, Chair, Flathead Conservation District

Fr: Mike Koopal, Executive Director, Whitefish Lake Institute

An elevation analysis of Whitefish Lake has multiple implications. First, the mean high water elevation determination from this analysis can be compared to the existing mean high water elevation used in the current lakeshore protection regulations to determine if an adjustment is needed. Second, the mean low water elevation is needed to answer regulatory questions for the City of Whitefish which annexed the bottom of the lake in 2005, Flathead County which now administers the lakeshore protection regulations, Montana DNRC which regulates the state owned lakebed, and private landowners whose property extends to the mean low water elevation. In addition, this lake elevation analysis could assist the joint 310/404 permitting process administered by the Flathead Conservation District and U.S. Army Corps of Engineers.

In partnership with Brian Sullivan of F&H Surveying of Whitefish, the Whitefish Lake Institute (WLI) has completed an analysis of the mean minimum and maximum water elevations along with associated statistics for Whitefish Lake spanning 58 years (1957-2014).

Historical surveying data was on file with Brian Sullivan of F&H Surveying. The data came from several original sources that used numerous modems and gauges. All of the data were compiled to eliminate variations caused by the use of two modems (NGVD29 and NAVD88) and various sites and gauges. The most recent data since 2002 were compiled using the NAVD88 modem at City Beach. Surveys prior to 2002 utilized the NGVD29 modem which corresponds to a 3.78 foot difference in elevation which was converted to the NAVD88 modem. Much of the earliest data were compiled by John D. Horn who installed a gauge near the southeast shore of Whitefish Lake but also utilized survey sites at City Beach and the mouth of the Whitefish River.

Annual survey data are varied in the amount of the calendar year that was covered. Many years had good survey data for the high water elevation time period but did not have any data for the low water elevation time period, and vice versa.

Mean High Water Elevation Analysis Methods

In the 58 year time period from 1957, 39 years have survey data. Of the 39 years with survey data, 34 years were used to calculate the mean high water elevation using Primary and Secondary Data. The high water analysis included data from years that showed a ramp up to the maximum elevation and a

ramp down (Primary Data N=21), or data that was collected having missed May but began in June (Secondary Data N=13). It is reasonable to assume that the true mean high water elevation is slightly higher than the results of this analysis based on the fact that the survey may not have been conducted on the actual day of high water (Primary Data), or high water could have occurred prior to June 1 (Secondary Data) as occurred 6 times with the Primary Data.

Mean Low Water Elevation Analysis Methods

Of the 39 years with survey data, 23 years were used to calculate the mean low water elevation. The low water analysis included fall data from years that showed a ramp down to the minimum elevation and a ramp up (Primary Data N=8), or data that was collected after August 31 (Secondary Data N=15). It is reasonable to assume that the true mean low water elevation is slightly lower than the results of this analysis based on the fact that the survey may not have been conducted on the actual day of low water (Primary Data), or low water could have occurred after the end of the fall survey season (Secondary Data).

There is very little survey data from January through March, but for three years in the late 1980s (1987-1989), elevations recorded in March at the mouth of the Whitefish River during ice conditions were slightly lower than the historic fall low. The March data points were not included in the overall data analysis for consistency, and unknowns remain about the ice conditions at the time and how that may have influenced the survey.

Mean Fluctuation Analysis Methods

Of the 39 years with survey data, 21 years were used to calculate the mean fluctuation for the lake. Adequate survey data (Primary and/or Secondary Data) from both the high and low elevation periods for the same year were needed to be included in the fluctuation analysis.

Results

The mean maximum high water level for Whitefish Lake over the study period is 3,000.63 (NAVD88) as compared to 3,000.79 (NAVD88) used in the current lakeshore protection regulations- a lowering of 0.16 feet. The average mean minimum water elevation is 2,997.06 (NAVD88). It was noted that if the late 1980s values were folded into the analysis, the mean minimum water elevation would be 2,996.95 (NAVD88) for the study period. Key summary statistics from this study are found in the table below.

Whitefish Lake Elevation Summary Table

Item	Elevation (NAVD88)	Feet	Date
Mean High Water Elevation	3,000.63		
High Water Elevation Range	2,998.73-3,002.48		
Mean High Water Date*			June 7
Mean Low Water Elevation	2,997.06		
Low Water Elevation Range	2996.28-2997.88		
Mean Low Water Date*			November 21
Mean Fluctuation		3.81	
Fluctuation Range Minimum		2.21 (1977)	
Fluctuation Range Maximum		5.03 (1996)	
Total Fluctuation Range Potential		6.2 High (1961=3002.48) Low (1967=2996.28)	

**Mean high and low water dates derived from primary data only and averaged using a Julian Day Calendar.*

Recommendations

It is recommended that when Flathead County updates the Flathead Lakeshore Protection Regulations that the ***new mean high water elevation for Whitefish Lake be established at 3,000.63 (NAVD88)***. An alternative would be to keep 3,000.79 (NAVD88) as the official mean high water elevation based on data limitation factors mentioned in this memo and to provide continuity with the public. It is also recommended that the City of Whitefish, Flathead County, and Montana DNRC ***establish 2,997.06 (NAVD88) as the mean low water elevation***.

WLI is a non-profit organization with a goal to provide scientific research to aid in the decision making process. We believe our analysis of the Whitefish Lake elevations is the most accurate to date but acknowledge that regulatory authorities may need to provide their own interpretation. If any entity would like to ensure the accuracy of our work or use the data for any purposes, it is available upon request.

We suggest that all parties review this information in a timely manner and determine the validity of the interpreted results so that a standard mean high and low water elevation can be used by all parties and communicated to the public. Finally, we recommend that this analysis occur on a periodic basis to determine if future elevations substantially change the running averages.

cc: Dave Taylor, Planning Director, City of Whitefish
B.J. Grieve, Planning Director, Flathead County

RESOLUTION NO. 05-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ANNEXING THE BODY OF WATER KNOWN AS "WHITEFISH LAKE."

WHEREAS, on February 1, 2005, the City of Whitefish and Flathead County entered into an Interlocal Agreement which permitted the City to substantially expand its zoning and subdivision jurisdiction; and

WHEREAS, the expanded zoning and subdivision jurisdiction is scheduled to take effect on September 30, 2005; and

WHEREAS, State law, particularly Section 76-2-310(1), MCA, provides that a city of the second class may extend its zoning and subdivision jurisdiction only two miles beyond its city limits; and

WHEREAS, portions of the City's new zoning and subdivision jurisdiction, as permitted by the Interlocal Agreement, are more than two miles from the existing City limits; and

WHEREAS, in order to be able to utilize the extended zoning and subdivision jurisdiction created by the Interlocal Agreement, it may be necessary for the City to annex additional territory, so that the entire zoning and subdivision jurisdiction permitted by the Interlocal Agreement is within two miles of the City's boundaries; and

WHEREAS, the annexation of Whitefish Lake, which is a navigable body of water owned by the State of Montana, whose ownership extends to the low water mark, would enable the City to take full advantage of its new zoning and subdivision jurisdiction; and

WHEREAS, the Attorney General of the State of Montana has previously ruled, in 42 Op. Att'y Gen'l No. 41, that Whitefish Lake acts as a barrier, so that a property surrounded by the City and by Whitefish Lake is wholly surrounded for purposes of annexation; and

WHEREAS, because of the Attorney General's ruling, annexation of the Lake would not provide the City with any greater ability to wholly surround properties for the purpose of annexation; and

WHEREAS, annexation of Whitefish Lake is not proposed for the purpose of creating contiguity with parcels of property bordering Whitefish Lake, and the annexation of additional properties bordering Whitefish Lake is not a purpose of this proposed annexation; and

WHEREAS, in order to assure the public that Whitefish Lake is not being annexed for the purpose of facilitating future annexations, the City Council is determined to establish a policy that the annexation of Whitefish Lake will not be used to create contiguity with parcels surrounding the Lake, where contiguity does not otherwise exist; and

WHEREAS, the City has received a petition from the State of Montana, the owner of Whitefish Lake, to annex Whitefish Lake 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 be extended so as to include Whitefish Lake 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: That the City Council establishes a policy that it will not use the annexation of Whitefish Lake, as accomplished herein, to create contiguity with other private parcels bordering Whitefish Lake, for the purpose of involuntary annexation of such private parcels.

Section 3: That 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, that body of water known as "Whitefish Lake," extending only to the low water mark of Whitefish Lake.

Section 4: That no private property whatsoever is annexed pursuant to the terms of this Resolution.

Section 5: That 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.

Section 6: That the State of Montana has acknowledged, in writing, its satisfaction with the Extension of Services Plan referenced above.

Section 7: That this Resolution shall take effect on September 15, 2005.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2005.

_____
ANDY FEURY, MAYOR

ATTEST:

_____
Necile Lorang, City Clerk

OFFICE OF THE CITY ATTORNEY

John M. Phelps, City Attorney
jphelps@cityofwhitefish.org
(406) 863-2444

Keni L. Hopkins, Legal Assistant
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Post Office Box 158
Whitefish, MT 59937-0158
Facsimile (406) 863-1249

July 25, 2005

Honorable Mayor Feury
and City Councilors
City of Whitefish
Whitefish, Montana

Dear Mayor Feury and City Councilors:

Recommendation to Schedule a Public Hearing for Consideration of the Annexation of Whitefish Lake

Introduction/History

During the past year the City and Flathead County entered into an agreement which permitted the City to substantially expand its zoning and subdivision jurisdiction beyond the current City limits. Although the parties talked in general of the City expanding its zoning and subdivision jurisdiction "two miles," in fact it was expanded more than two miles in some areas, and less than two miles in other areas. A map showing the new zoning and subdivision boundaries, using a red border, is attached.

The City's new zoning and subdivision jurisdiction takes effect on September 30, 2005.

Current state law allows a City of the second class to extend its zoning and subdivision jurisdiction only two miles from its City limits. As indicated above, however, Flathead County was willing to cede more than two miles to the City. The area that Flathead County ceded to the City which is currently more than two miles from the existing City limits is shown on the enclosed map, in which a circle representing a two-mile radius from the nearest City limits crosses the upper portion of Whitefish Lake. The portion of the lake and surrounding territory that is outside of the circle, and yet within the new zoning and subdivision boundaries, must be dealt with before September 30, 2005.

The only way to bring the upper end of Whitefish Lake, and surrounding territory, within two miles of the City's boundaries is to expand the City boundaries. City staff has determined that the annexation of all of Whitefish Lake would accomplish that, without any harmful consequences for the City.

Current Report

I recently contacted Bob Sandman, who is the Northwest Area Land Manager for the Department of Natural Resources and Conservation. Mr. Sandman was aware of the Interlocal Agreement between the City and the County, and was willing to cooperate to enable the City to implement that Interlocal Agreement. He has provided the City with a letter petitioning the City to annex all of Whitefish Lake, up to the low water mark. A copy is attached.

While a public hearing is not legally required for a voluntary annexation of this type, staff recommends that a public hearing be conducted prior to annexation. The term "annexation" sometimes strikes fear into the hearts of those residing outside of the City, and we believe the public will have a number of questions. Given the size of Whitefish Lake, at 3,458 acres, this proposed annexation would approximately double the size of the City. So that there is no doubt, we are recommending that only Whitefish Lake, a navigable body of water owned by the State of Montana, be annexed into the City. We are not recommending that any private property be annexed.

Staff is concerned that people living beside the Lake may believe that this proposed annexation is intended to make their private property contiguous to the City, so that the City could annex their property in the future. Making private property contiguous is not the intent of this proposal, and staff recommends that the City make this point clear. To assure the public that they need not fear that the City will further expand its boundaries from the Lake to include their private property, staff recommends that the Resolution of Annexation, if adopted, contain the statement that the annexation of the Lake will not be used to support a future annexation of private property along the Lake.

Financial Requirement

The only services that the City would undertake to provide on Whitefish Lake are patrolling of the Lake by the police department and emergency rescue operations. The City fire and ambulance department has historically provided emergency rescue operations. The Montana Department of Fish, Wildlife & Parks would remain legally obligated to patrol the Lake, and so the Police Department's patrolling would augment the State's obligation. Chief Dial estimates that the City would incur expenses in providing police patrols on the Lake during the summer months, and that such patrolling might involve salary and equipment expenses of $60,000 - $75,000 per year, beginning next summer. He believes grants are available to cover some of these expenses, and he is supportive of annexation.

Recommendation

I respectfully recommend that the City Council schedule a public hearing for its August 15, 2005, meeting, for the purpose of receiving public comment regarding the proposed annexation of Whitefish Lake. A Resolution of Annexation that could be considered by the Council at its August 15, 2005, meeting is attached.

Very truly yours,

John M. Phelps

JMP/klh
Attachments

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

BRIAN SCHWEITZER, GOVERNOR

STATE OF MONTANA

NORTHWESTERN LAND OFFICE
2250 HIGHWAY 93 NORTH
KALISPELL, MT 59901-2557

Telephone: (406) 751-2240
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Gary B. Marks, City Manager
City of Whitefish
PO Box 158
Whitefish, MT 59937-0158

Via Facsimile: 863-1249

RE: Annexation of Whitefish Lake

Dear Mr. Marks,

I have received a request that the City of Whitefish be permitted to annex Whitefish Lake, up to the low water mark, so that it can implement the extended zoning and subdivision jurisdiction that the City worked out during the past year with Flathead County.

I understand that, unlike many annexations, there will be relatively few services that the City will provide on Whitefish Lake. Upon annexation, the City of Whitefish will provide patrolling and law enforcement, as well as emergency rescue and ambulance service. The State does not anticipate that any other governmental services will be required on Whitefish Lake.

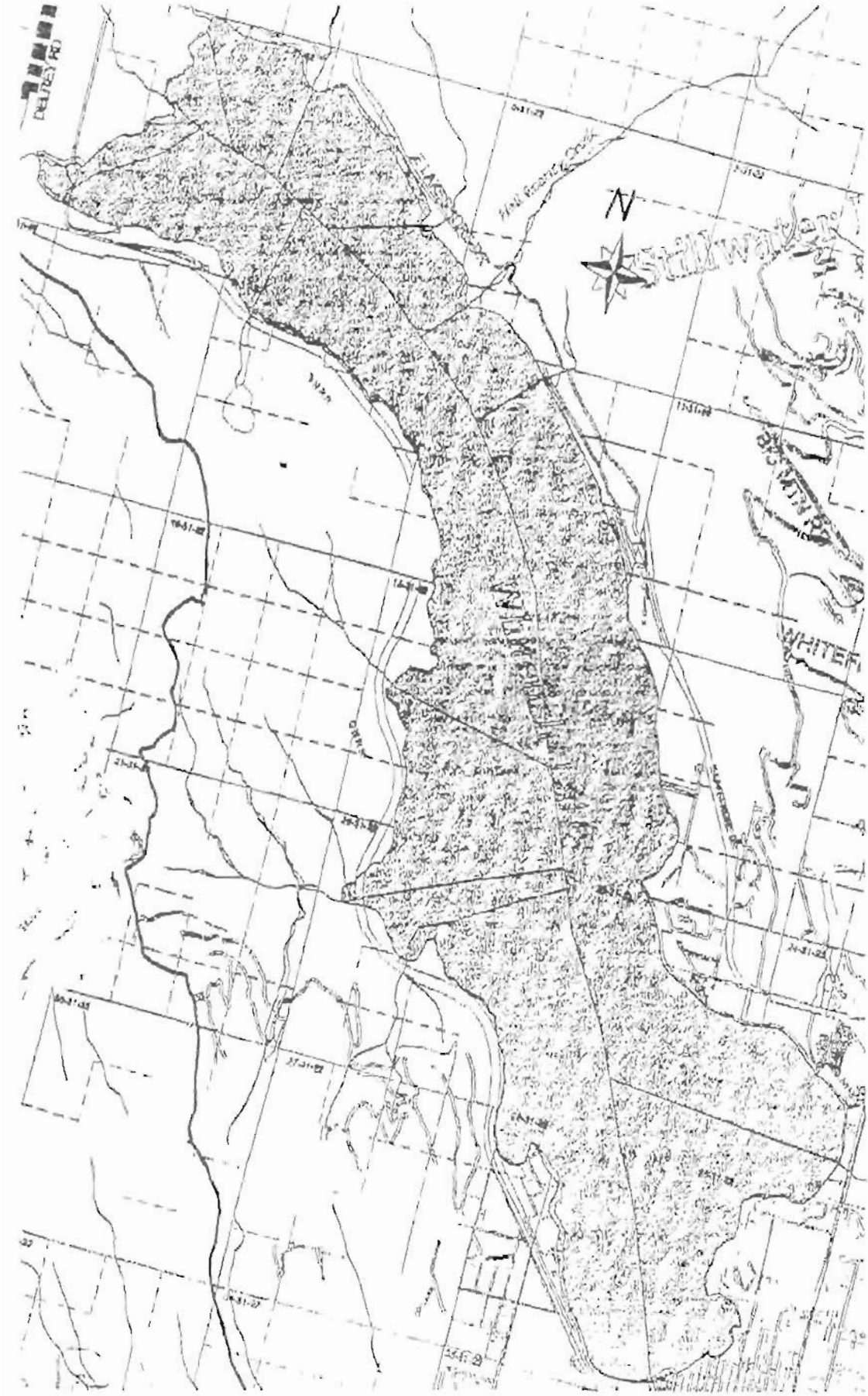
On behalf of the State of Montana and the Director, I respectfully consent to the annexation of Whitefish Lake up to the low water mark by the City of Whitefish (see attached map). To the extent that a petition is required to initiate the annexation process, you may treat this letter as a petition for annexation. Because only those services identified above are necessary on Whitefish Lake, the State of Montana is satisfied with the City's existing Extension of Services Plan, which was adopted by the City of Whitefish pursuant to Resolution No. 98-50.

7/26/05
Date

Mary Sexton, Director
Department of Natural Resources & conservation

By Robert L. Sandman
Robert L. Sandman, Area Manager
Northwestern Land Office
Department of Natural Resources & Conservation

Cc: Holmgren, Schultz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WHITE

AND CONSERVATION

BRIAN SCHWEITZER, GOVERNOR

1625 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-2074
TELEFAX NUMBER (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

August 30, 2005

Mr. John Phelps
Whitefish City Attorney
P.O. Box 158
Whitefish, MT 59937

RE: State's ownership of the bed of Whitefish Lake
Comprising portions of:
Township 31 North, Range 22 West in Flathead County, Montana
Portions of Sections 3, 4, 5, 9, 10, 11, 14, 15, 22, 23, 24, 25 and 26

Dear John:

You've inquired as to the factual and legal basis for the State's claim of ownership to the bed of Whitefish Lake, which has recently been annexed into the City of Whitefish. Although the title to the bed of Whitefish Lake has not been adjudicated, the State is confident that it holds conclusive legal title to the bed of the Lake from low-water mark to low-water mark.

The State of Montana owns, on behalf of the general public, real property and minerals located below the low water marks of navigable waters, pursuant to its sovereign powers under the Equal Footing Doctrine. The Department of Natural Resources and Conservation, Trust Land Management Division (DNRC), administers these lands on behalf of the state, under the direction of the State Board of Land Commissioners. Consequently, the DNRC has responsibility for the determination of navigability, the delineation of boundaries between state and private ownership, quieting title to island formations, abandoned riverbeds, and mineral ownership involving the State's navigable waters.

The State's ownership of navigable water bodies arises from extensive case law and statutory authority. In Martin v. Waddel, 41 U.S. 234 (1842) the U.S. Supreme Court first considered whether title to submerged lands in navigable tidal waters was vested at statehood in a State or the riparian owner. The U.S. Supreme Court held that:

> When the revolution took place, the people of each state became themselves sovereign; and in that character hold the absolute right to all their navigable waters and the soils under them for their own common use . . .

CENTRALIZED SERVICES DIVISION (406) 444-2074 | CONSERVATION & RESOURCE DIVISION (406) 444-6667 | RESERVED WATER RIGHTS COMPACT COMMISSION (406) 444-6841 | OIL & GAS DIVISION (406) 444-6673 | TRUST LAND MANAGEMENT DIVISION (406) 444-2074

SEP 06 2005

Id. at 262-263

Later, in Pollard's Lessee v. Hagen, 44 U.S. 212 (1845), the United States Supreme Court held that the same principle was applicable to all states subsequently admitted to the United States so as to be on an "equal footing" with the original thirteen states. Subsequently, in Barney v. Keokuk, 94 U.S. 324 (1877) the principle of state ownership of the submerged beds of navigable waters was extended to non-tidal waters as well. Consequently, as of the date of Montana's Statehood (November 8, 1889) the State of Montana owned in fee simple title the submerged lands of all navigable waters in the state up to the high water mark, subject to the power of the United States to regulate commerce under Article I, Section 8, Clause 3 of the United States Constitution.

This federal power is commonly referred to as the "federal navigational servitude", by which agencies of the federal government, such as the U.S. Army Corps of Engineers, may place structures upon the beds of navigable waters to improve navigation. The federal navigational servitude does not transfer title of navigable waters to the federal government. The federal navigational servitude provides that when the federal government regulates tidal or navigable fresh waters in order to protect navigation, it need not compensate for any loss caused to property interests in these waters. See, Gibson v. United States, 166 U.S. 269 (1897) (The federal power to protect navigation provides federal immunity from compensation); Union Bridge Co. v. United States, 204 U.S. 364 at 400-401 (1907)(State authorization of an obstruction was no impediment to Congress' removing of that obstruction without compensation, pursuant to its navigation servitude.); and Louisville Bridge Co. v. United States, 242 U.S. 409 (1917) (applying no compensation rule to situation involving previous congressional authorization); Richard W. Bartke, "Navigation Servitude and Just Compensation--Struggle for a Doctrine", 48 Or. L. Rev. 1 (1968); Bruce H. Johnson, "Enforcing the Federal Water Resource Servitude on Submerged and Riparian Lands", 1977 Duke L.J. 347; and Genevieve Pisarski, "Testing the Limits of the Federal Navigational Servitude", 1997 Ocean and Coastal Law Journal 313.

A second corroborating source of authority for State ownership of Whitefish Lake is the federal Submerged Lands Act of 1953. By that act, Congress vested in the States "title to and ownership of the lands beneath navigable waters within the boundaries of the respective States." 43 U.S.C. Section 1311(a) (1982). Similarly, Montana law, Section 70-1-201, MCA, directs that: "[t]he original and ultimate right of all property, real and personal, within the jurisdiction of this state and not belonging to the United States is in the people of the state".

The Montana Legislature clearly accepted the "equal-footing" doctrine in 1894 when it enacted Section 70-1-202, MCA, which states that:

The state is the owner of:

(1) all land below the water of a navigable lake or stream;
(2) all property lawfully appropriated by it to its own use;

(3) all property dedicated or granted to the state; and
(4) all property of which there is no other owner.

Waters that were used or susceptible of being used in their natural condition, or with reasonable improvements, are considered navigable under Federal law and title to their beds passed to the State upon its admission to the Union. U.S. v. Appalachian Power Co., 311 U.S. 377, 406-409; The Daniel Ball, 77 U.S. (10 Wall.) 557 (1870)(The Federal test for navigability is whether the waterway is susceptible of use in commerce.). Montana was admitted to the Union on November 8, 1889. Therefore, lakes and rivers that were susceptible of use in commerce at that time are held by the State of Montana under its sovereign powers under the Equal Footing Doctrine.

Although the Federal test for navigability may determine whether a State took title to submerged lands at statehood, state property law controls the resolution of all property disputes thereafter. See, United States v. Oregon, 295 U.S. 1, 14 (1934); State Land Board v. Corvallis Sand & Gravel Co., 429 U.S. 363 (1977)(After statehood, state law applies to determines boundaries between state and private ownership.)

In Montana Coalition for Stream Access, Inc. v. Curran, 210 Mont. 38 at 47-48, 682 P.2d 163 (1984), the Montana Supreme Court cited excerpts from Illinois Central Railroad v. Illinois, 146 U.S. 387 at 452-453 (1892) to emphasize that the State must continue to own all navigable waters and cannot convey fee title to those lands to private parties:

> . . . [T]he State can no more abdicate its trust over property in which the whole people are interested like navigable waterways and the soils under them, so as to leave them entirely under the control of private parties, except in the instance of parcels mentioned for the improvement of navigation and the use of waters, or when parcels can be disposed of without impairment to the public interest in what remains, than it can abdicate its police powers in the administration of government and the preservation of the peace.

In the Curran decision (in which Justice Frank Morrison concurred) the Montana Supreme Court held that the Dearborn River was navigable in fact, and in law, because it was susceptible of use in commerce by virtue of the railroad tie drives which had occurred in the years 1887, 1888, and 1889. Montana Coalition for Stream Access, Inc. v. Curran, 210 Mont. 38 at 44, 682 P.2d 163 at 166 (Mont.,1984) This is commonly referred to as the "log-floating test". Thus, evidence of the floating of logs upon lakes and rivers is conclusive evidence of the State's title to the beds of those waters.

Based on historical documentation, Whitefish Lake and the Whitefish River are both commercially navigable, and therefore, the state claims ownership of the bed of Whitefish Lake, as well as the Whitefish River to its confluence with the Stillwater River. Past commercial navigation on the Whitefish River consisted of log drives, generally commencing in the Whitefish Lake area and running to sawmills in the Kalispell area. In

1890 and 1891 the Boston and Montana Commercial Company built a sawmill on the south end of Whitefish Lake to:

> . . . maintain such lake and river water level, that logs could be driven to a sawmill being built by the company a mile east of Kalispell . . . In the summer of 1891 this same Boston and Montana Company that had built the dam at the foot of Whitefish Lake completed its sawmill on the Whitefish River east of the Kalispell townsite.

Betty Schafer and Mable Engelter, "Stump Town to Ski Town: the Story of Whitefish, Montana" (Whitefish: the Whitefish Library Associates, Inc., 1975), p. 12.

In about 1905 or 1906, the Baker Brothers sold their mill on Whitefish Lake to O'Brien Lumber Company and built another one east of town. A number of lumber companies operated in the area. Each Spring, they drove logs down the Whitefish River into the Stillwater and the Flathead. Dorothy Johnson, noted Montana author from Whitefish, described the log drives of the early part of the 20th century in notes loaned to the Whitefish Library Association:

> Lumber companies were thick around Whitefish in those days and used to cut their logs on the lake and then raft them down to the dam in great booms with steam and gasoline tug boats. Then when the logs reached the lower end of the lake they were held there till spring. When the ice went out in April or May and the water was running full and the river was swift and unhindered, then they used to have 'Log Drives'. They must have had them for at least ten years after we came to Whitefish before the timber was gradually thinned out and the mill at the dam took care of all that was left.

Id. at p. 66.

Whitefish Lake was also used commercially by recreational sight-seeing boats during the early 1900's. In 1906, the Butte, a large boat shipped in from Indiana, was used on the Lake for this purpose. According to the "Whitefish Pilot", boating on Whitefish Lake was "quite the thing" by 1906. The newspaper reported that: "C.E. Davis will have quite a float of boats on hand at the Lake View Hotel for those who wish to avail themselves of a trip on the Lake but have no boat . . . ". Id. , March 23, 1906 as cited in Schafer and Engelter, p. 41. The Whitefish Launch and Boat Club was in fact organized in 1908. Member of the club bought and operated a number of Mullins Steel motor boats (the longest of which was 24 feet) on the Lake. Id. at p. 41.

In Montana, all owners of land adjacent to navigable waters own down to the low-water mark. The Montana Supreme Court decided this in 1895 in the case of Gibson v. Kelly, 15 Mont. 417 (1894), and again in 1925 in Herrin v. Sutherland, 74 Mont. 587, 241 P. 328 (1925). The State Legislature has recognized this public/private-property boundary in Section 70-16-201 of the Montana Code Annotated (MCA), which provides that:

> Except where the grant under which the land is held indicates a different intent, the owner of the land, when it borders upon a navigable lake or stream, takes to the edge of the lake or stream at low-water mark; when it borders upon any other water, the owner takes to the middle of the lake or stream.

Hopefully, this factual and legal information will provide conclusive proof that the State of Montana holds title to the bed of Whitefish Lake from low-water mark to low-water mark. Should you have further questions or concerns, please feel free to contact me.

Sincerely,

Tommy

Tommy H. Butler
Trust Lands Attorney

Noteworthy Differences in the City of Whitefish and Flathead County Lake Regulations for Common Uses Beyond Low Water

A Swim Docks

Whitefish
- Allowed with conventional dock on properties with 100 ft or more of shoreline
- Larger setback requirements than conventional docks
- Allowed to be up to 12 ft in width

Flathead County
- Follows same standards of conventional docks
- Conventional or swim dock are allowed per property ownership

B Buoys

Whitefish
- Regulates size of buoy to 12 in diameter minimum
- Not permitted on properties with less than 75 ft of shoreline
- Specifically addresses and regulates swim floats

Flathead County
- Larger distance allowed between moored boat and buoy
- Does not regulate size of buoy
- Does not distinguish between mooring and swim buoys

C Waterlines

Whitefish
- Requires pump installation to be in compliance with state electrical code
- Requires electrical lines to be installed in conduit

Flathead County
- Distinguishes between permanent and temporary waterlines
- Does not require conduit or compliance with state electrical code

D Docks

Whitefish
- Allows 'T' docks
- Only allows floating docks
- Docks may exceed 60 feet if the water depth is less than 4 ft

Flathead County
- Only one dock allowed per property ownership
- Allows for pier and crib docks
- Smaller setback requirements
- Docks may exceed 60 ft if the water depth is less than 5 ft

E Shore Stations

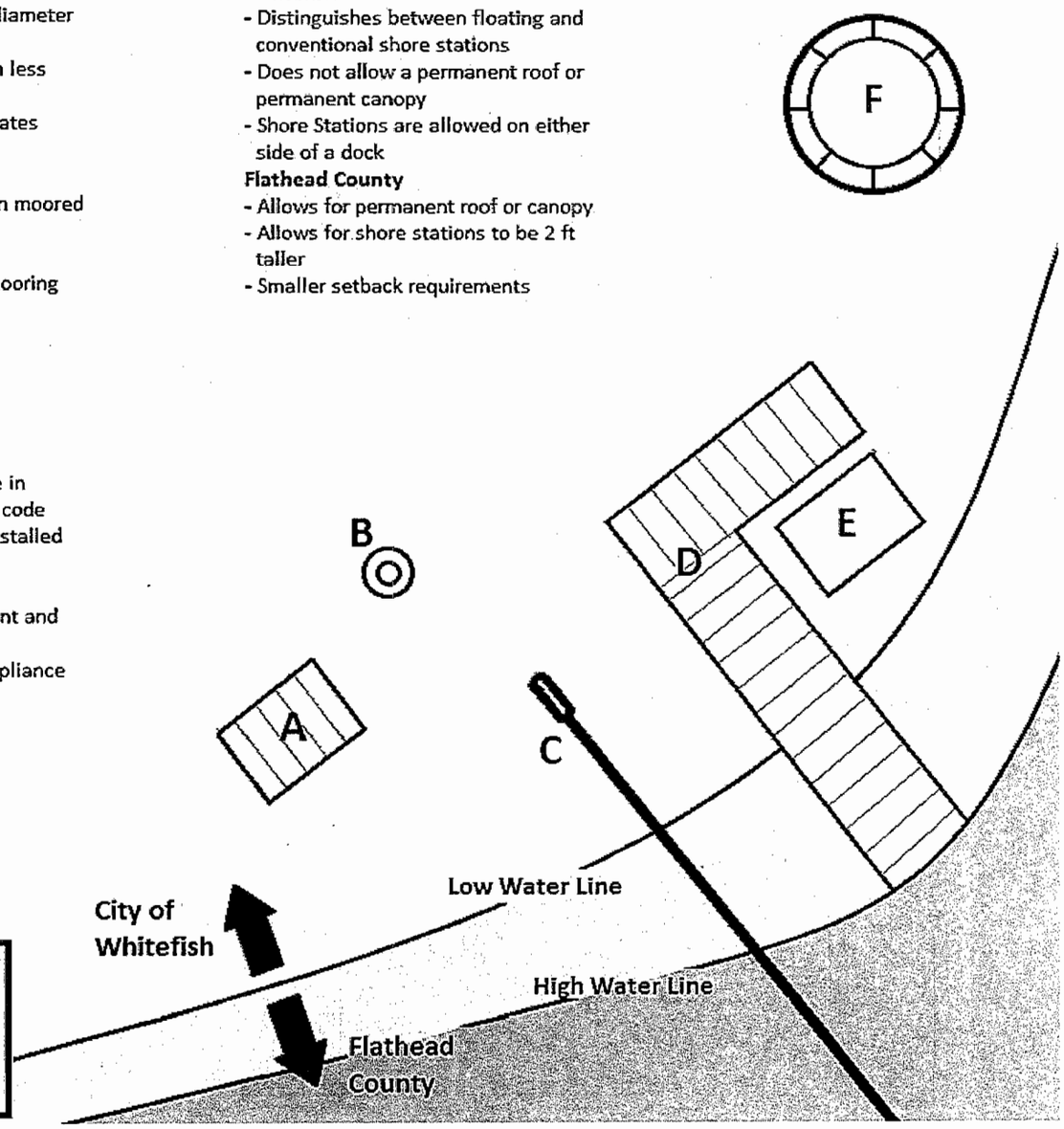
Whitefish
- Distinguishes between floating and conventional shore stations
- Does not allow a permanent roof or permanent canopy
- Shore Stations are allowed on either side of a dock

Flathead County
- Allows for permanent roof or canopy
- Allows for shore stations to be 2 ft taller
- Smaller setback requirements

F Floating Trampolines

Whitefish
- Requires 35 ft setback
- Regulations similiar to swim docks

Flathead County
- Does not have specific regulations for floating trampolines



Handout created by:
Flathead County Planning & Zoning Office
Lawson Moorman, Planner I
01/23/2015

CHAPTER 4

ADMINISTRATION AND ENFORCEMENT

SECTION:

13-4-1: Whitefish City/County Lake And Lakeshore Protection Committee
13-4-2: Variances
13-4-3: Amendments
13-4-4: Liability
13-4-5: Violations; Penalty

13-4-1: WHITEFISH CITY/COUNTY LAKE AND LAKESHORE PROTECTION COMMITTEE:

A. Creation, Composition And Compensation Of Members:

1. The Whitefish city/county lake and lakeshore protection committee is hereby created as a special planning board in compliance with section 75-7-211 Montana Code Annotated empowered to review and comment on all activities within the jurisdiction of the Whitefish lake and lakeshore protection regulations and shall be known as the lakeshore protection committee.

2. The committee shall consist of eight (8) voting members. Four (4) members shall constitute a quorum to conduct business.

a. The Whitefish city council shall appoint three (3) members. All members shall be residents of Whitefish and at least two (2) shall be lakefront property owners or residents.

b. The Flathead County board of commissioners shall appoint four (4) members. All members shall be residents of rural Flathead County and at least three (3) shall be lakefront property owners or residents. Of those three (3), at least one shall be a lakefront property owner or resident on Blanchard Lake.

c. The eighth member shall be appointed by the Whitefish city/county planning board. He/she shall serve for a two (2) year term unless he/she requests removal or is removed by a majority vote of the planning board. The eighth member may be a member of the planning board or may be a member at large, but in any event shall be a resident of Whitefish.

3. City appointees and county appointees shall each initially be appointed to a staggered term of one, two (2) and three (3) years. Thereafter, each succeeding term shall be three (3) years. Vacancies during the term shall be filled by the appropriate governing body for the duration of the unexpired term.

4. The committee members shall serve without compensation.

B. Duties: The committee shall:

1. Advise and work with potential applicants.

2. Review and give recommendations on projects requiring a lakeshore permit.

3. Review and offer amendments to the lake and lakeshore regulations, to keep them current, to improve efficiency and to address problems.

4. Report violations to the proper authorities.

C. Organization: The committee shall organize and adopt bylaws pursuant to these regulations establishing the operating policies and procedures of the committee. (Ord. 09-08, 7-20-2009)

13-4-2: VARIANCES:

A. General Criteria:

1. Minor Variances: Minor variances from the construction requirements or design standards of these regulations may be granted when the governing body determines the following conditions are met:

a. Due to unusual circumstances, a strict enforcement of such requirements and standards would result in undue hardship;

Submitted by Jim Stack

Flathead County
Whitefish & Lost Coon Lake and Lakeshore Jurisdiction Transition
Option Analysis Matrix[1]

Option:	1) Amend the *Flathead County Lake and Lakeshore Protection Regulations*[2] to include Whitefish and Lost Coon Lakes.	2) Option 1, then review, revise and update the *Flathead County Lake and Lakeshore Protection Regulations*[2] in next fiscal year.	3) Continue using Flathead County's *Whitefish Area Lake and Lakeshore Protection Regulations*[5] that were used prior to interlocal agreement.	4) Adopt Whitefish's *Whitefish Area Lake and Lakeshore Protection Regulations*[6] that Whitefish used during interlocal agreement.	5) Work with public and Whitefish to create new Whitefish & Lost Coon lakeshore regulations agreeable to both governing bodies, adopt separately.	6) Discuss with City of Whitefish a mutually agreeable arrangement to give city lakeshore jurisdiction for Whitefish and Lost Coon Lakes[7].
Pros:	• Efficient administration and enforcement for Flathead County. • Consistent with ~57 other lakes regulated in rural Flathead County[3]. • Allows resources to be focused on interim zoning replacement.	• Allows county to adopt best provisions for rural jurisdiction of multiple regulations and apply to all ~59 lakes. • End result is one updated set of regulations for all rural Flathead County.	• This is what Flathead County is doing now, no changes needed. • Maintains many unique provisions found in current City of Whitefish regulations since those regulations originated from this document.	• Provides for consistency across jurisdictions in an existing document, but only if adopted by county as written. • These are the most recently updated regulations unique to Whitefish and Lost Coon Lakes.	• Governing bodies can create one set of regulations with which they are both comfortable. • Most consistent option while maintaining separate jurisdictions. • If successful, promotes cooperation.	• Only option for 100% consistent regulations across Whitefish and Lost Coon Lakes because one jurisdiction is interpreting, administering, enforcing and amending. • Consumes least county resources.
Cons:	• Least consistent option with current City of Whitefish regulations. • Does not recognize unique history and cultural identity of Whitefish Lake. • Last updated 12 years ago. However, see Option #2.	• Requires county resources allocated to review and update at same time as county is working to replace interim zoning (could use consultant for lakeshore update). • Increases demand on Planning Board time over next 1-2 years.	• Not consistent with current City of Whitefish regulations used inside city limits. • Long term costs for two sets of lakeshore regulations. • Some provisions hard to enforce. • Needs update to jurisdictional references.	• Some 2009 revisions hard to enforce in rural area. • Any edits by county, or any future amendments not adopted by both jurisdictions result in inconsistent regulations. • Reviewing & revising consumes county resources.	• Extremely time and resource consumptive for both jurisdictions. • No guarantee efforts will be successful. History shows very different political wills. • Future amendments by one governing body may not be adopted by other.	• Current political climate creates challenges with establishing cooperative agreements. • Discussions may simply not yield a mutually agreeable scenario, resulting in wasted time.
Follow-up question or issue created by option:	• Impact of Whitefish's annexation of lake bottom[4]?	• Impact of Whitefish's annexation of lake bottom[4]?	• Status of WF Lakeshore Protection Committee?	• Status of WF Lakeshore Protection Committee?	• Status of WF Lakeshore Protection Committee?	• Representation for rural lakefront landowners.

[1]The purpose of this document is to inform Flathead County decision makers and the public about some options that are currently available for regulating Whitefish and Lost Coon Lakes, per 75-7-207 M.C.A. The document is intended to serve as an informational starting point for discussion and public participation.

[2]Adopted by the Flathead County Board of Commissioners April 13, 1982. Covered all lakes in Flathead County until separate regulations were created for Whitefish and Lost Coon Lakes in 1990 (see footnote #4 below). Most recently revised January 24, 2002. This document can be found on the Flathead County Planning and Zoning Office website at http://flathead.mt.gov/planning_zoning/downloads.php (click on the folder labelled "Lake and Lakeshore Protection Regulations").

[3]Per 75-7-203 M.C.A., the *Flathead County Lake and Lakeshore Protection Regulations* govern all lakes over 20 acres in size for at least 6 months in a year, presently including Blanchard Lake but excluding Whitefish and Lost Coon Lakes. According to Flathead County GIS, this applies to approximately 57 lakes in rural Flathead County.

[4]The City of Whitefish has annexed Whitefish Lake to the low water mark. Dock permits issued for rural properties may therefore be doing work inside city limits. Mayor John Muhlfeld raised this jurisdictional concern in a letter to the Commissioners on September 04, 2014.

[5]Adopted jointly by the Flathead County Commissioners on January 03, 1990 (Resolution #769) and the City of Whitefish On January 01, 1990 (Ordinance #89-12) as a separate set of lakeshore regulations governing Whitefish and Lost Coon Lakes. Administered by Flathead County for rural properties on Whitefish and Lost Coon Lakes until February 01, 2005 (effective date of Interlocal Agreement) and then again starting on July 15, 2014 (effective date of Montana Supreme Court ruling terminating Interlocal Agreement). This document can be found on the Flathead County Planning and Zoning Office website at http://flathead.mt.gov/planning_zoning/downloads.php (click on the folder labelled "Lake and Lakeshore Protection Regulations").

[6]After February 01, 2005 (effective date of Interlocal Agreement), the City of Whitefish continued to use the regulations that had been adopted jointly with Flathead County. However, subsequent amendments were not approved by Flathead County since the jurisdiction was solely Whitefish's. The regulations were amended by Whitefish to include Blanchard Lake since that lake was inside the Interlocal Agreement area. In 2009, Whitefish adopted a significant revision to the regulations (Ordinance 09-08). These regulations are referred to as the *Whitefish Area Lake and Lakeshore Protection Regulations*. A link to this document can be found on the City of Whitefish website at http://www.cityofwhitefish.org/planning-and-building/floodplain-development.php.

[7]Per 75-7-214 M.C.A., governing bodies of lakes that are in two different jurisdictions are "empowered and encouraged," but not required, to enter into agreements to establish compatible criteria.

Submitted by Jim Stack

October 29, 2014

Dear County Commissioners, Planning Board and Planning Office:

Clearly, we all recognize that there is a vocal minority who is opposed to any lakeshore protection rules and regulations. But those of you who are in positions to regulate such matters, are well aware of the importance of maintaining and in some cases improving water quality throughout Flathead County. The protection of our lakes, streams, and wetlands is important to everyone who lives in our beautiful county and we are counting on you to be good stewards.

With that in mind, current and past members of the Whitefish Lake Protection Committee would welcome the opportunity to work with representatives from your offices and other lakeshore owners throughout the valley to update Flathead County Lakeshore Regulations. The county regulations have not been updated since January of 2002. Our committee members have more than 20 years of experience in working with and updating lakeshore regulations; in fact, the Whitefish Lakeshore regulations have been updated five times since 2002. We recognize that with 57 lakes in Flathead County that a uniform set of regulations makes a lot of sense. Although each body of water has some unique issues that need to be addressed, a mutually agreed upon process could be put in place to speak to those issues.

It is our sincere belief that the County and representatives from the Whitefish Lake Protection Committee (as well as other lakes in the county) would benefit greatly from a cooperative effort in generating new Lake and Lakeshore Regulations that incorporate many of the clarifications, corrections and improvements from these important updates to the Whitefish regulations. There has been a cooperative working relationship regarding lakeshore protection between you and us for more than 25 years. We desire to continue this mutually beneficial relationship in the future. Please feel free to contact me as we collectively and individually are very interested in protecting the lakes of Flathead County.

Sincerely,

Herb Peschel, Chairman
Whitefish Lake & Lakeshore Protection Committee
hpeschel@gmail.com

The following spreadsheet is a "working document" that will allow a designated committee and/or Planning Office to use the Flathead County Lake & Lakeshore Regulations and the 2009 Whitefish Lake & Lakeshore Regulations to create a new set of Lakeshore Regulations that follow the County regulation template, yet incorporate many of the important clarifications, corrections and improvements that have been made to the Whitefish regulations in the five previous updates since 2002. [The highlighted asterisk reference numbers are marked on the attached copy of the Flathead County Lake & Lakeshore Protection Regulations.]

The Whitefish Lake & Lakeshore Protections Committee would like to offer to be actively involved in this update process, with the objective of achieving uniform regulations for both the County and City portions of Whitefish Lake, as well as all other lakes of Flathead County.

*	Flathead Cty Section 2002 Regulations	Whitefish Section 2009 Regulations	CLARIFICATION, CORRECTION, OMISSION, OR DEFICIENCY
AUTHORITY / JURISDICTION			
1	1.2 & 1.4	13-1-3	**County regulations** do not establish a Mean High Water elevation for any lakes other than Flathead Lake, which is dam controlled for a MHW=2893'. The DEFINITIONS (Chapter 6) only define Mean High Water as the average of the highest elevation of a lake during the past 5 years, which leaves interpretation open to extreme variation, and makes enforcement almost impossible. **Whitefish regulations** specify actual levels based on survey data (NAVD 1988) for Whitefish Lake, Lost Coon Lake, and Blanchard Lake. These can be used by contractors, surveyors, and property owners to accurately determine their mean high water elevation from benchmark survey pins that have been set on the shoreline for all three lakes. [NOTE: This is important because Whitefish Lake typically experiences 54" variation from high to low water every summer which can translate up to 20 feet or more of horizontal shoreline.]
2	1.2	13-1-1	**Whitefish regulations** added a diagram for easy visualization of the lakeshore protection zone.
PERMIT REQUIRED			
3	2.1	13-2-1	**County regulations** require only the person who performs work in the lake or lakeshore zone to be responsible that a valid permit has been obtained. **Whitefish regulations** correct this omission to read, "The person who performs or authorizes such work, and the property owner, are responsible for assuring that a valid permit has been obtained."
RESTORATION			
4	2.2	13-2-7-A to C	**County regulations** lack provisions to address gradual, long-term clearing and revegetation in the lakeshore protection zone. In other words, if a property owner removes trees and establishes a lawn in the lakeshore protection zone over a number of years without a violation being reported, there is no legal recourse for the governing body to address the apparent violation. **Whitefish regulations** provide the legal basis for the governing body to take action against the violation if required. (See example Exhibit B)
PROPERTY RIGHTS			
5	2.3	13-2-4-D	**County regulations** fail to address that easement holders are not eligible to apply for or obtain a lakeshore permit. [NOTE: Two administrative dock permits were erroneously issued to easement holders by the County Planning Office on Whitefish Lake prior to 2005. This creates a problem for the property owner if/when he applies for his own dock permit, and it must be denied as only one dock is allowed per property ownership.] **Whitefish regulations** correct this omission.
WORK REQUIRING A PERMIT			
6	2.5.H	13-2-1-H	**County regulations** state that "aerial structures" require a permit. **Whitefish regulations** clarify this to mean "elevated structures (eg, decks, overhangs)".
7	2.5.J	13-2-1-J	**County regulations** state that a permit is required for "Construction of docks", but do not specify that this includes installation of pre-manufactured docks or addition to docks. **Whitefish regulations** correct this omission.
8	2.5.K	13-2-1-K	**County regulations** do not address floating trampolines, even though these structures can be significantly larger than swim docks, and have far more impact on neighboring property owners. **Whitefish regulations** require a permit for floating trampolines with similar riparian setback requirements as swim docks.
9	2.5.P	13-2-3-L	**County regulations** allow the construction of decks in the lakeshore protection zone. **Whitefish regulations**, since inception, have required all decks to be constructed behind (outside of) the lakeshore protection zone due to erosion from water runoff, the impact on neighboring property owners, and the potential for ice expansion damage (see Exhibit A).
10	2.5.R	13-2-3-E	**County regulations** allow pilings. **Whitefish regulations** do not allow pilings as they would be destroyed by winter ice expansion. [NOTE: Flathead Lake is intentionally lowered 10 vertical feet in the winter to prevent ice damage to such structures (from 2893' to 2883' elevation).]

11	---	13-2-1-P	**Whitefish regulations** clarify that moving a dock, shore station, or buoy to another location on the lake requires a permit.
12	---	13-2-1-Q	**Whitefish regulations** clarify that operation of machinery in the lakeshore protection zone requires a permit, except for seasonal removal/installation of docks.
EXEMPTIONS FROM REGULATIONS			
13	2.6	13-2-2-D	**County regulations** exempt *"repair work, provided that the repair work does not exceed 50% of the value and/or size of the structure."* However, the County and City just spent 5 years jointly prosecuting a violation on Whitefish Lake in which a property owner (mis)used this regulation provision to mean they could reconstruct a structure in the lakeshore protection zone over a 2 year period (50%/year). **Whitefish regulations** clarify that repair work which qualifies as routine maintenance is exempt and refers the applicant to the appropriate regulation section defining "repair" and "routine maintenance."
14	2.6	13-2-2-D	**County regulations** do not address real estate "For Sale" signs. **Whitefish regulations** exempt real estate signs in the lakeshore protection zone provided that size is less than six square feet.
CONSTRUCTION STANDARDS - Construction Season			
15	4.2.A.2.a.2	---	**County regulations**: For all work lakeward of the mean high water line on lakes other than Flathead Lake, the applicant is required to contact the Montana Department of Fish, Wildlife and Parks for determination of seasonal low pool before beginning work. **Whitefish regulations**: For similar permits on Whitefish Lake, the seasonal low pool has been determined to be Sept-Apr, and is specified on the approved permit. The same applies to Lost Coon Lake and Blanchard Lake, and could/should likely apply to all other non-dam controlled lakes in Flathead County.
CONSTRUCTION STANDARDS - Erosion, Sedimentation and Storm Runoff			
16	4.2.D.2.a	13-3-1-B-5	**County regulations**: This Section 4.2.D.2.a specifies all fill materials shall be sloped at "an <u>average</u> 2:1 ratio" which is in conflict to County Regulation Section 4.3.E.2.f.4, which specifies "a <u>maximum</u> slope of 2:1". County regulations also retain an error that does not define slope according to engineering standards which specify "horizontal:vertical". A 2:1 slope is only 26 degrees. **Whitefish regulations** have corrected this slope definition error by specifying a maximum slope of "one horizontal to two vertical (1:2) ratio."
CONSTRUCTION STANDARDS - Vegetation			
CONSTRUCTION STANDARDS - Lawns & Grasses			
17	---	13-3-1-D 13-3-1-E	**County regulations** do not address long-term systematic removal of trees and native vegetation in the lakeshore protection zone that can have a dramatic impact on surface water run-off and *"visual impact on natural scenic values"* [MT Statute 75-7-208(5)]. Some of the violations which have occurred on Whitefish Lake include: 1) Cutting 34 mature trees in the lakeshore protection zone to obtain a total unobstructed view of the lake for a new residence to be built. Maximum allowable fine under MT Statute = $500 per occurrence. 2) Removing all vegetation in the lakeshore protection zone over a number of years in order to establish a lawn extending to the lake. 3) De-limbing all but the top portion of 70-100' fir & pine trees to create an unobstructed view of the lake (see Exhibit C). **Whitefish regulations** have added standards for permitted tree removal and replanting of native vegetation and/or new trees, and strengthened the regulations on new lawns that allow the governing body to address possible violations.
CONSTRUCTION STANDARDS - Impervious Cover (Constructed Area)			
18	4.2.E.2.b	13-3-1-F	**County regulations** permit 10 square feet of total constructed area per linear foot of shoreline. **Whitefish regulations** permit 8 square feet of total constructed area per linear foot of shoreline. Changing this regulation to match County regulations would create a serious inconsistency with 25 years of joint permit administration on Whitefish Lake, and allow a 25% increase in constructed surface area, with corresponding increase in surface water runoff and negative impact on water quality.
CONSTRUCTION STANDARDS - Burning			
19	4.2.G.2	13-3-1-H	**County regulation**s specify that burning in the lakeshore protection zone shall be reviewed on a case by case basis and may only be allowed as a last resort, but do not clarify what that means. **Whitefish regulations** clarify that burning in the lakeshore protection zone requires a lakeshore permit, and also informs the applicant that, "Burning may also be subject to restrictions or require a permit under County or City code."
CONSTRUCTION STANDARDS - Setback Requirements			
20	4.2.H.1.b	13-3-1-I-2	**County regulations** encourage and allow common facilities shared by two or more property owners with a waiver of setback criteria. However, there is no provision to terminate the permit if one property owner withdraws from the agreement. **Whitefish regulations** add the clarification, "A permit issued for common facilities is granted on a conditional basis, and is valid only for the duration of the mutual agreement by the respective property owners to the conditions of the original permit."
21	---	13-3-1-I-4	**Whitefish regulations** clarify that structures or activities adjacent to rivers and streams may also be subject to floodplain regulations.

22	4.3.A.2	13-3-1-K	**County regulations** do not clarify that the permitted length of a dock includes any gangway. **Whitefish regulations** clarify the length includes the gangway.
23	4.3.A.2	13-3-1-K-15	**County regulations** do not address swim docks, which basically prohibits them because only one dock is allowed per waterfront property ownership. **Whitefish regulations** allow swim docks with specified conditions if lake frontage exceeds 100' and minimum setback requirements can be met.
24	4.3.A.2	13-3-1-K-16	**County regulations** do not address floating trampolines, even though these structures can be significantly larger than swim docks, and have far more impact on neighboring property owners. **Whitefish regulations** require a permit for floating trampolines with similar riparian setback requirements as swim docks.
25	4.3.A.2.a	13-3-1-K-4	**County regulations** only define a dock setback requirement for the boat access side of the dock. **Whitefish regulations** specify minimum setbacks to both riparian property lines.
26	4.3.A.2.a	13-3-1-K	**County regulations** for docks are more lenient than **Whitefish regulations** in water depth for extended docks beyond 60' (5' vs 4'); but more restrictive in setback (25' vs 20'), breakwater/wing length (25% vs 30%), and configuration (not allowing T-shape).
27	4.3.A.2.a.1	13-3-1-K-1	**County regulations** only allow one dock per waterfront property ownership, but don't define "common waterfront property ownership". **Whitefish regulations** define "common waterfront property ownership" and also allow multiple docks on multiple properties with independent dwelling units.
28	4.3.A.2.a.5	13-3-1-K-6	**County regulations** specify a maximum length of the "breakwater portion of a dock" -- which is undefined in the regulations. **Whitefish regulations** use more common terminology of "wing length of a dock" and include a diagram for easy visualization and understanding.
29	4.3.A.2.a.7 & 8	---	**County regulations**: These 2 sections (breakwater baffle boards and partially open docks) are confusing because they're located under Section "4.3.A.2.a All Facilities", and should be correctly located under Section "4.3.A.2.b Additional Standards - Crib & Concrete (fixed) Docks".
30	4.3.A.2.b	13-3-1-K-3	**County regulations** allow crib and concrete docks. These are feasible on Flathead Lake because the lake level is intentionally lowered 10 vertical feet in the winter to prevent ice damage (from 2893' to 2883' elevation). **Whitefish regulations** do not allow crib or concrete docks, as they would be destroyed by ice expansion during the winter. See attached Exhibit A photos. [NOTE: It might be advisable to have 2 sets of dock regulations -- one for floating docks applicable to all lakes in Flathead County, and one for crib/concrete docks applicable only to Flathead Lake.]
31	4.3.A.2.c	13-3-1-K-10 - 13	**County regulations** do not include these floating dock regulation sections from the **Whitefish regulations**, which address deteriorating docks (causing contamination), abandoned docks, repair materials on docks, and setback requirement disputes.
DESIGN STANDARDS - Marinas			
32	4.3.B.2.c & d	13-3-1-L-6 & 7	**County regulations** do not describe the difference between a private or public marina within the regulations. **Whitefish regulations** include the description from the DEFINITIONS section.
33	4.3.B.2.c & d	13-3-1-L-6-c & 7-c	**County regulations** do not allow additional marina length to facilitate adjustment on lakes with large level changes during the summer. **Whitefish regulations** allow an additional 12' gangway on both private and public marinas to reduce the number of required adjustments due to summer water level changes.
34	4.3.B.2.c & d	13-3-1-L-6-h & 7-h	**County regulations** do not address overnight dock mooring at private or public marinas outside of designated slips. **Whitefish regulations** require overnight mooring at private and public marinas to be in designated slips.
35	4.3.B.2.c.3	13-3-1-L-6-d	**County regulations** restrict boat slip wing length to a maximum 20' which is not enough to adequately protect expensive wake boats during a storm. **Whitefish regulations** allow a maximum boat slip wing length of 26'.
36	4.3.B.2.c.5	13-3-1-L-6-i	**County regulations** allow a private marina to include a boat ramp -- without any specified riparian setback. **Whitefish regulations** do not allow a private marina to have a boat ramp due to the impact of congested activity on neighboring property owners, and the inability to monitor possible contamination by invasive aquatic species.
37	4.3.B.2.d	13-3-1-L-7-l	**Whitefish regulations** allow for the requirement of "No Wake" buoys near a public marina if they are determined necessary for public safety.
38	4.3.B.2.d	13-3-1-L-7-m & n	**Whitefish regulations**: Since regulations for a public marina are far more lenient than a private marina in the number of permitted boat slips and constructed surface area, Whitefish regulations include two provisions to insure that a public marina remains accessible to the public, and is not converted to a private marina -- which has occurred in the past.

DESIGN STANDARDS - Boathouses, Boat Shelters and Shore Stations			
39	4.3.C	13-3-1-M-6 & 7	**County regulations** have not been updated to include floating personal watercraft stations or floating boat lifts. [NOTE: If an EZ-Dock floating boat lift is allowed to be installed parallel to a dock wing, it can result in a 16' dock width in violation of the regulations.] **Whitefish regulations** address PWC floating stations and requirements for installing a floating boat lift (including drawing).
40	4.3.C.2	13-3-1-M-8	**County regulations** do not address replacement of a shore station. **Whitefish regulation**s allow replacement of a shore station without a permit if the placement and size is the same as the shore station removed.
41	4.3.C.2	13-2-3-B	**County regulations** allow boat shelters, which is not a problem on Flathead Lake where the lake level is dropped 10' during the winter. **Whitefish regulations** do not allow permanent boat shelters as they would be damaged or destroyed by ice expansion during the winter.
42	4.3.C.2	13-3-1-M-4 & 8	**County regulations** do not specifically address what is counted as "impervious cover" (ie, Is a shore station without a canopy counted?) **Whitefish regulations** clarify that only a canopy/roof cover should be counted as constructed surface area (not a shore station without a canopy), and allows an exemption for a property owner who has a grandfathered non-conforming structure in the lakeshore zone to have a canopy on their shorestation.
43	4.3.C.2.g	13-3-1-M-2	**County regulations** only require 15' setback to a riparian line. **Whitefish regulations** require a 25' setback to a riparian line due to the height and possible obstruction of view for neighboring properties.
DESIGN STANDARDS - Boat Ramps and Boat Rail Systems			
44	4.3.D	13-3-1-N-3-d	**County regulations** do not address setback requirements for boat ramps or boat rail systems. [NOTE: The default setback requirement in Section 4.2.H is only 10'.] **Whitefish regulations** require a 25' setback from riparian line for a boat rail system to reduce the impact on the neighboring property.
45	4.3.D.2.a	13-3-1-N-1	**County regulations** allow private individual boat ramps. **Whitefish regulations** do not allow private individual boat ramps due to increased surface water runoff and the impact of congested activity on neighboring property owners.
46	4.3.D.2.i	13-3-1-N-3-a	**County regulations** require a boat rail system to be anchored to the lake bottom. **Whitefish regulations** require a boat rail system to be installed in a manner which permits removal during winter months to avoid ice damage.
47	---	13-3-1-N-3-c	**Whitefish regulations** clarify that only one boat rail system is allowed per property ownership.
DESIGN STANDARDS - Retaining Walls			
48	4.3.E.2	13-3-1-O-2-i & 3-c	Riprap and retaining walls not constructed in conformance with an issued lakeshore permit are one of the most common violations (ie, the property owner applied for the permit, but a contractor installed the riprap or wall without reviewing the permit criteria). With construction completed, this is also one of the most difficult/expensive violations to attempt to resolve. **Whitefish regulations** have added clarification that a detailed project plan and topographical survey must be submitted, and followed during construction of the riprap or wall.
49	4.3.E.2.f.1	13-3-1-O-3-d	**County regulations** state that riprap rock shall be sized properly for the specific task, but provide no guidelines. **Whitefish regulations** states that stone used for riprap shall be rock whose appearance is similar to native shoreline stone, sized between 6"-18" (12" nominal).
50	4.3.E.2.f.4	13-3-1-O-3-b	**County regulations** specify that riprap rock shall be placed at a maximum slope of 2:1 which is only 26 degrees -- an error from the original lakeshore regulations. When using engineering standards, slope is always specified as "horizontal:vertical". **Whitefish regulations** have corrected this slope definition error by specifying a maximum slope of "one horizontal to two vertical (1:2) ratio."
51	4.3.E.2.f.5	13-3-1-O-3-e	**County regulations** state filter fabric behind riprap is an optional requirement. **Whitefish regulations** require filter fabric behind riprap to inhibit erosion.
DESIGN STANDARDS - Utility Lines			
52	4.3.G.2.a.2	13-3-1-R-1-c	**County regulations** only require lighting to reflect away from adjacent properties. **Whitefish regulations** specify all lighting in the lakeshore protection zone to be low-voltage pathway lighting to reduce nighttime visual impact.
53	4.3.G.2.c.4	13-3-1-R-3-g	In 2004, a teenager was electrocuted after accidentally spearfishing waterpump electrical line on Whitefish Lake. **County regulations** only require waterpump electrical lines be installed in conformance with State Electrical Code. **Whitefish regulations** require that waterpump electrical lines be installed in protective conduit, and also clarify that State Electrical Code requires a ground-fault interuption (GFI) breaker.

DESIGN STANDARDS - Buoys			
54	4.3.I.2.d	13-3-1-T-3-f	**County regulations** allow a distance of 20' between a buoy and moored boat. [NOTE: Depending on wind direction, this 20' distance would require a 130' lot to prevent the moored boat from crossing the riparian line.] **Whitefish regulations** have reduced the distance to a more commonly used 12' between a buoy and moored boat -- which improves riparian setback and reduces risk to waterskiers.
55	4.3.I.2.e	13-3-1-T-3-g	**County regulations** state that the farthest swing of a buoy moored boat to a side property line shall be 25'. [NOTE: This would prohibit mooring buoys on all but the largest properties -- 25' setback + 20' mooring rope + 20' boat x 2 sides = 130' frontage to comply.] **Whitefish regulations** uses the same setback requirement, but only in the direction of the prevailing wind. Most lots on Whitefish Lake are 75' width, and buoys are prohibited on lots less than 75'.
56	4.3.I.2.f	13-3-1-T-3-h	**County regulations** state: Only 1 buoy-boat anchor is allowed per lakeshore property. [NOTE: This would mean a lakeshore owner with a home built on multiple properties could install multiple mooring buoys.] **Whitefish regulations** clarify that only 1 buoy is allowed per common waterfront property ownership, and includes the definition of "common ownership."
57	4.3.I.2	13-3-1-T-4	**County regulations** do not address buoy replacement. **Whitefish regulations** allow replacement of an existing buoy without a lakeshore permit, providing the replacement is the same location.
58	4.3.I.2	13-3-1-T-5	**County regulations** do not address swim floats to protect a swimming area. **Whitefish regulations** allow swim floats for public beaches, and private or public marinas, with a required permit. Setback requirements are also established for the riparian property lines.
DESIGN STANDARDS - Dwelling Units			
59	4.3.J.2.b	13-3-1-Y-3	**County regulations** retain this confusion/conflict from the original lakeshore regulations. Under DEFINITIONS, repair requires *"maintaining the exact design, size and configuration as was original prior to repair."* Yet this Section 4.3.J.2.B implies that a building can be modified/expanded *"provided that the builiding height is limited to twenty-five (25) feet."* **Whitefish regulations** removed the confusing text and clarify that existing grandfathered dwelling units shall be maintained in conformance with the regulation subsection on Nonconforming Structures.
DESIGN STANDARDS - Fences and Hedges			
60	4.3.K.1.b	13-3-1-X-1	**County regulations** allow fences and hedges within the lakeshore protection zone down to the high water level. However, this can restrict the access of wildlife along the lake. **Whitefish regulations** only allow fences or hedges within the lakeshore protection zone upon a showing of hardship, such as where a private residential property abuts a park, resort, commercial, or other incompatible use. Adopting county regulations would seriously restrict the flow and access of wildlife including deer, elk, bear and even moose that frequent the shoreline of Whitefish Lake.
DESIGN STANDARDS - Decks, Walkways & Stairways			
61	4.3.L	13-3-1-V	**County regulations** allow the construction of decks in the lakeshore protection zone. **Whitefish regulations**, since inception, have required all decks to be constructed behind (outside of) the lakeshore protection zone due to erosion from water runoff, the impact on neighboring property owners, and the potential for ice expansion damage (see Exhibit A).
62	4.3.L.2.e	13-3-1-W-5	**County regulations** state that walkways may be constructed *"of individual stones, gravel or imbedded wood."* A common violation occurs when a contractor unknowingly uses treated wood in the lakeshore protection zone. **Whitefish regulations** clarify that stairways *"shall be constructed of wood composite (ie, Trex) or untreated wood left in its natural unpainted condition. Stairways or walkways of poured in place concrete are prohibited"* due to winter ice damage.
DESIGN STANDARDS - Non-conforming Structures			
63	5.3	13-3-1-Z	**County regulations** have the section on Non-Conforming Structures in a separate chapter below Variances and Violations. This is very confusing and hard to find for lakeshore owners and applicants. **Whitefish regulations** have moved the section on Non-Conforming Structures under the chapter on Design Standards for Facilities (Chapter 4.3 in County regulations), which is much easier to find.
64	5.3.C	13-3-1-Z-6-a	**County regulations** require a non-conforming building or structure that has been destroyed over 50% by fire or calamity to be rebuilt in conformance with the regulations (ie, moved outside the lakeshore protection zone.) **Whitefish regulations** recognize the hardship and potential loss of value if a grandfathered structure is destroyed, and increased the allowable damage for rebuilding in the same location to 90%.

	Flathead Cty Section 2002 Regulations	Whitefish Section 2009 Regulations	DEFINITIONS
65	6	13-1-5	County regulations do not include a number of definitions which have been added to the Whitefish regulations for clarification and ease of understanding: ADMINISTRATIVE PERMIT, BUILDING, FLOATING BOAT LIFT, HAND TOOLS, IMPROVEMENT, NATIVE PLANTS, REAL VALUE, SWIMMING DOCK, WORK (requiring a permit).

66	6	13-1-5	APPLICANT: Whitefish regulations clarify that a "letter of authorization" is required for any permit submitted by someone other than the property owner.
67	6	13-1-5	DOCK LENGTH/DOCK WING: Whitefish regulations include a diagram for easy visualization and understanding.
68	6	13-1-5	LAKE FRONTAGE: Whitefish regulations add the clarification that lake frontage shall be determined by records at the Flathead County Assessor's Office, subdivision plats or certificates of survey.
69	6	13-1-5	LAKE FRONTAGE: Whitefish regulations define "common waterfront property ownership" so as to prevent multiple contiguous properties with a single dwelling unit from installing multiple docks or buoys.
70	6	13-1-5	LAKESHORE PROTECTION ZONE: Whitefish regulations include a diagram for easy visualization and understanding.
71	6	13-1-5	MAINTENANCE: Whitefish regulations clarify that painting or staining is only allowed on non-conforming structures built prior to 1978, and located landward of the mean high water line.
72	6	13-1-5	MARINA, PUBLIC: Whitefish regulations clarify that a public marina "provides boat slips and/or services, without restriction, to the general public." [NOTE: Public Marina regulations are far more lenient than Private Marina regulations in the number of boat slips and constructed surface area allowed.]
73	6	13-1-5	MARINA, PRIVATE: Whitefish regulations do not restrict private marinas only to an adjacent homeowners' association like the County regulations.
74	6	13-1-5	MEAN ANNUAL HIGH WATER ELEVATION: Whitefish regulations specify actual survey datum that can be used by a contractor or property owner in determining their mean high water line (ie, 3,000.79' for Whitefish Lake).
75	6	13-1-5	RECONSTRUCTION: Whitefish regulations clarify that reconstruction of a non-conforming structure is prohibited and to see definitions of Maintenance and Repair.
76	6	13-1-5	REPAIR: Whitefish regulations clarify that all repair materials shall comply with the regulation subsection titled "Construction Materials".
77	6	13-1-5	RIPARIAN BOUNDARY: Whitefish regulations include a diagram for easy visualization and understanding.
78	6	13-1-5	RIPRAP: Whitefish regulations clarify that riprap shall be limited to areas where active shoreline erosion is present and that riprap requires a permit.
79	6	13-1-5	SHORE STATION: Whitefish regulations have been updated to include shore stations for personal watercraft.
80	6	13-1-5	STRUCTURE: Whitefish regulations clarify that for the purposes of regulations, this definition includes structures floating on the water (eg, docks).

The following photos (Exhibit A, B and C) relate to the referenced asterisked sections in the attached spreadsheet.

<u>Exhibit A (see spreadsheet *9 & *30)</u>:

Whitefish Lake is located immediately below Big Mountain in the heaviest snowpack drainage of Flathead County. It is also one of the larger lakes and one of the most developed. These photos show the damage that can occur to shoreline docks and structures during a year of extreme ice expansion, and the need for regulations that allow the type of docks and projects in the lakeshore zone that are not subject to such damage.

<u>Exhibit B (see spreadsheet *4)</u>:

Gradual, long-term removal of natural vegetation and trees in the lakeshore protection zone, with corresponding replacement with lawns and landscaping can have significant cumulative impact on water quality. This example on Whitefish Lake shows the need for regulations to address vegetation and tree removal/replacement.

<u>Exhibit C (see spreadsheet *17)</u>:

Extreme de-limbing can kill mature trees and significantly impact the "natural scenic value" of the shoreline – one of the criteria in MT Statute #75-7-208 establishing lakeshore regulations.

The level of Flathead Lake is intentionally dropped 10' during the winter (from 2893' to 2883') to avoid ice damage to crib docks, pilings and structures in the lakeshore protection zone.

On Whitefish Lake (shown) during winters when thawing/freezing reoccurs, ice expansion can extend up to 10' or more – destroying any fixed shore stations, docks or structures in its path.

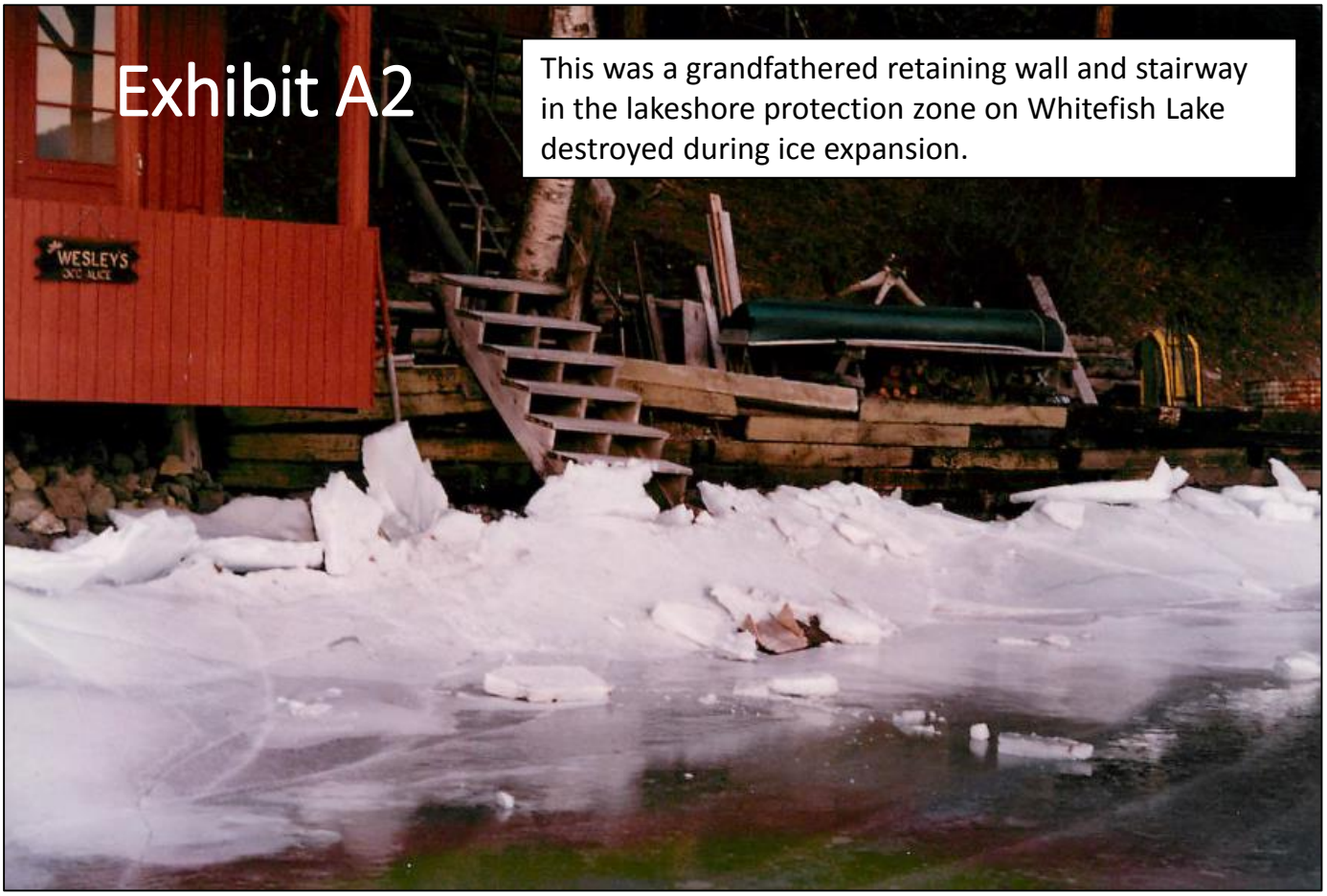


Exhibit A2
This was a grandfathered retaining wall and stairway in the lakeshore protection zone on Whitefish Lake destroyed during ice expansion.
WESLEY'S

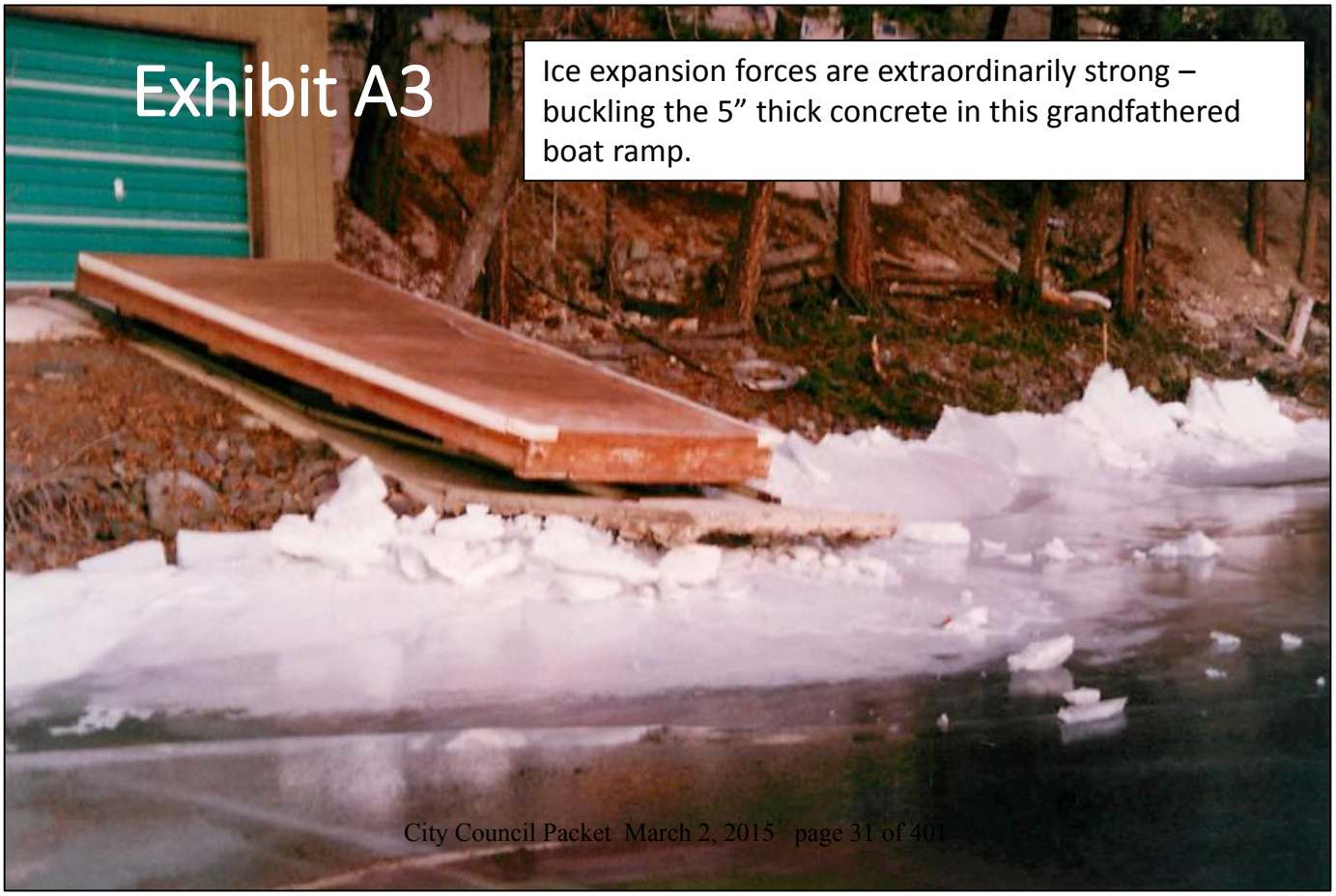
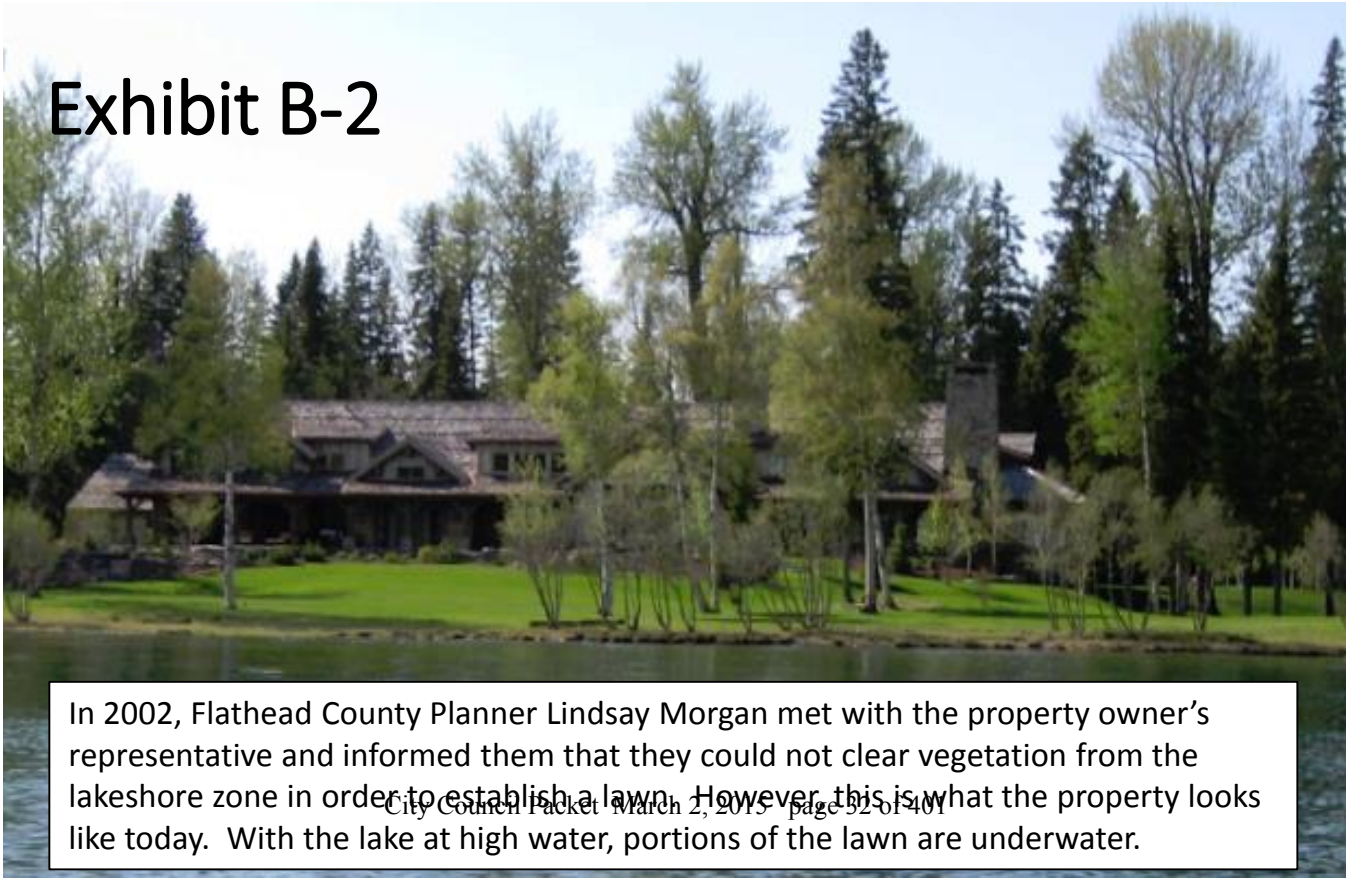


Exhibit A3
Ice expansion forces are extraordinarily strong – buckling the 5” thick concrete in this grandfathered boat ramp.

This is the northern shoreline of Whitefish Lake as it existed in 1990 in a baseline video from the Flathead County Planning Office (formerly Flathead Regional Development Office).



In 2002, Flathead County Planner Lindsay Morgan met with the property owner's representative and informed them that they could not clear vegetation from the lakeshore zone in order to establish a lawn. However, this is what the property looks like today. With the lake at high water, portions of the lawn are underwater.

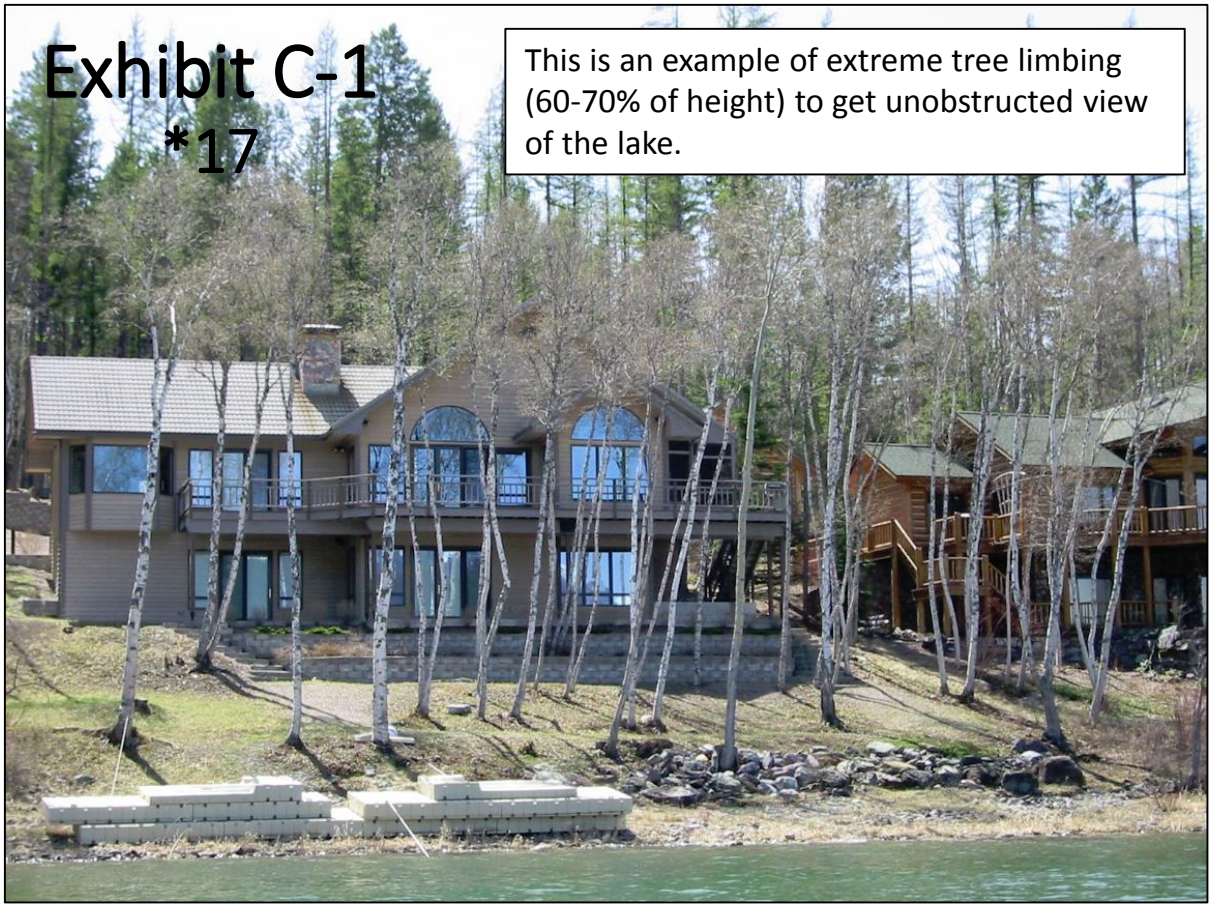


Exhibit C-1
*17
This is an example of extreme tree limbing (60-70% of height) to get unobstructed view of the lake.

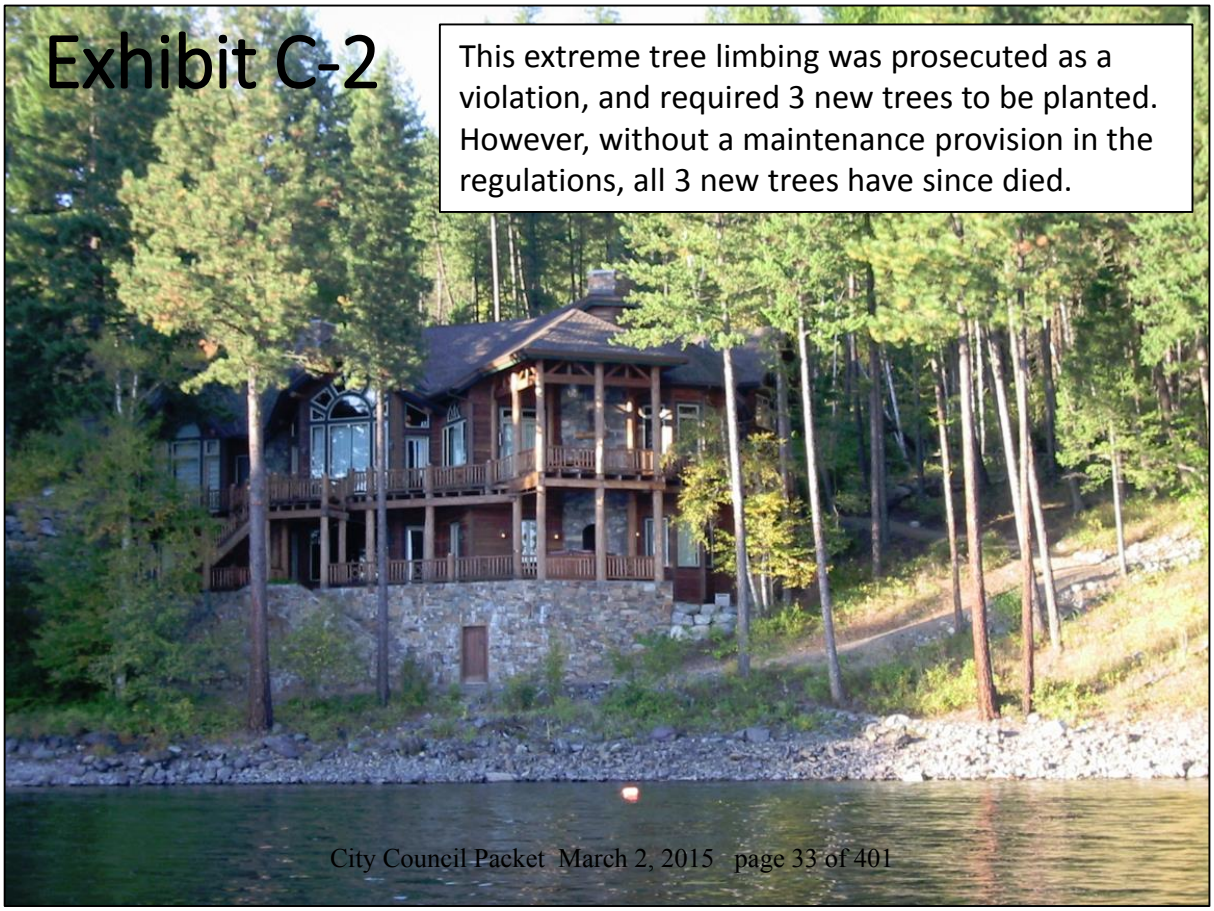


Exhibit C-2
This extreme tree limbing was prosecuted as a violation, and required 3 new trees to be planted. However, without a maintenance provision in the regulations, all 3 new trees have since died.

The following pages were handed out at the City Council meeting the night of the meeting. They are included here as an addendum to the packet.

received
3-2-15
Septic Packet

Date: Feb. 26, 2015

From: Jim Stack

Re: Personal Report to City Council

As a former chairman of the Whitefish Lake Protection Committee with over 20 years experience on the committee, I feel compelled if not obligated to provide insights and recommendations into the future of lakeshore regulations on Whitefish Lake.

It is truly unfortunate that over 25 years of joint administration of the Whitefish Lake & Lakeshore Regulations by the County Commissioners and Whitefish City Council abruptly ended with the Supreme Court ruling on the 2005 Interlocal Agreement. The lakeshore regulations were never part of the jurisdictional dispute, and in fact the county and city worked cooperatively together in updating Whitefish regulations in 2009, and addressing any lakeshore violations throughout the lawsuit.

In spite of numerous outreach efforts by current/past members and supporters of the WLPC, including original member Charlie Abell and former state Senator Bob Brown (who helped lead passage of legislation allowing lakeshore regulations), the County Planning Board and County Commissioners have shown little or no willingness to re-establish that working relationship with the city, or to re-adopt the 2004 Whitefish Lake & Lakeshore Regulations that were used by the county prior to the Interlocal Agreement.

The County Planning Office provided a 6-option Matrix (included in the City Council packet) for the County Planning Board to consider. With the spreadsheet comparison of county/city lakeshore regulations supplied by members of the WLPC, the County Planning Board did recognize the serious need to update the county lakeshore regulations. Unfortunately, an option that would have left either the 2009 or 2004 Whitefish Lake & Lakeshore Regulations in effect until the Flathead County regulations were updated was not included among the six options.

This has left the City in a difficult position in how to protect Whitefish Lake without undoing 25 years of cooperative achievement with past county commissioners, and how to continue the beneficial effect from all the years of work put into creating and administering the lakeshore regulations.

Attached are my personal thoughts and recommendations for agenda items on Monday afternoon's work session regarding lakeshore regulations, including a possible future role of the Whitefish Lake Protection Committee.

Sincerely,
Jim Stack

PERSONAL RECOMMENDATIONS:

- **City response to Flathead County actions**
  - The County Planning Board and County Commissioners selected Option 2 from the County Planning Office's Option Analysis Matrix (included in City Council packets). This option would *"review, revise and update Flathead County Lakeshore Regulations in the next fiscal year"* and place the county portion of Whitefish Lake and Lost Coon Lake under these updated county regulations.
  - While not the choice of Whitefish Lakeshore Regulation supporters (who preferred Options #3-6), this is not an unworkable solution. Members of the County Planning Board acknowledged that Whitefish Lakeshore Regulations had many provisions that should be considered and adopted in the County Lakeshore Regulations, and supported utilizing WLPC resources in updating the county regulations.
  - The problem is that the County Planning Board and Commissioners did not leave either the 2009 Whitefish Lakeshore Regulations (Option 4), or the pre-interlocal agreement 2004 Whitefish Lakeshore Regulations (Option 3) in place until the County Lakeshore Regulations could be updated.
  - Consequently, the county portion of Whitefish Lake will revert to Option 1: existing (outdated) County Lakeshore Regulations until they can be updated. This will have a serious negative impact in allowing structures and shoreline modification that have <u>never</u> been permitted under Whitefish Lakeshore Regulations - including crib or concrete docks, pilings, private boat ramps and decks in the lakeshore protection zone.
  - Without the County Commissioners' reconsideration of allowing the 2004 Whitefish Lakeshore Regulations to remain in place until County Lakeshore Regulations are updated, it would seem the City's only possible response to prevent this negative impact would be to require a lakeshore permit for all projects in or on Whitefish Lake below the mean low water line, and to require that such permits conform with the 2009 Whitefish Lake & Lakeshore Regulations.

- **Question of High and Low water elevations on Whitefish Lake**
  - HIGH WATER: In reviewing the recommendations from the Whitefish Lake Institute, the difference between 3,000.79' used for Mean High Water in the current regulations and 3,000.63' as proposed by WLI is only 1.9 inches vertically. While that change might allow a permanent structure to be built up to 6-8 inches closer to the lake, it is still relatively insignificant for most projects requiring lakeshore permitting.
    - The City might want to confirm the Whitefish Lake Institute methodology conforms with Montana Statute #75-7-202(4), which grants governing bodies the power to adopt lakeshore regulations and defines: *"<u>Mean annual high-water elevation is the mean average of the highest elevation of a lake in each of at least 5 consecutive years, excluding any high levels</u>*

caused by erratic or unusual weather or hydrological conditions."

- LOW WATER: The difference between Whitefish Lake Institute's recommended Mean Low Water Elevation of 2,997.06' and the lowest measured low water elevation of 2,996.28' equals 9.4" vertically. On a more level beach, that could translate up to 3' of lateral shoreline, however this would affect few, if any, lakeshore permits:
  - "Low Water" is not defined, and the elevation is not used in either the City or County lakeshore regulations.
  - Almost all projects are required to be above the Mean High Water line (i.e. steps, riprap, retaining walls), or instead extend through the low water into the lake (i.e. docks, waterlines, boat rail systems, boat ramps, etc.)
  - The only exception that low water elevation might affect is the permitted addition of gravel to a beach, and even that requires not placing gravel directly into the lake.

- **Question of administrating permits on or in Whitefish Lake**
  - The County Planning Director, BJ Grieves, openly expressed to both the County Planning Board and the County Commissioners that he was not in favor of administering two sets of lakeshore regulations (as the county did prior to the Interlocal Agreement). Personally, I do not feel that is an unreasonable assessment.
  - The optimal solution would be for the county to work cooperatively with past WLPC members and the city in updating County Lakeshore Regulations – perhaps even to a standard that the city might consider for all of Whitefish Lake.
  - However, I also feel the county has backed the city into a corner by not allowing the 2004 Whitefish Lakeshore Regulations to remain in place until the County Lakeshore Regulations can be updated.
  - Without knowing what discussions or negotiations have occurred between the city and county on permitting, I would recommend:
    - All permits for projects that extend below the low water line be reviewed by the Whitefish Planning Office and approved by the Whitefish City Council under the 2009 Whitefish Lakeshore Regulations. These would include waterlines, docks, marinas, buoys, shorestations, etc. However, private boat ramps, concrete or crib docks, pilings, etc. would be prohibited as they are not allowed by the Whitefish Lakeshore Regulations.
    - If any portion of these permits extends above the low water line then the approved permit would be forwarded to the county for review and (administrative?) approval. Ideally, the county might execute a MOU with the city that would allow permits that exist almost entirely within the lake to be approved only by the city.

- **The past/future role of the Whitefish Lake Protection Committee**
  - Less than twenty years ago, the Whitefish Lake Protection Committee performed all the functions of a planning office – from the onsite inspection, to preparing the

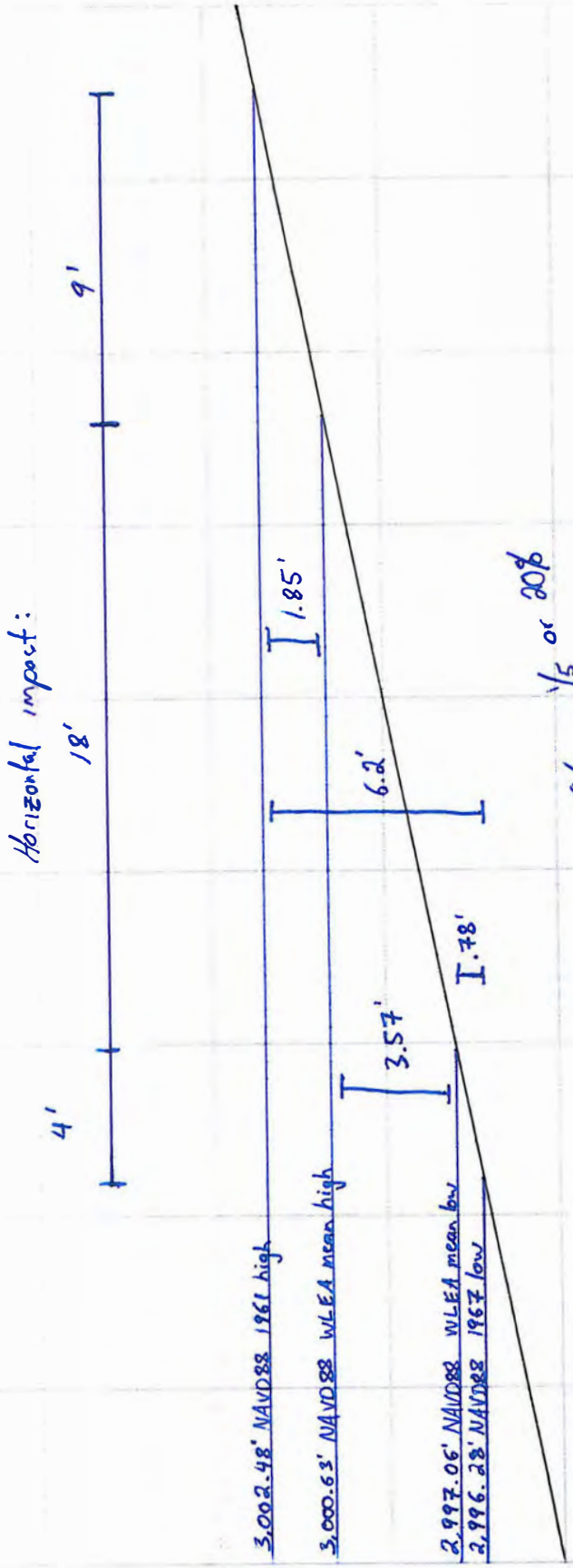
conditions-of-approval, to performing the post-project inspection. It was an exhaustive task for a 7-member volunteer committee. Today, both the county and city have established planning offices with trained staff to perform most of these functions.

- However, several roles of the Whitefish Lake Protection Committee are still as relevant, if not more important, today. These include:
  1) A public input and vetting process for keeping lakeshore regulations updated and current. Almost all regulatory revisions and improvements (even to the county regulations) have come through the Whitefish Lake & Lakeshore Protection Committee. [Note: the County Lakeshore Regulations have not been updated in over 13 years.]
  2) Review of permits and variances for accuracy and consistency. Mistakes are common if a "fill-in" planner is processing lakeshore permits, or if a submitted permit is incomplete or contains inaccuracies. The lakeshore committee has caught most of these in the past before they became a violation problem.
  3) A public avenue for privately (confidentially) reporting lakeshore violations. Most violations are first seen by a neighboring property owner who is concerned about the lake, but is also concerned about relations with their neighbor if they report a violation. A confidential call to a WLPC member allows a visual inspection from the lake and an immediate report of the violation, which often minimizes resolution time and expense. [Note: reporting a violation to the County Planning Office requires signing a formal Violation Complaint Form and agreeing to participate with the county in litigation against your neighbor.]
- It would seem a future role of the Whitefish Lake Protection Committee could serve more in an advisory capacity which included the above functions, but a less formal review of both city and county lakeshore permits to confirm that permits are accurate and variances are consistent. Other considerations:
  - Possibly reducing the committee from 7 to 5 members.
  - Allowing appointment of both city and county members by the Whitefish City Council if the County Commissioners refuse to participate in the joint advisory committee.

Called at Work Session 3-2-15

FLATHEAD COUNTY PLANNING AND ZONING

Date:_____ Time:_____
Project/File #:_____
Staff/Persons Present:_____
Sheet #:_____ Of:_____



MEMORANDUM
#2015-006

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Parking Structure SID – final work session prior to initiating SID

Date: February 23, 2015

Introduction/History

On May 20, 2013, the City Council, on a 4-3 vote with the Mayor breaking a 3-3 tie, approved the following motion:

> *Mayor Muhlfeld said there is a motion on the floor to approve structured parking with a city hall, and in parallel staff will research and bring back whether the feasibility for a BID by the September 3, Council Meeting. Staff has indicated it wouldn't be a completed BID at that time but they would bring back a proposal with parameters for the creation of a BID.*

A BID/Assessment District working group was formed to research and work on concepts for such a district. The working group consists of the following members:

Dave Boye –	Chamber of Commerce representative
Marcus Duffey -	Chamber of Commerce representative
Dale Reisch -	Heart of Whitefish representative
Chris Schustrom -	Heart of Whitefish representative
Necile Lorang -	City staff – Administrative Services Director/City Clerk
Rich Knapp -	City staff – Assistant City Manager/Finance Director
Chuck Stearns -	City Staff – City Manager

The committee met a number of times and the City Council held work sessions on the Parking BID/SID on March 17, 2014 and on September 2, 2014. During those work sessions, the City Council gave direction to proceed with a Special Improvement District (SID) rather than a Business Improvement District (BID) because of the limited term that a BID can be (10 years), so as not to form another organization (BID Board), and because of the more cumbersome creation requirements (petition method, 60% approval).

At the March 17, 2004 work session, the City Council directed us to go forward with pursuing a SID instead of a BID, size it at $750,000.00 for the parking structure, and to use the following variables pursuant to State law (see attached) as the variable upon which to base our assessments.

(a) Distance from our parking facility as represented by the two tiers
(e) Square footage of each property
(f) Credit for existing onsite parking space provided by the property

Then at the September 2, 2014 work session, the City Council directed us to use rectangles instead of circles for the Tier 1 and Tier 2 boundaries (see attached map).

Current Report

Attached in the packet is two page printout of our current framework spreadsheet for a SID. As shown on the last page, there are approximately 171 properties that would be assessed (Column Q, Line 178). Column P shows whether each property would be assessed (A) or exempt (E) from assessments. Properties are exempt from assessment if:

a. the properties are residential
b. the properties are vacant (i.e. they don't generate any parking demand)
c. federal properties like the Post Office (exempt by federal law or regulation)
d. outside of City limits (most BNSF properties)

Column R of the spreadsheet shows whether a property is in Tier 1 (closest to the parking structure – green rectangle on map in packet) or Tier 2 (further from the parking structure – blue rectangle on map in packet).

Columns Z to AK of the spreadsheet show the derivation of the assessments. Each property to be assessed is shown and the proposed principal amount of their assessments are shown in Column AK. If the property had a prior assessment for the prior downtown parking SID (SID #155 in 1996 for 20 years - $316,940.01 assessed with 8% interest per annum), that original principal assessment is shown in Column AL.

Column AO shows what each property's annual assessment would be if the bonds were sold at an interest rate of 4%. Of course, when we go to sell the bonds, the interest rate could go down and it also could go up, but 4% is a conservative estimate for a current rate.

The purpose now is to bring this information forward to the City Council for review and to answer your questions about the spreadsheet and proposed assessments. The next step is for you to direct us to proceed with the process to create the Special Improvement District. If you give us that direction, we will work with Dorsey and Whitney as Bond Counsel and City Attorney Mary VanBuskirk to create the Resolution of Intention, the notice, and the other necessary documents. There is a protest period of 15 days after the initial public notice published in the newspaper for property owners to protest.

Financial Requirement

The basic sizing and debt service calculation for the SID is shown below. The City Council wanted $750,000.00 to go towards the cost of the parking structure and the other costs are issuance, administration, and revolving fund (security for the payments) costs.

Construction SID alternative

SID $ to Structure	$750,000
Issuance Costs	$45,000
Revolving Fund Contribution (5% of principal)	$44,000
Underwriter's Discount (1.4% of principal)	$12,320
Admin Fees (3% of principal)	$26,400
Contingency	$2,280
Total of SID Bond	$880,000
Annual Debt Service (20 years @ 4%)	$64,752

$64,752 / 171 =	$378.67	
CURRENT SID #155 RANGE	$15.68	TO $1,461
119 ASSESSED IN TY13	Average assessment was $210	

Column AK in the attached spreadsheet shows each property's proposed principal assessment and column AO shows each property's estimated annual assessment with interest at 4%. A property owner can choose to pay off the SID at any time to avoid paying interest.

If the SID were created this year, we would still not assess the properties until the parking structure is complete or almost complete as we can't assess the properties until property owners have use of the asset for which the SID was created (i.e. the parking structure). Thus, the first assessment would most likely not be until November, 2017. Interest would accrue from the date the bonds are sold until each year that is assessed, again likely beginning in November, 2017.

Recommendation

Staff respectfully recommends the City Council give staff direction on when to proceed with initiating the proposed Parking Structure Special Improvement District.

Montana Code Annotated 2013

7-12-4165. Assessment of costs -- offstreet parking option. (1) When the purpose of the assessment is for the establishment and/or improvement of offstreet parking as provided in this section, the city council or commission shall assess, against the real property specifically benefited by the offstreet parking facilities, the cost of the developments involved in proportion to the benefits received by each benefited tract of land within said district.

(2) In determining the benefit to be received by each parcel of land, the council or commission shall consider:

(a) the relative distance of the parking facility from each parcel of land within the area of the special improvement district;

(b) the relative needs of parking spaces for each parcel of land located within the boundaries of said district, either as established by the city zoning ordinance, if any, or otherwise, with relation to the use of said parcel;

(c) the assessed value of each parcel within said district;

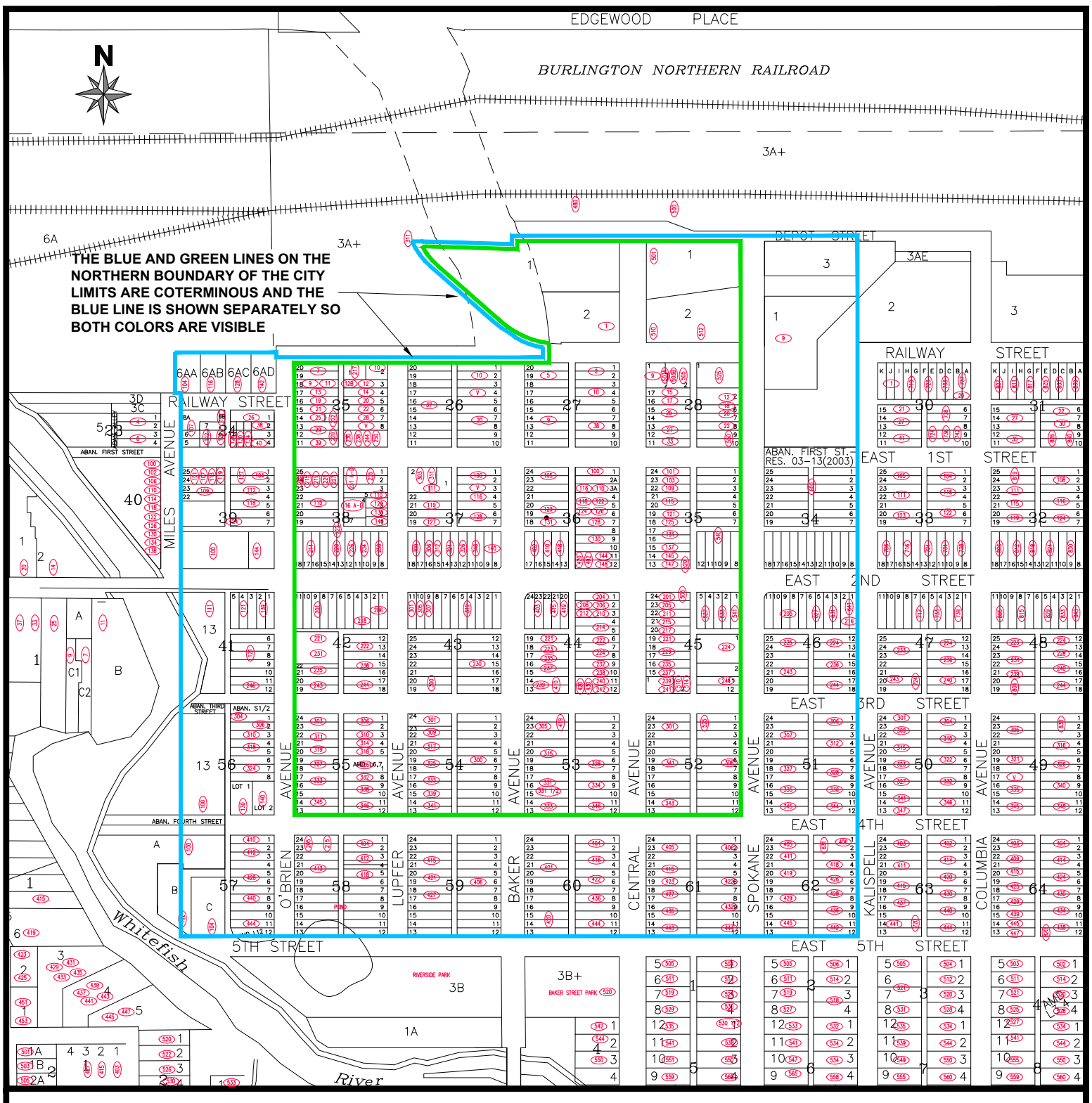
(d) the square footage of each parcel within said district as it relates to the whole;

(e) the square footage of floorspace in any improvements on the parcel and the various uses of such floorspace;

(f) the availability of existing onsite parking space on any parcel of land within the district.

History: En. Sec. 14, Ch. 89, L. 1913; re-en. Sec. 5238, R.C.M. 1921; amd. Sec. 1, Ch. 163, L. 1925; re-en. Sec. 5238, R.C.M. 1935; amd. Sec. 1, Ch. 39, L. 1955; amd. Sec. 1, Ch. 330, L. 1971; amd. Sec. 1, Ch. 85, L. 1973; R.C.M. 1947, 11-2214(part); amd. Sec. 40, Ch. 665, L. 1985.

Provided by Montana Legislative Services



PARKING STRUCTURE SID BOUNDARIES
DATE: DECEMBER 10, 2014

TIER 1 ASSESSMENT
(APPROXIMATELY 1/8 MILE FROM PARKING STRUCTURE-INSIDE THE CITY LIMITS)

TIER 2 ASSESSMENT
(APPROXIMATELY 1/8 MILE TO 1/4 MILE FROM PARKING STRUCTURE-INSIDE THE CITY LIMITS)

Parking Structure SID - Assessment Schedule 2/20/15 page 1 of 2

	A	E	G	P	Q	R	S	Z	AA	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO	AP
1	Prepared:	February 20, 2015																					
2	Control q hides rows																	$900,000	Original Principal Assessment	Difference		Parking SID Assessment (AK	Additional SID
3	ASSRNO	OWN	Addr1	Assessed or exem	Reason Exempt or Assess	Tier	Use	Square footage of floorspace	Square footage	% of square foota	Equals Square footage divided b	Proporation of AD to total of AD	Allocation of assessment	# of Existing onsite	Notes on parking spaces	Proportion of Credit for	Credit for existing onsite parkir	Parking SID Assessment	SID #155 ($316,940.01 originally)			estimated annual payment	payment on monthly
4								from CAMA Assessor Reports	notes	of floorspace	Tier # so that Tier 2 pays	for pro rata distribution of	by floor space	parking spaces		on site parking spaces		(over 20 years with interest)	(over 20 years with interest)			at 4% interest over 20 years	basis
5								for each property (includes basements)			one half of tier one	base assessment	and tier										(col AO/12)
6	0000955	ABELL LIFE ESTATE, TERRELL LOUIS	343 CENTRAL AVE	A		1	The Bungalow	1,530		0.1750%	0.1750%	0.208194706955744000%	$1,936,210	7.00		0.80%	$399.02	$1,537.19	$ 3,857.89	($2,320.70)		$113.11	$9.43
7	0001345	PERO REVOCABLE TRUST, ROBERT W	300 E 2ND ST	A		1		7,704		0.8813%	0.8813%	1.048321583259510000%	$9,749,390	0.00		0.00%	$0.00	$9,749.39				$717.38	$59.78
8	0001550	STEPHENS FAMILY TRUST, GARY F	122 CENTRAL AVE	A		1	Toggery	30,250		3.4603%	3.4603%	4.116267898961610000%	$38,281,290	2.00		0.23%	$114.01	$38,167.28	$ 7,315.98	$30,851.30		$2,808.42	$234.03
9	0004461	NORTH VALLEY FOOD BANK INC	16 BAKER AVE	A		1	Vacant with Shed	128		0.0146%	0.0146%	0.017417596398912000%	$161,980	0.00		0.00%	$0.00	$161.98	$ 728.73	($566.75)		$11.92	$0.99
10	0004549	SOROPTIMIST CLUB OF WHITEFISH	303 E 1ST ST	A		1		2,488		0.2846%	0.2846%	0.338554530000385100%	$3,148,560	7.00		0.80%	$399.02	$2,749.54				$202.32	$16.86
11	0005195	HAGADONE MONTANA PUBLISHING LLC	312 E 2ND ST	A		1	Whitefish Pilot	1,500		0.1716%	0.1716%	0.204112457799749000%	$1,898,250	4.00		0.46%	$228.01	$1,670.24	$ 728.73	$941.51		$122.90	$10.24
12	0005743	DOUBLE S HOLDINGS LLC	9 CENTRAL AVE	A		1		4,727		0.5407%	0.5407%	0.643226392012944000%	$5,982,010	0.00		0.00%	$0.00	$5,982.01				$440.17	$36.68
13	0005744	ALPHA APARTMENTS LLC	503 RAILWAY ST	A		1		5,071		0.5801%	0.5801%	0.690036182335020000%	$6,417,340	0.00		0.00%	$0.00	$6,417.34				$472.20	$39.35
14	0008708	MAC DONALD, MARK B	419 UNIT 2 SPOKANE A	A		2	National Parks Conservation A	880		0.1007%	0.0503%	0.059872987621259800%	$556,820	2.75		0.31%	$156.76	$400.06				$29.44	$2.45
15	0008740	NORTH COUNTRY BUILDERS INC	144 UNIT 301 E 2ND ST	A		2		448		0.0512%	0.0256%	0.030480793698095900%	$283,470	0.33		0.04%	$18.81	$264.66	$ 273.27	($8.61)		$19.47	$1.62
16	0009801	DUFFY & THOMAS HOLDINGS LLC	130 LUPFER AVE	A	Assessor treats these a	1	White Room	1,540		0.1762%	0.1762%	0.209555456674400900%	$1,948,870	0.00		0.00%	$0.00	$1,948.87				$143.40	$11.95
17	0009802	LAKEVIEW PROPERTIES LLC	120 LUPFER AVE	A	Assessor treats these a	1	Edward Jones	1,212		0.1386%	0.1386%	0.164922865902198000%	$1,533,780	0.00		0.00%	$0.00	$1,533.78				$112.86	$9.40
18	0009803	KNOT DESIGN & DEVELOPMENT LLC	116 UNIT A LUPFER AV	A	Assessor treats these a	1	Kennedy Jenks	956		0.1094%	0.1094%	0.130087673104374000%	$1,209,820	1.50		0.17%	$85.50	$1,124.32				$82.73	$6.89
19	0009953	MAXWELL, REECIA & RONALD L	110 UNIT A LUPFER AV	A	Beauty Salon	1		2,000		0.2288%	0.2288%	0.272149943732999000%	$2,530,990	0.00		0.00%	$0.00	$2,530.99				$186.23	$15.52
20	0010257	MAXWELL, REECIA & RONALD L	110 UNIT B LUPFER AV	A	Beauty Salon	1		592		0.0677%	0.0677%	0.080556383344967800%	$749,170	0.00		0.00%	$0.00	$749.17				$55.13	$4.59
21	0010258	LEWIS LIVING TRUST, FRANK M & SARAH B	235 E 1ST ST	A	Restaurant	1	Pescado Blanco	3,300		0.3775%	0.3775%	0.449047407159449000%	$4,176,140	3.00		0.34%	$171.01	$4,005.13				$294.70	$24.56
22	0011581	HALF FULL LLC	215 E 1ST ST	A	Assessor treats this as	1	Zane Ray	945		0.1081%	0.1081%	0.128590848413842000%	$1,195,890	0.00		0.00%	$0.00	$1,195.89				$88.00	$7.33
23	0011582	HALF FULL LLC	227 E 1ST ST	A	Assessor treats this as	1	Zane Ray	945		0.1081%	0.1081%	0.128590848413842000%	$1,195,890	0.00		0.00%	$0.00	$1,195.89				$88.00	$7.33
24	0011586	PASTOR FAMILY HG LLC	231 UNIT D E 1ST ST	A	Office condo	1		968		0.1107%	0.1107%	0.131720572766772000%	$1,225,000	1.00		0.11%	$57.00	$1,168.00				$85.94	$7.16
25	0011587	NO NAME PROPERTIES LLC	231 UNIT E E 1ST ST	A	Office condo	1		968		0.1107%	0.1107%	0.131720572766772000%	$1,225,000	1.00		0.11%	$57.00	$1,168.00				$85.94	$7.16
26	0011588	JONES, LISA	231 UNIT F E 1ST ST	A	Office condo - Lisa Jon	1		504		0.0577%	0.0577%	0.068581785820715800%	$637,810	1.00		0.11%	$57.00	$580.81				$42.74	$3.56
27	0011589	KIMMET, CRISTIANA FERRAZ & SHAWN PATRICK	231 UNIT G E 1ST ST	A	Office condo	1		504		0.0577%	0.0577%	0.068581785820715800%	$637,810	1.00		0.11%	$57.00	$580.81				$42.74	$3.56
28	0011742	FOR THE YOUTH LLC	420 E 5TH ST	A	Calvarly Church - shed	2		7,256		0.8300%	0.4150%	0.493679997931660100%	$4,591,220	13.00		1.48%	$741.04	$3,850.18				$283.30	$23.61
29	0012718	PICHETCHAIYAKUL, SUNTI & ERICA FIGUEIREDO	345 SPOKANE AVE	A		2	Was church; under constructio	5,595		0.6400%	0.3200%	0.380669733379653300%	$3,540,230	5.00		0.57%	$285.01	$3,255.22				$239.52	$19.96
30	0013270	MTC LAND LLC	158 UNIT 150 RAILWAY	A		2	Montana Creative (Architects)	1,433		0.1639%	0.0820%	0.097497717342347000%	$906,730	0.00		0.00%	$0.00	$906.73				$66.72	$5.56
31	0013271	MTC LAND LLC	152 UNIT 152 RAILWAY	A	Assessed by County As	2	White Cloud Design?	1,288		0.1473%	0.0737%	0.087632281882025800%	$814,980	0.00		0.00%	$0.00	$814.98				$59.97	$5.00
32	0013815	KNOT DESIGN & DEVELOPMENT LLC	116 UNIT C LUPFER AV	A		1		1,388		0.1588%	0.1588%	0.188872060950701000%	$1,756,510	1.50		0.17%	$85.50	$1,671.01				$122.96	$10.25
33	0013816	FOX, SUSAN	116 UNIT D LUPFER AV	A		1		1,288		0.1473%	0.1473%	0.175264563764052000%	$1,629,960	1.50		0.17%	$85.50	$1,544.46				$113.64	$9.47
34	0013988	RED CABOOSE OF WHITEFISH LLC	103 CENTRAL AVE	A		1	Red Caboose	1,744		0.1995%	0.1995%	0.237314750935175000%	$2,207,030	4.00		0.46%	$228.01	$1,979.02				$145.62	$12.13
35	0014362	PERO REVOCABLE TRUST, ROBERT W	300 E 2ND ST	A		1	Old Town Creative	7,704		0.8813%	0.8813%	1.048321583259510000%	$9,749,390	0.00		0.00%	$0.00	$9,749.39				$717.38	$59.78
36	0014363	PERO REVOCABLE TRUST, ROBERT W	304 E 2ND ST	A		1		7,704		0.8813%	0.8813%	1.048321583259510000%	$9,749,390	0.00		0.00%	$0.00	$9,749.39				$717.38	$59.78
37	0017998	ASHLEY TRUST, KENNETH R	127 LUPFER AVE	A	No longer residential	1	Glacier Cyclery storage bldg	800		0.0915%	0.0915%	0.108859977493200000%	$1,012,400	0.00	See Glacier Cyclery cred	0.00%	$0.00	$1,012.40				$74.49	$6.21
38	0025830	PMT PROPERTIES LLC	17 CENTRAL AVE	A		1		3,500		0.4004%	0.4004%	0.476262401532749000%	$4,429,240	0.00		0.00%	$0.00	$4,429.24	$ 1,647.57	$2,781.67		$325.91	$27.16
39	0031401	346 CENTRAL AVENUE PARTNERSHIP LLP	346 CENTRAL AVE	A		1	Tim Murphy Insurance/Eye Dr	4,377		0.5007%	0.5007%	0.595600151859666900%	$5,539,080	6.00		0.68%	$342.02	$5,197.06				$382.41	$31.87
40	0039000	REISCH FAMILY PARTNERSHIP	9 BAKER AVE	A		1	Markus Foods	15,129		1.7306%	1.7306%	2.058678249368270000%	$19,145,710	35.00		3.99%	$1,995.10	$17,150.61	$ 3,731.91	$13,418.70		$1,261.97	$105.16
41	0079877	STONE CONDOMINIUM LLC	102 E 2ND ST	A		2	Riverside Plaza office condo	2,189		0.2504%	0.1252%	0.148934056707884000%	$1,385,090	6.08	allocated based on propo	0.69%	$346.77	$1,038.32	$ 416.43	$621.89		$76.40	$6.37
42	0102710	306 2ND REALTY LLC	306 E 2ND ST	A		1	2nd Street Pizza	1,920		0.2196%	0.2196%	0.261263945983679000%	$2,429,750	2.00		0.23%	$114.01	$2,315.74	$ 364.36	$1,951.38		$170.40	$14.20
43	0120000	AMERICAN BANK OF MONTANA	100 BAKER AVE	A		1	Realty office on Amer Bank	2,280		0.2608%	0.2608%	0.310250935855619000%	$2,885,330	6.00		0.68%	$342.02	$2,543.31	$ 728.73	$1,814.58		$187.14	$15.60
44	0123150	328 CENTRAL LLC	328 CENTRAL AVE	A		1	Bike shop/coffee	2,128		0.2434%	0.2434%	0.289567540131911100%	$2,692,980	6.00		0.68%	$342.02	$2,350.96	$ 3,020.53	($669.57)		$172.99	$14.42
45	0126715	4R MINNOWS, LP	217 CENTRAL AVE	A	1st floor assessed at 23	1	57 Boutique	2,352		0.2690%	0.2690%	0.320048333383000700%	$2,976,450	2.00		0.23%	$114.01	$2,862.44	$ 2,100.94	$761.50		$210.62	$17.55
46	0135610	HYATT & ASSOCIATES LTD	242 UNIT D CENTRAL A	A		1		2,700		0.3088%	0.3088%	0.367402424039549000%	$3,416,840	0.00		0.00%	$0.00	$3,416.84	$ 774.65	$2,642.19		$251.42	$20.95
47	0136040	101 CENTRAL LLC	101 CENTRAL AVE	A		1	Casey's	11,409		1.3051%	1.3051%	1.552479354024890000%	$14,438,060	0.00		0.00%	$0.00	$14,438.06	$ 2,963.85	$11,474.21		$1,062.38	$88.53
48	0152365	GRAY, DARRELL & LAEL	215 UNIT A CENTRAL A	A		1	Northwinds T-shirts	1,383		0.1582%	0.1582%	0.188191686091369000%	$1,750,180	0.00		0.00%	$0.00	$1,750.18	$ 329.40	$1,420.78		$128.78	$10.73
49	0152366	GODSEY, JOHN C & MARGARET M	244 LUPFER AVE	A	Short term rental? Ass	1		1,778		0.2034%	0.2034%	0.241941299978636000%	$2,250,050	2.00		0.23%	$114.01	$2,136.04				$157.17	$13.10
50	0162050	TRACY, LEO W	327 SPOKANE AVE	A		2	Leo Tracy Law Office	1,536		0.1757%	0.0879%	0.104505578393472000%	$971,900	12.00		1.37%	$684.03	$287.87	$ 3,217.42	($2,929.55)		$21.18	$1.77
51	0192237	COLGROVE, SCOTT C	12 SPOKANE AVE	A		1	Stumptown Marketplace	6,070		0.6943%	0.6943%	0.825975079229653000%	$7,681,570	1.00		0.11%	$57.00	$7,624.57	$ 2,632.03	$4,992.54		$561.03	$46.75
52	0233890	SHARLA MT INVESTORS LLC	419 E 2ND ST	A		1	Wasabi Restaurant and above	7,632		0.8730%	0.8730%	1.038524185285120000%	$9,658,270	0.00		0.00%	$0.00	$9,658.27	$ 2,100.94	$7,557.33		$710.67	$59.22
53	0234040	TMJ PROPERTIES LLC	106 E 2ND ST	A		2	Riverside Plaza office condo	1,061		0.1214%	0.0607%	0.072187772575178100%	$671,350	2.95	allocated based on propo	0.34%	$168.08	$503.27	$ 416.43	$86.84		$37.03	$3.09
54	0247961	G.N.V. DOWNTOWN LLC	205 UNIT B SPOKANE A	A		2		1,980		0.2265%	0.1132%	0.134714222147835000%	$1,252,840	15.00		1.71%	$855.04	$397.80	$ 6,586.87	($6,189.07)		$29.27	$2.44
55	0250000	FRANK LLOYD WRIGHT MONTANA LLP	341 CENTRAL AVE	A		1	Frank Lloyd Wright Building	5,683		0.6501%	0.6501%	0.773314065117317000%	$7,191,820	31.00		3.53%	$1,767.09	$5,424.73	$ 7,379.32	($1,954.59)		$399.16	$33.26
56	0253201	SAMARAH HOLDINGS LLC	250 E 2ND ST	A		1	Quickees	3,906		0.4468%	0.4468%	0.531508840110548000%	$4,943,030	3.00		0.34%	$171.01	$4,772.02	$ 1,093.09	$3,678.93		$351.13	$29.26
57	0254015	PMT PROPERTIES LLC	15 CENTRAL AVE	A		1	Tupelos	2,513		0.2875%	0.2875%	0.341956404300514000%	$3,180,190	1.00		0.11%	$57.00	$3,123.19	$ 1,647.57	$1,475.62		$229.81	$19.15
58	0281750	17 HANDS LLC	520 E 2ND ST	A		1	Mum's Flowers	2,372		0.2713%	0.2713%	0.322769833267333700%	$3,001,760	0.00		0.00%	$0.00	$3,001.76	$ 817.00	$2,184.76		$220.87	$18.41
59	0365962	LUPFER PROPERTIES LLC	37 LUPFER AVE	A	Assessor lists as comm	2	Ian Collins apartment bldg	19,920		2.2786%	1.1393%	1.355306719790340000%	$12,604,350	24.00		2.74%	$1,368.07	$11,236.28				$826.79	$68.90
60	0369926	10 BAKER LLC	10 BAKER AVE	A		1	Naked Noodle Restaurant	2,250		0.2574%	0.2574%	0.306168686699624000%	$2,847,370	16.00		1.82%	$912.04	$1,935.33	$ 1,093.09	$842.24		$142.40	$11.87
61	0382550	NORTH VALLEY MUSIC SCHOOL	432 SPOKANE AVE	A	ASSESSED AS RESID	2	North Valley Music School	3,960		0.4530%	0.2265%	0.269428444295566900%	$2,505,680	7.00		0.80%	$399.02	$2,106.66				$155.01	$12.92
62	0395039	CUTFORTH HOLDINGS LLC	224 SPOKANE AVE	A		1	Downtowner Inn	13,733		1.5709%	1.5709%	1.868717588642640000%	$17,379,070	27.00		3.08%	$1,539.08	$15,839.99	$ 5,629.55	$10,210.44		$1,165.53	$97.13
63	0405005	SPEER, ROBERTA L	239 UNIT 1 CENTRAL A	A		1	Roberta Speer clothiing store	2,976		0.3404%	0.3404%	0.404959116274703000%	$3,766,120	4.00		0.46%	$228.01	$3,538.11	$ 714.33	$2,823.78		$260.34	$21.70
64	0407720	GLENWOOD PARTNERS LLC	110 E 2ND ST	A		2	Riverside Plaza office condo	1,895		0.2168%	0.1084%	0.128931035843508000%	$1,199,060	5.27	allocated based on propo	0.60%	$300.20	$898.86	$ 416.43	$482.43		$66.14	$5.51
65	0412350	LAZAR, DONNA C	221 BAKER AVE	A		1	Back of travel agency	1,440		0.1647%	0.1647%	0.195947959487759000%	$1,822,320	0.00		0.00%	$0.00	$1,822.32	$ 968.44	$853.88		$134.09	$11.17
66	0429630	PASTOR, MONICA	311 E 1ST ST	A		1	Former Food Bank	2,497		0.2856%	0.2856%	0.339779204750650000%	$3,159,950	3.00		0.34%	$171.01	$2,988.94				$219.93	$18.33
67	0430700	ROMMEREIM, DOUGLAS J & KATHLEEN	27 CENTRAL AVE	A		1	Great Northern - north end	2,700		0.3088%	0.3088%	0.367402424039549000%	$3,416,840	2.00		0.23%	$114.01	$3,302.83	$ 3,295.14	$7.69		$243.03	$20.25
68	0465600	WHITEFISH FRONTIERS LLC	123 CENTRAL AVE	A		1	Remedies/Crepe store	4,075		0.4661%	0.4661%	0.554505510359586000%	$5,156,900	2.00		0.23%	$114.01	$5,042.89	$ 1,647.57	$3,395.32		$371.06	$30.92
69	0471500	PATRIOT PROPERTIES 2 LLC	142 RAILWAY ST	A	COMMERCIAL - CONE	2	Highline Homes	921		0.1054%	0.0527%	0.062662524544523100%	$582,760	0.00		0.00%	$0.00	$582.76				$42.88	$3.57
70	0477200	WHITEFISH HOSTEL LLC	28 LUPFER AVE	A		1	Hostel	1,600		0.1830%	0.1830%	0.217719954986399000%	$2,024,800	2.00		0.23%	$114.01	$1,910.79				$140.60	$11.72
71	0484010	J G S CORPORATION	100 UNIT 4 E 2ND ST	A		2	Riverside Plaza office condo	5,732		0.6557%	0.3278%	0.389990869369388800%	$3,626,920	15.93	allocated based on propo	1.82%	$908.04	$2,718.88	$ 416.43	$2,302.45		$200.06	$16.67
72	0486301	LAZAR, DONNA C	221 BAKER AVE	A		1	Travel Agency	1,320		0.1510%	0.1510%	0.179618962863779000%	$1,670,460	0.00		0.00%	$0.00	$1,670.46	$ 968.44	$702.02		$122.92	$10.24
73	0500193	LATITUDE PROPERTIES LLC	229 CENTRAL AVE	A		1	Whitefish Gift and Gear	5,300		0.6063%	0.6063%	0.721197350892448000%	$6,707,140	2.00		0.23%	$114.01	$6,593.13	$ 3,594.62	$2,998.51		$485.13	$40.43
74	0506150	NORTON, REBECCA A	419 UNIT 1 SPOKANE A	A	ASSESSED AS RESID	2	Rebecca Norton - Handworks'	940		0.1075%	0.0538%	0.063955236777254800%	$594,780	2.75		0.31%	$156.76	$438.02				$32.23	$2.69
75	0514300	BRUNK, RONALD K & JANET A	324 E 2ND ST	A		1	Glacier Cyclery	5,500		0.6291%	0.6291%	0.748412345265748000%	$6,960,230	5.00		0.57%	$285.01	$6,675.22	$ 1,457.46	$5,217.76		$491.17	$40.93
76	0561651	LARSEN, LARRY J & SIGRID E	239 BAKER AVE	A		1	Liquor Store	3,360		0.3843%	0.3843%	0.457211905471439000%	$4,252,070	8.00		0.91%	$456.02	$3,796.05	$ 2,347.62	$1,448.43		$279.32	$23.28
77	0565300	GOOD MEDICINE INC	27 CENTRAL AVE	A	1000 sq ft is apartment	1	Great Northern Bar south end	4,760		0.5445%	0.5445%	0.647716866084538000%	$6,023,770	0.00		0.00%	$0.00	$6,023.77	$ 1,342.34	$4,681.43		$443.24	$36.94
78	0600341	PALACE BAR	125 CENTRAL AVE	A	Assessor says 1500 sq	1	Palace Bar	6,100		0.6978%	0.6978%	0.830057328385648000%	$7,719,530	0.00		0.00%	$0.00	$7,719.53	$ 2,010.42	$5,709.11		$568.02	$47.33
79	0616450	WHITEFISH CREDIT UNION ASSOCIATION	315 BAKER AVE	A	Assessor says 2 apartn	1	Whitefish Credit Union annex	4,069		0.4654%	0.4654%	0.553689060524787000%	$5,149,310	13.00		1.48%	$741.04	$4,408.27				$324.37	$27.03
80	0618450	NELSON HARDWARE INC	224 CENTRAL AVE	A		1	Nelson Hardware	6,500		0.7435%	0.7435%	0.884487317132247000%	$8,225,730	0.00		0.00%	$0.00	$8,225.73	$ 3,815.63	$4,410.10		$605.26	$50.44
81	0618500	CENTRAL AVE LLC	222 CENTRAL AVE	A	Assessor says 2250 sq	1	Purple Pomegranete	5,125		0.5862%	0.5862%	0.697384230815810000%	$6,485,670	0.00		0.00%	$0.00	$6,485.67	$ 1,994.97	$4,490.70		$477.23	$39.77
82	0657546	SUMMIT PROPERTIES LLC	525 RAILWAY ST	A	Retail and office buildin	1		8,906		1.0187%	1.0187%	1.211883699443305000%	$11,270,520	0.00		0.00%	$0.00	$11,270.52	$ 8,562.60	$2,707.92		$829.30	$69.11
83	0676932	CENTRAL AVE LLC	141 CENTRAL AVE	A	Assessor says 1568 sq	1		3,416		0.3908%	0.3908%	0.464832103895963000%	$4,322,940	6.00		0.68%	$342.02	$3,980.92	$ 1,483.49	$2,497.43		$292.92	$24.41
84	0685101	CVJ LLC	214 CENTRAL AVE	A	Assessor says 2000 sq	1		6,084		0.6959%	0.6959%	0.827880128835784000%	$7,699,290	7.00	some for upstairs	0.80%	$399.02	$7,300.27	$ 4,062.33	$3,237.94		$537.17	$44.76
85	0686354	MARTIN REAL ESTATE HOLDINGS LLC	237 BAKER AVE	A		1		4,038		0.4619%	0.4619%	0.549470736396926000%	$5,110,080	4.00		0.46%	$228.01	$4,882.07	$ 2,741.41	$2,140.66		$359.23	$29.94
86	0686800	SILVERMAN, PAUL H & CONSTANCE M	533 E 2ND ST	A		1	Nature Baby Outfitters	925		0.1058%	0.1058%	0.125869348976512000%	$1,170,580	0.00		0.00%	$0.00	$1,170.58	$ 4,299.97	($3,129.39)		$86.13	$7.18
87	0686900	EDWARDS' OUTDOORS	334 CENTRAL AVE	A		1	Fly fishing store	3,720		0.4255%	0.4255%	0.506198895343337900%	$4,707,650	8.00		0.91%	$456.02	$4,251.63	$ 4,194.34	$57.29		$312.84	$26.07
88	0687126	BARNES, FRANK D & NAOMI G	201 E 2ND ST	A		1	Eye clinic	2,912		0.3331%	0.3331%	0.396250318075247000%	$3,685,130	26.00		2.96%	$1,482.07	$2,203.06	$ 1,821.81	$381.25		$162.11	$13.51
89	0688158	IMAGINATION STATION PARTNERSHIP	221 CENTRAL AVE	A		1	Imagination Station	3,120		0.3569%	0.3569%	0.424553912223473900%	$3,948,350	0.00		0.00%	$0.00	$3,948.35	$ 2,265.02	$1,683.33		$290.53	$24.21
90	0699933	BRUNK, RONALD K & JANET ASHLEY	326 E 2ND ST	A		1	Garage for Glacier Cyclery	560		0.0641%	0.0641%	0.076201984245239800%	$708,680	0.00		0.00%	$0.00	$708.68	$ 728.73	($20.05)		$52.15	$4.35

	A	E	G	P	Q	R	S	Z	AA	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO	AP
1	Prepared:	February 20, 2015																					
2	Control q hides rows																	$900,000	Original Principal Assessment	Difference		Parking SID Assessment (AK	Additional SID
3	ASSRNO	OWN	Addr1	Assessed or exem	Reason Exempt or Assess	Tier	Use	Square footage of floorspace	Square footage	% of square foota	Equals Square footage divided b	Proporation of AD to total of AD	Allocation of assessment	# of Existing onsite	Notes on parking spaces	Proportion of Credit for	Credit for existing onsite parkir	Parking SID Assessment	SID #155 ($316,940.01 originally)			estimated annual payment	payment on monthly
4								from CAMA Assessor Reports	notes	of floorspace	Tier # so that Tier 2 pays	for pro rata distribution of	by flooor space	parking spaces		on site parking spaces		(over 20 years with interest)	(over 20 years with interest)			at 4% interest over 20 years	basis
5								for each property (includes basements)			one half of tier one	base assessment	and tier										(col AO/12)
91	0708950	PROFESSIONAL ARTS BUILDING PARTNERSHIP	401 BAKER AVE	A		2	Professional Arts Building	7,938		0.9080%	0.4540%	0.540081563338137000%	$5,022,760	30.00		3.42%	$1,710.08	$3,312.68	$ 6,234.17	($2,921.49)		$243.75	$20.31
92	0710376	BAD LLC	333 BAKER AVE	A		1		2,242		0.2565%	0.2565%	0.305080086924692000%	$2,837,240	6.00		0.68%	$342.02	$2,495.22	$ 2,068.50	$426.72		$183.60	$15.30
93	0714600	MC GOUGH FAMILY TRUST	131 CENTRAL AVE	A		1	McGoughs	8,335		0.9534%	0.9534%	1.134184890507270000%	$10,547,920	2.00		0.23%	$114.01	$10,433.91	$ 3,493.91	$6,940.00		$767.75	$63.98
94	0724240	DRYNAN, CRAIG BRUCE AKA CRAIG B	232 CENTRAL AVE	A		1	Crystal Winters	3,120		0.3569%	0.3569%	0.424553912223479000%	$3,948,350	2.00		0.23%	$114.01	$3,834.34	$ 1,936.87	$1,897.47		$282.14	$23.51
95	0745800	AUCOIN, CHARLES E	14 LUPFER AVE	A		1	Shed + Retail Building	1,636		0.1871%	0.1871%	0.222618653973593000%	$2,070,350	2.00		0.23%	$114.01	$1,956.34				$143.95	$12.00
96	0756460	FIRST INTERSTATE BANK	306 SPOKANE AVE	A		1	1st Interstate Bank	13,872		1.5868%	1.5868%	1.887632009732080000%	$17,554,980	38.00		4.33%	$2,166.11	$15,388.87	$ 14,155.95	$1,232.92		$1,132.34	$94.36
97	0770750	MAY DISCLAIMER TRUST, LINDA RAE	144 CENTRAL AVE	A		1	Bulldog Saloon with Basemen	5,280		0.6040%	0.6040%	0.718475851455118000%	$6,681,830	2.00		0.23%	$114.01	$6,567.82	$ 2,149.98	$4,417.84		$483.27	$40.27
98	0777509	MOUNTAIN MEADOW LLC	205 CENTRAL AVE	A		1		2,970		0.3397%	0.3397%	0.404142666443504000%	$3,758,530	2.00		0.23%	$114.01	$3,644.52	$ 1,592.41	$2,052.11		$268.17	$22.35
99	0780390	PENALUNA ENTERPRISES	238 CENTRAL AVE	A		1	Idol Gallary	3,675		0.4204%	0.4204%	0.500075521609386000%	$4,650,700	2.00		0.23%	$114.01	$4,536.69	$ 1,370.70	$3,165.99		$333.82	$27.82
100	0789725	BIG WIG INC	128 CENTRAL AVE	A		1	Stumptown Snowboards	3,800		0.4347%	0.4347%	0.517084893092699000%	$4,808,890	3.00		0.34%	$171.01	$4,637.88	$ 1,483.49	$3,154.39		$341.26	$28.44
101	0792215	ICP M 100 LLC	115 CENTRAL AVE	A		1	Coopers Restaurant	12,617		1.4432%	1.4432%	1.716857920039630000%	$15,966,780	4.00		0.46%	$228.01	$15,738.77	$ 2,632.03	$13,106.74		$1,158.09	$96.51
102	0818650	HUFF TRUST, MARY KAY	209 CENTRAL AVE	A		1		4,560		0.5216%	0.5216%	0.620501871711238000%	$5,770,670	2.00		0.23%	$114.01	$5,656.66	$ 1,657.75	$3,998.91		$416.23	$34.69
103	0824209	WESTERN MONTANA REAL ESTATE FUND LLC	110 CENTRAL AVE	A		1	Piney Creek Design/inc Canop	8,754		1.0014%	1.0014%	1.191200303719340000%	$11,078,160	4.00		0.46%	$228.01	$10,850.15	$ 1,367.68	$9,482.47		$798.37	$66.53
104	0837350	JENSON, MICHAEL T & BARBARA ANN	237 CENTRAL AVE	A		1	Bakery	2,640		0.3020%	0.3020%	0.359237925727559000%	$3,340,910	0.00		0.00%	$0.00	$3,340.91	$ 1,797.31	$1,543.60		$245.83	$20.49
105	0857810	MAC KENZIE, DUNCAN JAMES	420 E 2ND ST	A		1	Barber, Realty, Bozeman Wat	5,430		0.6211%	0.6211%	0.738887097235093000%	$6,871,650	0.00		0.00%	$0.00	$6,871.65	$ 2,149.98	$4,721.67		$505.63	$42.14
106	0863650	AMERICAN BANK OF MONTANA	140 BAKER AVE	A		1		10,504		1.2015%	1.2015%	1.429331504487510000%	$13,292,780	22.00		2.51%	$1,254.06	$12,038.72	$ 1,975.72	$10,063.00		$885.83	$73.82
107	0865900	LONG HALL LLC	22 SPOKANE AVE	A		1	Long Hall	5,691		0.6510%	0.6510%	0.774402664892249000%	$7,201,940	2.00		0.23%	$114.01	$7,087.93	$ 1,647.57	$5,440.36		$521.54	$43.46
108	0865990	J G S CORPORATION	100 UNIT 5 E 2ND ST	A		2	Riverside Plaza office condo	5,952		0.6808%	0.3404%	0.404959116274703000%	$3,766,120	16.54	allocated based on propo	1.89%	$942.89	$2,823.23	$ 416.43	$2,406.80		$207.74	$17.31
109	0865995	DARROW, REED & CATHIE E	140 E 2ND ST	A		2	Riverside Plaza office condo	2,242		0.2565%	0.1282%	0.152540043462346000%	$1,418,620	6.23	allocated based on propo	0.71%	$355.17	$1,063.45	$ 416.43	$647.02		$78.25	$6.52
110	0880875	ARRANGEMENTS LLC	206 LUPFER AVE	A		1	High Country Builders	4,242		0.4852%	0.4852%	0.577230030657691000%	$5,368,240	10.00		1.14%	$570.03	$4,798.21	$ 2,885.72	$1,912.49		$353.06	$29.42
111	0882150	WHITEFISH CREDIT UNION ASSOCIATION	300 BAKER AVE	A		1	WF Credit Union	10,808		1.2363%	1.2363%	1.470698295933130000%	$13,677,490	32.00		3.65%	$1,824.09	$11,853.40	$ 11,598.55	$254.85		$872.19	$72.68
112	0890170	CAMPBELL, LARRY J	419 E 3RD ST	A		1	Sweat Peaks?	2,640		0.3020%	0.3020%	0.359237925727559000%	$3,340,910	0.00		0.00%	$0.00	$3,340.91	$ 1,510.26	$1,830.65		$245.83	$20.49
113	0891400	ADLINGTON, RONALD J & BARBARA A	550 E 1ST ST	A		2		4,960		0.5674%	0.2837%	0.337465930022891900%	$3,138,430	2.00		0.23%	$114.01	$3,024.42	$ 3,295.14	($270.72)		$222.54	$18.55
114	0897100	STUMPTOWN ART STUDIO	147 CENTRAL AVE	A		1	Stumptown Arts Studio	4,000		0.4576%	0.4576%	0.544299887465998000%	$5,061,990	2.00		0.23%	$114.01	$4,947.98	$ 1,319.41	$3,628.57		$364.08	$30.34
115	0913301	FOLCO DEVELOPMENT CORPORATION	147 CENTRAL AVE	A		1	Latitude 48	4,000		0.4576%	0.4576%	0.544299887465998000%	$5,061,990	0.00		0.00%	$0.00	$5,061.99	$ 1,332.99	$3,729.00		$372.47	$31.04
116	0924050	T-2 INVESTMENTS LLC	415 E 2ND ST	A		1	Chill Store	3,650		0.4175%	0.4175%	0.496673647312724000%	$4,619,060	2.00		0.23%	$114.01	$4,505.05	$ 2,100.94	$2,404.11		$331.49	$27.62
117	0924100	TURNER, DAVID P	220 E 2ND ST	A		1	Flathead Computers	3,144		0.3596%	0.3596%	0.427819711548275000%	$3,978,720	4.00		0.46%	$228.01	$3,750.71	$ 1,457.46	$2,293.25		$275.98	$23.00
118	0924700	HOPPIT LLC	144 UNIT 102 E 2ND ST	A		2		551		0.0630%	0.0315%	0.037488654749220060%	$348,640	0.33		0.04%	$18.81	$329.83	$ 273.27	$56.56		$24.27	$2.02
119	0931620	SVENNUNGSEN REVOCABLE TRUST, NANCY	201 UNIT 1A CENTRAL	A		1	Village Shop	1,496		0.1711%	0.1711%	0.203568157912283000%	$1,893,180	2.00		0.23%	$114.01	$1,779.17	$ 405.34	$1,373.83		$130.91	$10.91
120	0934050	SWIFT CREEK INC	307 E 2ND ST	A		1	Swift Creek Café	900		0.1029%	0.1029%	0.122467474679850000%	$1,138,950	0.00		0.00%	$0.00	$1,138.95	$ 153.95	$985.00		$83.81	$6.98
121	0966000	FOLCO DEVELOPMENT CORPORATION	10 CENTRAL AVE	A		1	Craggy Range/inc Canopy Ro	6,062		0.6934%	0.6934%	0.824886479454721000%	$7,671,440	1.00		0.11%	$57.00	$7,614.44	$ 2,536.98	$5,077.46		$560.28	$46.69
122	0969414	C & L HOLDINGS LLC	234 E 2ND ST	A		1	Mambo Italianio Restaurant	3,600		0.4118%	0.4118%	0.489869898719399000%	$4,555,790	3.00		0.34%	$171.01	$4,384.78	$ 728.73	$3,656.05		$322.64	$26.89
123	0971026	HEDMAN HILEMAN & LACOSTA BUILDING PARTNERSHIP	204 CENTRAL AVE	A		1	Hedman, Hileman & Lacosta	5,268		0.6026%	0.6026%	0.716842951792720000%	$6,666,640	3.00		0.34%	$171.01	$6,495.63	$ 1,961.38	$4,534.25		$477.96	$39.83
124	0972050	RICHATTI INVESTMENT CORPORATION	244 SPOKANE AVE	A		1	Third Street Market & above	10,925		1.2497%	1.2497%	1.486619067641510000%	$13,825,560	10.00		1.14%	$570.03	$13,255.53	$ 5,841.65	$7,413.88		$975.37	$81.28
125	0972167	FIRST NATIONAL BANK OF WHITEFISH	300 E 3RD ST	A		1	Glacier Bank	12,676		1.4500%	1.4500%	1.724886343337975000%	$16,041,440	42.00		4.79%	$2,394.12	$13,647.32	$ 14,345.97	($698.65)		$1,004.19	$83.68
126	0972551	305 EAST 2ND ST LLC	305 E 2ND ST SPACE 2	A		1	Art Gallery?	2,040		0.2334%	0.2334%	0.277592942607659000%	$2,581,610	0.00		0.00%	$0.00	$2,581.61	$ 153.95	$2,427.66		$189.96	$15.83
127	0972552	NEWMAN, MICHAEL M	301 1A E 2ND ST	A		1	Duncan Sampson	650		0.0744%	0.0744%	0.088448737171322480%	$822,570	0.00		0.00%	$0.00	$822.57	$ 153.95	$668.62		$60.53	$5.04
128	0972553	BOODY, BRUCE	301 1B E 2ND ST	A		1	Duncan Sampson - Bruce Boo	755		0.0864%	0.0864%	0.102736603759207000%	$955,450	0.00		0.00%	$0.00	$955.45	$ 153.95	$801.50		$70.30	$5.86
129	0972554	BOODY, BRUCE H	301 1C E 2ND ST	A		1	Duncan Sampson - Bruce Boo	770		0.0881%	0.0881%	0.104777728337205000%	$974,430	0.00		0.00%	$0.00	$974.43	$ 153.95	$820.48		$71.70	$5.98
130	0972555	WAMBEKE, CHRISTOPHER	301 1D E 2ND ST	A		1	Duncan Sampson - Flip Spina	1,050		0.1201%	0.1201%	0.142878720459825000%	$1,328,770	0.00		0.00%	$0.00	$1,328.77	$ 153.95	$1,174.82		$97.77	$8.15
131	0972556	RHOADS, KENT L & DEBRA S	301 2A E 2ND ST	A	NEW SHORT TERM R	1	Duncan Sampson	625		0.0715%	0.0715%	0.085046857416562300%	$790,940	0.00		0.00%	$0.00	$790.94	$ 153.95	$636.99		$58.20	$4.85
132	0973203	KELSAY, CONNIE S	215 UNIT B CENTRAL A	A		1	Sappari	1,285		0.1470%	0.1470%	0.174856338484852000%	$1,626,160	0.00		0.00%	$0.00	$1,626.16	$ 329.40	$1,296.76		$119.66	$9.97
133	0973204	RAYHILL, RITA E	215 UNIT C CENTRAL A	A		1	Sappari	1,311		0.1500%	0.1500%	0.178394288116981000%	$1,659,070	0.00		0.00%	$0.00	$1,659.07	$ 329.40	$1,329.67		$122.08	$10.17
134	0973205	RAYHILL, RITA	215 UNIT D CENTRAL A	A		1		1,138		0.1302%	0.1302%	0.154853317984077000%	$1,440,140	1.00		0.11%	$57.00	$1,383.14	$ 329.40	$1,053.74		$101.77	$8.48
135	0973206	GRAY, DARRELL & LAEL	215 UNIT E CENTRAL A	A		1		726		0.0830%	0.0830%	0.098790429575078700%	$918,750	0.00		0.00%	$0.00	$918.75	$ 329.40	$589.35		$67.60	$5.63
136	0973715	MC CREA, THOMAS S & CARLENE D	505 E 2ND ST	A		1	Property Management Compa	1,702		0.1947%	0.1947%	0.231599602116782000%	$2,153,880	1.00		0.11%	$57.00	$2,096.88	$ 405.34	$1,691.54		$154.29	$12.86
137	0973716	SVENNUNGSEN REVOCABLE TRUST, NANCY	201 UNIT 2A CENTRAL	A		1	Village Shop Condo	613		0.0701%	0.0701%	0.083413957754164300%	$775,750	0.00		0.00%	$0.00	$775.75	$ 405.34	$370.41		$57.08	$4.76
138	0973717	SVENNUNGSEN, MARK & NANCY	201 UNIT 2B CENTRAL	A		1	Village Shop Condo	912		0.1043%	0.1043%	0.124100374342248000%	$1,154,130	0.00		0.00%	$0.00	$1,154.13	$ 405.34	$748.79		$84.92	$7.08
139	0973718	SVENNUNGSEN, MARK & NANCY	201 UNIT 2C CENTRAL	A		1	Village Shop Condo	1,045		0.1195%	0.1195%	0.142198345600492000%	$1,322,440	0.00		0.00%	$0.00	$1,322.44	$ 405.34	$917.10		$97.31	$8.11
140	0974096	GILFILLAN, THOMAS G	240 CENTRAL AVE	A		1	Whitefish Pottery	3,750		0.4290%	0.4290%	0.510281144499337400%	$4,745,610	4.00		0.46%	$228.01	$4,517.60	$ 774.65	$3,742.95		$332.41	$27.70
141	0974097	JOHNSON, LANI K	242 CENTRAL	A		1	Odd Fellows Condo Units A - I	2,700		0.3088%	0.3088%	0.367402424039549000%	$3,416,840	0.00		0.00%	$0.00	$3,416.84	$ 774.65	$2,642.19		$251.42	$20.95
142	0974098	SCOTT, TOBY	420 E 3RD ST	A		1	Toby Scott's Condo	2,160		0.2471%	0.2471%	0.293921939231639000%	$2,733.470	0.00		0.00%	$0.00	$2,733.47	$ 774.65	$1,958.82		$201.13	$16.76
143	0975278	ADAMS, RICHARD A & LORI P	443 CENTRAL AVE	A		2	Clear Skies Pre School	1,388		0.1588%	0.0794%	0.094436030475350700%	$878,260	2.00		0.23%	$114.01	$764.25				$56.23	$4.69
144	0975491	SCHOTT, SANDRA	235 CENTRAL AVE	A		1	Bear Mountain Mercantile	6,125		0.7006%	0.7006%	0.833459202682310000%	$7,751,170	2.00		0.23%	$114.01	$7,637.16	$ 2,100.94	$5,536.22		$561.96	$46.83
145	0975865	335 SPOKANE AVENUE ASSOCIATES LLC	335 SPOKANE AVE	A		2	Malmquist Construction	2,799		0.3202%	0.1601%	0.190436923127166000%	$1,771,060	8.00		0.91%	$456.02	$1,315.04	$ 1,928.94	($613.90)		$96.76	$8.06
146	0975888	MAETZOLD FAMILY TRUST	516 E 3RD ST	A		1	Buffalo Café	1,763		0.2017%	0.2017%	0.239900175400639000%	$2,231,070	0.00		0.00%	$0.00	$2,231.07	$ 1,344.61	$886.46		$164.17	$13.68
147	0976968	REBMANN FAMILY TRUST, THEODORE A & MARILYN W	305 BAKER AVE	A		1	Walking Man Frame Shop	2,160		0.2471%	0.2471%	0.293921939231639000%	$2,733.470	0.00		0.00%	$0.00	$2,733.47	$ 1,510.26	$1,223.21		$201.13	$16.76
148	0977414	O'SHAUGHNESSY, LAWRENCE P	33 CENTRAL AVE	A		1	Larry O'Shaughnessy Vac Bld	504		0.0577%	0.0577%	0.068581785820715800%	$637.810	11.00		1.25%	$627.03	$10.78	$ 2,605.71	($2,594.93)		$0.79	$0.07
149	0977458	LUDERMAN, GERALD E & BETTY J	411 SPOKANE AVE	A		2	Village Square Realty	764		0.0874%	0.0437%	0.051980639253002800%	$483,420	3.00		0.34%	$171.01	$312.41				$22.99	$1.92
150	0977676	YOMR LLC	130 CENTRAL AVE	A		1	The Remington ?	23,396		2.6762%	2.6762%	3.183610041788620000%	$29,607,570	1.00		0.11%	$57.00	$29,550.57	$ 6,310.39	$23,240.18		$2,174.38	$181.20
151	0977771	ISLEY REVOCABLE TRUST, STEPHEN L	241 CENTRAL AVE	A		1	Isley Jewelry	737		0.0843%	0.0843%	0.100287254265610000%	$932,670	0.00		0.00%	$0.00	$932.67	$ 714.33	$218.34		$68.63	$5.72
152	0977772	ISLEY REVOCABLE TRUST, STEPHEN L	510 E 3RD ST	A		1	Part of Isley Jewelry	780		0.0892%	0.0892%	0.106138478055870000%	$987,090			0.00%	$0.00	$987.09	$ 714.33	$272.76		$72.63	$6.05
153	0977773	MAETZOLD FAMILY TRUST	514 E 3RD ST	A		1	pt Buffalo Café	1,062		0.1215%	0.1215%	0.144511620122223000%	$1,343.960	0.00		0.00%	$0.00	$1,343.96	$ 714.33	$629.63		$98.89	$8.24
154	0977779	BALD EAGLE PARTNERSHIP	20 SPOKANE AVE	A		1	Whitefish Builders	3,680		0.4210%	0.4210%	0.500755896468719000%	$4,657.030	11.00		1.25%	$627.03	$4,030.00	$ 2,632.03	$1,397.97		$296.53	$24.71
155	0978374	307 SPOKANE AVENUE LLC	307 SPOKANE AVE	A		2	Greg Carter's Office Bldg	15,904		1.8192%	0.9096%	1.082068176282410000%	$10,063.230	21.00		2.39%	$1,197.06	$8,866.17	$ 4,867.23	$3,998.94		$652.39	$54.37
156	0980187	EMMERT REV TRUST, ZONDA KAY	208 CENTRAL AVE	A		1	Bradford's Clothing Store	12,268		1.4033%	1.4033%	1.669367754858220000%	$15,525.120	5.00		0.57%	$285.01	$15,240.11	$ 2,265.02	$12,975.09		$1,121.39	$93.45
157	0980771	TALLENT, TAMMY & GARRY	235 BAKER AVE	A		1	Town Printer	2,300		0.2631%	0.2631%	0.312972435292949000%	$2,910.640	0.00		0.00%	$0.00	$2,910.64	$ 1,370.70	$1,539.94		$214.17	$17.85
158	0980913	FLATHEAD INDUSTRIES FOR THE HANDICAPPED	223 BAKER AVE	A		1	Flathead Industries Thrift Shop	2,840		0.3249%	0.3249%	0.386452920108590000%	$3,594.010	5.00		0.57%	$285.01	$3,309.00	$ 1,370.70	$1,938.30		$243.48	$20.29
159	0981980	KNOT DESIGN & DEVELOPMENT LLC	116 UNIT B LUPFER AV	A		1	Retail Condo	1,161		0.1328%	0.1328%	0.157983042337006000%	$1,469.240	1.50		0.17%	$85.50	$1,383.74				$101.82	$8.48
160	0982130	GREAT NORTHERN BREWERY COMPANY	2 CENTRAL AVE	A		1	Great Northern Brewery	9,332		1.0675%	1.0675%	1.269851637458170000%	$11,809.620	1.00		0.11%	$57.00	$11,752.62	$ 1,122.52	$10,630.10		$864.78	$72.06
161	0982131	PASLAWSKY, ANDREW	144 UNIT 100 E 2ND ST	A		2	Engineering Office	266		0.0304%	0.0152%	0.018097971258244400%	$168.310	0.33		0.04%	$18.81	$149.50	$ 273.27	($123.77)		$11.00	$0.92
162	0982132	SULLIVAN, BRIAN	144 UNIT 201 E 2ND ST	A		2	F & H Land Surveying	551		0.0630%	0.0315%	0.037488654749220060%	$348,640	0.33		0.04%	$18.81	$329.83	$ 273.27	$56.56		$24.27	$2.02
163	E000345	RHODES, DOUGLAS	144 UNIT 200 E 2ND ST	A		2	Sunlit Architecture	255		0.0292%	0.0146%	0.017349558912978700%	$161,350	0.33		0.04%	$18.81	$142.54	$ 273.27	($130.73)		$10.49	$0.87
164	E001244	FLATHEAD COUNTY	121 E 2ND ST	A		2	Golden Agers Community Cer	4,400		0.5033%	0.2517%	0.299364938106299000%	$2,784.090	20.00		2.28%	$1,140.06	$1,644.03				$120.97	$10.08
165	E001265	CITY OF WHITEFISH	504 RAILWAY ST	A		1	Planning,Building & Parks Dep	2,386		0.2729%	0.2729%	0.324674882873468000%	$3,019.480	11.00		1.25%	$627.03	$2,392.45	$ 3,958.23	($1,565.78)		$176.04	$14.67
166	E001284	STATE OF MONTANA	140 LUPFER AVE	A		1	Genesis Kitchen	1,348		0.1542%	0.1542%	0.183429062076041000%	$1,705.890	0.00		0.00%	$0.00	$1,705.89				$125.52	$10.46
167	E026495	CITY OF WHITEFISH	105 BAKER AVE	A		1	Coldwell Banker	4,100		0.4690%	0.4690%	0.557907384652648000%	$5,188.540	5.00		0.57%	$285.01	$4,903.53	$ 2,307.27	$2,596.26		$360.81	$30.07
168	E027150	LION MOUNTAIN POST NO 276	20 BAKER AVE	A		1	VFW Bar	3,397		0.3886%	0.3886%	0.462246679430499000%	$4,298.890	32.00		3.65%	$1,824.09	$2,474.80				$182.10	$15.18
169	E027300	PRESBYTERIAN CHURCH	301 CENTRAL AVE	A		1	Presbyterian Church	7,226	measured	0.8266%	0.8266%	0.983277746707326000%	$9,144.480	0.00		0.00%	$0.00	$9,144.48				$672.87	$56.07
170	E027350	ROMAN CATHOLIC BISHOP	230 BAKER AVE	A	CHURCH	1	Catholic Church	9,471	measured	1.0834%	1.0834%	1.288766058547620000%	$11,985.520	8.00		0.91%	$456.02	$11,529.50				$848.36	$70.70
171	E027600	SCHOOL DISTRICT 44	600 E 2ND ST	A	MIDDLE SCHOOL	2	Middle School	125,640	from Danelle R	14.3718%	7.1859%	8.548229732653510000%	$79,498.540	29.00		3.31%	$1,653.08	$77,845.46				$5,728.01	$477.33
172	E038722	WHITEFISH HOUSING AUTHORITY	100 E 4TH ST	A		2		48,000	double check th	5.4907%	2.7453%	3.265799324979990000%	$30,371.930	35.00		3.99%	$1,995.10	$28,376.83				$2,088.02	$174.00
173	E038795	CITY OF WHITEFISH	410 E 2ND ST	A	CITY HALL PORTION	1		3,100		0.3546%	0.3546%	0.421832412786149000%	$3,923.040			0.00%	$0.00	$3,923.04	$ 1,821.82	$2,101.22		$288.66	$24.06
174	E038906	CITY OF WHITEFISH	418 E. 2ND ST	A	CITY HALL PORTION	1		13,520		1.5465%	1.5465%	1.839733619635070000%	$17,109.520			0.00%	$0.00	$17,109.52				$1,258.95	$104.91
175	S003737	CITY OF WHITEFISH	1 CENTRAL AVE	A	O'SHAUGHNESSY CE	1	O'Shaughnessy Theatre	15,914	estimate	1.8204%	1.8204%	2.165497102283480000%	$20,139.120	16.00		1.82%	$912.04	$19,227.08				$1,414.76	$117.90
176		CENTURYTEL OF MONTANA INC T146	527 E 2ND ST	A	CENTRALLY ASSESS	1		2,650	measured	0.3031%	0.3031%	0.360598675446224000%	$3,353.570	6.00		0.68%	$342.02	$3,011.55	$ 3,832.24	($820.69)		$221.60	$18.47
177													$929,999.880				$50,000.00	$879,999.82					
178	Totals			171				874,211		100.0000%	84.0631%	100.00%	$930,000.000	877.15		100.00%	$50,000.00					$64,751.93	

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CITY COUNCIL REGULAR MEETING AGENDA

The following is a summary of the items to come before the City Council at its regular session to be held on Monday, March 2, 2015, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 15-04. Resolution numbers start with 15-05.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) PROCLAMATION - proclaim April 7, 2015, as National Service Recognition Day

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 February 17, 2015 City Council special session (p.61)
   b) Minutes from the February 17, 2015 City Council regular session (p.62)

7) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
   a) Ordinance No. 15-___; An Ordinance approving the Whitefish Crossing fka Deer Tracks Residences Planning Unit Development to develop a 60-unit apartment project on one parcel comprising approximately 4.493 acres of land to become a part of 6348 Highway 93 South, Whitefish (continuation of public hearing from November 3, 2014) (First Reading) (p.80)
   b) Consideration of a request by Eric Mulcahy on behalf of Spotted Bear Spirits for a Conditional Use Permit to start a handcrafted micro-distillery at 505 Railway Street (p. 209)
   c) Consideration of a request by Ben Davis on behalf of Timberlane Real Estate for a Conditional Use Permit to develop four (4) two-unit condominium buildings at 722 Edgewood Place (p. 238)
   d) Consideration of approving schematic design for the City Hall/Parking Structure Project (p. 265)
      i) Presentation by Mosaic Architecture
      ii) Public Hearing
      iii) Discussion and consideration of approval from City Council

8) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR
   a) Consideration of selection of engineering design consultant for preliminary design of Depot Park Master Plan Phase 2 and approval of contract (p. 338)

9) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
   a) Discussion and direction on cost and desirability to pay to convert the overhead utilities on the West 7th Street Reconstruction Project (Resort Tax) to underground utilities (p. 355)
   b) Consideration of an amendment to the engineering design contract with Robert Peccia and Associates for the final design and construction drawings for the West 7th Street Reconstruction project (Resort Tax) (p. 361)

10) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 368)
   b) Other items arising between February 25th and March 2nd
   c) Consideration of selecting Mike Cronquist as the Owner's Representative for the future City Hall/Parking Structure project and approving the contract (p. 371)

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
   a) Consideration of a change to April 20, 2015 schedule for work session and public hearing/consideration of Resolution for Hwy 93 West Corridor Plan (p. 398)
   b) Confirm dates for FY16 budget work sessions and budget public hearings (p. 399)
   c) Email from Angel Dominguez regarding Birch Point Quiet Zone and railroad train warning horns noise (p. 400)

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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February 25, 2014

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

Mayor Muhlfeld and City Councilors:

Monday, March 2, 2015 City Council Agenda Report

There will be a work session on Tuesday at 5:00 p.m. to discuss and give direction on changes to the Lake and Lakeshore Regulations and if time allows, on the Parking Structure Special Improvement District. Food will be provided.

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

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

a) Minutes from the February 17, 2015 City Council special session (p.61)
b) Minutes from the February 17, 2015 City Council regular session (p.62)

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

Items a and b are administrative matters.

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

a) Ordinance No. 15-___; An Ordinance approving the Whitefish Crossing fka Deer Tracks Residences Planning Unit Development to develop a 60-unit apartment project on one parcel comprising approximately 4.493 acres of land to become a part of 6348 Highway 93 South, Whitefish (continuation of public hearing from November 3, 2014) (First Reading) (p.80)

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

Summary of Requested Action: Jeff Badelt and Sean Averill on behalf of Montana Development Group are proposing to develop a 60-unit apartment complex at 6348 Highway 93 S. The property is partially developed with a dry cleaning business and a drive thru coffee kiosk and is zoned WB-2 (Secondary Business District) and WLR (One-Family Limited Residential District). The Whitefish Growth Policy designates this property as "General Commercial" and 'Suburban Residential".

Background: This matter was scheduled before the City Council on November 3, 2014, when the property owners in the Park Knoll neighborhood to the west, pursuant to §11-7-6, appealed the Zoning Administrator's interpretation of the Zoning Regulations. The appeal questioned the ability of a developer to blend zoning densities and uses across zoning district boundaries within a Planned Unit Development request. The matter was scheduled before the Board of Adjustments on March 3, 2015 when the appellant withdrew their appeal on February 17, 2015. The letter revoking the appeal is attached as an exhibit. The neighbors and the developers have come to an agreement concerning the site plan; however, neither staff nor the public has yet to review the revised site plan. The revised site plan is attached along with a letter describing the changes to the plan. At this time, staff is unable to provide any recommendation to the Council and would recommend, at a minimum, Council remand the proposed site plan back to staff for review. Alternatively, the Council could remand the revised plan back to the Planning Board for public review.

The other aspect of this project was to rezone a portion of the project that had been recently annexed back to Whitefish zoning designations. The Council approved the rezone at the November 3, 2014 meeting and it has since taken effect.

The remainder of this report is the staff and Planning Board recommendation on the originally submitted site plan, dated July 31, 2014, and supporting application.

Planning & Building Department Recommendation: Staff recommended <u>approval</u> of the planned unit development along with the two requested zoning deviations subject to 16 conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the October 2014 hearing and seven members of the public spoke at the hearing. The public voiced the following concerns:

- Density of the project, especially in relation to the underlying zoning
- Location of the affordable housing
- A request by the neighbors for more time to review the project
- Request for fencing on the west side of the project to buffer the neighborhood from adjacent landowners
- Inappropriate location for high density residential
- Traffic – an increase in volume and lack of a safe means to make left-hand turns
- Lack of usable open space for the residents
- Light pollution

- Doesn't comply with the Growth Policy
- Support for affordable housing – major concern

A number of letters and emails have come in regarding this proposal. These should be carefully reviewed by the City Council. The minutes for this item are also attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on October 16, 2014 and considered the request. Following the hearing, the Planning Board also recommended approval of the above-referenced planned unit development with 15 conditions as contained in the staff report and adopted the staff report as findings of fact. The Planning Board did not recommend approval of zoning deviation to reduce the overall off-street parking and recommended striking condition #12 that would enable the project to find additional off-street guest parking from adjacent landowners through a shared parking agreement. The Planning Board wanted the applicant to provide all the necessary parking off-street.

Proposed Motion:

- I move to approve WPUD 14-04 along with the July 31, 2014 site plan, the Findings of Fact in the staff report, the 15 conditions of approval and the request zoning deviation to building height to no more than 39-feet 6-inches, as recommended by the Whitefish Planning Board in October, 2014

Alternate Proposed Motions:

- I move to continue the public hearing until April 6, 2015 in order to have staff review the revised site plan submitted to the City on February 24, 2015 and provide a recommendation.

or

- I move to remand the revised site plan submitted to the City on February 24, 2015 back to Planning Board for public hearing.

There are additional documents and a staff report in the packet as well.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering public testimony and the recommendations from the staff and Planning Board, approve an Ordinance approving the Whitefish Crossing fka Deer Tracks Residences Planning Unit Development to develop a 60-unit apartment project on one parcel comprising approximately 4.493 acres of land to become a part of 6348 Highway 93 South, Whitefish or choose the alternate motion above (First Reading).

This item is a quasi-judicial matter.

b) Consideration of a request by Eric Mulcahy on behalf of Spotted Bear Spirits for a Conditional Use Permit to start a handcrafted micro-distillery at 505 Railway Street (p. 209)

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

Summary of Requested Action: Eric Mulcahy of Sands Surveying on behalf of Spotted Bear Spirits is proposing to operate a micro-distillery and tasting room in an existing building at 505 Railway Street. The property is currently developed with a variety of retail uses and is zoned WB-3 (General Commercial District). The Whitefish Growth Policy designates this property as "Core Commercial".

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

Public Hearing: The applicant and her representative spoke at the public hearing on February 19, 2015 and no one else spoke. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on February 19, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with six (6) conditions as contained in the staff report and adopted the staff report as findings of fact.

There are additional documents and a staff report in the packet as well.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering public testimony and the recommendations from the staff approve a Conditional Use Permit for a handcrafted micro-distillery at 505 Railway Street with six conditions and approve the Findings of Fact in the staff report.

This item is a quasi-judicial matter.

c) Consideration of a request by Ben Davis on behalf of Timberlane Real Estate for a Conditional Use Permit to develop four (4) two-unit condominium buildings at 722 Edgewood Place (p. 238)

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

Summary of Requested Action: Benjamin Davis of Timberland Real Estate LLC is proposing to construct four, two-unit residential condominiums at 722 Edgewood Place. The property is currently undeveloped and is zoned WR-4 (High Density Multi-Family Residential District). The Whitefish Growth Policy designates this property as "High Density Residential".

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with fourteen (14) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing on February 19, 2015 and no one else spoke. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on February 19, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with fourteen (14) conditions as contained in the staff report and adopted the staff report as findings of fact.

There are additional documents and a staff report in the packet as well.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering public testimony and the recommendations from the staff approve a Conditional Use Permit to develop four (4) two-unit condominium buildings at 722 Edgewood Place subject to 14 conditions and approve the Findings of Fact in the staff report.

This item is a quasi-judicial matter.

d) Consideration of approving schematic design for the City Hall/Parking Structure Project (p. 265)
   i) Presentation by Mosaic Architecture
   ii) Public Hearing
   iii) Discussion and consideration of approval from City Council

Architect Ben Tintinger will attend Monday's meeting with a presentation. There are also comments and minutes from the last City Hall Steering Committee meeting in the packet.

RECOMMENDED MOTION: Staff respectfully recommends the City Council approve the Schematic Design Plans presented at the March 2nd City Council meeting along with any other changes requested by the City Council.

This item is a legislative matter.

COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

a) Consideration of selection of engineering design consultant for preliminary design of Depot Park Master Plan Phase 2 and approval of contract (p. 338)

From Parks and Recreation Director Maria Butts staff report:

The Parks and Recreation Department has advertised a Request for Qualifications from engineering consultants, interviewed finalists and negotiated a contract with the top ranked consultant to provide engineering services for the Depot Park Master Plan.

This memo is to recommend a contract with Robert Peccia and Associates, for services to include surveying, conceptual design, and preliminary outreach, allowing for a refinement and update to the Master Plan to be presented to the public during monthly Park Board meetings and approved by the Park Board of Commissioners. The proposed contract is for an amount not to exceed $88,300.

Tax Increment Funds have been committed to the Depot Park Master Plan. Work for the three above tasks are anticipated to be completed by October 2015. Our plan is to proceed with design of Depot Park and be ready to advertise for construction bids as early as 2016, if sufficient funds should be available.

The scope of work for this initial consultant agreement provides surveying, conceptual design, and preliminary outreach, allowing for a refinement and update to the Master Plan to be presented to the public during monthly Park Board meetings and approved by the Park Board of Commissioners. This work will be completed by fall and we expect to return with a contract amendment in November for final design services.

The Parks and Recreation Department and RPA have negotiated a contract for the services describe above in an amount not to exceed $88,300. This amount will be paid out of Tax Increment Fund. Currently, $247,000 has been set aside for this project this fiscal year.

From June 2011 to date the following funds have been budgeted and allocated to this project:

Master Plan
Total Budgeted (FY12): $53,000 Total Cost (FY12): $64,314.03
Phase I (Building Demolition & New Sod / Irrigation)

Total Budgeted (FY13): $525,000 Total Cost (FY13): $46,358.86
Phase II (Depot Park Improvements & O'Shaughnessy Restrooms)

*NEITHER THE PARK IMPROVEMENTS NOR O'SHAUGHNESSY BATHROOMS WERE PART OF THE ORIGINAL COST ESTIMATE

Total Budgeted (FY14-FY15): $547,000 Total Cost (FY14-FY15): $281,991.75
Total Budgeted (FY12-FY15): $1,125,000.00
Total Funds Allocated To Date: $ 392,664.64
Remaining Budget To Date: $ 732,335.36

RECOMMENDATION: Staff respectfully recommends the City Council authorize the execution of a consultant contract with Robert Peccia and Associates, in an amount not to exceed $88,300, for engineering services for the Depot Park Master Plan Project Phase II preliminary design.

This item is a legislative matter.

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

a) Discussion and direction on cost and desirability to pay to convert the overhead utilities on the West 7th Street Reconstruction Project (Resort Tax) to underground utilities (p. 355)

From Interim Public Works Director Karin Hilding's staff report:

Starting with the Whitefish West/Highway 93 and E. 2nd Street Reconstruction Projects, the Public Works Department has presented information concerning costs associated with undergrounding utilities (power, phone and cable) to the City Council. Prior to that, utility conversion was not generally considered as part of street reconstruction projects. We also investigated undergrounding utilities years ago with the Wisconsin Avenue bike path project, but were told by Flathead Electrical Cooperative (FEC) that it was impossible due to the size of their power lines.
In the case of West 7th Street, there are existing transmission power lines that increase the cost and difficulty of undergrounding the power. FEC has given us a very approximate cost for undergrounding the power lines, but they are not sure that it is even feasible. If the City Council decides that it is serious about undergrounding the utilities on this project, then FEC will proceed with a feasibility analysis. The Resort Tax Committee voted, at their last meeting, to recommend that the Council not proceed with undergrounding the utilities on W. 7th Street.

<u>Underground versus Above Ground Utilities</u>

1. The cost difference
   RPA has estimated that it will cost approximately $1.3 million dollars to convert the existing overhead utilities to underground on the project.
2. The construction time difference
   The attached spreadsheet shows a comparison of quarterly tax resort revenue versus quarterly estimated expenses with utilities underground and left above ground. By installing utilities underground the construction period would extend one entire year. The main reconstruction of the road would occur in 2017 versus 2016. The neighborhood would be impacted for about eight additional months of construction due to overhead to underground utility conversions during 2016. Future resort tax street reconstruction projects would be pushed back by a year.

3. The change to the landscape on the south side
   By moving the utilities underground the extent of vegetative clearing would be expanded. The entire south side of W. 7th Street (from Grouse Mountain to O'Brien Avenue) and north side of W. 7th Street (from O'Brien to Baker) would need to be cleared of trees, etc…to accommodate the utility trench and vaults. This would open up the view and could lead to higher driving speeds on the road (the opposite of traffic calming). The attached Figure 1 and 2 show the extent of additional clearing that would be required. The cleared area is hatched in red.
4. How many poles remain standing?
   FEC has estimated that approximately 15 service poles would need to be installed with the undergrounding of power. This could change if the City had an incentive program for individuals to install underground power to their homes. Otherwise, the cost is quite high for each resident to switch to underground power.
5. What do electrical vaults look like?
   The attached Figure 3 shows the probable location of the electrical vaults and photos of similar vaults. The VFI vaults are about the size of a small Volkswagen. They are required because the existing overhead lines are transmission lines.
6. What do the neighbors prefer?
   We have had one public meeting and are holding another one tomorrow night, February 11th. We will discuss this topic briefly with the neighborhood. Some neighbors have expressed an interest in having the utilities placed underground. Several neighbors have expressed an interest in keeping as much existing vegetation along the road as possible. Many have concerns about traffic speeds and higher speeds caused by an improved road. Several mentioned that they would prefer a construction time period as condensed as possible.
7. Would the choice limit future development?
   FEC mentioned that undergrounding power would require a feasibility study partly because it is very difficult with existing transmission lines. Also, they have indicated that it may limit the availability of power for future development. We don't clearly understand the implications at this point.

   We are asking the Council to provide direction on whether it would like FEC to proceed with a feasibility study concerning the undergrounding of power on W. 7th Street. There would be no cost to the City for FEC to prepare the study. However, FEC does not want to prepare the study unless the City is seriously considering placing the utilities underground on this street.

   RECOMMENDATION: Staff respectfully requests that the City Council provide direction on whether to have FEC proceed with a feasibility study to place power underground on W. 7th Street or to discontinue work on burying utilities underground on this project.

   This item is a legislative matter.

b) Consideration of an amendment to the engineering design contract with Robert Peccia and Associates for the final design and construction drawings for the West 7th Street Reconstruction project (Resort Tax) (p. 361)

From Interim Public Works Director Karin Hilding's staff report:

This memo is to request City Council approval for an amendment to our engineering consultant agreement with Robert Peccia and Associates for the West 7th Street Reconstruction project. On July 21st, 2014 the Council approved the preliminary engineering, Phase 1, contract with RPA for a fee not to exceed $78,600. The approval included payment of this engineering fee out of the Resort Tax Fund.

John Wilson's July 14th staff memo and the July 21st Council minutes are attached for background and overall project information. Phase preliminary engineering work is about 95% complete and we are ready to move forward with Phase II, project design.

The proposed Amendment No. 1 provides engineering services at an additional cost not to exceed $212,600, including:

- Public involvement
- Project management
- Final design for roadway, bike paths, sidewalks, decorative lighting, sewer, water and storm drainage infrastructure
- Preparation of the construction contract, detailed specifications and bid documents

The proposed addendum provides the services outlined above for a cost not to exceed $212,600. The total Contract Agreement will not exceed $291,200. All costs will be paid from adequate reserves in the infrastructure portion of the Resort Tax Fund.

RECOMMENDATION: Staff respectfully recommends the City Council approve Amendment No. 1 to our consultant agreement with Robert Peccia and Associates, providing for engineering services to design the West 7th Street Reconstruction project, as described above.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 368)
b) Other items arising between February 25th and March 2nd
c) Consideration of selecting Mike Cronquist as the Owner's Representative for the future City Hall/Parking Structure project and approving the contract (p. 371)

The Mayor and City Council, along with staff, determined that because of workload and lack of expertise on city staff, it is desirable to hire and use an Owner's Representative on the future City Hall/Parking Structure project. An Owner's Representative takes the day to day oversight of the construction project from city

staff, even though I, as City Manager, will still sign all pay requests and monitor the project. An Owner's Representative can devote the time needed to oversee such a large project.

A copy of the City's RFP is contained in the packet. In response to the first RFP, we received four submittals by the January 30th deadline. The proposals were from:

- John Constenius and the Brookwood Group
- Montana Creative Architecture and Design
- Bison Creek, PLLC
- Mike Cronquist

The selection committee consisting of Mayor John Muhlfeld, Councilor Richard Hildner, myself, and Sherri Baccaro (Future City Hall Steering Committee representative) decided to interview three candidates, John Constenius and the Brookwood Group, Montana Creative, and Mike Cronquist. Those interviews were held on Friday, February 6th.

After the three interviews, the four selection committee members discussed the proposals and the interviews. In a very close decision, the Committee's consensus decision was to recommend that the City select Mike Cronquist as the City's Owner's Representative and try to negotiate a satisfactory contract with Mike first. If we were unable to negotiate a satisfactory contract with Mike, we would pursue negotiations with the next ranked firm, The Brookwood Group.

Mike was the City's Owner's Representative for the construction of the O'Shaughnessy Center and the Library. He also was the Owner's Representative for Iron Horse during the construction of their clubhouse and he oversaw large construction projects throughout his career. A copy of the proposal from Mike Cronquist is attached to this report in the packet.

Any such fees will be paid by the City Hall Construction Reserve Fund (January 1, 2015 balance of $2,098,030.5). This construction fund was created from Tax Increment revenues earmarked for construction of City Hall since 2004. Total construction costs and other costs will be paid by money in this fund, funds in the Tax Increment Fund, and a future Tax Increment Bond issue later this year. It is the committee's recommendation that we try to negotiate a contract with Mike Cronquist that would not have an administrative assistant, but that City staff might be able to provide necessary staff support for Mike.

RECOMMENDATION: Staff respectfully recommends the City Council select Mike Cronquist as the Owner's Representative for the future City Hall/Parking Structure project and authorize the City Manager to negotiate and sign a contract for these services.

This item is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Consideration of a change to April 20, 2015 schedule for work session and public hearing/consideration of Resolution for Hwy 93 West Corridor Plan (p. 398)

   On February 2nd, the City Council set April 20th for a work session and consideration of approving a Resolution of Intention to adopt the Hwy 93 West Corridor Plan. Planning and Building Director Dave Taylor will be out of town on April 20th and there has been suggestions that the City Council may want to separate the dates for the work session and the public hearing/consideration in case the Council makes changes to the plan during the work session. In the packet is a schedule of upcoming work sessions that the City Council can consider in making any changes.

b) Confirm dates for FY16 budget work sessions and budget public hearings (p. 399)

   Please check your calendars against the Budget Schedule in the packet so we can make any changes that the Council desires.

c) Email from Angel Dominguez regarding Birch Point Quiet Zone and railroad train warning horns noise (p. 400)

ADJOURNMENT

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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MAYORS DAY PROCLAMATION - WHITEFISH

WHEREAS, service to others is a hallmark of the American character, and central to how we meet our challenges; and

WHEREAS, the nation's Mayors are increasingly turning to national service and volunteerism as a cost-effective strategy to meet city needs; and

WHEREAS, participants address the most pressing challenges facing our cities and nation, from educating students for jobs of the 21st century and supporting veterans and military families to providing health services and helping communities recover from natural disasters; and

WHEREAS, national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and

WHEREAS, national service participants serve in more than 60,000 locations across the country, including six
in Whitefish, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our city's economic and social well-being; and

WHEREAS, 81 national service participants age 55 and older with experienced backgrounds served 35,347 hours in Whitefish, providing vital support to city residents and improving the quality of life in our city; and

WHEREAS, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and

WHEREAS, national service participants demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

WHEREAS, the Corporation for National and Community Service shares a priority with mayors nationwide to engage citizens, improve lives, and strengthen communities; and joined with the National League of Cities, City of Service, and mayors across the country to recognize the impact of service on the Mayors Day of Recognition for National Service on April 1, 2014.

THEREFORE, BE IT RESOLVED that I, John Muhlfeld, Mayor of Whitefish, do hereby proclaim April 7, 2015, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our city and thank those who serve; and to find ways to give back to their communities.

(Seal)

_____

John M. Muhlfeld, Mayor

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WHITEFISH CITY COUNCIL MINUTES
FEBRUARY 17, 2015
SPECIAL SESSION, 5:00 PM

1. Call to Order

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

2. Interviews

The Mayor and Council interviewed applicants Brandon Jacobson, Josh Akey and Douglas Peppmeier for the Board of Adjustment.

3. Public Comment - None

4. Appointments.

Councilor Hildner made a motion, second by Councilor Feury, to appoint Brandon Jacobson, Josh Akey and Douglas Peppmeier to the Board of Adjustment each for 3-year terms, term expiring December 31, 2017. The motion passed unanimously.

5. Adjournment - Mayor Muhlfeld adjourned the Special Session at 5:30 p.m.

_____
Mayor Muhlfeld

Attest:

_____
Necile Lorang, City Clerk

WHITEFISH CITY COUNCIL MINUTES
February 17, 2015
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Hildner, Feury, Anderson and Sweeney. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Finance Director Smith, Planning and Building Director Taylor, Interim Public Works Director Hilding, Parks and Recreation Director Butts, Interim Fire Chief Page, and Senior Planner Compton-Ring. Approximately 85 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Muriel Mercer 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 00:47)

Muriel Mercer, 2305 Wolf Tail Pines Road, said she was 10 years old and a skater; she started with beginning skating at the age of two, and the last three years she has attended regionals. She spoke in favor of the City extending the ice rink season into the spring and summer. The last five summers she has had to go out of state to train, and the break they are forced to take when the rink closes in the spring slows down their training.

Grace Eldon, skates with the Whitefish Skating Club, said she also started skating when she was 3 or 4, and has hopes of going to Regionals and the Olympics. She spoke in favor of having Spring and Summer ice at the City's rink.

Sam McGough, McGough and Company at 131 Central Avenue, started to speak regarding the proposed Resort Tax increase and the Mayor asked him to make those comments during the public hearing for that agenda item.

Elizabeth Askew, 96 Colorado Avenue, said her daughter Faith is a figure skater. She said her daughter does not aspire to go to the Olympics, but she feels that the skating has helped her daughter grow strong physically, emotionally and socially; and she is becoming a self-motivated and confident young lady who is learning to manage her time better to keep this sport in her life. That is a good lifestyle training she said. She said in talking to others in the community about her daughter's skating, often she hears the comment that others did not know Whitefish had an ice skating rink; she said through her daughter's skating other families they know have started to get involved also. She felt the City's rink could be better promoted. She asked the Council to consider the request for Spring and Summer ice as a community request, it will benefit the community as well as the tourists.

Carol Anderson said she has been involved with skating in Whitefish when Whitefish had an outside rink and even before. She has taught skating throughout those years, is still teaching, and has served on the Figure Skating Club and Rink Advisory Boards. She was the first adult ice skating instructor and started the first ice show. Now, with Chad Goodwin, a professional skate instructor, the programs have grown and expanded; she said he has the support of both the figure skating and the hockey communities. She said all the user groups have been working well together along with city staff, and she listed some of those volunteers; and she wanted to acknowledge and give a big thanks to Murray

Craven who arranged for the rink to have enough skates for the Muldown School skating program. She said the City's ice rink is a gold mine and a one of a kind, and encouraged everyone to work together to utilize it in all aspects for local families and also those abroad.

Bobby Jo Martin, Lethbridge, Canada, and has property in Whitefish at 1009 Meadowlark Lane. She said southern Alberta has caught onto the asset that Whitefish has in the rink and the Glacier Skate Academy, she said along with Chad and the coaches he has brought in draws customers from both Alberta and British Columbia. She said the rink's existence helped them make their decision to purchase property in Whitefish; it gives their children the ability to train while they are here on vacations. She wants everyone to know how lucky Whitefish is to have the rink, the quality of personnel, and the high quality of skating that is coming out of the rink.

Carrie Eldon, read a letter from John Kramer in support of the request for an extended ice season that is included in tonight's Council packet on page 412. In addition, she spoke of her daughter's ambitions to train hard for Regionals and the Olympics, and she and her husband support her ambitions and will help her achieve them in any way that they can. They've discussed if it might force them to move; but if the Council would allow the extended ice season it will be feasible to bring in more professional instructors and coaches to facilitate the continued expansion and growth of skating programs. She said the progression of programs starting with public skate and learn to skate is a great opportunity for families here. She asked for Council's support.

Donna Taylor, 255 Wilderness Lane, said she serves on the Rink Advisory Committee and is a skater; and had a daughter who was a competitive skater and they traveled extensively in the U.S. and Canada do get the ice time for her training. She said she hopes this is accomplished in Whitefish. She said that compared to all the rinks she has been to, the one in Whitefish is a gem, one of the best. She supported the request for the ice season extension, and hoped that it would eventually lead to year-round ice.

Colby Shaw, Glacier Hockey Association President, said he was in support of Chad Goodwin, Glacier Skate Academy, and the extended ice season. An extended season would also benefit the hockey players so they could be competitive in the spring leagues which include teams from Canada, Russia, Utah and California. If there is ice this summer, they have a proposal from a Colorado team to hold a hockey camp in August in Whitefish, versus the team having to go out of state for such a camp. He said these are all such great opportunities for the kids.

Kelly Davidson, Armory Road, spoke in support of the ice rink. She and her husband and their children all play hockey; and she is a staff member for the Wolverines. She said all the users groups have a basic season and there needs to be an understanding of ice-time needs; and she clarified that she thought the request for more ice-time by a "private user group" was a misnomer. She said there are 5 user groups – and they are all open to the public. Each of those user groups need different ice, different equipment, and fortunately this community has members who volunteer their time and dollars to make these things happen; and all of these user groups serve the public.

Josh Steele, 239 Dakota Avenue, said he is the President and General Manager for the Whitefish Wolverines, and either has or is serving on several local and state hockey and ice rink boards. The Wolverines are playoff bound this year and also will be hosting a playoff. He spoke in support of the extended ice season. As he has seen in his travels to other areas, extended seasons creates more different rink activities which he thinks would be exciting for Whitefish. He said the user groups have

and will grow to use the extended season. With available ice, his junior players stay here over the summer and become part of the community.

Jeanette Reynolds, a business owner in Kalispell since 1994, spoke in support of extended ice time, and in support of those families here requesting that. She asked the Council to consider the economic impact if the families had to leave each summer to go elsewhere for that ice time. Those are things that divide our community and we lose our resources. She was in support of anything that can be done to promote valley-wide venues that support family activities in the community, it is a win-win. She said even as a resident of Kalispell, she and others from Kalispell come up to enjoy events in Whitefish.

Tanya Gersh, 166 S. Shooting Star Circle, said Glacier Skate, a tenant at the rink, has been working hard to build a program; and if they don't get the extended spring ice and ice for the fall programs, their program could fall apart. They have worked hard seeking full-time professional trainers for their kids – so they need full-time ice. As a parent of a skater – she doesn't want to lose this program.

Cindy Ruth, Eureka resident, said thanks to Chad Goodwin's skating programs they spend their weeks in Whitefish. She said her daughter gets up early in the morning to skate; she is so inspired by Chad and all the other skaters. She said the families are spending lots of dollars for their kid's sports and they hope the Council will keep the rink open for a longer season so their kids can keep their skills up.

Chris Schustrom, 504 Spokane Avenue, said the winter street decorations will be coming down this Sunday. The work is done by volunteers and if anyone wishes to join in, volunteers meet at the corner of 2nd and Central at 8:30 a.m. All help is appreciated. Mayor Muhlfeld thanked Chris for all the work he does on the winter decorations.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS (CD 33:58)

Ron Brunk, 130 W. 4th Street, in on the Park Board and said he was here to give the Council an update from the Park Board regarding ice because it is a budget-related matter. The Park Board acknowledges and compliments Glacier Skate for all that they do and all that they have done for the Ice Den. The group has invested heavily in time and resources, over $100,000 over the past year has been put into the rink by Glacier Skate, especially Chad Goodwin and Greg Esakoff. He added that all parents of all the user groups have given generously of their time and resources to make the rink what it is, it is a big happening place. He said secondly, from the Park Board, they compliment the city staff at the rink; they are amazing and are doing a great job. He said not at just at the rink, the staff is doing a great job on parkways and park maintenance and park programs as well. He said Parks Superintendent Jason Loveless has been very helpful giving explanations to the Park Board on rink equipment issues and maintenance; he is very knowledgeable. The packet includes a recommendation from Jason. Ron discussed the financial aspect of this request and said when they surveyed other municipal ice rinks they found that every one of them is subsidized by each of their cities about $50,000/year, plus or minus. He noted that the rink does do more than just offer ice for hockey and figure skating, it offers much to the community. He said that currently the rink's ice rental time, during peak season, is $115/hour, and during their survey of other municipal-subsidized rinks they found the average ice-rent was about $220/hour. He suggested that be entered into this financial calculation. Ron said the Park Board is recommending a budget amendment to appropriate funds to extend the season to June 1st. He noted this is more of an extension than what Superintendent Loveless recommends; but the Park Board feels like

this will allow the user groups to accomplish what they want to do this spring. He said the additional time requested could be addressed in budget planning for next year.

Ken Williams said that he along with Turner Askew and Rebecca Norton comprise Whitefish's Government Review Study Commission. Their next meeting is Thursday, February 26th at 7:00 p.m., then they will be meeting monthly on the 2nd Thursday at 7:00 p.m. each month. They meet in the Council Conference Room, off the main Council Chambers, and the public is welcome to come and get involved in the process. He said Assistant City Clerk Vanice Woodbeck is the City's Representative on the Commission and she is a great asset to the Commission.

Doug Reid, 520 Somers Avenue, and is Chairman of the Resort Tax Committee. The Committee met on Wednesday, February 11th, to review the TPL report and the proposed 1% increase in the resort tax. Not all members were there, but they voted against the increase on a 3 to 2 vote. The two committee members that were absent later conveyed their votes which were one each for and against; so the total vote from the Committee is against the proposed increase on a 4 to 3 vote.

Hunter Homes, Vice Chair of the Pedestrian/Bicycle Path Committee, and also a member of the Highway 93W Corridor Steering Committee, and he said that is what he wanted to address tonight. The proposed Corridor Plan was on the Council's last agenda, but it was towards the end of a long agenda, and there was not enough time allowed to properly or fairly address it. He said 15 members of the Committee, the consultant group and the staff were all prepared for the agenda item and time ran out, which was disappointing; and he along with many others, thought it was disrespectful to all those involved who have been working on this project for nearly two years. The Council tabled further action to April. He encouraged the Council to have a work session for the Plan before it comes up again on their agenda, and to keep the ball rolling out of respect to all those who have been working so hard on it.

Councilor Frandsen said she was on the interview and selection committee interviewing firms that applied to do The Water and Wastewater Systems Financial Plan and Rate Structure Study. A recommendation will be coming back to the Council in a month or so to approve their choice of AE2S.

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 47:56)

a) Minutes from the February 2, 2015 City Council regular session (p. 31)

b) Ordinance No. 15-03; An Ordinance adopting by reference the 2012 International Fire Code as adopted by the State of Montana; amending Section 9-1-1 of the Whitefish City Code to recognize said adoption; and allow continual adoption by reference of subsequent versions of the International Fire Code (Second Reading) (p. 45)

c) Consideration of approving application from Cory Izett on behalf of Richard Bennett III Revocable Trust Agreement for Whitefish Lake Lakeshore Permit (#WLP-15-W01) at 1726 West Lakeshore Drive to replace an existing dock with an EZ Dock subject to 11 conditions (p.48)

d) Consideration of approving application from Cory Izett on behalf of Carol and Richard Atkinson for Whitefish Lake Lakeshore Permit (#WLP-15-W02) at 404 Dakota Avenue to replace an existing dock with a new EZ dock and increase the length of the new dock to 98 feet subject to 11 conditions (p. 63)

e) Confirm the appointment of Trey Nasset as a police officer pursuant to Section 7-32-4113 Montana Code Annotated (p. 80)

Councilor Sweeney made a motion, second by Councilor Anderson, 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))

a) Consideration of a request from the Iron Horse Homeowners Association for a modification to their subdivision to permit a reconfiguration of their guardhouse on the side of Iron Horse Drive to a welcome center in a median in the center of the road (WPP 97-01A) (p. 83) (CD 48:16)

Senior Planner Compton-Ring gave the staff report for the application from the Iron Horse Homeowners Association's proposal to remove the existing guard house and replace it with a single story welcome center in a landscape median in the center of Iron Horse Drive. The entrance to the subdivision is not gated, it will remain open to the public. They proposed it as a traffic calming measure in an area that is congested with auto traffic, pedestrians, bicyclists and golf carts; and will be a more attractive entrance to their subdivision. This is coming to the Council because it is called for in the subdivision regulations when there is a significant and material change proposed. Staff's review of the request and history of the Iron Horse project is in the staff report along with the staff's recommendation to deny the request. Among other findings, Finding 4 states "Concern over the years has been raised by the public and Council over the guard house and its use to deter public access to the roads". Staff is concerned that by placing a staffed building in the center of the road it could be construed as limiting access or be used for that purpose and may cause more congestion if it appears to drivers that traffic should stop. Finding 6 states "A staffed structure in the center of the road gives the appearance that the roads are not open to the public and is a deterrent to public use……in conflict with the neighborhood plan and the preliminary plat approval condition #20." Staff is supportive of safety measures to calm speeding traffic. The Planning Board held a Public Hearing on January 15, 2015; and following the public hearing the Board passed a motion to not approve the entrance modifications, adopting the staff's report and findings.

Mayor Muhlfeld opened the Public Hearing.

Ken Wessels, 300 Sugarbowl Circle, said he was a full time resident in that subdivision. He said this is being proposed for safety reasons. This is a busy intersection, and busier with construction traffic now that since 2009 about 10 to 12 new homes have been constructed each year. The reconfiguration will improve the sight lines. He said he was aware of earlier conflicts that the developer caused with public access to their private roads, but said he thinks those conflicts haven't existed since the development is overseen by the Homeowners Association. They do not stop public traffic on their private roads, and if required they will sign the area welcoming the public; they do not want a gated community he said. He said their plans are safety oriented.

Applicant Andy Moshier, President of the Homeowners Association (HOA), said the change is proposed to manage a traffic situation safely. There are 314 lots in the subdivision and it is 50% built out; all those are accessed by this one entrance. As has been mentioned before, this intersection is a congruence of vehicular traffic, pedestrians, bicyclists, and golf carts, and golf course construction equipment; and it is worse in the summertime. It is not their intent to intimidate or restrict non-resident traffic. They hired professional planners and engineers who have come up with this plan to mitigate the

circumstances. He said they buy in to the 100% non-gated subdivision, 100% public access, and 100% with the Planning Staff's recommendation for signage. He said having the building in the middle of the road is part of the traffic calming process; and they don't want traffic to stop, they want it to move on up or down the hill in a calm and safe manner. He said specifically, the building should be a traffic calming for the downhill traffic; uphill traffic usually flows at a calm speed, downhill traffic travels sometimes at increased speeds. A person in that building can see the downhill traffic coming and if they are speeding, the live person can lean their head out or stand out, catch the eye of the driver – and give them a "slow-down" wave. He noted to the Council that their private roads are completely open to the public, the only restrictions are that there is no parking on any of the roads; and the public is restricted from private property. He said public means you can drive, walk, bike, anywhere anytime, on the road, on the path, and they are 100% behind it. He said he had a supplemental letter he sent after the Planning Board public hearing (packet page 141), wherein he discussed the difference in how the HOA's management practices differ from those of the original developer; and the HOA is in complete support of the spirit of the Iron Horse conditions of (their) approval with the City of Whitefish; a gate-free and obstacle-free subdivision. The HOA strives to be a good and respectful neighbor and provide safe roads for all.

Linda Engh-Grady, 785 Northwoods Drive, spoke in support of the building in the center of the road. She said as a community member she is on those roads often, for public and Iron Horse-related events and she has always felt very welcome on the roads. She also bikes up there and has always felt welcome; and she said it is fun to bike up there because the roads are so well maintained. She said the residents of Iron Horse are getting involved in community events, are good stewards of the community, and are good neighbors. She feels it is their intention to make the road safer, it is a congested area, and not that they are trying to close their community.

Carol Atkinson, 404 Dakota Avenue, spoke in support of the HOA's proposal, and agreed they are trying to address a congested area. She said she has been part of the Iron Horse community for fifteen years, and sees them, as Linda just said, good stewards of the community; and she doesn't believe that moving the shack to the middle of the road will change any of that.

Rebecca Norton, 530 Scott Avenue. She was on the Planning Board at the time of the public hearing on this application and decided to follow us with more research so she walked up in Iron Horse last weekend, and stopped at the guard (or security) shack and talked to the person inside who was wearing guard clothing. She said he was very nice and answered her questions. They video and make notes on all incoming traffic and follow traffic that is suspicious and stop them to inquire what they are doing. She agreed the roads are well maintained, they are beautiful. She understood the guard to tell her the public needed to stay on the main roads painted with the yellow centerline but later found out from Michele Irelan, from the Iron Horse staff, that the yellow line is a no-passing line. She spoke against moving the shack to the center of the road and then to be possibly followed as well; she thinks it intimidates public traffic. She suggested the City take over those private roads and provide parking for those who want to access trails into the Haskill Creek Area. She handed a printout of an article to the Council entitled "Know Your Rights: Street Harassment and the Law" (appended to the packet).

Turner Askew, 3 Ridgecrest Court, said he is a next door neighbor to Iron Horse. He said he is on the Homeowners Association for Suncrest and they work closely with the Iron Horse HOA, they have been great to work with. He spoke in support of the HOA's proposal. He said he attended the Planning Board's public hearing on this issue and many comments made during that hearing were just not true. To clarify – the No Parking and Do No Enter signs that are posted are at the boundary line

between Iron Horse and Stoltze Lands. The current HOA is comprised of local people now who are trying to do what is best for their community and the city; they need to solve a speeding problem.

Tom Cowan, 153 Ridgeview Drive in Kalispell, and is the Civil Engineer and Consultant for Iron Horse on this project. He agrees with others who have previously spoken in support of this project, it is a safety issue. He said he has been involved with this development from its beginning, it was first called Kinnikinnik, and he said that intersection should have been better designed from the beginning but the current impact was unknown at that time. They have considered the options, they need to control speeds down to 20-25 mph. The placement of the proposed median and shack best fits the topography, road line and sight distances and traffic controls.

Ken Stein, 44 Fairway View, spoke in support of the project. He travels that road often and has never been stopped by anyone. He asked the Council to approve it.

Nan Askew, 3 Ridgecrest Court, spoke in favor of the HOA's proposal. She said walking on the paths in Iron Horse is a privilege not to be taken for granted, and those who walk them can appreciate spectacular views. There is parking at the base of the trails on Wisconsin Avenue. The information center is staffed with greeters, one of them is Laura who greets walkers and their dogs by name, and warns them if there is bear in the area. The HOA's proposal is to address their safety concerns, which she thanks them for. She said she goes up there all the time and has never been followed.

Laurie DeShazer, said she lives in Columbia Falls and has been the guard at Iron Horse for 15 years. She said they greet visitors and moving the guard house will make it safer for everyone.

Paul McCann, 340 Somers Avenue, asked for clarification about whether there was any parking on the roads. Andy Moshier said no one, not even the residents, can park on the roads.

Scott Elden, Montana Creative, spoke in support of the proposal, and said the phrase "closing to public access" does not appear to be the intent here. If it is a concern of the Council's that the appearance of a building might be intimidating or give the public the perception that they are closing to public access – leave it up to Architectural Review to make sure that doesn't happen.

Jeff Bayer, 157 S. Shooting Star Circle, and on the Board of Directors of the HOA. The Board's direction to Laurie on a regular basis is - do not hassle people, do not follow them, the information shack is just that – it is there to give out information. Currently there are 15 houses under construction within the development and that means hundreds of contractors, and building supplies, and along with residents and visitors – there is a speed problem and this proposal is their solution to maintain safety. The building on the side and the standards placed in the middle have helped a little but not enough. He asked for Council's support on this proposal.

Mayor Muhlfeld closed the Public Hearing and turned the matter over to the Council for their consideration.

The Council and the Mayor had several questions for Tom Cowan and Andy Moshier regarding options, travel lanes, passing lanes, parking, architectural design, rerouting golf carts, traffic calming devices, staffing of the information center, intent of the project – is it really just a safety issue, traffic management? Will the proposal accomplish their goals? What about bicyclists riding downhill at high speeds riding shoulder to shoulder?

Councilor Hildner made a motion to not approve the changes to the Iron Horse entrance and adopt the Findings of Fact in staff report WPP 97-01A, as recommended by the Whitefish Planning Board. The motion died for a lack of a second.

Councilor Anderson made a motion, second by Councilor Barberis, to postpone and table to the first meeting in April, 2015. The motion passed on a vote of 4 to 2; Councilors Frandsen and Hildner voting in opposition.

Mayor Muhlfeld called for a recess from 9:05 p.m. to 9:20 p.m.

b) Resolution No. 15-04; A Resolution submitting to the qualified electors of the City of Whitefish, Montana, the question of whether, To protect and preserve water quality and quantity, including the source drinking water supply for the municipal water system of the City of Whitefish, through the acquisition of a conservation easement or other interests in and around Haskill Basin, shall the existing Resort Tax rate be amended from 2% to 3% effective July 1, 2015 and ending on January 31, 2025, with Resort Tax revenues resulting from the 1% rate increase to be used as follows: (i) 25% for property tax relief that is in addition to the existing property tax relief; (ii) 70% to secure and be pledged to the repayment of a loan or a bond to finance a portion of the costs of, or to otherwise pay for, the acquisition of the conservation easement or other interests, except that if such portion of Resort Tax revenues received in a fiscal year is more than is needed in that fiscal year for such loan or bond, the excess will be applied to additional property tax relief in the next fiscal year; and (iii) 5% for merchants' costs of administration. (p. 144) (CD 1:48:56)

Mayor Muhlfeld read the proposed resolution. City Manager Stearns gave an overview of his staff report that included background and history of this project. City officials have had discussions back to at least 2009, and likely before then, with the F.H. Stoltze Land and Lumber Company (FHSLLC) regarding ways to preserve their timberlands in the Haskill Basin watershed for our water supply and for their timber management purposes. The outcome was a proposed conservation easement from FHSLLC; but the cost for the city to purchase an easement on as much as 3,024 acres of land was large, seemingly unattainable. The Trust for Public Land (TPL) became interested in this project in 2013 as they had recent success in efforts at protecting timberlands in the Swan/Blackfoot area and in Lincoln County. The proposed resolution is a culmination of the process of TPL negotiating with FHSLLC for the public purchase of a conservation easement; followed by TPL administering a feasibility study for amassing funds to complete the transaction. TPL negotiated an option for the purchase of a Conservation Easement for a net estimated cost of $17,000,000.00 for 3,024 acres. Through cooperative efforts TPL and the Montana Department of Fish, Wildlife, and Parks, $9 million in grants have been secured; leaving an estimated $8 million of the total $17 million cost remaining to be funded in the local area of Whitefish. TPL presented their findings for local funding options at the September 15, 2014 City Council Meeting. A copy of their report is included in tonight's Council Packet. The option expires December 31, 2015. There have been several workshops and public meetings on this subject. The Council and TPL again met in a work session on February 2nd, regarding funding options, and at the end of the February 2, 2015 regular City Council meeting the Council directed staff to bring forward a resolution calling for a special election on April 28th to ask the voters to increase the Resort Tax by one percentage point to help with the funding of this Conservation Easement to preserve water quality and water supply in the Haskill Basin watershed, for their consideration. Other

funding options that have been discussed included a General Obligation Bond, which would increase property taxes; or an increase in Water Rates.

Mayor Muhlfeld opened the public hearing.

Mike Gwiazdon, 2313 Houston Circle, CEO of Sportsman Ski Haus, said he has been in retail in this community and has been a part of this community since 1973. He said he has served on the Council and the Resort Tax Monitoring Committee. He spoke against the proposed increase in the resort tax. He said he was not against taking care of our water supply, but he was against using extra resort tax in this way. He said the adoption of the resort tax took its toll on the local retailer, one that took several years to overcome and bring retailers back to where they started from. Many customers don't understand the tax; it isn't consistent from store to store but in his store, everything is taxed. He said to this day, the resort tax is a negative to retail. He has customers who will not buy from the Whitefish store, but will travel to Kalispell and buy in his Kalispell store just so they don't have to pay for the resort tax. Retail expansion is happening all over the valley – all outside Whitefish, and none of those stores have the negative impact of the resort tax, and he feels that is going to take its toll out again on Whitefish retail. The Canadian dollar is going down and that is going to be another hit on Whitefish retail. He said it is important to remember that Whitefish stores are owned by local people of the community; dollars spent in Whitefish stay in the community. He said an increase in the resort tax will not be a positive for Whitefish retail.

Sam McGough, McGough & Company on Central Avenue, thanked the Council for all the work they do. He said word travels fast - - the Council has not yet made this decision and already the news reports are saying there is going to be a 1% resort tax increase in Whitefish. He spoke against the proposed resort tax increase. He said he doesn't charge the tax to his customers, he pays it to keep his customers. Bringing up a proposal to increase the resort tax just opens up old wounds that were there before when many were against the original adoption of the tax; it is the principle of the thing for many. He agreed with the conservation easement to protect water quality but it should be paid by the water users. He said the projection of a 5% increase in resort tax collections is unrealistic, the increase is not a given; and the impact of the drop in the Canadian dollar should be taken into consideration. He said if it does end up being approved; he thinks all the extra monies raised should pay down the loan instead of giving any portion back in property tax relief. He said he will live with whatever the Council decides, he has in the past; but it is a hardship on Whitefish retail. He asked the Council to consider the importance of the core of downtown businesses.

Todd Given, 115 O'Brien Avenue, spoke against a resort tax increase. Economists say tax retards growth, tax is regressive; he said don't restrain growth in this city. He said there are lots of lakes around here for a water supply. He favored an increase in the water rate but said the whole project should be rethought. Whitefish needs more businesses and industry, then the money needed will be gained by growth. He said taxes drive business and customers away. He thanked the Council for their consideration and time.

Jan Metzmaker, 915 Dakota Avenue, thanked the Council for the town hall meeting held last Thursday, it was very informational and said Mayor Muhlfeld did a great job with his presentation. She described work she did in the early 1980s as a graduate student in environmental studies specializing in water resources at the University of Montana; and also worked for the Lolo National Forest as a hydrologic technician in charge of their water quality testing program. Her project was to determine if there was a risk to water quality due to the high amount of recreation that occurred in the area. It was

suspected that high people, dog, and horse traffic, if they were carrying any disease, could infect the beaver population and result in contamination of the water supply. The manager of the Mountain Water Company (owner of Missoula's water supply) laughed at her and said if their water supply became contaminated they would just drill more wells. After three years of research and one month after she turned in her thesis warning of this possible contamination, people in Missoula started getting sick and the source went back to an infected beaver that got into their water supply. The Missoula surface water supply system was shut down and has never been regained. The Mountain Water Co did not want to invest in a treatment plant and they drilled more wells. She said our water quality issues may not be the same but she feels that some lessons can be gleaned from her story. The City of Missoula is now fighting for water rights and ownership of their water supply and it is costing them millions of dollars. It is a city's responsibility to insure the quality of safe drinking water and protect its water source, so she is in full support of the City of Whitefish doing everything it can to purchase this conservation easement to protect and preserve our water supply. She compared the cost of this easement to be spread across 5200 households who use Whitefish water, or increase the resort tax and spread it over 5,011,475 visitors (according to last years' numbers) who spend one night in Whitefish. She thinks spreading the cost over that large number of visitors over 10 years is much more equitable. She served on the Council when the resort tax was approved; it was divisive and contentious then and it certainly is divisive and contentious now. She said other communities in the state who have been charging the full 3% resort tax allowed have not suffered economic ruin; even Kalispell is looking at options to adopt a limited local option tax. She understands the angst of local retailers, but is in full support of the resort tax increase as proposed, including the 25% that goes towards local property tax relief. She thanked the Council for bringing this important issue forward. (Copy of her report is appended to the packet).

Leo Keane, 514 Pine Place, said he was very much in favor of the conservation easement but is not in support of the 1% resort tax increase due to the public comments of the local retailers here in town that say it will hurt their businesses. Of the other two options, he would prefer a General Obligation (GO) Bond over water rate increases. He said a GO Bond could open up other opportunities to build reserves for other open space measures as well as the conservation easement; which he would support. He said if we had some money in reserves a few years ago maybe the city could have purchased the land next to City Beach instead of losing it to development.

Steve Lull, 2440 Dillon Road, thanked all who have worked hard to bring this forward; and he spoke in support of the resort tax increase. He said he disagreed with the public comment that the resort tax is a negative, based on the $25M generated since the inception of the tax; look at all the benefits it has brought to this community. He was sympathetic with the worries about the Canadian dollar but said it will come back, it has an ebb and flow. He said for those that are driving to shop in Kalispell instead of paying the tax - the money they spend on gas and the amount of money they would have to spend to save on the additional 1% just doesn't pencil out; and thought the local retailers should promote 'shop locally' better. The proposed resort tax increase is the best way to help purchase the conservation easement – and supported preserving and managing the 3,000 acres, and protecting the water shed. He agreed it was an amazing opportunity, a one-shot deal that should not be passed up; and he felt mixing the funding sources would kill the deal. He thanked the Council for listening.

Rebecca Norton, 530 Scott Avenue, spoke in support of the 1% increase in the resort tax but also sympathized with the local retailer's fears; and suggested there be different stages of the increase that TPL could work out. She encouraged the Council to stay in touch with local retail regarding the outcome of their decision.

Joan Vetter Ehrenberg, 744 Hidden Valley Drive, submitted a letter in support of the 1% resort tax increase to the Council that she had passed around and got a lot of signatures in support as well. She supported the easement to protect water quality, avoid development of the lands, and avoid water rate increases overtime if this isn't done now; and felt funds could be raised with increased water rates but thought it was better to have a temporary increase to the resort tax today, to sunset in 10 years, to allow the city to protect its water source forever. She said she prefers shopping in Whitefish and paying the resort tax over driving to Kalispell. She felt of the three options, the resort tax increase was the best option to spread the equity community-wide. (Letter is appended to the packet).

Ben Cavin, 2130 Houston Drive, spoke in support of the conservation easement, he said it was a great opportunity. He said Jan Metzmaker's story was interesting and agreed with Leo Keane's idea to gain more open space. He said there has only been one appraisal of the land to determine the value of the $17M, and thought it was only good business to get one or two more appraisals.

Ron Brunk, 130 E. 4th Street, and owner of Glacier Cyclery, spoke against the proposed 1% increase in the resort tax, echoing concerns stated by the other retailers he said. It definitely impacts his sales; at the onset of the resort tax it seemed like it took his business a couple years to feel like they got caught up. He agreed that the Canadian dollar ebbs and flows. He agrees with the pursuit of the easement acquisition, it will protect our water and open up more recreational land for his and his customers' use. So even though he feels the additional tax will affect his business, he gets the benefits of selling bikes and accessories to all those trail riders.

Toni Rae Idol, Dick Idol Signature Gallery, 238 Central Avenue, spoke against the proposed 1% resort tax increase. Their business has fine art and jewelry sales, and she said they have to try to explain the resort tax to a lot of their customers who don't understand the inconsistencies throughout town. She often pays the resort tax herself to make a sale. In addition, coming up soon there will be a new property tax to the downtown property owners for the parking structure and asked, what comes next? She said she just learned tonight there is a state limit on the resort tax and it can't go above 3%. She said she was in support of the conservation easement and protecting our water but wished they could find other creative ways to fund this; she preferred that since this is for the water – why not increase the water rates? She thinks increasing the resort tax is the easy way out. She said she was a new business owner in the city and very glad to be here, she hopes they have been a good addition to the city, and she thanked the Council for their time.

T J Henson, said he lives outside the city limits but owns a business on Hwy 93 South, Celebrate Event and Party Rentals; and said he supports the conservation easement for water protection. He spoke against the increase in the resort tax and said the costs should be covered by water rate increases.

Kevin Gartland, lives at 622 Somers Avenue and was speaking on behalf of the Whitefish Chamber of Commerce. He said the Board hasn't discussed the resort tax increase proposal – it has all happened so fast and the Board would like the Council to slow down on this process. They will discuss it at their next Board meeting but he said he already knew that 8 of the 12 Board members have spoken against the resort tax increase. He thinks if the purpose of the easement is for the water – it should be paid for by the water users, but all possibilities should be explored, including exploring if really all 3000 acres should be included. He said when the resort tax was first promoted at 2%, people were told it would never increase. He has heard some say that the property tax relief is a bribe; and he has also heard some say that if the resort tax is increase 1%, they will stop paying the Whitefish Convention and Business Center's 1% assessment, which would be a shame he said.

Jeff Raper, 719 Kalispell Avenue, spoke in favor of the conservation easement but not in favor of increasing the resort tax. He thought the costs should be covered by a water rate increase – the loan could be paid off faster and with less interest, he said. He questions the validity of the TPL's public poll; they only talked to 175 voters, which is only 3%. He said there should be other options like private fundraising – he would write a check.

Dan Graves, Whitefish Mountain Resort, said he had just listened to an hour of discussion wherein the Council was micro-managing changes at the Iron Horse welcome center, followed by their action to table it. He said, quoting Kevin Gartland, this project has been out for 15 days and the Council is rushing though it – he didn't think it was appropriate. He said it would be best to wait for the numbers for tax revenue through February; the Mountain saw a substantial decrease in out-of-town visitors in January and February. He said the plan projects a 5% increase in resort tax dollars and he doubts that will happen. He said consideration should be given to the effect on the community and its tourists. He spoke to the resolution language "….pay for the acquisition of the conservation easement or other interests….." He said what are the other interests, this should only be about water.

Mayre Flowers, Citizens for a Better Flathead, 35 4th Street West in Kalispell, said they are in support of the conservation easement and the community thanks and recognizes FHSLLC for their stewardship of the lands. They support the grant funding found for this project, but do not support a resort tax increase, other funding should be found. The Whitefish businesses have served the city for a number of years in their collection of the resort tax and should not be expected to shoulder the additional collection; it would be fairer to charge the water users. Competition for retailers is a realty; other communities who have the resort tax are more isolated, and don't have other shopping opportunities down the road. She asked them to take another look at the Water Bond, and also to take another look at the property tax relief – what they are proposing for property tax relief is greater than the minimum allowed by state law, better to put it all towards the payoff the loan.

Rhonda Fitzgerald, 412 Lupfer Avenue, said this conservation easement is the best think that has happened to Whitefish since rebuilding Central Avenue, and she appreciates everyone efforts toward it. It is great to protect our water source, and the preservation of the recreational area is also be great, wildlife habitat and open space all are a great thing, she thinks they have community-wide support for the conservation easement. She thinks the funding should be a blend from several sources; not just additional resort tax which largely comes from the locals in town, the local businesses and their local customers. Whitefish's retail defines the downtown, but it is a fragile relationship between the locals and the businesses and she asked the Council to tread softly, she said we need them to survive. She suggested only raising the resort tax on bars, restaurants and lodging, then include a small water rate increase, supplemented by local fundraising. She said please do not hurt the local retailers, she said things are turning down – the hotel collections were down in December. She handed the Council a graph she had prepared showing the breakdown of average resort tax collection for 2012-2014 between the 3 classification of Hotels, Bars and Restaurants, and Retail. (Graph is appended to the packet).

Don Spivey, 107 Park Knoll Lane said he had submitted a letter today to the Council which had included a discussion of all the different funding options. He said at the bottom of the letter he asks the Council a question: "Is it possible and reasonable to go to the outside funding sources and to Stoltz indicating a firm commitment to purchase the easement even to include, if necessary, some form of 'earnest money' commitment at the current offering price? At the same time request an additional 6

months to allow the community to work through the various options, arriving at the best funding alternative for all concerned parties. (Letter is appended to the packet).

Mayor Muhlfeld closed the public hearing and turned in over to the Council for their consideration. (CD 3:01:10) Discussion among the Council followed.

Councilor Feury made a motion, second by Councilor Hildner, to approve Resolution 15-04; A Resolution submitting to the qualified electors of the City of Whitefish, Montana, the question of whether, To protect and preserve water quality and quantity, including the source drinking water supply for the municipal water system of the City of Whitefish, through the acquisition of a conservation easement or other interests in and around Haskill Basin, shall the existing Resort Tax rate be amended from 2% to 3% effective July 1, 2015 and ending on January 31, 2025, with Resort Tax revenues resulting from the 1% rate increase to be used as follows: (i) 25% for property tax relief that is in addition to the existing property tax relief; (ii) 70% to secure and be pledged to the repayment of a loan or a bond to finance a portion of the costs of, or to otherwise pay for, the acquisition of the conservation easement or other interests, except that if such portion of Resort Tax revenues received in a fiscal year is more than is needed in that fiscal year for such loan or bond, the excess will be applied to additional property tax relief in the next fiscal year; and (iii) 5% for merchants' costs of administration. The motion passed on a five (5) to one (1) vote, Councilor Frandsen voting in the negative.

c) **Resolution No. 15-___; A Resolution of Intention indicating its intention to adopt amendments to the Whitefish Downtown Business District Master Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy) (p. 222)** (CD 3:23:44)

Councilor Hildner made a motion, second by Councilor Anderson, to extend the meeting to 11:30 p.m. per Resolution 08-10. The motion passed on a 5 to 1 vote, Councilor Frandsen voting in the negative.

Mayor Muhlfeld excused Councilor Frandsen from the rest of the meeting as she was not feeling well.

Planner Compton-Ring gave the staff report, reporting that in 2012 the Council requested the Downtown Master Plan be updated. The city moved forward and negotiated a contract with Crandall Arambula. During the updating process Crandall Arambula held several meetings with the staff and the public, and individually with community members and organizations. The Planning Board held a public hearing on the update on September 19, 2013 and recommended approval to the Council. The Council held a public hearing in October 2013, tabled action and scheduled a worksession and a public hearing for November 4, 2013. The public hearing was left open and a community information forum was held on March 12, 2014. The Planning Board held an additional public hearing to consider all the most recent updates in January 2015, and voted to recommend approval of the Downtown Master Plan with several suggested amendments. Planner Compton Ring said it is staffs' recommendation that the Council open the public hearing for this agenda item tonight, and following public testimony continue the public hearing until March 16, 2015 in order for all comments to be included in the Plan and for the consultants to present the Plan to the Council. Staff also recommended a worksession with the Council and consultants, if possible.

Mayor Muhlfeld opened the public hearing.

Camisha Sawtelle, 239 Somers Avenue, said the plan calls for three standing residential units on Kalispell Avenue and E. 3rd Street, to be removed and replaced by parking. She did not support that recommendation, she said those houses are part of an older, established neighborhood on Kalispell Avenue and she requested the Council not turn residential into a parking lot.

Paul McCann, 340 Somers Avenue, said he echoed Camisha's comment above. He preferred maintaining historical residential neighborhoods. He said it would set a bad precedent to turn that area into a parking lot. He said in recent history, the office building to the south wanted to remove a residential unit for additional parking for their building, and their request was turned down. He said everyone should be treated the same and warned against being arbitrary and capricious.

Janice McCann, 340 Somers Avenue, said she attended the public meeting at the O'Shaughnessy and thought the updated plan should include the neighborhoods, not just the commercial downtown.

Leo Rosenthal, 236 Columbia Avenue, said he echoed the other comments regarding saving the neighborhoods. With the Council's approval last week of the hotel at Spokane and 2nd Street, more residential has been displaced.

Rhonda Fitzgerald, 412 Lupfer Avenue, said she would be in support of master plan review of the neighborhoods including hers that is west of Baker Avenue. She said those close-to-downtown residential neighborhoods are valuable and should be preserved.

Mayor Muhlfeld announced that the public hearing on the updated Downtown Business District Master Plan will be continued to March 16, 2015.

Manager Stearns asked the Council to start considering how the city will pay for future parking lots, and suggested they could consider adopting a provision for a Cash in Lieu of Parking fund.

Councilor Anderson made a motion, second by Councilor Feury, to continue the public hearing to the March 16, 2015 Council meeting. The motion passed unanimously.

7) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

a) Discuss and provide direction for a possible FY15 budget amendment and subsidy for an extension of the season at the Stumptown Ice Den for a private group (two motions) (p. 397) (CD 3:38:10)

Parks and Recreation Director Butts reviewed that the user groups from the rink had a worksession earlier tonight with the City Staff and Mayor and Council. She reported that the original deed to the City on the land where the rink was constructed, was donated to the City by the Mountain Trails Saddle Club and says, in part …"for the sole purpose and on the condition that a portion thereof shall be developed, used and maintained as and for a children's public playground and the remainder thereof shall be developed, used and maintained as and for a family oriented public park and recreation area…" At the worksession the Park Staff discussed that ice for public use has diminished some due to the increase of requests of private groups for ice time. Now the user groups are requesting an extended season to get more ice time so financial impact of that request was reviewed at the worksession. She said some of the user groups are non-profit, some are for-profit. Also discussed was the capability of rink operations equipment to keep up with the demand; and Park Staff addressed those issues in reports

that are in the packet. The Park Board voted to increase the season to some extent and it is coming to the Council for budgetary authority. Also under consideration is a fee increase to help meet the financial demands. Historically, the rink has been used for other park programs that are non-ice related, which reminded her that a full study of rink utilization could be done to optimize the facility. The requests for Council to consider tonight is are (1) the request for an extended season, and (2) the request for year-round ice as set out on page 401 in the packet.

Mayor Muhlfeld said the hour is late – it is nearly 11:20, and he requested the Council consider only the request for an extended season; and leave the request for year-round ice to be considered at another time and based on more research of revenue and expenditure issues, along with consideration of the best use of the ice time in this public facility.

Councilor Anderson made a motion, second by Councilor Feury, to direct staff to prepare a budget amendment resolution providing for an extended season through June 6, then close the rink and reopen on August 10th, including specific information on rates and costs, a cash flow analysis in terms of the operations of the rink with labor numbers and a list of immediate capital expenditures. The cash flow analysis he would like to get is a true picture of the cash flow, don't include reserves. **City Attorney VanBuskirk advised the Council (ref: packet page 400), that the dollars listed as needed for the extension of the season to June 6 was $60,790 and Councilor Feury said he was going to note that as well but felt that dollar amount covered 10 weeks, there would just be a break in the middle to build ice. Councilor Anderson asked and Finance Director Smith said her report included numbers for wages, utilities, and repair and maintenance; no reserves. Manager Stearns advised the Council they need to specify the revenue and expenditure dollars for the budget amendment. Mayor Muhlfeld asked if the motion could only address funding for this fiscal year ending June 30, 2015; and consider operations and costs that occur after July 1st in next year's budget process (FY16), and Manager Stearns agreed. Manager Stearns said on page 400 the city's number for financial requirement is $36,475, and on page 408 which is their request, they show they have pre-paid revenue at $26,469; so there is still about a $10,000 difference which the city would possibly end up subsidizing. Councilor Anderson said he was okay with that; their projected revenue almost covers 80% of the projected costs; and maybe they (the user groups) will get that marketed; or the city would subsidize. Manager Stearns said based on that discussion, the Council's motion just addresses the timeframe ending June 6, 2015; and the budget amendment will show a balanced proposal of $36,475 in both expenditures and revenues. Councilor Anderson agreed and said that would be his motion. The second approved the amended language. Director Butts asked for clarification regarding management of ice rental, the Park Board has always given staff the direction that ice rental should be in the hands of staff.

Councilor Hildner made a motion, second by Councilor Anderson, to extend the meeting to midnight per Resolution 08-10. The motion passed unanimously.

**During development and before the vote on Councilor Anderson's motion, Mayor Muhlfeld asked Scott Elden if he could address the Council regarding some of their new financial findings they came up with. Mr. Elden agreed and said he would like to have Greg Esakoff address the Council as well. Mr. Elden said he was in support of Councilor Anderson's motion, he said it addresses so many things that have come up during discussions tonight. He said there are a variety of suggestions from the user groups how to overcome the shortfall of expenditures or revenue; in addition the user groups propose to pay for the needed compressor that is missing now. He said the underlying assumption and hope is there will be a highly integrated, proactive maintenance program that will be talked about in

subsequent meetings which will shift the reactive maintenance that is happening that will have a long term financial benefit. They want to track this season as a base season and track operation, maintenance and utility costs and revenue. He said the commitment that is in the packet tonight is from pre-payment from Glacier Skate, and the other user groups are waiting to rent the rest of the open ice as it becomes available, to hopefully make up the shortfall. He thinks there could be additional revenue if the city also runs and integrates some programs into the schedule. He said that Greg Esakoff might have some more specifics he could explain to the Council.

Greg Esakoff said he'd like to address that $10,000 differential. He said they agree with Finance Director Smith's calculation, but the difference is her numbers are based on 18-hours days and they don't want it for 18-hour days, they are requesting about five hours a day. He said cutting back the hours they won't need, plus using updated utility savings, he thinks the city's numbers and their numbers will be closer. He addressed the condenser; their group brought in the consultant three years ago and from their study they made three recommendations: two of the three recommendations have been implemented and the third will be – it is the low-e ceiling that is scheduled to be put in place at the end of the spring season. He said the savings in water usage, with the upgraded equipment, is huge, which is reflected in the handout he submitted during the worksession. He said they felt their revised financial detail will stand the test of time.

Councilor Hildner made a motion to postpone the August 10 reopening of the rink to August 30. The motion died for lack of a second.

Mayor Muhlfeld said the budget amendment is just for this year; FY15 ending 6-30-15. And, he said he agreed that managing the ice rental should be a staff responsibility.

The motion passed unanimously.

City Manager requested the Council also give an indication, by motion, of their intention for the August re-opening. The user group needs to know that so they can go ahead and arrange for a summer camp if it looks like something the city will allow.

Council Anderson made a motion, second by Council Barberis, to approve that it is Council's intention to provide budget in FY16 to re-open the rink on August 10, 2015, so the user group can plan for their 3-week summer camp. City Attorney VanBuskirk advised the motion is for budgetary purposes only. The motion passed unanimously.

8) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

a) Discussion and direction to staff regarding possible revisions to the Subdivision Code regarding payment-in-lieu-of parkland dedication requirements (p. 438) (CD 4:25:18)

Planning and Building Department Director Taylor said at the last meeting the Council had received a letter from Mark Van Everen discussing the parkland dedication standards for small subdivisions. The council asked staff to talk in more detail on this issue at this meeting. Staff agrees there would be merit in this review; staff researched other city's parkland dedication standards and found many similar to those of Whitefish, but also found where some cities treated infill and small subdivisions by different methods to encourage development. Upon Council's direction he said they would be happy to research it further and take it first to the Park Board and then bring it back to the Council. Council showed consensus for the Planning Department to continue their review process.

9) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

a) Discussion and direction on cost and desirability to pay to convert the overhead utilities on the West 7th Street Reconstruction Project (Resort Tax) to underground utilities (p. 450) (CD 4:27:05)

Interim Public Works Director Hilding said Brandon Theis is here from RPA to help with questions. Interim Director Hilding started in with the staff report saying that converting the overhead utilities on the W. 7th Street Reconstruction project to underground utilities not only costs more, but would add approximately 8 months to the project; thereby pushing down all the projects slated to follow W 7th by at least one year.

Mayor Muhlfeld excused himself for interrupting but said they are up to the deadline of their 2nd time extension for this meeting and asked if there was a motion to extend it again.

Councilor Anderson made a motion to adjourn, and to move all unfinished business to the next convenient agenda. Approved by Council by acclamation. The remainder of Agenda #9 and all items listed below in Agenda Numbers 10 and 11 will be moved forward. Interim Director Hilding thanked Brandon for coming down and spending time at this meeting.

10) COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 457)

b) Other items arising between February 11th and February 17th

c) Consideration of selecting Mike Cronquist as the Owner's Representative for the future City Hall/Parking Structure project (p. 465)

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Consideration of a change to April 20, 2015 schedule for work session and public hearing/consideration of Resolution for Hwy 93 West Corridor Plan (p. 486)

12) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 4:30:10)

Mayor Muhlfeld adjourned the meeting at 12:00 a.m.

_____
Mayor John M. Muhlfeld

Attest:

_____
Necile Lorang, Whitefish City Clerk

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ORDINANCE NO. 15-____

An Ordinance of the City Council of the City of Whitefish, Montana, approving the Whitefish Crossing, fka Deer Tracks Residences Planning Unit Development, to develop a 60-unit apartment project on one parcel comprising approximately 4.493 acres of land to become a part of 6348 Highway 93 South, Whitefish.

WHEREAS, Jeff Badelt and Sean Averill of Montana Development Group (Applicant), applied to the Whitefish Planning & Building Department for a Planned Unit Development (PUD) overlay to develop 4.493 acres into a 60-unit apartment project in five buildings (12 units per building), on the real property to become a part of 6348 Highway 93 South, and described as Lot 2 of Dear Tracs Subdivision and Tract 3ABM-100 in Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana; and

WHEREAS, in response to such application for PUD, the Whitefish Planning & Building Department prepared Staff Report WPUD 14-04, dated October 9, 2014, which reviewed and analyzed the proposed PUD, deviations to the zoning standards regarding building height standards and on-site parking, and recommended the proposed PUD and deviations to zoning be approved, subject to 16 conditions of approval; and

WHEREAS, following adjacent landowner notice, at a lawfully noticed public hearing on October 16, 2014, the Whitefish Planning Board considered the proposed PUD and staff report, received public input, and thereafter recommended approval of the PUD, subject to 15 conditions of approval, as amended and attached as Exhibit "A"; and

WHEREAS, the public hearing scheduled before the City Council on November 3, 2014, was postponed due to an appeal filed by the Park Knoll Homeowners' Association to the Whitefish Board of Adjustment that imposed a stay of all proceedings by MCA §67-2-326, concerning the Zoning Administrator's interpretation of WCC §11-2S, WPUD Planned Unit Development District, upon which the land use permit was submitted to allow the blending of uses and densities across a single lot with two zoning districts through a rezone to the PUD zoning overlay district; and

WHEREAS, the stay remained in place until the Park Knoll Homeowners' Association withdrew its appeal on February 17, 2015; and

WHEREAS, at a lawfully noticed public hearing on March 2, 2015, the Whitefish City Council received Staff Report WPUD 14-04 and an oral report from Planning Staff, received public input, discussed the staff report, proposed findings of fact, deviations to the zoning standards regarding building height standards and on-site parking, subject to 15 conditions of approval in favor of the PUD, the Planning Board's recommendation of approval of the PUD, the zoning deviations and amended conditions of approval, invited public comment, and thereafter voted to approve the Whitefish Crossing, fka Deer Tracks Residences PUD, Staff Report WPUD 14-04, Findings of Fact and deviations to

zoning, subject to the 15 conditions of approval, as amended, attached as Exhibit "A", and incorporated herein by reference; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the PUD, Staff Report WPUD 14-04, and deviation to zoning, subject to the 15 conditions of approval, attached as Exhibit "A", and adopt the Findings of Fact.

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

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

Section 2: The City Council hereby approves the Whitefish Crossing (fka Deer Tracks Residences) Planned Unit Development, and zoning deviation, subject to 15 conditions of approval, shown on Exhibit "A", Staff Report WPUD 14-04, and adopts the Findings of Fact.

Section 3: The City Council hereby approves the requested Whitefish Crossing Planned Unit Development to overlay the real property identified as Lot 2 of Dear Tracs and Tract 3ABM-100 in Section 1, Township 30 North, Range 22 West, to develop 4.493 acres into a 60-unit apartment project, subject to the conditions of approval, shown on Exhibit "A".

Section 4: The official zoning map of the City of Whitefish, Montana, be amended, altered and changed to provide that the real property identified as Lot 2 of Dear Tracs and Tract 3ABM-100 in Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, shall have a Planned Unit Development Overlay, which shall modify the requirements of the underlying WLR (One-Family Limited Residential District) and WB-2 (Secondary Business District) zones and shall be subject to all of the requirements shown on Exhibit "A".

Section 5: The Zoning Administrator is hereby authorized and directed to amend the 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, THIS _____ DAY OF _____, 2015.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

Exhibit "A"
WHITEFISH CROSSING
WPUD 14-04
Approved Zoning Deviation and
Conditions of Approval

Zoning Deviation:

- **Building Height Standards.** The Applicant has requested a maximum of 39' 6".

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

2. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the City of Whitefish Planning Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees, including signage to direct equipment and workers.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public road, including procedures remove soil and construction debris from road as necessary.
   - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
   - Notation of any street closures or need to work in public right-of-way. (Engineering Standards, Appendix K)

3. Prior to any construction, excavation, grading or other terrain disturbance, plans for all on and off-site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, sidewalks, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (Engineering Standards, Chapter 1)

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

include sprinkling, FDC, alarm panels and utility controls located in close proximity to each building. (IFC)

5. Prior to the first phase, a snow storage plan shall be submitted to the Public Works Department for review and approval. Such plan shall ensure storage does not impede emergency access and it is not located within storm water facilities. (Engineering Standards, Chapter 5)

6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)

7. Refuse disposal areas shall be reviewed and approved by the Public Works Department and North Valley Refuse. (Engineering Standards)

8. A new approach permit shall be obtained from Montana Department of Transportation. Road plans shall be submitted to MDT for review and approval – this shall also include the drainage plan. The southern entrance into the dry cleaner shall be eliminated. (Finding 8)

9. Architectural review and approval shall be obtained prior to submitting an application for a building permit. (§11-3-3B) Strict adherence to §6.6.2., variation to multiple multi-family buildings, shall be met.

10. Due to similarities to other project names, this project shall be assigned a new project name prior to any other submittals to the City.

11. A maximum of two (2) affordable apartments shall be designated per building for a total of six (6) apartments. Apartments shall have a variety of number of bedrooms and location to serve the greatest variety of clients. The Whitefish Housing Authority will manage the apartments to ensure long-term affordability. This management agreement shall be submitted to the Planning Department prior to submitting a building permit application within Phase 1.

~~12. A parking agreement for 20 parking spaces shall be entered into by the developer. Evidence of such agreement shall be submitted to the Planning Department prior to submitting a building permit application within Phase 1.~~

~~13.~~12. A 60-foot right-of-way in a location identified by the Public Works Director shall be installed and dedicated to the City of Whitefish prior to submitting a building permit application within Phase 1. The developer shall enter into an agreement for the maintenance and snow removal responsibilities until such time as the street is connected to the future Baker Avenue extension.

~~14.~~13. A paved temporary cul de sac shall be constructed at the western end of the new City right-of-way. This shall be kept clear of snow for emergency access.

~~15.~~14. Prior to submitting applications for building permits for each phase, a report showing how conditions of approval have been met for each phase shall be submitted to the Planning Department for review and approval and it shall include:

- Architectural Review approval for all buildings within the phase
- Location and design for secure bicycle parking for each building shall be reviewed and approved.
- Detailed landscaping plan and pedestrian connection plan
- Tree removal phasing – no tree removal shall occur in any phase until the tree removal plan is approved. All healthy long-term trees outside building envelopes, parking and vehicular access shall be retained.
- Review of approved open space plan.
- Infrastructure within each phase shall be fully capable of supporting the development within the phase. Roads shall meet the Fire Department emergency access requirements.
- Emergency access shall be approved for each building pursuant to the IFC. This includes physical access to within 150-feet of all corners of the building, FDC on each building, Knox box, no parking, and snow plowing.
- Infrastructure, including streets, water, sewer, hydrants and drainage, for each phase shall be installed and operational prior to the submittal of a building permit. Financial security for other infrastructure/improvements yet to be installed may be approved in order to obtain a building permit.
- All easements associated with the phase shall be recorded and submitted to the City.
- No more than two years shall lapse between phases.

~~16.~~15. This approval is valid for 3-years from the date of City Council approval. (§11-2S-9C)

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

February 24, 2015

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

RE: Whitefish Crossing (formerly known as Deer Tracks Residences), 6348 Highway 93 S; (WPUD 14-04)

Honorable Mayor and Council:

Summary of Requested Action: Jeff Badelt and Sean Averill on behalf of Montana Development Group are proposing to develop a 60-unit apartment complex at 6348 Highway 93 S. The property is partially developed with a dry cleaning business and a drive thru coffee kiosk and is zoned WB-2 (Secondary Business District) and WLR (One-Family Limited Residential District). The Whitefish Growth Policy designates this property as "General Commercial" and 'Suburban Residential".

Background: This matter was scheduled before the City Council on November 3, 2014, when the property owners in the Park Knoll neighborhood to the west, pursuant to §11-7-6, appealed the Zoning Administrator's interpretation of the Zoning Regulations. The appeal questioned the ability of a developer to blend zoning densities and uses across zoning district boundaries within a Planned Unit Development request. The matter was scheduled before the Board of Adjustments on March 3, 2015 when the appellant withdrew their appeal on February 17, 2015. The letter revoking the appeal is attached as an exhibit. The neighbors and the developers have come to an agreement concerning the site plan; however, neither staff nor the public has yet to review the revised site plan. The revised site plan is attached along with a letter describing the changes to the plan. At this time, staff is unable to provide any recommendation to the Council and would recommend, at a minimum, Council remand the proposed site plan back to staff for review. Alternatively, the Council could remand the revised plan back to the Planning Board for public review.

The other aspect of this project was to rezone a portion of the project that had been recently annexed back to Whitefish zoning designations. The Council approved the rezone at the November 3, 2014 meeting and it has since taken effect.

The remainder of this report is the staff and Planning Board recommendation on the originally submitted site plan, dated July 31, 2014, and supporting application.

Planning & Building Department Recommendation: Staff recommended approval of the planned unit development along with the two requested zoning deviations subject to 16 conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the October 2014 hearing and seven members of the public spoke at the hearing. The public voiced the following concerns:

- Density of the project, especially in relation to the underlying zoning
- Location of the affordable housing
- A request by the neighbors for more time to review the project
- Request for fencing on the west side of the project to buffer the neighborhood from adjacent landowners
- Inappropriate location for high density residential
- Traffic – an increase in volume and lack of a safe means to make left-hand turns
- Lack of usable open space for the residents
- Light pollution
- Doesn't comply with the Growth Policy
- Support for affordable housing – major concern

A number of letters and emails have come in regarding this proposal. These should be carefully reviewed by the City Council. The minutes for this item are also attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on October 16, 2014 and considered the request. Following the hearing, the Planning Board also recommended approval of the above-referenced planned unit development with 15 conditions as contained in the staff report and adopted the staff report as findings of fact. The Planning Board did not recommend approval of zoning deviation to reduce the overall off-street parking and recommended striking condition #12 that would enable the project to find additional off-street guest parking from adjacent landowners through a shared parking agreement. The Planning Board wanted the applicant to provide all the necessary parking off-street.

Proposed Motion:

- I move to approve WPUD 14-04 along with the July 31, 2014 site plan, the Findings of Fact in the staff report, the 15 conditions of approval and the request zoning deviation to building height to no more than 39-feet 6-inches, as recommended by the Whitefish Planning Board in October, 2014

Alternate Proposed Motions:

- I move to continue the public hearing until April 6, 2015 in order to have staff review the revised site plan submitted to the City on February 24, 2015 and provide a recommendation.

or

- I move to remand the revised site plan submitted to the City on February 24, 2015 back to Planning Board for public hearing.

This item has been placed on the agenda for your regularly scheduled meeting on March 2, 2015. 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: Exhibit A: Recommended Conditions of Approval
Minutes of 10-16-14 Planning Board Meeting

Exhibits from 10-16-14 Staff Packet

1. Staff Report – WPUD 14-04, 10-9-14
2. Adjacent Landowner Notice, 9-25-14
3. Advisory Agency Notice, 9-26-14
4. Email, James Freyholtz, Montana Department of Transportation, 10-2-14
5. Email, Robert James, 10-6-14
6. Letter, Donald Spivey, 10-6-14
7. Letter, Tom Tornow, 10-6-14
8. Letter, David Hunt, 10-7-14

The following were submitted by the applicant:

9. Applications for Planned Unit Development/Zoning Map Amendment, 9-9-14

The following items were submitted after the Planning Board packets went out:

10. Letter, Mark Voelker, 10-13-14
11. Letter, Kathy Grant, 10-13-14
12. Email, Ryan Swager, 10-14-14
13. Email, Pamela Shaw, 10-14-14
14. Email, Sara Mytty, 10-14-14
15. Email, Rebecca Kyle, 10-14-14
16. Email, Nikkee Day, 10-14-14
17. Email, Phyllis & Jack Quatman, 10-15-14
18. Letter, Robert Horne, Jr., 10-16-14
19. Memo, Tom Tornow, handed-out at the meeting, 10-16-14
20. Letter/Map, Don Spivey, handed-out at the meeting, 10-16-14
21. Email, Paula Johnson-Gilchrist, 10-16-14

The following items were submitted after the October 2014 Planning Board meeting:

22. Email, Damian Khourty, 10-24-14
23. Letter, Tom Turnow, 10-27-14
24. Letter, David Hunt, 10-25-14
25. Letter, Judith Spivy, 10-28-14
26. Letter, Tom Turnow, 2-17-15
27. Revised Site Plan and Letter, Sands Surveying, 2-24-15

c: w/att Necile Lorang, City Clerk

c: w/o att Jeff Badelt & Sean Averill, MT Development Group 1380 Wisconsin Ave Whitefish, MT 59937
Dear Tracs, PO Box 1442 Whitefish, MT 59937
HDH Holdings llc PO Box 961 Whitefish, MT 59937
Eric Mulcahy, Sands Surveying 2 Village Loop Kalispell, MT 59901
Brett Walcheck, 48 North 151 Business Center Loop Kalispell, MT 59901
TAO, pllc 499 Main Street Boise, ID 83702
White Cloud Design PO Box 67 Whitefish, MT 59937

Exhibit A
Whitefish Crossing
WPUD 14-04
Whitefish Planning Board
Recommended Conditions of Approval
October 16, 2014

The Planning Board recommended approval of the following requested zoning deviation:

- **Building Height Standards.** The applicants have requested a maximum of 39'6"
- ~~**On-site parking.** The applicants requested 2 parking spaces per unit instead of the standard 2.33 parking spaces per residential unit.~~

And the following Conditions of Approval:

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

2. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the City of Whitefish Planning Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees, including signage to direct equipment and workers.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public road, including procedures remove soil and construction debris from road as necessary.
   - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
   - Notation of any street closures or need to work in public right-of-way. (Engineering Standards, Appendix K)

3. Prior to any construction, excavation, grading or other terrain disturbance, plans for all on and off-site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, sidewalks, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, sidewalks and other improvements shall be submitted as a package and reviewed concurrently.

No individual improvement designs shall be accepted by Public Works. (Engineering Standards, Chapter 1)

4. The site and building shall meet all Fire Department standards for hydrants, access and the building itself. (IFC) All buildings shall meet Fire Department standards include sprinklering, FDC, alarm panels and utility controls located in close proximity to each building. (IFC)

5. Prior to the first phase, a snow storage plan shall be submitted to the Public Works Department for review and approval. Such plan shall ensure storage does not impede emergency access and it is not located within storm water facilities. (Engineering Standards, Chapter 5)

6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)

7. Refuse disposal areas shall be reviewed and approved by the Public Works Department and North Valley Refuse. (Engineering Standards)

8. A new approach permit shall be obtained from Montana Department of Transportation. Road plans shall be submitted to MDT for review and approval – this shall also include the drainage plan. The southern entrance into the dry cleaner shall be eliminated. (Finding 8)

9. Architectural review and approval shall be obtained prior to submitting an application for a building permit. (§11-3-3B) Strict adherence to §6.6.2., variation to multiple multi-family buildings, shall be met.

10. Due to similarities to other project names, this project shall be assigned a new project name prior to any other submittals to the city.

11. A maximum of two (2) affordable apartments shall be designated per building for a total of six (6) apartments. Apartments shall have a variety of number of bedrooms and location to serve the greatest variety of clients. The Whitefish Housing Authority will manage the apartments to ensure long-term affordability. This management agreement shall be submitted to the Planning Department prior to submitting a building permit application within Phase 1.

~~12. A parking agreement for 20 parking spaces shall be entered into by the developer. Evidence of such agreement shall be submitted to the Planning Department prior to submitting a building permit application within Phase 1.~~

~~13.~~12. A 60-foot right-of-way in a location identified by the Public Works Director shall be installed and dedicated to the City of Whitefish prior to submitting a building permit application within Phase 1. The developer shall enter into an

agreement for the maintenance and snow removal responsibilities until such time as the street is connected to the future Baker Avenue extension.

~~14.~~13. A paved temporary cul de sac shall be constructed at the western end of the new city right-of-way. This shall be kept clear of snow for emergency access.

~~15.~~14. Prior to submitting applications for building permits for each phase, a report showing how conditions of approval have been met for each phase shall be submitted to the Planning Department for review and approval and it shall include:

- Architectural Review approval for all buildings within the phase
- Location and design for secure bicycle parking for each building shall be reviewed and approved.
- Detailed landscaping plan and pedestrian connection plan
- Tree removal phasing – no tree removal shall occur in any phase until the tree removal plan is approved. All healthy long-term trees outside building envelopes, parking and vehicular access shall be retained.
- Review of approved open space plan
- Infrastructure within each phase shall be fully capable of supporting the development within the phase. Roads shall meet the Fire Department emergency access requirements.
- Emergency access shall be approved for each building pursuant to the IFC. This includes physical access to within 150-feet of all corners of the building, FDC on each building, Knox box, no parking, and snow plowing.
- Infrastructure, including streets, water, sewer, hydrants and drainage, for each phase shall be installed and operational prior to the submittal of a building permit. Financial security for other infrastructure/improvements yet to be installed may be approved in order to obtain a building permit.
- All easements associated with the phase shall be recorded and submitted to the city.
- No more than two years shall lapse between phases.

~~16.~~15. This approval is valid for 3-years from the date of City Council approval. (§11-2S-9C)

Street right-of-way between Wisconsin Avenue and Colorado Avenue on both sides of the streets. (§11-6)

Ken M. called for the question to vote on the amendment. Melissa, Ken M., and Richard were in favor; Rebecca and Ken S. opposed.

Melissa raised the possibility of requiring fencing to be solid to not allow a child to get through onto neighboring streets. Ken S. asked about highway fencing requirements and Wendy wasn't sure. Wendy suggested wording for an additional Condition as follows: *A fence shall be installed that conforms to the City's standards with openings not to exceed 4".* Graham asked why he should be required to install that type of fencing when other businesses weren't. He felt it would be a hardship as it would cost several thousand dollars. Ken M. said each situation is looked at separately and the Planning Board wasn't trying to create a hardship. Melissa decided not to make a motion, but both she and Rebecca asked Graham to be mindful of safety during his planning.

Ken S. called for the question on the motion stating he trusts Graham will make the Brewery safe, which is in his best interest. Rebecca seconded.

VOTE

The motion, with the amendment to Condition No. 2, passed unanimously. The matter is scheduled to go before the Council on November 3, 2014.

MONTANA DEVELOPMENT GROUP PLANNED UNIT DEVELOPMENT OVERLAY AND ZONE CHANGE

Montana Development Group is requesting a Planned Unit Development overlay and Zone Change in order to develop a 60-unit apartment project. The project is addressed at 6348 Highway 93 South and can be legally described as Lot 2, Dear Tracs Subdivision and a Portion of Tract 1 of COS 10669 in S1 T30N R22W.

STAFF REPORT WPUD 14-04/WZC 14-08 (Compton-Ring)

Planner Compton-Ring reviewed her staff report and findings. She noted that nine additional comment letters had been received since the packets were mailed out and she furnished copies to Board members.

Staff recommended adoption of the findings of fact within staff report WPUD 14-04 and that the Planned Unit Development for the Deer Track Residences be recommended for **approval** to the Whitefish City Council, and that the deviations to the zoning be granted, subject to 16 Conditions of Approval. Staff also recommended adoption of the findings of fact within staff report

WZC 14-08 and that the map amendment be recommended for **approval** to the Whitefish City Council.

Rebecca questioned where the extra 20 parking spots might come from in order to meet Condition No. 12. Wendy thought maybe from the nearby Pizza Hut, or the Organic Dry Cleaner business.

Richard asked about the ingress and egress on Highway 93 S and no traffic study required, does this and the Hampton Inn to the south create a cumulative effect? Wendy said no cumulative effect was talked about and each was addressed separately. Neither the city nor Montana Department of Transportation required the applicant to submit a Traffic Impact Study.

Rebecca wanted to know if the Planning Board could request a traffic study. Wendy said the applicant has done everything the City and MDT have asked them to do as far as providing information.

Ken S. said the applicant should be able to explain the plan. He asked about the continuation of Baker Avenue and Wendy said it will continue to be piecemeal and the Hampton Inn to the south will dedicate some right-of-way.

Rebecca asked if the parcel on Highway 93 S currently occupied by the dry cleaners and coffee hut had separate owners or were part of the project. Wendy said that would be covered in the applicant's presentation.

APPLICANT / AGENCIES

Sean Averill welcomed everyone and thanked them for their time. He gave a Power Point presentation on the project, which includes five 12-plex units and is now called Whitefish Crossing, rather than Deer Tracks Residences. His partner on the project is Jeff Badelt. He said Whitefish has a great need for housing. The Whitefish Housing Authority currently has a six-year waiting list, and it will be getting six affordable housing units in this project. A poll of Whitefish Property Management, The Landlord, Five Star Rental, and At Your Service rental agencies showed they all average 0% vacancy. Sean explained a lot of research had gone into choosing this site and these would be long-term versus seasonal rentals. He said this project includes providing a 60' east-west corridor for a public right-of-way between Highway 93 South and Baker Avenue, with sidewalks on both sides. He felt impacts to the neighborhood will be minimal, especially with the Hampton Inn going in to the south. The project proposed to combine WLR

and WB-2 zones, and excludes the front chunk of property currently occupied by the dry cleaners and coffee hut. The coffee hut will be where the new road will be constructed, so won't be staying. Their architect, TAO out of Boise, does apartments exclusively. Sean wanted to discuss two of the conditions, 1) requirement to extend the right-of-way to the edge of the Baker Avenue right-of-way as it would just involve cutting down a lot of trees; 2) the requirement to provide 20 additional parking spaces and 3) the requirement to plow and maintain the public right-of-way.

Rebecca asked how the stormwater draining system would work. Brent Foley, 48 North, civil engineers on the project, explained it involves conveyance systems to underground infiltration systems under parking area. Large chambers hold large volumes of water collect water and then direct it into soil more slowly in an out-of-the way area.

Rebecca asked about the 20 extra parking spaces and Sean said they could probably get them, but he didn't think they should have to provide more than the 120 they had planned since giving the east-west corridor, which would include 17 on-street parking spaces. Sean said he owns the parcel where the dry cleaners is located. They are a long-term tenant and hope to stay.

Richard referred to Condition No. 11 and asked how the units designated for affordable housing will be divided - 1, 2 or 3 bedroom units - as the staff report just says "a variety". He wanted to know if there would be deed restrictions for the six Whitefish Housing Authority units, and how we would ensure the six units wouldn't be put off until the end. Wendy referred him to the language of Condition No. 11 which states, "A maximum of two (2) affordable apartments shall be designated per building for a total of six (6) apartments." Sean said rates are set by HUD which the WHA administers and he will let Lori Collins pick based on their needs. Richard was concerned about the lack of adequate parking and how parking would be restricted for RVs and boats, etc. Sean said there are two spots per unit and tenants will need to be responsible for the parking of their two units. Rebecca asked if parking is covered and Sean said there are carport structures over each row of parking. Sean asked the City to reconsider Condition No. 14 regarding maintenance and snow removal on the public right-of-way being the responsibility of the developers until Baker goes in. Public Works doesn't want to have to maintain the street. Richard asked Sean if they had considered dropping the ground floor 4-1/2' underground to keep the buildings under the height

restriction. Sean said they could probably change the roof but it wouldn't be as interesting. Rebecca said some of the public comments she read are concerned about open space. Sean said there is a community area and green buffer and they think it is sufficient for an in-town living situation and is considerable for most apartment complexes.

PUBLIC COMMENT

Tom Tornow, attorney, 309 Wisconsin Avenue, was asked to speak on behalf of homeowners in the Park Knoll neighborhood, and read a prepared a memo. They agree affordable housing is needed, but according to the Whitefish City Code, density limits must be adhered to. WLR zone is limited to five units per acre or less. They asked where the affordable housing units will be located. They think one of the affordable housing units should be in WLR (western) zone, and that maybe there should be high density near Highway 93 South and the WLR zone could have fewer units. They units could be developed on the front part of the land currently occupied by the dry cleaners for high-density apartment units instead of keeping the cleaners there.

Don Spivey, 117 Park Knoll Lane, one of neighbors affected also spoke. He said Park Knoll subdivision currently has 16 lots and 13 houses. He and his neighbor were noticed by Planning staff, but both were out of town, so didn't see the notice until the final day of the comment period. He asked that the matter be delayed until the November meeting. Wendy said posting requirements were followed, but the Planning Board could decide to postpone.

Don read a prepared comment stating the Park Knoll homeowners want the zone change to be denied for several reasons. According to the staff report, there will be 14.7 units per acre, and not enough open space. He feels residents who rent versus own don't maintain their homes like owners, and that the wooded area will be used by apartment tenants for dog walking and other unsavory uses, and that fire and vandalism is of great concern. He also thinks providing 120 parking spaces when 140 are required is a real problem, and parking for visitors should be required to be within the apartment complex. They understand the attractiveness of the roof line, but want the height maximum to stay within the zoning regulations of 35'. They also felt a traffic study should be a requirement, and that the estimated increase in expected traffic should be closer to 600 trips per day instead of 366 mentioned in staff report. Don thinks if the City Council chooses to go forward with this proposal that there should be a fence required to separate this property from Park Knoll subdivision to cut down on vandalism

and fire possibilities.

Rebecca asked who owns the woods between the property for the proposed project and Park Knoll. He stated one gentleman is building a house on that property and is only allowed to build one home on the seven-acre parcel.

Judy Spivey, 117 Park Knoll, read a statement asking the Planning Board to recognize the property should be used for commercial or a motel and she felt the project does not fit criteria of continuity, consistency and thoughtful planning.

Karen Giesy, 121 Park Knoll Lane, representing herself and her husband, Roger Giesy. They supports the need for apartments in Whitefish but feel Highway 93 South has been developed as commercial and doesn't think a 60-unit apartment space is an appropriate use of this land. They feel there are too many people trying to get out on Highway 93 South and doesn't think it's safe for people trying to get their children to school or for teenage drivers. She said there are transients living in the wooded area and it becomes a place where fires are started and vandalism occurs. She said she is talking about Mr. Hamilton's property.

Jenny Connelly and husband John live at 105 Park Knoll Lane, and they already have a hard time getting out of the subdivision to get kids to school, etc., and they're worried about increased traffic. Also concerned about how much light pollution, and about the safety of kids playing so close to Highway 93 South. She thought maybe the old hospital site or the nearby abandoned trailer park might be a better option.

Chris Hyatt, on behalf of Whitefish Chamber, 307 Spokane, spoke in support of the project, with no disrespect to Park Knoll residents, as the need for affordable housing is one of most important issues in Whitefish.

David Hunt, 113 Park Knoll Lane, speaking for himself and his wife, Linda, agreed with comments by Tom Tornow and Don Spivey. They support the goals of the Growth Policy, but don't think this project moves us forward and that safety is too big of a factor. He also objected to the density and scale and felt high density to the front of property would be more acceptable. He definitely wants a traffic study if the project moves forward.

BOARD DISCUSSION

Melissa wanted it noted that she works for Mr. Averill at The Lodge at Whitefish Lake.

Ken M. asked Wendy to address the density of this project and

she said it is standard practice to allow for blending of densities through the PUD process

MOTION (WZC 14-08) Rebecca moved and Ken M. seconded to approve staff report WZC 14-08.

BOARD DISCUSSION Richard said the two need to go together and Wendy said the property was annexed recently so the zone change really needs to happen as a housekeeping issue. Rebecca thanked staff for their patience. Ken S. called for question on zone change.

VOTE The motion passed unanimously and the matter is scheduled for City Council on November 3, 2014.

MOTION (WPUD 14-04) Rebecca moved and Ken M. seconded to approve staff report WPUD 14-04 for the sake of discussion with the conditions outlined.

BOARD DISCUSSION Richard wondered if Melissa should recuse herself since she works for Mr. Averill. Melissa stated she would have no financial gain from approval or denial of this project, that she would not have recognized Mr. Averill by sight, and that thought she could act separately from her employment in regard to this project.

Richard thinks cumulative effects of increased traffic is worthy of study, especially for left-hand turns out of the development and the potential for traffic accidents. He said he would not be able to vote for approval of the project based on the number of parking spaces currently proposed, and thinks the requirement of 140 parking spaces should be met. He thought the height element to the extent possible should stay consistent with height regulations. He also suggested the developer pursue further the density issue in the entire development. He likes the affordable housing and deed restriction for that, but wants to know where affordable housing will be located. These issues would need to be fully satisfied to his satisfaction before he could support this project. He felt Bob Horne's comments are well received. Until these four items are fully flushed out, he would not forward this to Council as would be major considerations for Council.

Sean said he understood the parking issue and it could be changed. He said they could make the reduced height work, but it probably wouldn't look as nice. He said they have painstakingly looked around Whitefish and think this is a good place for this development. He doesn't think all homeowners feel the same as Don and that he doesn’t speak for all of them.

Brent addressed the traffic issues. Since this goes right into a MDT ROW, a traffic study is not required. They have spoken extensively with James Freyholtz, from the MDT and from a transportation engineering standpoint following a preliminary analysis, MDT decided not a concern. Brent said turning is an issue and human error is an issue. Ken S. asked what would be necessary before reducing the speed limit from 45 to 35 could be accomplished. Brent explained he didn't know exactly the conditions when MDT would re-evaluate speed limits. Ken S. asked who determines where stop lights go and whether there is a logical place for a traffic light. Brent said it was an excellent question for MDT. Rebecca asked if MDT requires payment from developers for their analysis and whether the City requests a study. Brent said no payment is required.

Rebecca said she spoke with Wendy and Mary VanBuskirk, about notice requirements, and even though we legally noticed the public, she doesn't know if adequate time was provided to review what is planned, since the packet wasn't available until last Thursday. She's in favor of the project with some changes, and supports affordable housing for everyday workers in Whitefish. She feels there are some problems with the location as we haven't had high density in this area. She would like the project to stick with the 35' height restriction. She didn't think the Hampton Inn should not have been granted a height variance, but they did. She thinks fire safety is a concern. She wanted to see a delay until the November meeting for time to see if we could get a MDT traffic study or someone to come in and help us evaluate. She felt there was enough concern from the neighbors for a delay, and thinks less density at the back end as a better buffer for the neighbors would be nice but didn't know how that would affect the developers' plans, price, etc.

Ken S. said he is less concerned about height than traffic, and that the height change adds character to the project.

Melissa said she is in favor of this project because she really feels this type of housing is needed, and knows people who need it. She suggested maybe the unsavory use of the woods behind the area could be because the area has an abandoned feel and that possibly it would be better if there were more people around. She suggested they put up dog cleanup stations. She's happy about the affordable housing, but even more excited about workforce housing.

Ken M. feels a delay might help especially if people aren't comfortable about the traffic situation.

Rebecca said the engineers are trying to do a good job following their manuals, but felt maybe we could try to get them to come out. Wendy said James Freyholtz, MDT, has already been very involved and is convinced they have done what they feel is necessary.

Eric Mulcahy said WB2 is the most intense zoning district we have and we could allow a grocery store or large business in that location that attracts a lot of volume of traffic. Because of the way this area in zoned, Highway 93 South was designed to accommodate large traffic volumes and is very adequate to handle the amount of increased traffic from this project. Regarding setting speed limits, they do a speed study and look at what rates people are driving and throw out the highest 15% and lowest 15% and reach an average. He is the planner for Polson and Columbia Falls and this summer had a project in Polson for Walgreens generating 1,000 more trips a day and that didn't warrant a traffic study from MDT.

Ken M. felt traffic study wouldn't be resolved in a month so feels shouldn't delay for that reason.

Ken S. called for the question.

Richard asked for a friendly amendment and wanted *"...designated per building for a total of six (6) apartments"* portion of Condition No. 11 to be clarified. Following discussion and explanation by Wendy, Richard was satisfied with the way it was written. He wanted to add a deed restriction to this property and Wendy thought that might be a good suggestion. Ken S. wondered what would happen if there was no one who needed an affordable housing unit. Sean thought the management agreement with the Whitefish Housing Authority would do the same thing. Wendy said she did run Condition No. 11 by Lori Collins of the Housing Authority and Lori was happy with it. Lori is out of town tonight, but will be at the Council meeting on November 3rd to address questions. Richard made a motion to strike Condition No. 12, which would essentially mean that City standards apply to parking. Rebecca seconded. Motion passed unanimously.

Ken M. called for question on the PUD.

VOTE

The motion, with the removal of Condition No. 12, passed unanimously with roll-call vote, and the matter is scheduled for City Council on November 3, 2014.

ZONE CHANGE ON

Request by the City of Whitefish for a Zone Change on parcels

DEER TRACK RESIDENCES
STAFF REPORT
PLANNED UNIT DEVELOPMENT; WPUD 14-04
OCTOBER 9, 2014

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by Jeff Badelt and Sean Averill of Montana Development Group for a Planned Unit Development (PUD) to develop a 60-unit apartment project. A public hearing is scheduled before the Whitefish Planning Board on October 16, 2014 and a subsequent hearing is set before the City Council on November 3, 2014.

I. PROJECT SCOPE

The applicant is proposing a Planned Unit Development overlay in order to develop a 60-unit apartment project. The applicant is proposing five buildings with 12-units per building. The density of the project is 14.7 dwelling units per acre. The applicant is proposing to utilize the density bonus, as permitted in the PUD chapter, in order to obtain the number of units requested. The buildings will be located to the west of the Organic Dry Cleaner business which will remain. Access to the buildings will be off a newly constructed east-west city right-of-way. This new road will intersect with Highway 93 S on the east and the future Baker Avenue extension on the west. Each building will have a parking lot.

As part of the PUD, exceptional landscaping will be required and a minimum of 30% open space needs to be provided. As part of the open space, a club house, garden and tot lot will be available for all the residents.

The new road will be built to meet city standards – including curb, gutter, sidewalks, street trees and street lightings. The eastern intersection of the new road with Highway 93 S will have separate lanes for right and left-hand turn lanes. The road will terminate on the west in a suitable temporary cul de sac until the connection with the future Baker Avenue extension can be made. The applicant is also proposing on-street parking on the north side of this new right-of-way.

The dry cleaner currently has two driveway accesses onto Highway 93 S. Montana Department of Transportation has requested the southern driveway be removed so the dry cleaner will access only off the new city road. There are no other proposed changes to the Highway 93 S frontage.

Zoning Deviations. The PUD request includes the following zoning deviations:

- **Building Height Standards.** The maximum building height in the WB-2 and the WLR zoning districts is 35-feet. The applicants are requesting 39'6" in order to have a 4:12 roof pitch.
- **On-site parking.** The Off-Street Parking regulations require 2.33 parking spaces per residential unit. This standard would require a total of 140 parking spaces. The applicant is proposing 120 parking spaces which equates to 2 parking spaces per unit. They point to having smaller units with less bedrooms as justification for this deviation.

Benefits Provided. In exchange for the above described zoning deviations, the applicant is providing the following benefit:

- 10% affordable housing units (six units)
- Implementation of the 2007 Whitefish Transportation Plan through the dedication of a 60-foot right-of-way connection between the future Baker Avenue extension and Highway 93 S.

A. Applicant:

Jeff Badelt & Sean Averill
Montana Development Group
1380 Wisconsin Avenue
Whitefish, MT 59937

Owners:

Dear Tracs llc
PO Box 1442
Whitefish, MT 59937

HDH Holdings llc
PO Box 961
Whitefish, MT 59937

Technical Assistance:

Sands Surveying
2 Village Loop
Kalispell, MT 59901

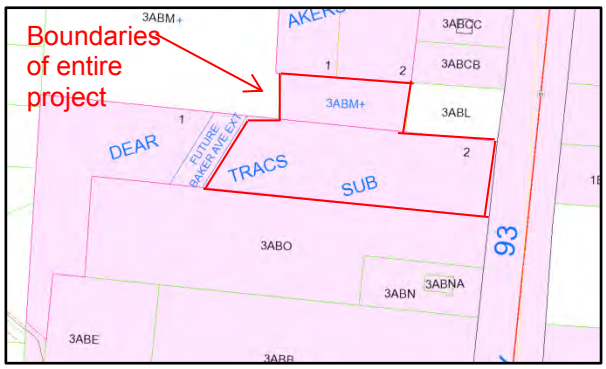
48 North PC
151 Business Center Loop
Kalispell, MT 59901

TAO, pllc
499 Main Street
Boise, ID 83702

White Cloud Design
PO Box 67
Whitefish, MT 59937

B. Location:

The subject project is located at 6348 Highway 93 S and can be legally described as Lot 2 of Dear Tracs Subdivision and a Portion of Tract 1 of COS 10669 in Section 1, Township 30N, Range 22W, P.M.M., Flathead County.



C. Existing Land Use and Zoning:

The front portion of the property is developed with the Organic Dry Cleaners and a drive thru espresso stand. The Organic Dry Cleaner is not a part of this project nor part of the PUD calculations (density, open space parking, etc.). The eastern portion of the tract is zoned WB-2 (Secondary Business District) and the western portion of the tract is zoned WLR (One-Family Limited Residential District).

D. Adjacent Land Uses and Zoning:

North:	commercial	WB-2
West:	residential	WLR
South:	commercial	WB-2
East:	commercial	WB-2

E. Utilities:

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

F. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on September 26, 2014. A notice was mailed to advisory agencies on September 26, 2014. A notice was published in the *Whitefish Pilot* on October 1, 2014. As of the writing of this report, staff has received four letters with concerns about the project. These letters are attached for review. Concerns included:

- Neighbor noticing
- Density

- Change in neighborhood character – especially in light of recently approved projects
- Lack of open space amenities
- Access onto Highway 93 S
- Request the Planning Board public hearing be postponed to allow for more neighborhood review
- Traffic safety
- Portion of the application that includes rezoning to city designations

II. REVIEW AND FINDINGS

This request is reviewed in accordance with the Whitefish City-County Growth Policy and the City of Whitefish Zoning Regulations.

Title 11, Chapter 2 – Zoning Districts:
The proposed use and development standards within the WLR and WB-2 are being met with this application, with the exception of the requested deviations.

The WLR (One-Family Limited Residential District) Purpose and Intent:

> Intended for residential purposes to provide for single-family homes in a low-density setting, connected to municipal utilities and services.

The WB-2 (Secondary Business District) Purpose and Intent:

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

Finding 1: The proposed use and development standards are being met with the proposal with the exception of the requested zoning deviations.

The Planned Unit Development district is intended to encourage flexible land use development by allowing development based upon a comprehensive, integrated and detailed plan rather than upon specific requirements applicable on a lot by lot basis. The development, according to the Purpose and Intent of the PUD chapter, provides the following benefits, as applicable:

A. Preserve and/or enhance environmentally sensitive areas of the site. There are no environmentally sensitive areas according to the city maps. It should be noted that these maps are planning level maps and the engineering review will evaluate the soils in the area for infrastructure installation, including storm water facilities. There are a number of trees to the west that should be evaluated for incorporation into the landscaping. The city's landscaping standards give credit for retaining trees.

Finding 2: Staff finds the 'preserve and/or enhance environmentally sensitive areas of the site' criterion is not applicable to this project.

B. Preserve crucial wildlife habitat and/or daily or seasonal migration corridors. There are no mapped crucial wildlife habitat and/or daily or seasonal migration corridors on this site; however it is likely that deer and other animals travel through the property.

Finding 3: Staff finds the 'preserve crucial wildlife habitat and/or daily or seasonal migration corridors' criterion is not applicable to this project.

C. Provide usable open space. §11-2S-3C requires no more than 70% of the lot can be covered with buildings and parking areas. According to the applicant, 33% of the entire property is devoted to open space areas that include: landscaping, a club house with a workout facility and BBQ area, a tot lot and a community garden area. The WB-2 zoning designation doesn't have a lot coverage standard and it is expected that development in the area will be at an urban form and scale. The buildings are setback 175-feet or more from Highway 93 S and range in setback from approximately 15 to 20-feet from the new city right-of-way.

Finding 4: The project is providing usable open space because the project a club house that includes a workout facility and a BBQ area, a tot lot and a community garden. The project has 33% open space, which exceeds the 30% PUD requirement.

D. Preserve and protect the character and qualities of existing neighborhoods. The character of this neighborhood is larger commercial buildings with very large parking areas to accommodate users of the buildings or provide a location to store merchandise and/or equipment. This property is adjacent to an 80-foot right-of-way dedication for the future Baker Avenue extension. On the other side of the 80-foot right-of-way, to the west is a single family neighborhood. The area to the west is heavily wooded, which is part of the neighborhood's character. Long-term healthy trees should be incorporated into the design of the project.

This project is required to obtain Architectural Review prior to submitting any building permit. The multi-family standards require developments with more than one multi-family structure adhere to the 'visual variety' standard. The intent of this standard is to avoid visual monotony while encouraging a high quality design theme. The standards go on to describe the various elements that could be used and the standard the Committee will use to ensure the standard is met.

The applicant is requesting the building height deviation in order to design a 4:12 pitched roof. By adding interest to the roof of the building, it will have a more pleasing architecture. These buildings will be among the tallest in this neighborhood. Earlier this year, the Council approved the Hampton Inn to the

south to exceed the building height – they proposed a building that is mostly 31-feet with varying roof elements no taller than 42-feet.

Finding 5: The project is preserving and protecting the character and qualities of the neighborhood because it is not located immediately adjacent to single family residential, it will retain healthy long-term trees, the building will be placed over 100-feet from the front property line and by proposing a 4:12 roof pitch. Further review by the Architectural Review Committee, including the multiple multi-family standard, will also ensure neighborhood compatibility.

E. Make efficient use of infill property. The project is on the edge of the expanding urban area and it isn't infill per se; however, the project is served by a public right-of-way and all public services and facilities are available and in place for the project.

Finding 6: The property is making efficient use of existing commercial/residential property because it is served by all public services and facilities.

F. Provide effective buffers or transition between potentially incompatible uses of land. The proposal is a permitted use in the WB-2 and WLR with a PUD overlay. It is adjacent to other permitted uses or undeveloped land. The project will be required to install landscaping according the Landscaping Chapter, including the required tree density standards. No buffering would be required. The place where incompatibility could be a concern is further to the west where residential uses are located; however, an 80-foot right-of-way is in between this project and the single family zoning and neighborhood.

Finding 7: The applicant is not proposing an incompatible use where an effective buffer or transition is needed because there are no immediately adjacent incompatible uses.

G. Facilitate street continuity and connectivity, and attractive high quality streetscapes. The Baker Avenue Extension project is on the Major Street Network projects identified in the 2007 Transportation Plan. A Major Street Network (MSN) is an improvement needed to facilitate the anticipated traffic demands of 2030. The Plan identifies this project (MSN-3) which would connect West 19th Street to JP Road. According to the Transportation Plan, the project is needed because there are

limited north-south routes on the south end of Whitefish and it would help to alleviate escalating north-south traffic on Highway 93 S.

The proposed east-west connector with the Baker Avenue extension is an important part of developing the grid system in Whitefish. The right-of-way will be dedicated prior to submitting a building permit application for the first building. The street will have an attractive streetscape as the street will include a street trees, sidewalks and street lights. The submitted plan shows considerable landscaping between the street extension and the buildings.

The Public Works Department is not requiring a Traffic Impact Study (TIS) with this project, as Highway 93 S, a state right-of-way, is the only access and is built to full-capacity. It is expected total daily traffic would be 366 trips per day.

Montana Department of Transportation (MDT) did not require a TIS either. MDT is requiring a new approach permit and they would like to review the plans for the new road – including the drainage plans. They suggest the new road have two lanes – one for left-hand turns and one for right-hand turns. Finally, MDT requested the southern entrance into the dry cleaner be eliminated.

Finding 8: An attractive, high quality streetscape is being developed because landscaping will be installed along the right-of-way; along with street trees and street lights. The street system is established so there are limited opportunities to improve connectivity; however the applicant is dedicating a public right-of-way to implement the Transportation Plan that would connect Highway 93 S and the future Baker Avenue extension at some point in the future.

H. <u>Provide pedestrian and bicycle facilities and encourage transportation alternatives.</u> The applicant is proposing to install new sidewalks on both sides of the new street that will connect to the existing sidewalk system along Highway 93

S. There are also sidewalks within the development that connect to the sidewalks on the new street and to the open space amenities.

The final design of the new east-west connector will be determined through review with the Public Works Department and will meet all city standards. The plan, as shown, does not include any bike lanes. Staff will recommend the inclusion of bike racks to further this goal.

Finding 9: The project is providing pedestrian facilities to encourage transportation alternatives because sidewalks are being installed and a condition requiring bicycle facilities will be incuded.

I. Provide affordable housing. The applicant is taking advantage of the density bonus; therefore, is required to provide 10% affordable housing. The applicant is proposing to provide six (6) units at an affordable rate. The applicant intends to work with the Whitefish Housing Authority to manage the units for long-term affordability.

Finding 10: The applicant is providing affordable housing because they are setting aside 10% of the project (six units) to be managed by the Whitefish Housing Authority for long-term affordability.

J. Provide a variety of residential product type while avoiding a monotonous and institutional appearance. This project is only providing one residential product type (apartments) within the development; however, they are providing 1-3 bedroom units within the complex. The applicant will be required to obtain Architectural Review approval and one of the standards is to ensure that multiple multi-family structures do not look the same. There are many suggested opportunities to ensure variety of the buildings within the Architectural Review standards.

Finding 11: Staff finds the applicant will 'avoid a monotonous and institutional appearance' will be met through review by the Architectural Review Committee because of the multiple multi-family standards. However, the applicant is only proposing one residential product type.

K. Compliance with and/or implementation of the growth policy. The Growth Policy designates this property as General Commercial and Suburban Residential. The WB-2 zoning designation is consistent with the land use designation, but the WLR is an Urban land use designation within a Suburban land use designation.

> General Commercial:
> Generally applied to the Hwy 93 corridor north of the Highway 40 intersection, this designation is defined by auto-oriented commercial and service uses. Specific land uses include retail, restaurants of all types and quality ranges (including those with

drive-up facilities), professional offices, auto sales and services, hotels/motels, supermarkets, shopping centers or clusters, and convenience shopping, including the dispensing of motor fuels. Primary access is by automobile with ample parking provided on site. Development sites are properly landscaped to screen parking and drive areas and to provide a high-quality visual image. Zoning is generally WB-2, but higher density residential with WR-3 zoning, and mixed use development may also be appropriate in this area.

Suburban Residential:
Lower density residential areas at the periphery of the urban service area generally fall under this designation on the Future Land Use Map. The residential product type is predominantly single-family, but cluster homes and low-density town homes that preserve significant open space are also appropriate. Densities range from one unit per 2 ½ acres to 2.5 units per acre, but could be higher through the PUD. Zoning districts include WCR, WER, and WSR. Cluster residential that preserves considerable open space, allows for limited agriculture, maintains wildlife habitat is encouraged.

There are many goals and policies within the Whitefish City-County Growth Policy that support this project.

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

Land Use – Goal 7: "Plan for healthy, efficient and visually attractive corridors along major transportation routes through the community."

Housing – Goal 1: "Ensure an adequate supply and variety of housing product types and densities, at affordable prices, to meet the needs of Whitefish's existing and future workforce, and for senior citizens."

Housing – Goal 2: "Maintain a social and economic diversity of Whitefish through affordable housing programs that keep citizens and members of the workforce from being displaced."

Transportation – Goal 1: "Provide an efficient and effective transportation system to serve the present and future needs of the Whitefish area."

Transportation – Goal 2: "Integrate transportation and land use so that choices of transportation modes are optimized."

Finding 12: The project complies with and implements the Whitefish City-County Growth Policy and the Transportation Plan.

Amendments – §11-7-12E:

The following considerations from §11-7-12E are intended to guide both the Planning Board and the City Council when considering an amendment to the official zoning map.

Considerations from §11-7-12E	Staff Report Section Reference/Comments
Zoning Regulations Must Be:	
Made in Accordance with a Growth Policy	See Section II.K.
Designed to:	
Secure safety from fire and other dangers	The Whitefish Fire Department has preliminarily reviewed the project. Adequate access and other Fire Department issues are being included as conditions of approval and will also be reviewed at the time of building permit.
Promote public health, public safety and general welfare	See above – in addition, the Building Department will review the new structure through the building permit process.
Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements	See Section I.E.; as described earlier in the report, MDT commented on the project and is requiring a new approach permit and they would like to review the plans for the new road – including the drainage plans. They suggest the new road have two lanes – one for left-hand turns and one for right-hand turns. Finally, MDT requested the southern entrance into the dry cleaner be eliminated.
In the adoption of zoning regulations, the city shall consider:	
Reasonable provision of adequate light and air	A request for a deviation to the building height is requested. All other zoning standards are being met.
The effect on motorized and non-motorized transportation systems	See Section II.G., H.
Promotion of compatible urban growth	See Section II.D.
The character of the district and its particular suitability of the property for the particular uses	See Section II.D.
Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and	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. This proposal only applies to the subject property, and

Considerations from §11-7-12E	Staff Report Section Reference/Comments
	sets no binding precedent for any other zone change or PUD proposal.
That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other.	The Planning Board and the City Council should consider the historical and established use patterns, including trends, when making a decision on the project. See Section II.D.

III. STAFF ANALYSIS.

Building Height Design Standards. The applicant is requesting a deviation to the building height. The WB-2 zoning designation limits the maximum building height to 35-feet. According to the submitted plans, the top of the roof is 39½-feet. The applicant has requested this height in order to design 4:12 pitch roofs instead of a flat roof which is more visually pleasing. The applicant has pointed to ensuring an attractive design to fit better into the neighborhood.

The Whitefish Fire Marshal has reviewed the project. The Fire Department's goals for this project are:

- to make sure the firefighters have safe and efficient access; and
- to have safe and efficient patient transport routes.

The Fire Department has a 35-foot roof ladder which gives the department a 28-foot vertical working distance. Without taller ladders fire fighter will be using high-rise fire tactics on buildings over 28-feet. Such items the Fire Department will be reviewing include, among other items:

- Protected stairwells from outside the building to each floor and the roof in a location where a hose line can reach within a 150-feet of every area on the roof
- Standpipes in each stairwell (wet or dry)
- Maximum of 150-feet from a standpipe connection to any area of the building
- Sprinklered building (including attic spaces and a dry system under the entrance way) with enough pressure for the top floor
- Fully addressable alarm system
- Knox box near the FDC and Alarm panel

Staff is also satisfied with their approach to the roof elements. The varying roof lines help to reduce the massiveness of the building and roof. In the past the Council has approved buildings to exceed the maximum building height in order to facilitate an attractive design, but each request needs to be reviewed on a case by case basis.

Staff supports this building height deviation.

Off-Street Parking Standards. The applicant is requesting a deviation to the off-street parking standards. They are proposing 2 parking spaces per unit versus the standard of 2.3 spaces per unit. The applicant is providing 120 parking spaces versus 140

spaces. The applicant points to the similar projects in surrounding jurisdictions where 1.7 parking spaces is more than adequate. In addition, the applicant is proposing 17 on-street parking spaces with the design of the new roadway that could potentially be used for guest parking.

The Public Works Department has not determined whether or not on-street parking will be a component of this city street. While the street for many years may only serve this development, once the future Baker Avenue extension is realized, this street will provide an important connection between Baker Avenue and Highway 93 S and on-street parking may not be suitable. Therefore, this parking may not be available

Staff would like to see the applicant enter into an agreement with a surrounding property owner(s) to provide 20 off-street parking spaces for guests. Whether these parking spaces are for guests or residents this could be valuable needed parking – especially if no on-street parking is permitted. Staff will suggest this as a condition of approval.

As conditioned, staff supports this off-street parking deviation.

IV. RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact in staff report WPUD 14-04 and recommend to the Whitefish City Council that the Planned Unit Development for the Deer Tracks Residences be **approved** and that the deviations to the zoning be granted subject to the following conditions of approval:

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

2. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the City of Whitefish Planning Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees, including signage to direct equipment and workers.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public road, including procedures remove soil and construction debris from road as necessary.
   - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
   - Notation of any street closures or need to work in public right-of-way. (Engineering Standards, Appendix K)

3. Prior to any construction, excavation, grading or other terrain disturbance, plans for all on and off-site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, sidewalks, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (Engineering Standards, Chapter 1)

4. The site and building shall meet all Fire Department standards for hydrants, access and the building itself. (IFC) All buildings shall meet Fire Department standards include sprinklering, FDC, alarm panels and utility controls located in close proximity to each building. (IFC)

5. Prior to the first phase, a snow storage plan shall be submitted to the Public Works Department for review and approval. Such plan shall ensure storage does not impede emergency access and it is not located within storm water facilities. (Engineering Standards, Chapter 5)

6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)

7. Refuse disposal areas shall be reviewed and approved by the Public Works Department and North Valley Refuse. (Engineering Standards)

8. A new approach permit shall be obtained from Montana Department of Transportation. Road plans shall be submitted to MDT for review and approval – this shall also include the drainage plan. The southern entrance into the dry cleaner shall be eliminated. (Finding 8)

9. Architectural review and approval shall be obtained prior to submitting an application for a building permit. (§11-3-3B) Strict adherence to §6.6.2., variation to multiple multi-family buildings, shall be met.

10. Due to similarities to other project names, this project shall be assigned a new project name prior to any other submittals to the city.

11. A maximum of two (2) affordable apartments shall be designated per building for a total of six (6) apartments. Apartments shall have a variety of number of bedrooms and location to serve the greatest variety of clients. The Whitefish Housing Authority will manage the apartments to ensure long-term affordability. This

management agreement shall be submitted to the Planning Department prior to submitting a building permit application within Phase 1.

12. A parking agreement for 20 parking spaces shall be entered into by the developer. Evidence of such agreement shall be submitted to the Planning Department prior to submitting a building permit application within Phase 1.

13. A 60-foot right-of-way in a location identified by the Public Works Director shall be installed and dedicated to the City of Whitefish prior to submitting a building permit application within Phase 1. The developer shall enter into an agreement for the maintenance and snow removal responsibilities until such time as the street is connected to the future Baker Avenue extension.

14. A paved temporary cul de sac shall be constructed at the western end of the new city right-of-way. This shall be kept clear of snow for emergency access.

15. Prior to submitting applications for building permits for each phase, a report showing how conditions of approval have been met for each phase shall be submitted to the Planning Department for review and approval and it shall include:
    - Architectural Review approval for all buildings within the phase
    - Location and design for secure bicycle parking for each building shall be reviewed and approved.
    - Detailed landscaping plan and pedestrian connection plan
    - Tree removal phasing – no tree removal shall occur in any phase until the tree removal plan is approved. All healthy long-term trees outside building envelopes, parking and vehicular access shall be retained.
    - Review of approved open space plan
    - Infrastructure within each phase shall be fully capable of supporting the development within the phase. Roads shall meet the Fire Department emergency access requirements.
    - Emergency access shall be approved for each building pursuant to the IFC. This includes physical access to within 150-feet of all corners of the building, FDC on each building, Knox box, no parking, and snow plowing.
    - Infrastructure, including streets, water, sewer, hydrants and drainage, for each phase shall be installed and operational prior to the submittal of a building permit. Financial security for other infrastructure/improvements yet to be installed may be approved in order to obtain a building permit.
    - All easements associated with the phase shall be recorded and submitted to the city.
    - No more than two years shall lapse between phases.

16. This approval is valid for 3-years from the date of City Council approval. (§11-2S-9C)

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 Montana Development Group is requesting a Planned Unit Development overlay in order to develop a 60-unit apartment project. (WPUD 14-04) In addition, the applicant will be rezoning approximately 1 acre of property recently zoned by Flathead County to comparable Whitefish zones to facilitate their project. (WZC 14-08) This property was annexed into the city limits on September 15, 2014. The property is developed with a dry cleaner business and is zoned WB-2 (Secondary Business District) and WLR (One-Family Residential District).The property is located at 6348 Highway 93 S and can be legally described as Lot 2, Dear Tracs subdivision and a Portion of Tract 1 of COS 10669 in S1 T30N R22W.

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, October 16, 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, November 3, 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 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, October 6, 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 26, 2014

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, October 16, 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 1, 2 on Monday, November 3, 2014 and items 3-8 on Monday, November 17, 2014. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. A request by the Montana Development Group for a Planned Unit Development overlay and Zone Change in order to develop a 60-unit apartment project. The project is addressed at 6348 Highway 93 S and can be legally described as Lot 2, Dear Tracs subdivision and a Portion of Tract 1 of COS 10669 in S1 T30N R22W. (WPUD 14-04/WZC 14-08) Compton-Ring

2. A request by Bonsai Brewing Project llc for a Conditional Use Permit in order to operate a microbrewery. The project is addressed at 549 Wisconsin Avenue and can be legally described as Lot 1AA, Denver Gardens in S25 T31N R22W. (WCUP 14-05) Compton-Ring

3. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 1722 and 1726 W. Lakeshore Drive and can be legally described as lots 18A, 19 & ABDRD-19 of Lake Park Addition Subdivision in Section 26, Township 31N, Range 22W. (WZC 14-02) Minnich

4. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2492, 2494, 2496, and 2498 E. Lakeshore Drive and can be legally described as lots 20, 21, 22, and 23 of Whitefish Lake Summer Homes Add1 Amd Subdivision in Section 14, Township 31N, Range 22W. (WZC 14-04) Minnich

5. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2520, 2522, and 2524 E. Lakeshore Drive and can be legally described as lots 7, 8, and 9 of Whitefish Lake

Summer Homes Add1 Amd Subdivision in Section 14, Township 31N, Range 22W. (WZC 14-05) Minnich

6. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2530 and 2532 E. Lakeshore Drive and can be legally described as lots 3 and 4 of Whitefish Lake Summer Homes Add1 Amd Subdivision in Section 14, Township 31N, Range 22W. (WZC 14-06) Minnich

7. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The property is developed with residential uses. The subject property is located at 2405 Carver Bay Road and can be legally described as lot 3 of Whitefish Lake Summer Homes Amd L19 and 20 Subdivision in Section 14, Township 31N, Range 22W. (WZC 14-07) Minnich

8. A request by the City of Whitefish to amend §11-2A-3 WA Agricultural District, Conditional Uses, adding heliports and helipads. (WZTA 14-04) Taylor

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: Friday, September 26, 2014 10:28 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: October Whitefish Planning Board.
Attachments: 10-2014_PB meeting.pdf

Attached please find the notice for the October Whitefish Planning Board meeting.

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

Wendy Compton-Ring

From: Freyholtz, James <jfreyholtz@mt.gov>
Sent: Thursday, October 02, 2014 2:54 PM
To: Wendy Compton-Ring
Cc: Oliver, Dennis
Subject: 60-unit apartment project PUD: 6348 HWY 93 S

Wendy,

Thanks for notifying the Montana Department of Transportation (MDT) regarding the proposed 60-unit apartment project. The proposal is located in Whitefish at 6348 Hwy 93 South.

The owners will need to obtain a new approach permit from MDT for the access to Hwy 93. The owner's engineer has already been in contact with MDT regarding the proposal. Our initial comments were that the second existing approach to the property should be eliminated and there should be separate lanes for right & left turners exiting their approach. MDT also has some drainage concerns and will thus want to review their drainage plan as part of an approach permit approval.

Please feel free to contact me if you have any questions.

James Freyholtz, P.E.
Kalispell Area Traffic Engineer
Montana Department of Transportation (MDT)
(406) 751-2066

Wendy Compton-Ring

From: ROBERT JAMES <jamesrn@shaw.ca>
Sent: Monday, October 06, 2014 2:52 PM
To: wcompton-ring@cityofwhitefish.org
Cc: Don & Judy Spivey
Subject: Re: Response to Public Notice -60 Unit Apartment Project WPUD 14-04

Wendy, thank you for your prompt reply.
I do appreciate your explanation on the timing of the mailout, but irrespective of the date you advise Notices were sent out, the fact remains that were not received until late week. Therefore the time frame of 15 days for the notice being served may not have been met.
My request to provide adequate time for us as community members directly affected by this proposed apartment complex still stands. We have simply not had adequate time to review all the materials as they have not yet been made available to us as of this date.
Additionally, since the information package will not be available until October 10th. That only only leaves 3 business days for people to review the full package prior to the Planning Board Meeting date of October 16th. This is simply not satisfactory as it fails to provide enough time for an adequate review by the surrounding community or third party representatives and consultants they may wish to retain.
Please reply accordingly to my request above.
Robert James
132 Park Knoll Lane

Sent from my BlackBerry 10 smartphone on the TELUS network.
Original Message
From: Wendy Compton-Ring
Sent: Monday, October 6, 2014 12:04 PM
To: 'ROBERT JAMES'
Reply To: Wendy Compton-Ring
Cc: 'Don & Judy Spivey'
Subject: RE: Response to Public Notice -60 Unit Apartment Project WPUD 14-04

Thank you for your comments. They will be forwarded onto the Planning Board and Council for their consideration.

To answer a couple of your questions, our regulations require a 15-day notice period to adjacent landowners within 150-feet of the proposal. These notices were mailed out on September 25th - 21 days before the Planning Board hearing. Also, I have attached a copy of the map and list of names showing the 150-foot buffer from the boundaries of the project. This list is generated and certified by the Flathead County GIS Department. You are correct that not all the owners within the subdivision are noticed - only those within 150-feet. I should point out that the map includes all of Tract 3ABM, but only a portion of this tract is included in the project - about an acre of land right behind the Pizza Hut parking lot.

The Planning Board meeting is on October 16th and the City Council is scheduled for November 3rd.

The entire Planning Board packet will on the city's webpage - under Planning Board no later than Friday, October 10th. Let me know if you need any other information or have any more questions.

-----Original Message-----
From: ROBERT JAMES [mailto:jamesrn@shaw.ca]
Sent: Monday, October 06, 2014 11:20 AM
To: wcompton-ring@cityofwhitefish.org
Cc: Don & Judy Spivey
Subject: Fw: Response to Public Notice -60 Unit Appartment Project WPUD 14-04

October 6 2014

To Whitefish Planning Department:

Re: Response to undated Public Notice requesting comments on the referenced 60 Suite Apartment project WPUD-14-04.

My comments are as follows:
NOTICE:
-Notice timing was too short for residents in the area affected by this proposal.
Notice was only received by a fraction of the residents of Park Knoll Community.
Please confirm the date do service compiles with the regulations for service,
- Only 25% of the residents of the Park Knoll Community received this notice. Please confirm that all people affected and in close proximity to the project were properly served Notice.

Impact of Project:
-the impact of this project of some 120 - 180 new people living in the immediate area is significant and devastating to existing residents in the immediate area.
> -Density of this 60 suite project is unacceptably high, and it's
disappointing that the Planning Department would have even accepted this projector approval in it's current form.

-this proposed increase in population this very small space, coupled with the density of already approved Hampton's Motel Project virtually ensures the quality of life for the existing residents in the area will be utterly and completely destroyed.
-my question is, why is none of this taken into consideration by the Planning Board when approving new ultra high-density projects?This is not New York nor Hong Kong where surface space is at a premium. This is Whitefish, a place we know and love and where privacy is valued.
-Block E of the complex backs onto the proposed Baker Avenue route and what will be the impact of this on the people living in Block E when this road is built.
-playgrounds and green space for residents of the proposed project. A BBQ area and a bit of a playground is hardly adequate recreational facilities for the population density being proposed.
-A population increase of this size requires the developer to provide significantly more green space and recreational facilities than is being offered. There are no existing playgrounds in the immediate area.

Safety:
Access and egress to Hwy. 93 is a major safety issue with existing residents in the area.

With the Hampton's development under way, a 60 suite apartment complex that will have an estimated occupancy of 120 - 180 people driving in and out of this apartment complex several times a day onto Highway 93 is completely unacceptable. People risk being hurt and risk being killed.
The extension of the proposed Baker Avenue is shown on the preliminary plan.
What consideration has been given to having the developer and contribute to the Construction of the Baker Avenue extension and provide access and egress via that much safer route?
This would also provide necessary access for Fire Trucks when needed.

Conclusion:
There are quality of life issues not only for future apartment dwellers, but also existing residents living in the immediate area that require addressing.
There are safety issues that require addressing.
There is a need for more time to study and properly respond to this Notice and in that regard I respectfully request the Thursday October 16, 2014 City Council Meeting be rescheduled for one month to Thursday November 13th to allow interested and affected parties to have time to adequately respond.
Please forward all replies to the undersigned by email.

Robert N James
132 Park Knoll Lane
Whitefish, MT 59937
jamesrn@shaw.ca

October 6, 2014

Memo to: Whitefish Planning Board and Staff

Subject Planning Board Hearing on WPUD 14-04
October 16, 2014

From: Don Spivey, Park Knoll Estates homeowner.

Planning Board members and staff,

I have several comments and concerns based on the brief Public Notice received last week.

Time to respond

I believe only two homeowners in the Park Knoll subdivision received a notice and both those parties were out of town last week. The notice calls for a response by end of day today—Oct.6. The homeowners association would like to respond with an informed and reasoned manner. However, there is neither time or adequate information available to accomplish that today. I understand the staff report will not be available until Oct. 10 and assume that document will clarify and provide much needed information. The public hearing is scheduled less than one week later (3 business days) leaving us again with limited time to develop a response from the Homeowners Association. Accordingly we would respectfully request that the Planning Board hearing be rescheduled to the November meeting.

Zoning

The brief zoning comments in the notice are unclear with the donut transition and then back into the city via annexation. The current zoning for that property is unclear but apparently a rezoning consideration is part of the application. The prior WLR city zoning would be preferable to me and probably to the Homeowners Association. ,Hopefully, the staff report will clear up the confusion.

Density

The proposed density is totally out of character with this neighborhood (which we all chose because of the existing WLR zoning). The additional 120-200 residents packed into that confined space will put substantial additional pressure on all the homeowners in the area. There appears to be very limited open space (club house and tiny playground) for those residents and there will be a tendency to take advantage of adjacent open lands abutting our subdivision for exploring—walking pets, etc. with probable impacts in our neighborhood. I would respectfully request consideration be given to a substantial reduction in the unit density. Not rezoning the approximately one acre parcel from a residential classification would be a good start. That would also provide open space providing better green space and recreational support for the remaining homeowners.

Traffic

Already approved is a hotel/motel on the adjacent lot to the south_with 70+ rooms. This hotel/motel, with associated staff, will already introduce substantial additional congestion onto US 93 in that area. The traffic from 60 additional units (with many cars) will make US 93 ingress/egress for those wanting to go north toward the center of Whitefish and well as persons traveling north on US 93 wishing to turn into either of these two developments a nightmare as well as a serious safety issue.. I was told by the Department of Transportation that legally, making a left turn from or into those subdivision requires a clear path all the way into the desired lane before starting. Most drivers don't follow that rule—rather they wait to find access to the center lane and then wait there for a chance to enter the lane of choice If you've ever tried to deal with this problem you can only imagine the increased challenge and safety exposure all this additional traffic will have. It will create another opportunity for more accidents for sure. This is another good reason to reduce the density.

Conclusion

I'm concerned that the information available without the staff report does not allow time to adequately and responsibly respond to this proposal--thus our request to reschedule to the planning board meeting to November.

I am concerned about the density and how that will impact our neighborhood for the reasons mention above and would recommend the planning board and staff find ways to reduce it—not rezoning the 1 acre parcel might be a good start.

I am concerned about the traffic impact in an area already dealing with this challenge--clearly a major problem and safety exposure. Density reduction would help with this as well.

I need clarification about the zoning activity which seems complex involving changes to county classification and them back to city zoning after annexation. Hopefully, the staff report will clarify this.

I look forward to meeting with all of you at the planning board meeting—hopefully, rescheduled to November.

Respectfully.

Don Spivey
117 Park Knoll Lane
Whitefish, MT 59937
862-7733

Thomas T. Tornow, P.C., *Attorneys-at-Law*

309 Wisconsin Avenue, Whitefish, MT 59937
Telephone: (406) 862-7450 Facsimile: (406) 862-7451 Website: www.tornowlaw.com

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assistant@tornowlaw.com

October 6, 2014

Wendy Compton-Ring
Whitefish Planning & Building Department
Via email: wcompton-ring@cityofwhitefish.org

Re: Lot 2, Dear Tracs

Dear Ms. Compton-Ring:

I am the attorney for residents of the Park Knoll neighborhood, which will be adversely impacted by the rezoning and high density apartment complex proposed on the above referenced property.

Our first concern is that my clients have just learned of the proposal and have not had the opportunity to review the Staff Report. For example, we have no information regarding how many bedrooms (and therefore likely occupants) there are in the 60 apartments, or how the proposed rezoning fits within the City's Master Growth Policy Plan or any applicable transportation plans. Having an opportunity to review the Staff Report prior to the close of written comment is important for meaningful public participation. As such, we request that the Planning Board postpone its public hearing until its next meeting to give my clients and the public in general an opportunity to review the Staff Report and be prepared to provide informed comment. Also, please email me a copy of the Staff Report as soon as it is available.

Our second concern is the dead-end access. This creates an unacceptable danger to the apartment residents, the first responders, and the neighborhood, should there be a fire or other emergency. Apartment dwellers fleeing a fire or other emergency will obstruct incoming responders. With the proposed density, even a cul de sac is grossly insufficient and a second emergency ingress and egress is needed to accommodate the proposed density.

Our third concern is density and the resulting traffic hazards. The proposed 60 units together with the approximately 70 hotel units on the adjoining property will create an extreme traffic hazard on Highway 93, which has only the middle "suicide lane" for turning vehicles. Between the apartment residents and the hotel guests using exits so close together, this short stretch of Highway 93 will be a dangerous traffic bottleneck.

Our fourth concern is the lack of park land or other open space. Between the proposed 60 units together with the approximately 70 hotel units on the adjoining property, children playing and people walking their dogs or just looking for a quiet place to walk will invade into the Park Knoll neighborhood. At a minimum, the applicant should be required to provide on-site open space sufficient to accommodate the expected occupancy of the 60 apartments.

Our fifth concern is that this property was just rezoned by the County, then annexed into the City and then apparently rezoned WB-2 and WLR. Now the applicant is asking for it to be rezoned again. We suggest that the City let the dust settle and examine how this newly annexed property fits into its growth policy before rezoning it yet again.

These are my clients' immediate concerns. I am sure we will have more after we have the opportunity to review the Staff Report.

If you have any questions or desire further information, please contact me at your convenience.

Sincerely,

THOMAS T. TORNOW, P.C.

By: Thomas T. Tornow

cc (*via* email): Clients

David Hunt
113 Park Knoll Ln
Whitefish, MT 59937

October 6, 2014

Whitefish Planning Department
PO Box 158
Whitefish, MT 59937

Whitefish Planning Department and Staff,

This letter is in response to Public Notice of Proposed Land Use Action calls for comment on WPUD 14-04. I am a resident of the Park Knoll Subdivision since 2002, owner of our residence in Park Knoll since 1999 and currently Vice President of the Park Knoll Home Owners Association. I have addressed my comments to the PUD in topic areas below:

1. Notification & Comment period
   Only a few of the home owners in Park Knoll Subdivision received notice of the upcoming project. In addition, most of those were not in town last week so the actual time to respond with comments for inclusion in packets to the Planning Board members is just a few hours. Clearly, a proposed project of this magnitude requires thorough consideration and the expressed timeframes do not provide sufficient time for investigation and commentary. Obviously, we have not had time to provide notice and hold a subdivision meeting for discussion, nor are staff reports with details on this proposal yet available to anyone. I strongly urge that this issue be rescheduled to provide a more realistic public comment period.

2. Zoning changes
   With limited information for the project available it is not clear what zoning changes are being proposed but I would strongly object to any rezoning that changes use from WLR (One-Family Residential) to a less restrictive use that would enable multi-family buildings. All Park Knoll homeowners have invested in our homes with the knowledge and understanding that the bordering undeveloped areas were WLR thus preserving the area as a single family residential neighborhood.

3. Density
   With the recent approval of a hotel project just the south of this proposed project, area traffic will already be significantly increasing. This project has the potential to add an additional 120 – 180 residents on top of that which would add significant traffic in an already congested area. Even now, without the new hotel and this proposed project, wait times of several minutes are not uncommon when trying to turn north onto 93 from Park Knoll Lane. Thus adding traffic on this proposed scale will only increase an existing traffic hazard.

I respectfully ask that this action be rescheduled to give proper time to better understand this proposal and address the expressed concerns and those of others in the neighborhood.

Sincerely,

David Hunt

Deer Track Residences

Application of

Planned Unit Development (PUD)

For Montana Development Group

Prepared by

SANDS Engineering, Inc.

THE ARCHITECTS OFFICE

White Cloud Landscape Design

48 NORTH p.c. Civil Engineering Services

July 2014

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

APPLICATION FOR PLANNED UNIT DEVELOPMENT

FEE ATTACHED $3419.00 **(See current fee schedule)**

PROJECT NAME Deer Track Residences

1. NAME OF APPLICANT: Montana Development Group. Attn: Jeff Badelt and Sean Averill
2. MAIL ADDRESS: 1380 Wisconsin Avenue
3. CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: (406) 890-8195 (Jeff)
4. E-mail (Optional; not for official notifications.) Jeff@MTDevGroup.com

NAME AND ADDRESS OF OWNER IF DIFFERENT THAN APPLICANT:

5. NAME: Dear Tracs LLC
6. MAIL ADDRESS: P.O. Box 1442
7. CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: _____
8. E-mail (Optional)_____

9. NAME: HDH Holdings, LLC
10. MAIL ADDRESS: P.O. Box 961
11. CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: _____
12. E-mail (Optional)_____

TECHNICAL ASSISTANCE: Sands Surveying, Inc
MAIL ADDRESS: 2 Village Loop
CITY/STATE/ZIP: Kalispell, MT 59901 PHONE: (406) 755-6481
E-mail (Optional) eric@sandssurveying.com

TECHNICAL ASSISTANCE: 48 North PC
MAIL ADDRESS: 151 Business Center Loop
CITY/STATE/ZIP: Kalispell, MT 59901 PHONE: (406) 756-4848

E-mail (Optional)__brett@48-n.com_____

TECHNICAL ASSISTANCE: __TAO, PLLC_____

MAIL ADDRESS: ___499 Main Street_____

CITY/STATE/ZIP:_Boise, ID_____ PHONE:__(208) 343-2931

E-mail (Optional)__matt@taoidaho.com_____

TECHNICAL ASSISTANCE: __White Cloud Design_____

MAIL ADDRESS: ___P.O. Box 67_____

CITY/STATE/ZIP:_Whitefish, MT 59937_____ PHONE:__(406) 863-2828

E-mail (Optional)__johnny@whiteclouddesign.com_____

If there are others who should be notified during the review process, please list those.

_____

Check One:

_X_ Initial Planned Unit Development proposal

___ Amendment to an existing Planned Unit Development

A. Property Address: _6348 Highway 93 S, Whitefish_____

B. Total Area of Property: _4.493 Acres_____

C. Legal description including section, township & range: _____

_Lot 2 of Dear Tracs Subdivision and a Portion of Tract 1 of COS 10669 in Section 1, T30N, R22W, P.M.M., Flathead County

D. The present zoning of the above property is: _WLR and WB-2

E. Please provide the following information in a narrative format with supporting plans, drawings, renderings, photos, or other format as needed:

a. An overall description of the goals and objectives for the development of the project.

The proposed Deer Track Residences PUD will create 60 residential apartments in five buildings plus a club house. There is an existing dry cleaner business located on the property which encumbers 0.415 acres for building, parking, landscaping, and access. To address density see the following table:

Density Table for Montana Development Group Property

Zoning	Acreage	Density w/o Bonus	Density w/ Bonus
WLR	1.44 Ac	4.3 units (3 units per acre)	7.2 units (5 units per acre)
WB-2	3.049 – 0.415 = 2.634 Ac	34.2 units (13 units per acre)	52.7 units (20 units per acre)
Total area devoted to Apartments	4.074 Ac	38 units	60 units

The project will have an overall density of 14.7 units per acre when the dry cleaner property is subtracted.

The applicants will utilize the density bonus provisions of the PUD standards and as such will provide 10% of the units or six units as rent regulated affordable housing. The Applicants have been working with the Whitefish Affordable Housing Office and have secured a letter of support for the creation of the affordable housing units. The six units will be dispersed evenly through the three apartment buildings. As part of the partnership between the Montana Development Group and Whitefish Housing Authority (WHA), the WHA will pre-approval qualified renters based on income and the rents of the six units will be set at the HUD standard for affordable rents for the qualified renters.

The overall goal of the developers is to provide nice clean rental apartments for persons looking for this type of housing in Whitefish. Rents in Whitefish have been on the rise and persons in the service and retail industry are having a hard time finding decent rental housing in the City.

As a PUD, the applicants are required to provide 30% of the area as open space but propose 33% of the site in landscaped area. Amenities provided in the open space include a BBQ area for the residents, tot lot, and the preservation of trees at the rear of the property. The project will incorporate a Club House with office and workout facilities and community garden area.

Maintenance of the project will be typical of such use. The property will be under single ownership and the owner will contract with a landscape business for care and maintenance of the green areas. Maintenance of the units will be contracted with a rental or building management service so they remain in good condition, inside and out. CC&R's are not applicable to this project as the units will not be sold individually.

b. In cases where the development will be executed in phases, please include a phasing plan.

The development of the infrastructure will occur in a single phase (City Street, sewer water storm drainage, parking, etc). The building will go in in three phases with buildings A and B going in the first year, buildings

C and D going in the second year and Building E going in the third year. The applicant may accelerate the building construction if contractor coordination can be addressed.

c. The extent to which the plan deviates from zoning, subdivision regulations and/or "Standards for Design and Construction" (public works standards). The standards that may be deviated from through the approval of a Planned Unit Development are listed in section 11-2S-5.A. Please describe the public benefit for such departures including how they further the intent and purpose of the Planned Unit Development as set forth in Sec. 11-2S-1.

The proposed Deer Track PUD blends to zoning districts with different densities. The density table provided in item (a) previous, shows the acreage breakdown per zoning district and the density allotted.

Setbacks- The WLR portion of the property has setbacks of 25 feet Front, 15 feet side, and 20 feet rear. The WB-2 portion of the property has setback of 20 feet front, 20 feet side when abutting residential and 20 feet rear when abutting residential. We are utilizing the setback provisions provided for in the underlying zoning district. As the property is a single tract of record the front will be the Highway, the sides are the north and south property lines, and the rear is the Baker Street extension.

Height – 35-feet in both zones. The proposed development is requesting a deviation to the Height standards with a request of 39.5 feet for the maximum height. This slight deviation allows the project to have a 4:12 pitched roof providing a more pleasing architectural elevation particularly when viewed from a distance. This is preferred over a flat roof that would meet the 35 foot height limits but looks more institutional.

Use – The use complies with the PUD provision which set a residential unit count for both zoning districts.

Lot coverage – WLR 30% and WB-2 n/a The proposed development will comply with the maximum lot coverage of the zoning districts. The Lot coverage for the apartments and clubhouse is 18%.

Parking – The Whitefish Zoning Code requires 2.33 off-street parking spaces per unit or 140 spaces for the complex. The applicants are requesting a deviation from the Code and propose 2 off-street parking spaces per unit for a total of 120 parking spaces for the apartments. The architects for the project have designed apartment buildings from Missoula to Spokane to Boise and their experience has shown that 1.7 parking spaces per unit meet the needs of the renters and their guests. In addition 15 of the 60 apartment units will be one bedroom units which typically have a lower parking need than two or three bedroom

units. The reduction in parking also reduces the impervious surface on the site which in turn reduces the run-off. The applicants believe the proposed parking will meet the need of the residents and provides a better site plan. The PUD Plan proposes a City street accessing the property and connecting to the Baker extension on the west end of the property. The street width is be sized to accommodate parking on one side of the street. The on-street parking along the north side of the street would accommodate 17 parking spaces. If we count the off-street and on-street parking there will be 137 spaces which would accommodate guest parking for the units.

d. The nature and extent of all open space in the project and the provisions for maintenance and conservation of the common open space; assess the adequacy of the amount and function of the open space in terms of the land use, densities, and dwelling types proposed in the plan.

The proposed development creates 60 apartment units and a small club house along with the existing dry cleaner building on 4.493 acres of property. The PUD is designed to create 1.37 acres of Landscaped area on the 4.074 acres devoted to the apartments which equals 33% of the site.

The Open space will be used as open areas, a tot lot for children and a community BBQ area, community garden area for residents of the apartments.

e. The manner in which services will be provided such as water, sewer, storm water management, schools, roads, traffic management, pedestrian access, recreational facilities and other applicable services and utilities.

The property is located along Highway 93 South and is within the City limits of Whitefish. Highway 93 provides the only access into the property at present. Highway 93 consists of four lanes with an center turn median and will easily accommodate the proposed traffic of the apartment building. The rear of the property abuts the Baker Street extension which is currently not built as there are only small segments of the right-of-way dedicated to date. The development is located within School District #44 (Whitefish) for public schools. The Whitefish School System has updated and expanded the Central School and is in process of a major remodel of the High School. Pedestrian paths provide circulation along the Highway 93 corridor. The proposed pedestrian paths in the development will connect to the existing walk/bike paths along the Highway. The nearest public park is the Smith Field Complex which is only ¾ of a mile to the Southeast. The River Trail is only ¼ mile to the east as the crow flies and can be accessed at JP Road to the south or Greenwood Drive to the north. The proposed development will provide a club house with workout facilities, a community BBQ area, play equipment for children, and a community garden area.

Improvements to the proposed subject site include the addition of increased impervious surface such as roofs, pavement, and concrete. These improvements will lead to an increase in runoffs and modify the drainage pattern within the confines of the subject site. The majority of the onsite conveyance will occur via sheet flow from the impervious surface to curb and gutters along the proposed roads. Inlet catch basins will be located at the low spots of the curb and gutters to collect the flows. The flows will be conveyed from the catch basins via conveyance pipes to an underground detention facility.

The proposed underground detention facility will be designed to store the excess stormwater runoff associated with the increased imperviousness created from the proposed improvements. The facility will consist of StormTech SC-740 chambers, which will provide adequate storage. The proposed StormTech chambers are designed for multiple uses including residential developments and installation under parking lots and commercial roadways. One of the key advantages of the StormTech chamber system is its design flexibility. Chambers may be configured into beds or trenches of various sizes or shapes. They can be centralized or decentralized, and fit on nearly all sites. Chamber lengths enhance the ability to develop on both existing and pre-developed projects. The systems can be designed easily and efficiently around utilities, natural or man-made structures and any other limiting boundaries.

Water and Sanitary Sewer for the project will connect to the public systems that are owned and operated by the City of Whitefish. A portion of the proposed buildings will utilize the existing in-place systems that are immediately adjacent to the subject property via service connections. The remaining buildings will utilize service connections from the extension of new water and sewer mains. These new main line water and sewer extensions will be located within the proposed public right of ways. In addition to the main line extensions, other improvements include the placement of fire services lines to accommodate fire suppression sprinkler systems for the proposed buildings and additional fire hydrants.

Storm Drain, water, and sewer systems will be designed, constructed, and tested in accordance with the current editions of the Engineering Standards for the City of Whitefish, Montana Department of Environmental Quality, and the Montana Public Works Standards Specifications

f. The relationship of the planned development upon the adjacent and surrounding neighborhoods. Specifically address any potential adverse impacts and how they may be avoided or effectively mitigated.

The property is bordered on the North by the Pizza Hut and the Big Mountain Lodge (Zoned WB-2); on the South by the old Wendy's and future hotel site along with retail and professional Office (Zoned WB-2);

on the East by Les Schwab Tires and Dalen Dentistry (Zoned WB-2); and on the West by the Baker Extension, a vacant tract of land and beyond that the Park Knoll Subdivision (Zoned WLR).

The proposed development, consisting of 60 residential apartment units in five buildings will be located to the rear of the existing dry cleaner building located at the front of the property. The Multi-family residential use creates a good transition from the Highway oriented commercial use and the single family uses further to the west. The proposed use also fills in the area between the commercial use along the highway and the future Baker Avenue extension which someday will become a significant north/south collector street that will ease congestion on Highway 93 and provide local access to business services. The multi-family use should not impact the adjacent commercial development but instead could bring business to some of these uses and provide housing for some of the employees of the businesses.

Photo taken looking east from the center of the project towards the old Wendy's Building and the Carpet Studio.

Photo Taken looking west towards the Baker Extension and the tree line on the west edge of the property.

Photo taken looking northeast toward the Pizza Hut.

g. How the plan provides reasonable consideration to the character of the neighborhood and the particular suitability of the property for the proposed use.

The majority of the property is in the WB-2 (General Commercial) Zone and as such most of the neighboring uses are commercial type uses. However, most of the commercial use is located close to the front of the

property along the highway and do not extend very far to the west. This leaves a large swath of ground that is mostly vacant between the business use and the proposed Baker Extension. The proposed multi-family use is a good transitional use between the intensive commercial use and the low intensity use of single family residential located to the west.

h. How the development plan will further the goals, policies and objectives of the Whitefish Growth Policy.

The Land Use Element of Whitefish Growth Policy specifically provides the Zoning Classifications that comply with the land use category depicted on the Future Land Use Map. The Deer Track Residences property is split between two land use categories: the General Commercial (Red)) on the eastern 3.049 acres and the Suburban Residential (Yellow) on the western 1.444 acres.

According to the Land Use Element, properties designated General/Highway Commercial is defined as: "Generally applied to the Hwy 93 Corridor north of the Highway 40 intersection, this designation is defined by auto oriented commercial and service uses. Specific land uses include retail, restaurants of all types and quality ranges, professional office, auto sales and services, hotel/motels, supermarkets, shopping centers, or clusters, and convenience shopping, including the dispensing of motor fuels, Primarily access is by automobile with ample parking provided on site. Development sites are properly landscaped to screen parking and drive areas, and to provide a high-quality visual image. Zoning is generally WB-2, but higher density residential with WR-3 zoning and mixed use development may also be appropriate in this area." The last sentence of this definition contemplates multi-family residential as a compatible use and a use that can transition from commercial to single family residential.

The Whitefish Growth Policy also records the dilemma of the need to provide high density residential development in the City to accommodate a diversity of housing options and the general lack of acceptable of multi-family development in their neighborhoods. This is addressed in Chapter 3, Section on Growth and the Section on Development Density.

Chapter 5 of the Whitefish Growth Policy provides a detailed account of the "affordable housing" debate in the City and outlines the mechanisms the City has developed to encourage the development community to construct affordable housing. The primary tool the City uses in the density bonus in the PUD section of the Zoning Code which gives a developer a density bonus in exchange for including 10% of the units in a affordable housing program through a partnership with the Whitefish Housing Authority.

The proposed development will provide a new multi-family rental apartment use to the housing supply in Whitefish. This in turn provides for new, clean housing options for the persons working in the retail and service industry which is typically on lower end the income scale. These people typically are not in the market for home ownership but they want to live close to their work place. In addition 10% of the units will be restricted rent units where the maximum rent is 30% of a family's income and who are at or below 125% of the medium family income

i. If affordable housing is a component of the project, describe how the project is implementing the standards in Section 11-2S-3.B.

The applicants are taking advantage of the density bonus provided in the PUD section of the Zoning Code. In exchange, they will provide 10% or six units as predetermined affordable housing through a partnership with the Whitefish Housing Authority. The Whitefish Housing Authority has provided a letter of support for this project and a commitment to work with the applicants in managing the units for long term affordability.

j. Submit site plans, drawings and schematics with supporting narratives where needed that include the following information:

(1). Total acreage and present zoning classifications;
(2). Zoning classification of all adjoining properties;
(3). Density in dwelling units per gross acre;
(4). Location, size, height and number of stories for buildings and uses proposed for buildings;
(5). Layout and dimensions of streets, parking areas, pedestrian walkways and surfacing;
(6). Vehicle, emergency and pedestrian access, traffic circulation and control, including pedestrian and bikeway linkages to existing and/or proposed trails beyond project boundaries;
(7). Location, size, height, color and materials of signs;
(8). Location, height, and material of fencing and/or screening;
(9). Location and type of landscaping;
(10). Location and type of open space and common areas;
(11). Proposed maintenance of common areas and open space;
(12). Property boundary locations and setback lines
(13). Special design standards, materials and / or colors;
(14). Proposed schedule of completion and phasing of the development, if applicable;
(15). Covenants, conditions and restrictions (CC&Rs);
(16). Any other information that may be deemed relevant and appropriate to allow for adequate review.

See attached maps and drawings

If the Planned Unit Development involves the division of land for the purpose of conveyance, a preliminary plat shall be prepared in accordance with the requirements of the subdivision regulations.

Please note that the approved final plan, together with the conditions and restrictions imposed, shall constitute the zoning for the district. No building permit shall be issued for any structure within the district unless such structure conforms to the provisions of the approved plan.

The signing of this application signifies that the aforementioned information is true and correct and grants approval for Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during review process.

_____ _____

(Applicant Signature) (Date)

_____

Print Name

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A discussion with the planning director or designated member of staff must precede filing of this application. Among topics to be discussed are: Master Plan or Growth Policy compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application form.

C. Application fee per schedule, made payable to the City of Whitefish. See current fee schedule.

D. A bona fide legal description of the subject property and a map showing the location and boundaries of the property.

E. Adjoining Property Owners List from Flathead County GIS Department.

Please consult the with staff of the Whitefish Planning & Building Department for submittal dates and dates for the Planning Board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled. The application must be accepted as complete forty-five (45) days prior to the scheduled Planning Board meeting.

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__$2,376.00_____ (See current fee schedule)

NAME OF APPLICANT: __Montana Development Group, Attn: Jeff Badelt and Sean Averill_____

MAIL ADDRESS: _1380 Wisconsin Ave_____

CITY/STATE/ZIP: __Whitefish, MT 59937_____ PHONE: _(406) 890-8195 (Jeff)

E-Mail (Optional; not for official notification.) _Jeff@MTDevGroup.com_____

INTEREST IN PROPERTY: __Contract to Buy_____

PLEASE COMPLETE THE FOLLOWING:

A. Address of the property: _6348 Highway 93 South, Whitefish_____

B. Legal Description: (Subdivision Name, Lot & Block and/or Tract Number (Section, Township, Range) __A portion of Tract 1 of COS 10699 in Section 1, T30N, R22W, P.M.M., Flathead County

(Attach sheet for metes and bounds)

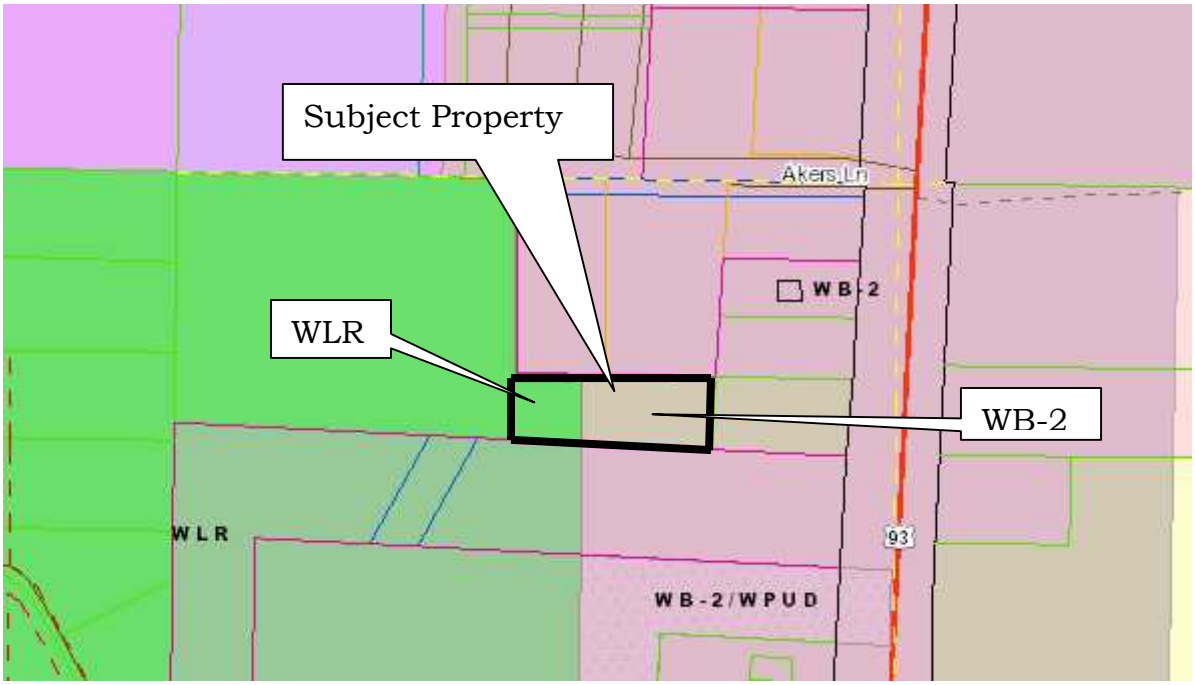
C. Land area in zone change (ac) __1.050 Acres_____

D. The present zoning of the above property is: _R-2 and B-2

E. The proposed zoning of the above property is: WLR and WB-2

F. State the changed or changing conditions that make the proposed amendment necessary:

The subject property is located in the "Doughnut" of Whitefish and up until very recently was zoned WLR and WB-2. Since the Supreme Court decision and action by the County to convert Whitefish's extra territorial zoning to a County zone, this request became a necessary procedural item. This is essentially the "initial" zoning step that in the future will accompany annexation into the City. The applicants have been working with the City since June of this year and this step was not originally anticipated, but given the above described events is need to proceed with the project.



Source: Flathead County GIS (9/9/14)

HOW WILL THE PROPOSED ZONE CHANGE ACCOMPLISH THE FOLLOWING:

A. Promote public health, public safety, and general welfare:

The proposed zone change will promote public health and general welfare as this property has been zoned WLR/WB-2 for the past 25 years at least and was only recently converted to a County zone.

B. Secure safety from fire and other dangers:

The subject property is within the Whitefish Fire Service Area. The new Fire Station/Police Department is located approximately 1/2 mile from the subject zone change. Water and sewer mains are currently located adjacent to the subject site and is available on the east, west, and south boundaries. There are no streams, wetlands, or associated floodplains on the subject property.

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

The subject property is located just off Highway 93 south and is part of a larger project that proposes to construct a City Street to serve the property. The request only re-establishes the City zoning that was in place up until very recently. The property is proposed to be served by City Sewer and Water.

D. Provide reasonable provision of adequate light and air:

The proposed zoning has height and setback requirements that provide for light and air. These bulk and dimensional requirements have been on the property for at least 25 years.

E. Effect motorized and nonmotorized transportation systems:
As mentioned previously, the proposed zone change is located in close proximity to Highway 93 which will provide access to a development proposed with a PUD and accompanies this zone change application. The PUD addresses access which has been worked through with the Whitefish Public Works Department and the Montana Department of Transportation.

F. Promote compatible urban growth:
The proposed zone change re-establishes the old Whitefish Zoning which was very recently converted to urban County zoning. There is no change to density or land use with this proposal as up until mid-July had the zoning which the applicant is requesting.

G. Consider the character of the district and its particular suitability for particular uses:
The character of the district is primarily commercial. There is an existing hotel directly to the north, a proposed hotel directly to the south, restaurant, dry cleaners, and professional office adjacent to the proposed property. The property directly west is currently vacant but with an urban residential density. The proposed zoning matches up with the neighboring City zoning.

H. Protect and conserve the value of buildings:
The proposed zoning fits with adjacent land use and zoning. The applicants are only requesting the zoning that they had previous to the Jurisdiction change.

I. Encourage the most appropriate use of land throughout the jurisdictional area:
The Whitefish Growth Policy designates the subject property as Suburban Residential and Commercial. The proposed zoning will match what was previously placed on the site by the City of Whitefish.

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 proposed zoning is not out of character with neighboring land uses which are both historical and anticipated in the future by the Growth Policy. Therefore the proposed zone change does balance historical use and future trends.

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

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A discussion with the Planning & Building Director or designated member of staff **is highly recommended**. Among topics to be discussed are: Master Plan or Growth Policy compatibility with the application, compatibility of the proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application form.

C. Application fee per current fee schedule, made payable to the City of Whitefish.

D. The application must be accepted as complete by the City staff **forty five (45) days prior** to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

E. Application Contents:

1. Petition for zone change signed by the real property owners representing at least 65% of the land area for which the change in zoning classification is sought.

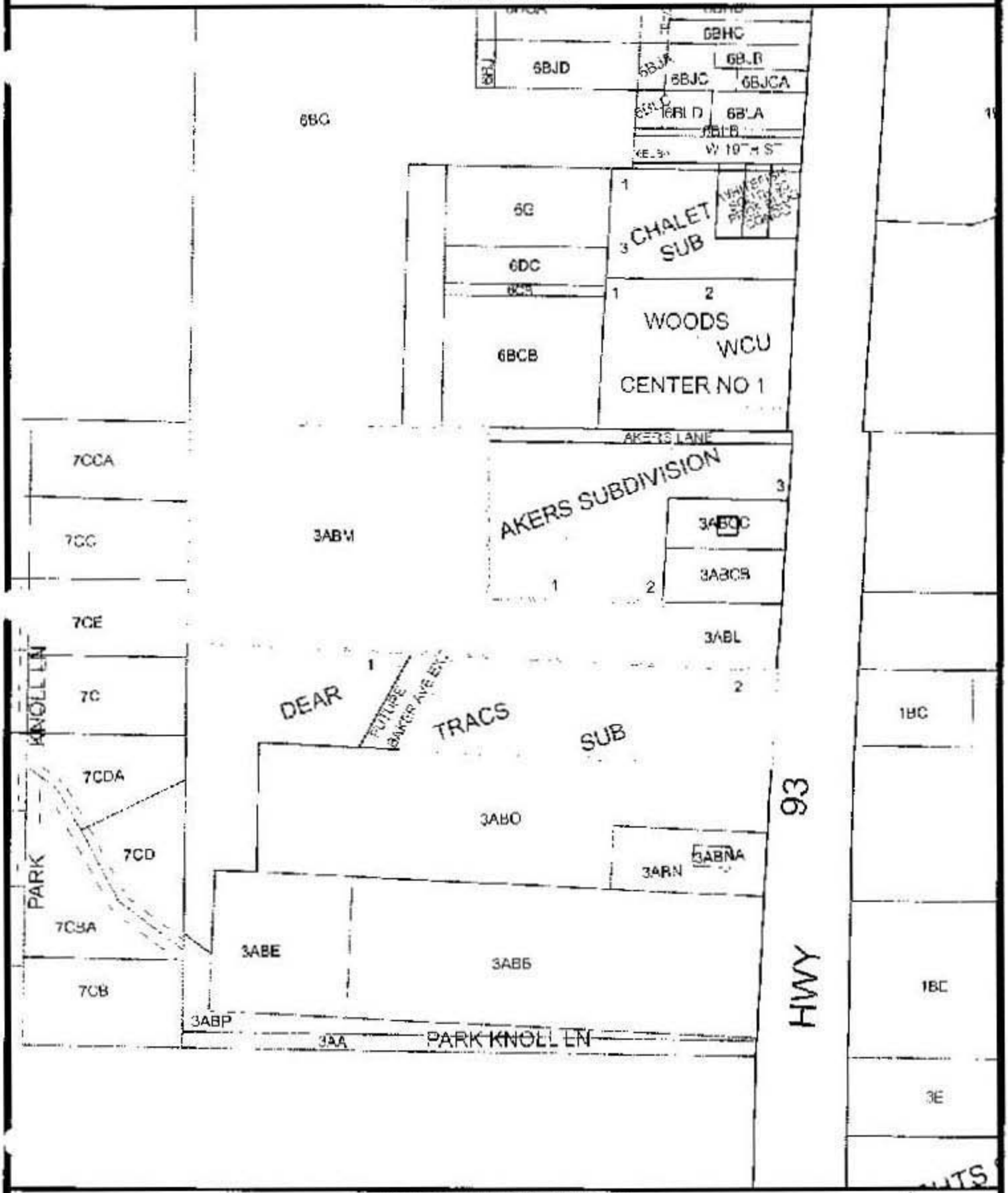
2. A map showing the location and boundaries of the property.

3. Adjoining Property Owners List from Flathead County GIS Department.

4. A title report, ownership report or zoning report of the subject property.

DEAR TRACTS SUB LOT 2 AND TR 3ABM IN S01 T30N R20W PMM

150 FOOT OWNERSHIP



FLATHEAD COUNTY GIS

Date: 7/22/2014
Project: 150 Foot Buffer

The areas depicted on this map are for illustrative purposes only and do not necessarily meet mapping surveying or engineering standards. Deriving conclusions from this map is done at the user's risk.

DEAR TRACTS SUB LOT 2 AND TR 3ABM IN S01 T30N R2OW PMM

150 FOOT OWNERSHIP LIST

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0001109				
	DALEN, GARY L & ANNETTE S			
		1120 MONEGAN RD WHITEFISH MT 59937		
			3022X01-XXX-1BC	1M
0013130				
	HDH HOLDINGS LLC			
		PO BOX 961 WHITEFISH MT 59937		
			3022X01-XXX-6BG-SEPTN	1M
0181450				
	DALEN LIVING TRUST, ETHELYN LORRAINE			
		6335 US HIGHWAY 93 S WHITEFISH MT 59937		
			3022X01-XXX-1BB	1M
	DALEN SR FAMILY TRUST, HAROLD A			
		6335 US HIGHWAY 93 S WHITEFISH MT 59937		
			3022X01-XXX-1BB	21
0195850				
	KINCHELOE, ADAM & TRACY			
		526 SILVERLEAF DR WHITEFISH MT 59937		
			3022X01-DTS-1	1M

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0405850				
	HDH HOLDINGS LLC			
		PO BOX 961 WHITEFISH MT 59937		
			3022X01-XXX-SBG-NANDWPTN	1M
0473695				
	EREKSON, KIMBERLEY			
		129 PARK KNOLL LN WHITEFISH MT 59937		
			3022X01-XXX-7CC	2T
	EREKSON, KRISTINA			
		129 PARK KNOLL LN WHITEFISH MT 59937		
			3022X01-XXX-7CC	1M
0473701				
	SPIVEY, DONALD R & JUDITH E			
		117 PARK KNOLL LN WHITEFISH MT 59937		
			3022X01-XXX-7C	1M
0502140				
	CHALET MOTEL INC			
		6430 HIGHWAY 93 S WHITEFISH MT 59937		
			3022X01-AKE-2	1M
0506080				
	DEAR TRACS LLC			
		PO BOX 1442 WHITEFISH MT 59937		

ASSRNO	Name	Address	TRACT_ID	Rec_Code
			3022X01-DTS-2	IM
0758950				
	SFP-B LIMITED PARTNERSHIP			
		PO BOX 5350 BEND OR 97708		
			3022X01-XXX-1BCA	IM
0954502				
	WHITEFISH RV PARK INC			
		6400 US HIGHWAY 93 S WHITEFISH MT 59937		
			3022X01-XXX-6BCB	IM
0954700				
	AKERS HOSPITALITY INC			
		PO BOX 8086 RAPID CITY SD 57709		
			3022X01-AKE-1	IM
			3022X01-AKE-1-100	IM
0971793				
	HIGH PLAINS PIZZA INC			
		AD% HIGH PLAINS PIZZA PO BOX 2438 LIBERAL KS 67905		
			3022X01-XXX-3ABCB	IM
0971946				
	HIGH PLAINS PIZZA INC			
		PO BOX 2438 LIBERAL KS 67905		
			3022X01-XXX-3ABL	IM

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0971947				
	HDH HOLDINGS LLC			
		PO BOX 961 WHITEFISH MT 59937		
			3022X01-XXX-3ABM	1M
0972925				
	WEST REVOCABLE TRUST, BONNIE S			
		6334 US HIGHWAY 93 S WHITEFISH MT 59937		
			3022X01-XXX-3ABN	1M
0975035				
	EREKSON, KIMBERLEY			
		129 PARK KNOLL LN WHITEFISH MT 59937		
			3022X01-XXX-7CCA	2I
	EREKSON, KRISTINA C			
		129 PARK KNOLL LN WHITEFISH MT 59937		
			3022X01-XXX-7CCA	1M
0975134				
	WEHR, SHIRLEY LAUREL			
		83 DERN RD KALISPELL MT 59901		
			3022X01-XXX-IMP1023-3ABCC	1M
0975728				
	R & P HOLDINGS LLC			
		6336 US HIGHWAY 93 S WHITEFISH MT 59937		

ASSRNO	Name	Address	TRACT_ID	Rec_Code
			3022X01-XXX-3ABNA	1M
0976405				
	GIESY, ROGER CRAIG & KAREN MARIE			
		PO BOX 4717 WHITEFISH MT 59937		
			3022X01-XXX-7CE	1M
0977816				
	WEHR, SHIRLEY LAUREL			
		150 N MAIN KALISPELL MT 59901		
			3022X01-XXX-3ABCC	1M
0983346				
	HC 112 LLC			
		200 PARKHILL DR WHITEFISH MT 59937		
			3022X01-XXX-3ABO	1M
E001330				
	CITY OF WHITEFISH			
		PO BOX 158 WHITEFISH MT 59937		
			3022X01-DTS-FUTUREBAKERAVEEXTENSION	1M
E025599				
	CITY OF WHITEFISH			
		PO BOX 158 WHITEFISH MT 59937		
			3022X01-XXX-2B	1M

Flathead Co. Plat Room
800 S. Main Room 105
Kalispell, Mt. 59901

APPROVED 7/23/14

"Protecting You or Our Business"
217 Second Main Street * P.O. Box 73
Kalispell, Montana 59903
Phone: (406) 752-7000 * Title Fax: (406) 752-7207
Escrow Fax: (406) 257-6968
307 Spokane Avenue * Suite 101
P.O. Box 4750
Whitefish, Montana 59937
Phone: (406) 862-7000 * Fax: (406) 862-7330
www.sterlingtileservices.com * E-mail: info@sterlingtileservices.com

ZONING REPORT

Order No.: 61281

To: Sands Surveying, Inc.
Eric Mulcahy
2 Village Loop Rd.
Kalispell, MT 59901

Date: July 30, 2014

Re: HDH Holdings LLC and Deer Tracs LLC

Fee: $150.00

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):

TRACT 1:

Tract 1 of Certificate of Survey No. 10669, located and being in the Northwest Quarter of the Southeast Quarter (NW¼SE¼) of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 2:

Lot 2 of Dear Tracs Subdivision, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

The last recorded instruments purporting to transfer title to said real property is:

Quitclaim Deed:
Grantor: Howard D. Hamilton
Grantee: HDH Holdings, LLC
Recorded: October 15, 2007 as Document #200700031597, records of Flathead County, Montana.
Affects: Tract 1

Quit Claim Deed
Grantor: Dear Tracs, LLC, a Montana Limited Liability Company
Grantee: Dear Tracs, LLC, a Montana Limited Liability Company
Recorded: September 23, 2010 as Document #201000021823, records of Flathead County, Montana
Affects: Tract 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 406-752-7000 or visit our website at http://www/sterlingtitleservices.com.

Thank you for your continued business.

Report prepared by:

Authorized Countersignature

Tracy Martin
Sterling Title Services

After recording return to:

Vincent G. Rieger
Law Office of Vincent G. Rieger, P.C.
4 Meridian Court
Kalispell, MT 59901

Taxes to:

HDH Holdings, LLC
P.O. Box 961
Whitefish, MT 59937

200700031597 Fees: $14.00 by: JL
QUIT CLAIM DEED by VINCENT G RIEGER
Date 10/15/2007 Time 2:15 PM Page: 1 of 2
Paula Robinson, Flathead County Montana

097/947

APPROVED 10-15-2007

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned,

Howard D. Hamilton,

hereby quitclaims to:

HDH Holdings, LLC, a Montana limited liability company, whose mailing address is P.O. Box 961, Whitefish, Montana 59937,

real property in Flathead County, Montana, described as follows.

That portion of the Northwest one-quarter of the Southeast one-quarter (NW1/4SE1/4) of Section 1, Township 30 North, Range 22 West, Principal Meridian, Montana, Flathead County, Montana, described as follows:

Beginning at the Northwest corner of said NW1/4SE1/4; thence South 89°36'21" East and along the northerly boundary of said NW1/4SE1/4 a distance of 642.80 feet; thence South 360.00 feet; thence
South 89°36'21" East 351.27 feet; thence
South 02°33'08" West 136.75 feet; thence
North 87°42'01" West 991.19 feet to the Westerly boundary of said NW1/4SE1/4; thence North 00°18'01" East and along said Westerly boundary a distance of 463.68 feet to the point of beginning and containing 8.061 acres of land more or less.

TO HAVE AND TO HOLD unto the Grantee and to the Grantee's heirs, successors and assigns forever.

DATED this 12th day of October, 2007.

Howard D. Hamilton

STATE OF MONTANA)
:ss
County of Flathead)

This instrument was acknowledged before me on October 12, 2007 by Howard D. Hamilton.

Notary Public for the State of Montana
Printed Name of Notary: Vincent G. Rieger
Residing at Kalispell, Montana
My Commission Expires: April 1, 2008

VINCENT G. RIEGER
STATE OF MONTANA

201000021833
Page: 1 of 1
Fees: $11.00
9/23/2010 10:34 AM
Paula Robinson, Flathead County MT by MC

Lot 2
DEAR TRACS SUB

RETURN AFTER RECORDING TO: *DEAR TRACs, LLC*
PO BOX 1442
WHITEFISH, MT 59937

TAXES TO: *DEAR TRACs, LLC*
PO BOX 1442
WHITEFISH, MT 59937

0195850, 0213400 w/survey

QUIT CLAIM DEED

GRANTOR: DEAR TRACs, LLC, a Montana Limited Liability Company
PO Box 1442, Whitefish, MT 59937

GRANTEE: DEAR TRACs, LLC, a Montana Limited Liability Company
PO Box 1442, Whitefish, MT 59937

LEGAL DESCRIPTION

Tract 1 of Certificate of Survey No. 19024, located in the Northwest 1/4 of the Southeast ¼ of Section 1, Township 30 North, Range 22 West, according to the map or plat thereof on file in the office of the Clerk and Recorder of Flathead County, Montana.

BLA 701 e

**SUBJECT TO CURRENT EASEMENTS, COVENANTS, MORTGAGE(S), RESERVATIONS AND ENCUMBRANCES OF RECORD

For valuable consideration, the receipt of which is hereby acknowledged, the GRANTOR does hereby grant, convey, remise, release and forever quitclaim unto the GRANTEE all of its right, title and interest in and to the above described real property located in Flathead County, Montana.

GRANTOR: DEAR TRACs, LLC, a Montana Limited Liability Company

V. JAMES CARBO, a managing member of DEAR TRACs, LLC.

CURT MCINTYRE, a managing member of DEAR TRACs, LLC.

Approved 9/23/10

STATE OF Montana)
SS
County of Flathead)

This instrument was acknowledged before me on the 21 day of September, 2010, by V. James Carbo and Curt McIntyre, managing members of DEAR TRACs, LLC

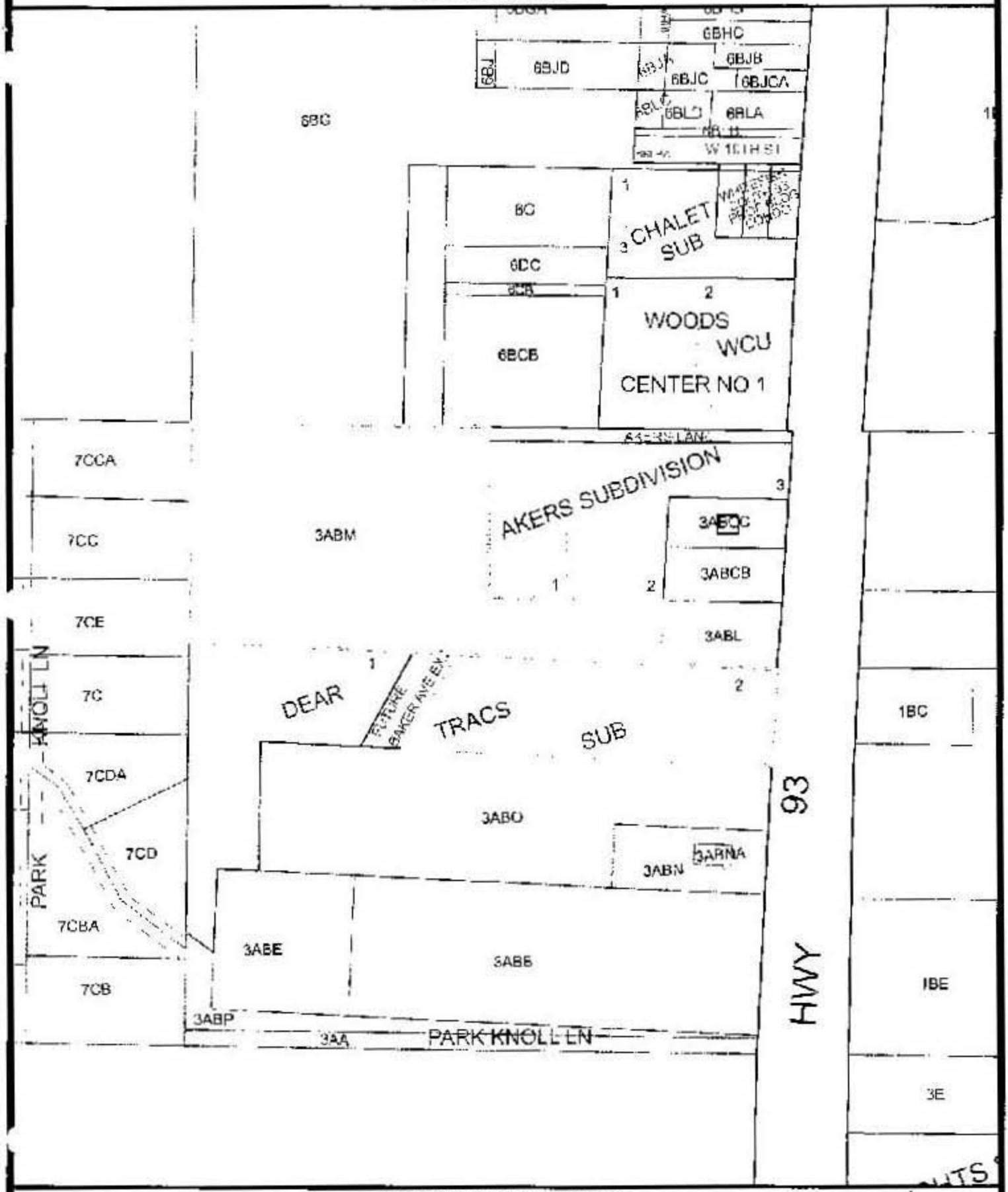
(SEAL)

KAREN L. CORDI
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
July 6, 2014

x Karen L. Cordi
Printed Name: Karen L. Cordi
Notary Public for the State of Montana
Residing in Whitefish, MT
My Commission Expires: 7-06-2014

DEAR TRACTS SUB LOT 2 AND TR 3ABM IN S01 T30N R20W PMM

150 FOOT OWNERSHIP



FLATHEAD COUNTY GIS

Date: 7/22/2014
Project: 150 Foot Buffer

The areas depicted on this map are for illustrative purposes only and do not necessarily meet mapping surveying, or engineering standards. Deriving conclusions from this map is done at the user's risk.

The Whitefish Housing Authority
PO Box 1237, 100 East 4th Street, Whitefish, MT 59937
Phone: 862-4143 Fax: 862-4107

July 21, 2014

Mr. Jeff Badelt
Montana Development Group

RE: Support for the application of Montana Development Group for the proposed construction of rental units on property located off Highway 93.

As the director of the Whitefish Housing Authority, I support the application of Montana Development Group for the above referenced construction project. I applaud your commitment to house moderate and low-income households in our community.

Given our current heavy load of housing needs in Whitefish, I support the construction of apartments for low-income residents.

Sincerely,

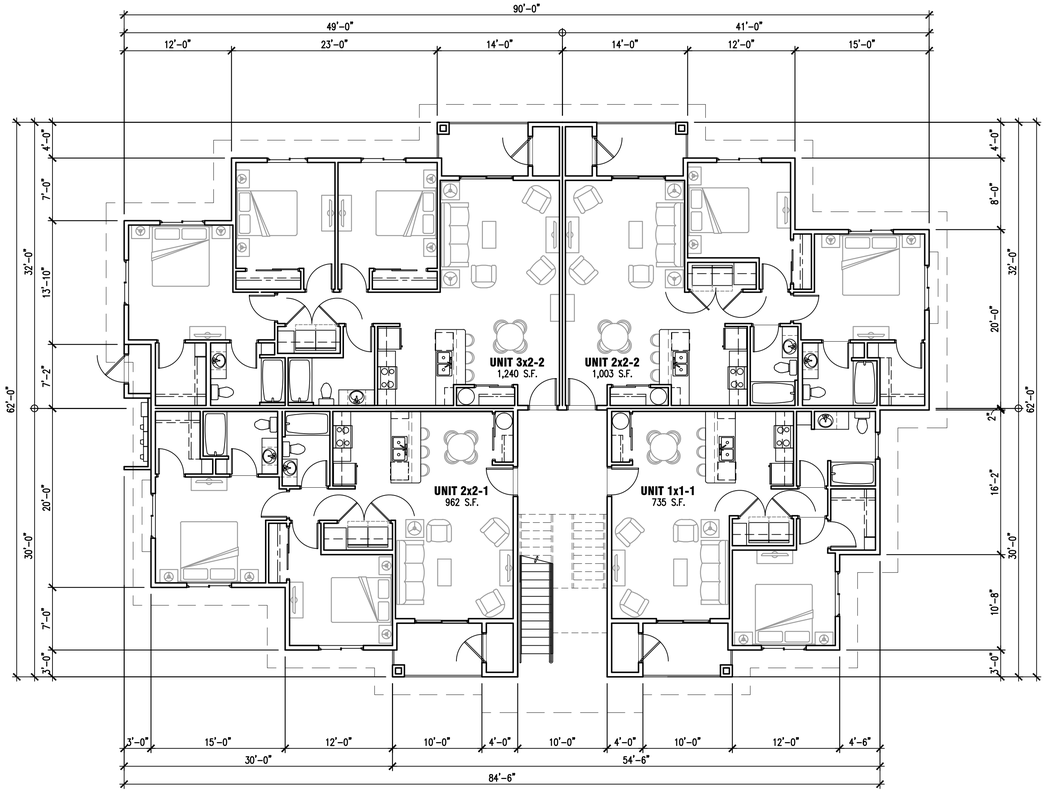
Lori Collins
Executive Director

From: "Janice Sattizahn" <NVR@MontanaWasteSystems.com>
Date: September 9, 2014 at 10:25:45 AM MDT
To: <Jeff@MTDevGroup.com>
Subject: FW: ENCLOSURE INFO - NVR
Reply-To: <NVR@MontanaWasteSystems.com>

From: Janice Sattizahn [mailto:NVR@MontanaWasteSystems.com]
Sent: Tuesday, September 02, 2014 2:06 PM
To: 'Jeff@MTDevGroup.com'
Cc: 'office@montanawastesystems.com'
Subject: ENCLOSURE INFO - NVR

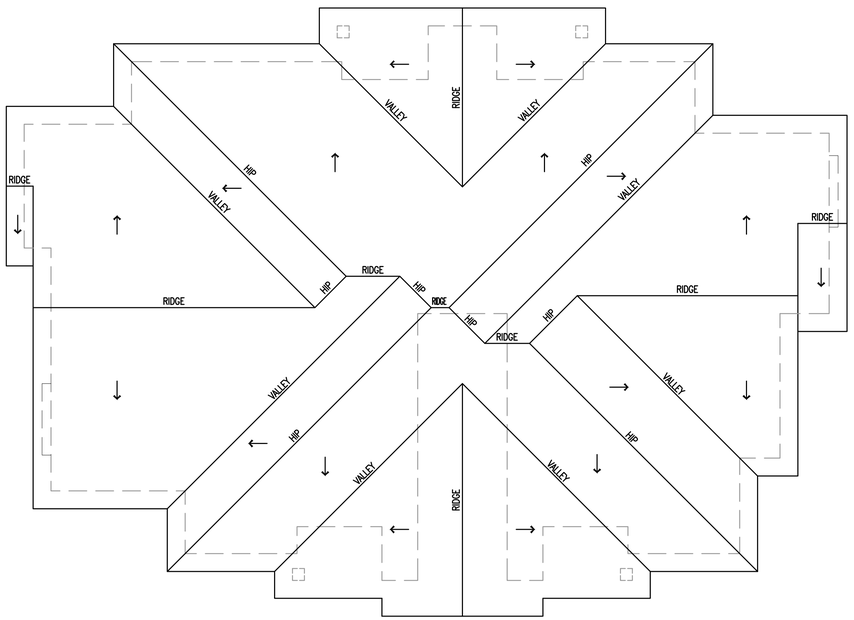
JEFF, AS PER YOUR REQUEST THESE ARE THE DIMENSIONS OF A 6YD FL - 86" WIDE X 68 " DEEP & 8YD FL - 86" WIDE X 86" DEEP.

GATE OPENING CLEARANCE NEEDS TO BE AT LEAST 11 FEET WIDE. CLEARANCE FROM FRONT TO BACK: 1 FOOT FROM CONTAINER TO GATE AND 2 FEET FROM BACK OF WALL TO CONTAINER IN ENCLOSURE, MAKING A TOTAL OF 3 FEET CLEARANCE. THIS IS FOR WALLED ONLY, NO ROOF. ANY QUESTIONS CALL ME AT 862-4381. THANKS, TOM



APARTMENT BUILDING FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0" SECOND AND THIRD FLOOR SIMILAR



APARTMENT BUILDING ROOF PLAN

SCALE: 1/8" = 1'-0"

THE ARCHITECTS OFFICE PLLC
PRICE SANDERS COOPER RHEES RUBY
499 MAIN STREET (208) 343-2931
BOISE, IDAHO 83702 TAOIDAHO.COM

PROJECT

MONTANA DEVELOPMENT GROUP

DEER TRACK RESIDENCES

6348 U.S. HIGHWAY NO. 93
WHITEFISH, MONTANA

SEAL

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FILE

DATE
JULY 31, 2014

FILE NO.
14-535 SD2.0

DRAWN
MATT RHEES

REVISIONS

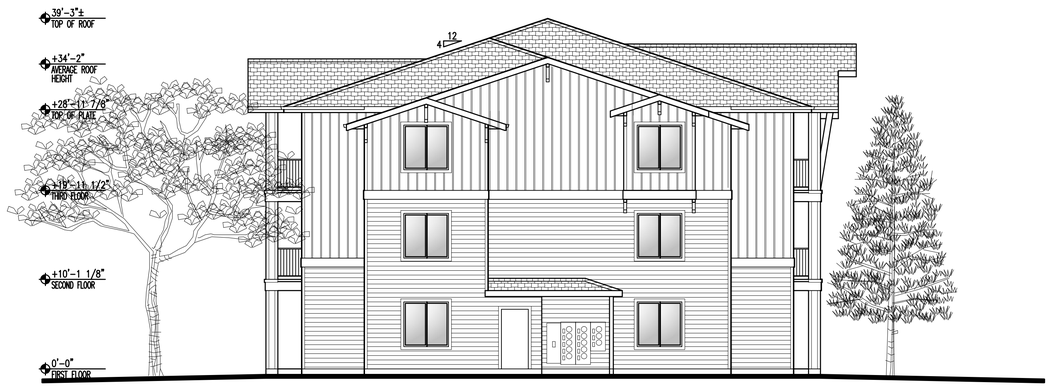
SHEET

SD2.1

SCHEMATIC DESIGN

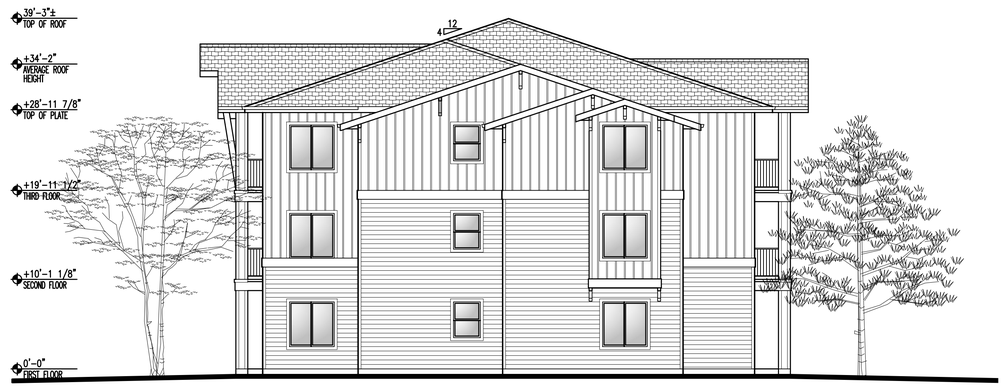
FRONT ELEVATION

SCALE: 1/8" = 1'-0"



LEFT ELEVATION

SCALE: 1/8" = 1'-0"



RIGHT ELEVATION

SCALE: 1/8" = 1'-0"

REAR ELEVATION

SCALE: 1/8" = 1'-0"

THE ARCHITECTS OFFICE PLLC
PRICE SANDERS COOPER RHEES RUBY
499 MAIN STREET (208) 343-2931
BOISE, IDAHO 83702 TAOIDAHO.COM

PROJECT

MONTANA DEVELOPMENT GROUP

DEER TRACK RESIDENCES

6348 U.S. HIGHWAY NO. 93
WHITEFISH, MONTANA

SEAL

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FILE

DATE
JULY 31, 2014

FILE NO.
14-535 SD2.0

DRAWN
MATT RHEES

REVISIONS

1. 9-3-14

SHEET

SD2.2

SCHEMATIC DESIGN

By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 418601 (418601-BLA.dwg)
DATE: July 15, 2014
FOR: JEFF BADELT (MONTANA DEVELOPMENT GROUP)
OWNERS: HDH HOLDINGS, LLC (TRACT 1)
DEAR TRACS, LLC (LOT 2A)

Amended Plat Of
LOT 2, DEAR TRACS SUBDIVISION
NW1/4SE1/4 SEC. 1, T.30N., R.22W., P.M.,M., FLATHEAD COUNTY, MONTANA

Sec. 1

SCALE : 1" = 40'
40' 20' 0 40' 80'

PURPOSE: BOUNDARY LINE ADJUSTMENT

N

SANDS SURVEYING INC.

DESCRIPTION:

TWO TRACTS 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:

LOT 2A:

BEGINNING at the southeast corner of Lot 2, Dear Tracs 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 Tracs Subdivision; Thence along said north boundary S87°41'06"E 82.74 feet to a set iron pin; 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 said Dear Tracs Subdivision; Thence along said north boundary S87°41'06"E 249.86 feet a found iron pin on the westerly R\W of U.S. Highway No. 93; Thence leaving said north boundary and along said R\W S02°36'42"W 206.13 feet to the point of beginning and containing 4.493 ACRES; Subject to and together with a 30' utility easement as shown hereon; Subject to and together with all appurtenant easements of record.

The above described tract of land shall hereafter be known as:

AMENDED PLAT OF LOT 2, DEAR TRACS SUBDIVISION

PARCEL 'A': (Being removed from Tract 1 of COS 10669, and added to and being made a part of this subdivision, not to be sold as a separate tract of land.)

Commencing at the southeast corner of Lot 2, Dear Tracs 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 Tracs 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.

OWNERS' CERTIFICATION:

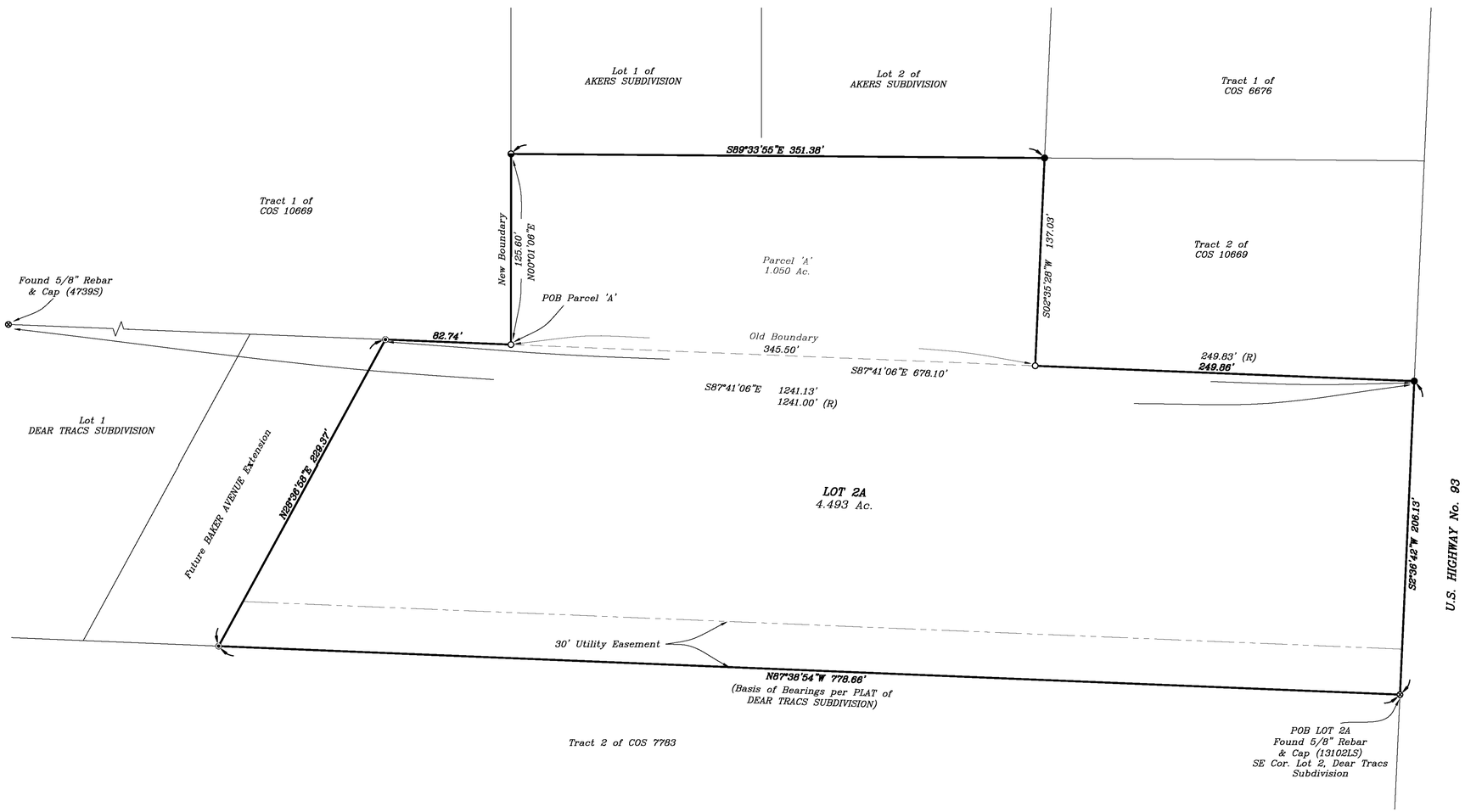
We hereby certify that the purpose of this division of land is to relocate common boundary lines between 5 or fewer lots within a platted subdivision; therefore, this relocation of boundaries is exempt from review as a subdivision pursuant to Section 76-3-207 (1)(d), M.C.A.

ALSO:

We certify that Lot 2A is excluded from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605 (2) (b) as a parcel that has a previous approval issued under Title 76, chapter 4, part 1, M.C.A. (See E.Q. #02-1021) if: (i) no facilities other than those previously approved exist, or will be constructed on the parcel; and (ii) the division of land will not cause approved facilities to deviate from the conditions of approval, in violation of 76-4-130, MCA."

_____ **HDH HOLDINGS, LLC**

_____ **DEAR TRACS, LLC**



STATE OF _____)
SS
County of _____)

On this _____ day of _____, 2014, before me, a Notary Public in and for the State of _____, personally appeared _____ _____, of HDH HOLDINGS, LLC, and known to me to be the person(s) whose name(s) is(are) subscribed to the foregoing instrument and who duly acknowledged to me that he(she)(they) executed the same.

_____
Notary Public for the State of _____

_____
Printed Name of Notary
Residing at _____
My commission expires _____

STATE OF _____)
SS
County of _____)

On this _____ day of _____, 2014, before me, a Notary Public in and for the State of _____, personally appeared _____ _____, of DEAR TRACS, LLC, and known to me to be the person(s) whose name(s) is(are) subscribed to the foregoing instrument and who duly acknowledged to me that he(she)(they) executed the same.

_____
Notary Public for the State of _____

_____
Printed Name of Notary
Residing at _____
My commission expires _____

LEGEND:

- C1/4 Corner (as noted)
- Set 1/2"x24" Rebar & Cap (7975S)
- Found 1/2" Rebar & Cap (7975S)
- Found 5/8" Rebar & Cap (2516S)
- Found 5/8" Rebar & Cap (15627LS)
- Found (as noted)
- (R) Record Information per COS 10669

CERTIFICATE OF SURVEYOR

_____
THOMAS E. SANDS 7975-S

APPROVED: _____, 201__

_____
EXAMINING LAND SURVEYOR
REG. No. 5428S

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS
FILED ON THE ___ DAY OF _____, 201__
AT _____, PAID FEE _____

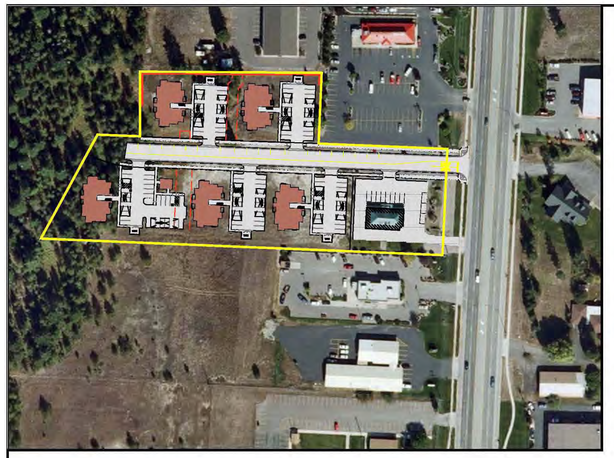
_____
CLERK & RECORDER

BY _____
DEPUTY

INSTRUMENT REC. No. _____

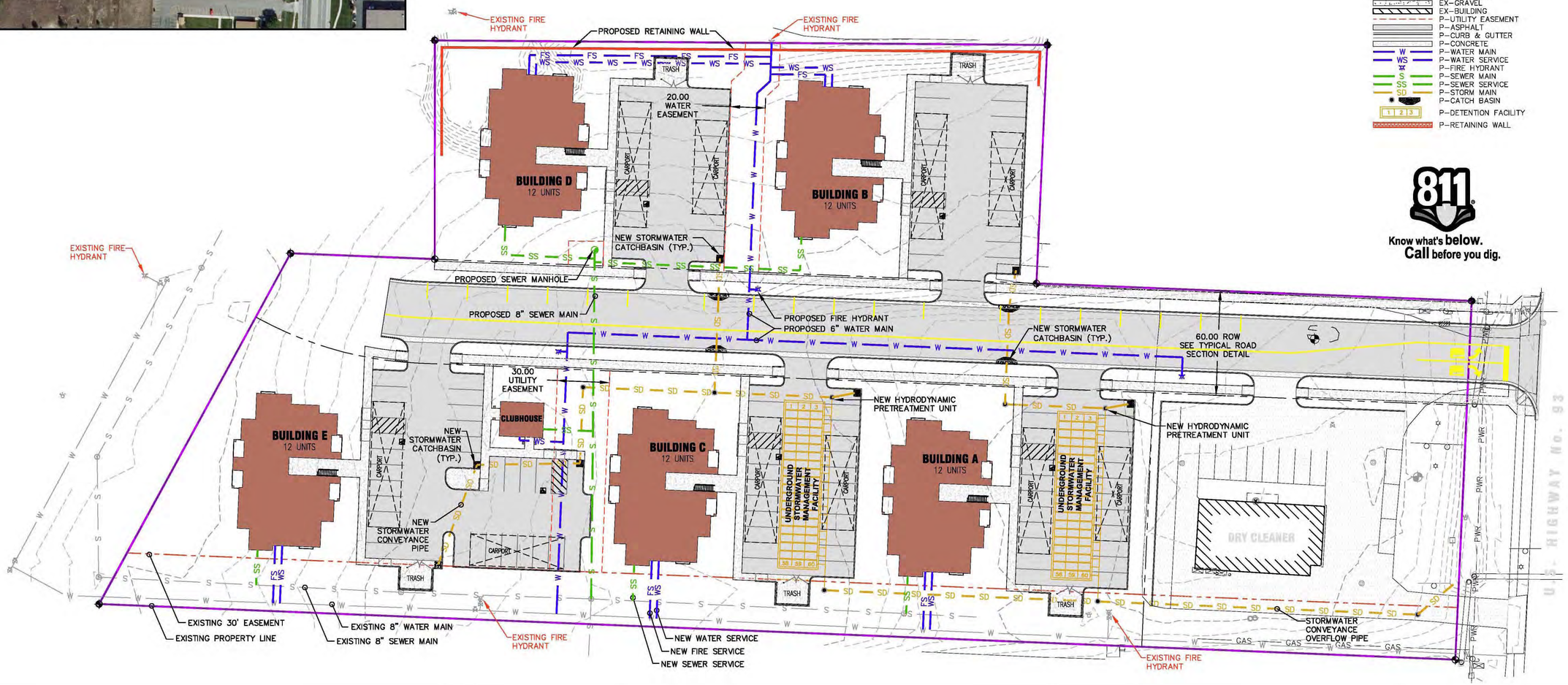
SHEET 1 OF 1

FILE No. _____



DEER TRACK RESIDENCES
CIVIL CONCEPT PLAN

LEGAL DESCRIPTION
LOT TWO (2) OF DEAR TRACS SUBDIVISION & a PORTION OF TRACT 1 COS 10669
SEC 1, TOWNSHIP 30N, RANGE 22W

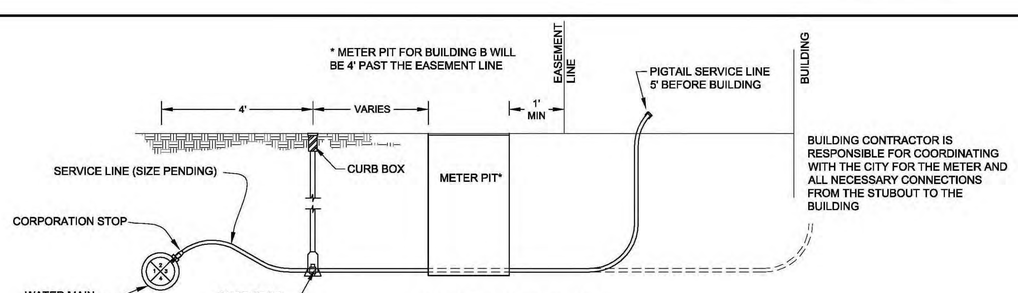


GRAPHIC SCALE
30 0 15 30
(IN FEET)
1 inch = 30 ft.

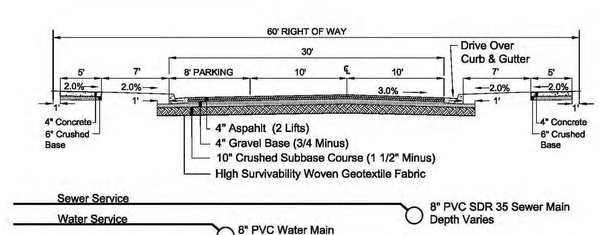
LEGEND

- EX-PROPERTY BNDRY
- EX-CONTOUR
- EX-OH POWER LINE
- EX-POWER POLE
- EX-GAS
- EX-SEWER
- EX-WATER
- EX-FIRE HYDRANT
- EX-PAVEMENT
- EX-GRAVEL
- EX-BUILDING
- P-UTILITY EASEMENT
- P-ASPHALT
- P-CURB & GUTTER
- P-CONCRETE
- P-WATER MAIN
- P-WATER SERVICE
- P-FIRE HYDRANT
- P-SEWER MAIN
- P-SEWER SERVICE
- P-STORM MAIN
- P-CATCH BASIN
- P-DETENTION FACILITY
- P-RETAINING WALL

811 Know what's below. Call before you dig.



WATER SERVICE DETAIL



30 FT. TYPICAL ROAD SECTION

ENGINEER:
48 NORTH P.C.
151 BUSINESS CENTER LOOP
SUITE A
KALISPELL, MT. 59901
406-756-4848

48 NORTH p.c.
Civil Engineering Services
151 BUSINESS CENTER LOOP, SUITE A,
KALISPELL, MT. 59901 - (P)406-756-4848 (F)406-756-4849

SEAL

SUBCONSULTANT

DEER TRACK RESIDENCES
CIVIL CONCEPT PLAN
WHITEFISH, MONTANA

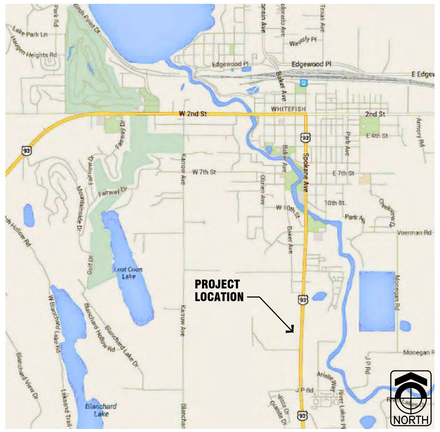
DRAWING SET DATE				
ISSUES\REVISIONS	1 = ISSUE △ = REVISION			
No.	Date	Purpose	By	Check
	7/29/2014 - CONCEPT			
	9/5/2014 - REV (WTR/STRP)			

PROJECT NUMBER	
SHEET TITLE	
BOOK	PAGE
DRAWN BY:	

SHEET No. 1 OF 1

VICINITY MAP

NO SCALE



PROJECT DIRECTORY

OWNER

MONTANA DEVELOPMENT GROUP
CONTACT: JEFF BADELT
V: (406) 890–8195
E: Jeff@MtDevGroup.com

ARCHITECT

THE ARCHITECTS OFFICE, PLLC
499 MAIN ST.
BOISE, IDAHO 83702
CONTACT: MATT RHEES
V (208) 343–2931 EXT. 5
F (208) 343–1306
C (208) 331–1499
E matt@taoidaho.com
CONTACT: JOHN PRICE
V (208) 343–2931 EXT. 2
F (208) 343–1306
E john@taoidaho.com

SURVEY

SANDS SURVEYING, INC.
2 VILLAGE LOOP
KALISPELL, MONTANA 59901
CONTACT: ERIC MULCAHY
V (406) 755–6481
F (406) 755–6488
E eric@sandssurveying.com

CIVIL

48 NORTH CIVIL ENGINEERING SERVICES
151 BUSINESS CENTER LOOP, SUITE A
KALISPELL, MONTANA 59901
CONTACT: BRETT WALCHECK
V (406) 756–4848
F (406) 456–4849
C (406) 249–4736

LANDSCAPE

WHITE CLOUD DESIGN, INC.
150 RAILWAY ST.
BOX 67
WHITEFISH, MONTANA 59937
CONTACT: JOHNNY McDONALD
V (406) 863–2828
C (406) 261–2827

PROJECT DATA

LEGAL DESCRIPTION:
LOT 2 OF DEAR TRACS SUBDIVISION AND A PORTION OF TRACT 1 OF COS 10669 IN SECTION 1, T30N, R22W, P.M.M., FLATHEAD COUNTY.

CURRENT ZONING:.....WB-2 / WLR

PROPOSED ZONING:.....WB-2 / WLR WITH A PUD

PARCEL AREA:.....195,705 S.F. / 4.493 ACRES

RETAIL USE:.....18,077 S.F. / 0.415 ACRE
NORTH APARTMENT USE:....45,738 S.F. / 1.050 ACRE
SOUTH APARTMENT USE:....91,151 S.F. / 2.093 ACRES
PROPOSED R.O.W.:.....40,739 S.F. / 0.935 ACRE

DEVELOPMENT STANDARDS

MINIMUM LOT SIZE: 6,000 S.F. + 1,000 PER UNIT

LOT REQUIREMENTS	WLR REQUIRED	WB-2 REQUIRED	PROPOSED
NORTH LOT SIZE:	15,000 S.F.	N/A	45,738 S.F.
SOUTH LOT SIZE:	15,000 S.F.	N/A	91,151 S.F.
MIN. NORTH LOT WIDTH	80 FT.	N/A	330 FT.
MIN. SOUTH LOT WIDTH	80 FT.	N/A	730 FT.
FRONT YARD SETBACK*:	25 FT.	20 FT.	20 FT.**
STREET SIDE SETBACK*:	15 FT.	20 FT.	20 FT.
SIDE YARD SETBACK*:	15 FT.	20 FT. / NA	20 FT.+
REAR YARD SETBACK*:	20 FT.	20 FT. / NA	15-20 FT.
MAXIMUM HEIGHT	35 FT.	35 FT.	40 FT.
LOT COVERAGE	30%	N/A	18 %

* FRONT YARD IS INTERPRETED AS THE SPACE BETWEEN THE PROPOSED 60 FT. R.O.W. AND THE SIDE OF THE PROPOSED BUILDINGS.

** PROPOSED STREET SETBACK FOR CLUBHOUSE IS 10 FT.

LOT COVERAGE:
APARTMENT BUILDING LOTS AREA:.....136,889 S.F.
3.143 ACRES

TOTAL BUILDING FOOTPRINTS:.....23,900 S.F. / 18%
PAVEMENT COVERAGE:.....45,100 S.F. / 33%
LANDSCAPING:.....67,889 S.F. / 49%

BUILDING DATA

PROPOSED APARTMENT OFFICE / CLUBHOUSE:.....1

PROPOSED APARTMENT BUILDINGS:.....5

PROPOSED UNITS PER BUILDING:.....12

PROPOSED TOTAL UNITS:.....60

UNIT TYPE	PER BLD.	NO. OF BLD.	TOTAL
1-BED/1-BATH	3	5	15
2-BED/1-BATH	3	5	15
2-BED/2-BATH	3	5	15
3-BED /2-BATH	3	5	15
TOTALS	12		60

PARKING DATA

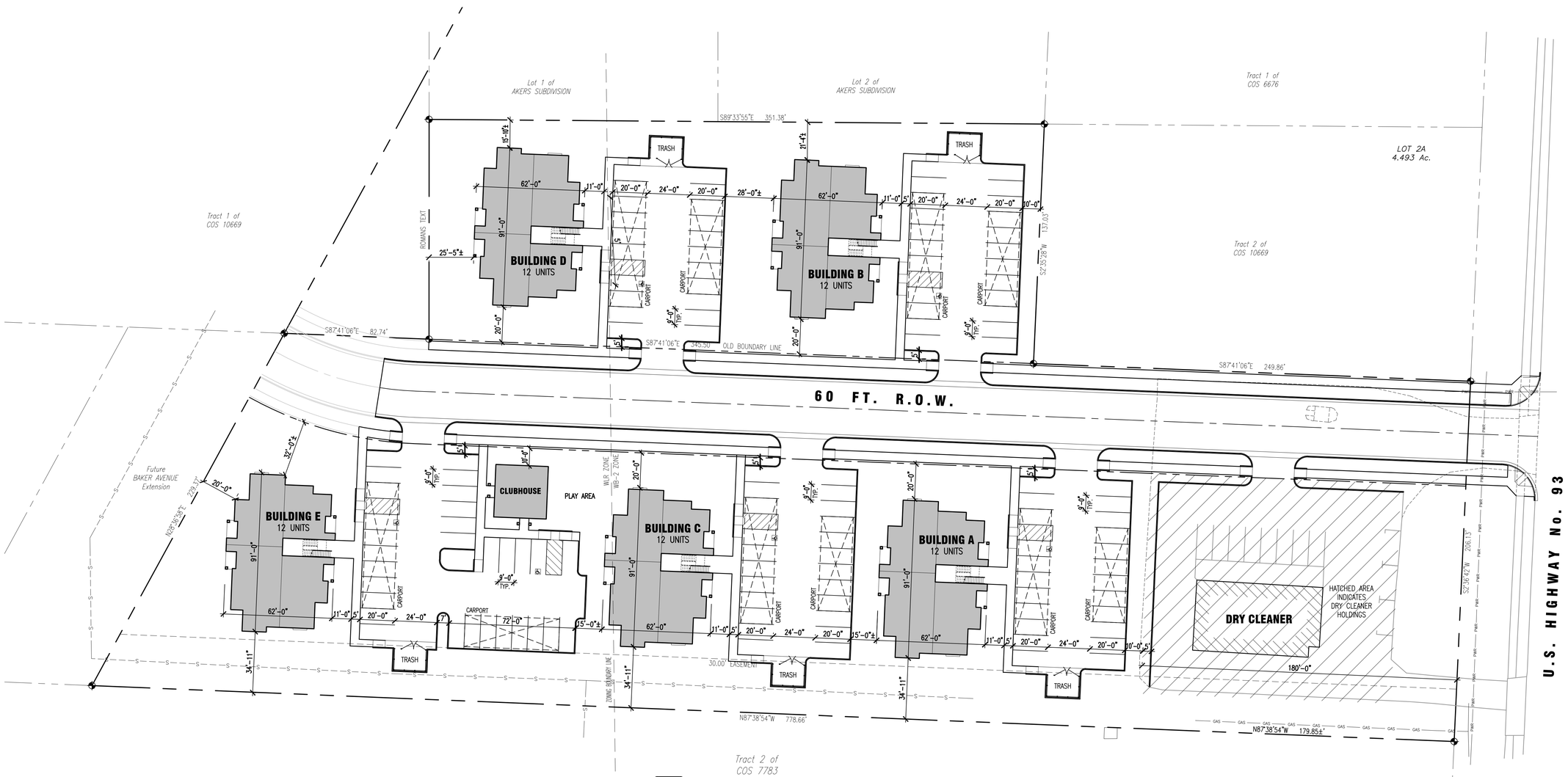
PARKING REQUIRED:.....2 STALLS PER UNIT
PLUS 1 GUEST STALL PER EVERY 3 UNITS

60 UNITS X 2 STALLS PER UNIT = 120 STALLS
60 UNITS X .33 STALL PER UNIT = 20 STALLS

TOTAL STALLS REQUIRED:.....140 STALLS
(2.33 STALLS PER UNIT)

RECOMMENDED PARKING:
CLUBHOUSE: 1.0 STALL PER 200 S.F. = 2
ONE BEDROOM UNITS: 1.0 STALLS X 15 UNITS = 15
TWO BEDROOM UNITS: 1.5 STALLS x 30 UNITS = 60
THREE BEDROOM UNITS: 2.0 STALLS x 15 UNITS = 30
GUEST PARKING: 1.0 STALLS PER 5 UNITS = 12
TOTAL RECOMMENDED STALLS: 119

TOTAL STALLS PROPOSED:.....120 STALLS
(2.0 STALLS PER UNIT)
(20 STALL REDUCTION)



1 SITE PLAN

SCALE: 1" = 30'-0"

NORTH

THE ARCHITECTS OFFICE PLLC
PRICE SANDERS COOPER RHEES RUBY
499 MAIN STREET (208) 343-2931
BOISE, IDAHO 83702 TAOIDAHO.COM

PROJECT

MONTANA DEVELOPMENT GROUP

DEER TRACK RESIDENCES

6348 U.S. HIGHWAY NO. 93
WHITEFISH, MONTANA

SEAL

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FILE

DATE
JULY 31, 2014

FILE NO.
14-535 SD2.0

DRAWN
MATT RHEES

REVISIONS

SHEET

SD2.0

SCHEMATIC DESIGN

By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 418601
DATE: July 25, 2014
FOR: JEFF BADELT
OWNER: HDH HOLDINGS, LLC. (PARCEL 'A')
DEAR TRACS, LLC. (LOT 2)

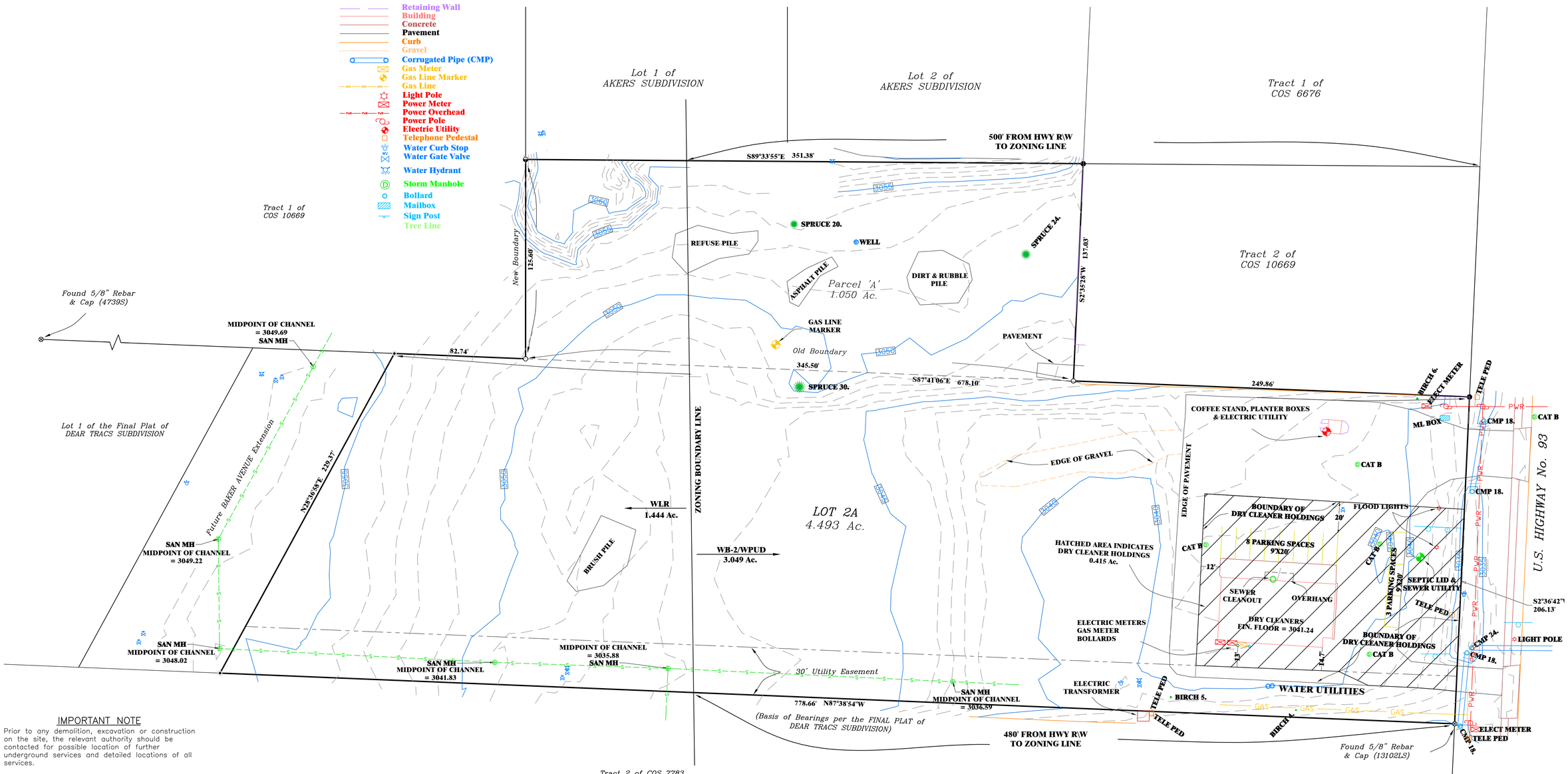
Notes:
Vertical Datum: NGVD 88

Topography of:
LOT 2 of DEAR TRACS SUBDIVISION & a PORTION of TRACT 1 of COS 10669
IN SEC.1, T.30N., R.22W., P.M.,M., FLATHEAD COUNTY

SCALE : 1" = 30'
30' 15' 0 30' 60'

N

LEGEND:
- Set 1/2" x 24" Rebar & Cap (7975S)
- Found 1/2" Rebar & Cap (7975S)
- Found 5/8" Rebar & Cap (2516S)
- Found 5/8" Rebar & Cap (15627LS)
- Found (as noted)
- Retaining Wall
- Building
- Concrete
- Pavement
- Curb
- Gravel
- Corrugated Pipe (CMP)
- Gas Meter
- Gas Line Marker
- Gas Line
- Light Pole
- Power Meter
- Power Overhead
- Power Pole
- Electric Utility
- Telephone Pedestal
- Water Curb Stop
- Water Gate Valve
- Water Hydrant
- Storm Manhole
- Bollard
- Mailbox
- Sign Post
- Tree Line



IMPORTANT NOTE
Prior to any demolition, excavation or construction on the site, the relevant authority should be contacted for possible location of further underground services and detailed locations of all services.

SHEET 1 OF 1

Deer Track Residences Preliminary Plan

Scale: 1"=20'

July 31, 2014

N

LEGEND

MATERIALS

EVERGREEN TREE

DECIDUOUS TREE

SHRUBS

LAWN

CEDAR BARK MULCH PLANTER BED

Whitefish Montana

October 13, 2014

Mark Voelker

128 Park Knoll Lane

Whitefish Montana 59937

Whitefish Planning Department / staff

Box 158

Whitefish Montana 59937

Re: Proposed zoning change and WPUD 14-04.

Dear Planning Board and Staff,

I am a resident of the Park Knoll Subdivision near the proposed development and have some concerns with the project. I have read some letters from those who also have concerns as well as the staff report. I have to say that I agree with what troubles this project and the concerns of those in opposition to this zone change and subsequent project with my own added concerns and emphasis as follows:

Time frame – I request first that the whole process be postponed since this project seems to be on a fast track without adequate review and research. This will give time for neighbors and businesses to properly look into the plan.

Zone change – I researched and purchased my property based on the current single family zoning on near and adjacent properties. The fact that the proposed zone change is exclusively for this project worries me. I oppose the zone change.

Density – along with others the density is probably the greatest concern. Nowhere near this project is there like density.

Traffic – only one access on Highway 93 for 60 units at probably and realistically 400 to 500 auto trips per day, most in the waking hours (about one trip every 2 minutes on average) added to the already problematic south 93 corridor and its hotel growth is unacceptable.

But my greatest concern is the fact that this project simply does not fit the area. The project is closely sandwiched into an area of hotels, restaurants, and retail businesses and services where no like or compatible projects exist or are planned, much the same as if an auto body shop were allowed in a residential neighborhood or an agricultural application, let's say a chicken farm, next to restaurant row. The project is proposed to be monthly rental units rather than single family homes, condominiums or townhouses, so the tenants would have no ownership and financial and neighborly responsibility that comes along with that ownership. If the tenants are disrespectful to others they simply move on with ease leaving others to clean up their mess. I see the project as leaving little room for recreational areas for those tenants and since the children of all ages won't be able to play or have easy access to public recreation areas via

highway 93 to the east, hotels to the north and south, this only leaves the undeveloped property to the west where the children or adults, will at best, migrate to “play in the woods”, exercise their pets, take a quiet walk away from the noise and bustle of the commercial areas and 93 south, or trespass, vandalize, burgle and rob at worst. The threat of forest fire in the adjacent heavily treed properties to the west such as mine holds great worry for me since there have been times in the past where trespassers have started fires that were seen immediately and extinguished before getting out of hand. With the amount of tenants likely to be in the area should this project be approved, the dangers to my property would only be exacerbated. The approval for zone change and a project such as this will lower the value of my property as sure as a devastating fire or other damage would.

Simply put, if this project were allowed by the city, it would change the character of the area and Whitefish in general, as well as create a hazard for neighboring owners and the project’s tenants alike. A few years ago I was at a high school football game where students referred to Whitefish as “Condoville.” I thought at the time this was extreme, but as more and more unfitting high density projects such as the one proposed here are allowed it certainly will change the character of the community for the worse.

Please share my comments listed here with all on the staff, board and council.

Sincerely,

Mark Voelker

128 Park Knoll Lane

Whitefish Montana 59937

406-253-7559

Whitefish Montana

October 13, 2014

Dear Ms. Compton-Ring,

Please share my concerns listed here regarding the development WPUD 14-04 with those on the planning board, city council, and planning staff.

I own property on Park Knoll Lane and am concerned with the amount of units that are proposed for the development. There are entirely too many, too much density for the area. My concerns are to the people from that development who will wander through the woods to the west from this project and trespass or vandalize my property, or other crimes or mischief that is common with this type of development.

When I purchased my property I looked into surrounding zoning and the other possible projects and felt comfortable enough with the established zoning that I purchased with confidence that the value of my property would not go down due to projects such as the one proposed. I feel that if the project were allowed it would devalue my property. And an apartment complex at this location does not seem compatible with the nearby businesses and other neighbors. I have seen the proposals maps and the whole place looks inaccessible to me. I wonder about snow removal and emergency vehicles access to the area. It also does not look like there is enough parking for the amount of units. I see that a variance was requested for this and ask that the variance be denied. Also please deny the height variance request.

I don't like that fact that the zone change was not proposed for the betterment or safety of the community, but for an individual in order to allow a project to go through that will ultimately harm the community. I am opposed to any zone changes in this regard.

Overall I am strongly opposed to this proposal and have read many of my neighbors concerns and fully support those viewpoints and concerns as I do my own opposition to the PUD.

Please call if there are questions and place me on any mailing list having to do with this PUD so that I may further oppose it.

Kathy Grant

128 Park Knoll Lane, Whitefish Montana 59937 862-6382

Wendy Compton-Ring

From: Ryan Swagar <ryan@venture51.com>
Sent: Tuesday, October 14, 2014 5:35 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Whitefish Apartment Complex

Hi Wendy -

I am writing in support of the proposed apartment complex in Whitefish behind the Naturally Clean dry cleaners on Highway 93.

For years, Whitefish has needed apartments to allow the local professionals the ability to work and live in the community. Currently these local professionals are renting in Columbia Falls and Kalispell. This hurts local businesses as those professionals are living outside Whitefish and spending money with those local businesses instead.

From personal experience with struggling to find rental properties in Whitefish, it is my belief that this project will have more demand than units available and an amazing opportunity to have 100 or more individuals living in the town of Whitefish.

Please let me know if you would like to have a phone call to discuss.

Thanks,
Ryan

Ryan Swagar
Managing Partner
Venture51

Wendy Compton-Ring

From: Pam Shaw <shaw@actrix.co.nz>
Sent: Tuesday, October 14, 2014 7:19 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Support for housing development on 93

Hi Wendy

I would like to take this opportunity to support the housing development proposed for Whitefish near the Naturally Clean dry cleaners. Having been in the position of trying to find good quality rental housing in Whitefish 2 years ago, I fully appreciate the terrible shortage. Also being a landlady I also appreciate the return on investment, renting out good quality property for the short term and high yield. That is holiday rental. This is a common problem in resort towns where rentals are low compared with property costs. This is a situation where several investors are willing to alleviate this problem with the proposed development. I feel this proposal is a wonderful win/win and I would hope will be applauded and actioned for the positive.

If you require any further endorsement from me please feel free to contact me.

Yours faithfully

Pamela Shaw RN
406 407 6496

Wendy Compton-Ring

From: Sara Mytty <smytty3@gmail.com>
Sent: Tuesday, October 14, 2014 2:54 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Apartment complex

I have only been in whitefish for a little over a year and I love it. I know when I first moved here I struggled in finding a place. I think adding in apartments is great and the location of them is also a great idea. I just know from experience how hard it is to find a place in the area unless you want more then one roommate which is fine and affordable. Just not what everyone wants to do.

Wendy Compton-Ring

From: Rebecca Kyle <rebecca@cmpmontana.com>
Sent: Tuesday, October 14, 2014 10:54 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed Apartment Complex

Hi Wendy,

I am writing to you regarding the proposed apartment complex behind Naturally Clean Dry Cleaners on Highway 93. This letter comes from me as both a real estate agent and as a member of the current Whitefish rental market. As a renter, it is almost impossible to find ANYTHING to rent in Whitefish, let alone something with reasonable enough rent that a person can be a member of the minimum wage work force and afford to live here. I have lived here for 2 years in a 100 year old rental house with mold in the basement. I have kept my eye on the market for something else, but nothing comes up in my price range. I go back and forth about re-upping my lease – if I lose this lease, I have nowhere to go, but who wants to keep living in a moldy house? As a real estate agent, I deal with people every day that are looking for a place to rent. It is very frustrating for them to not be able to come here without making a purchase.

The City of Whitefish has a responsibility to the community to provide affordable housing. How are businesses supposed to operate if they can't find any employees because the employees can't afford to live here? Look around at local businesses – Safeway, Taco Johns, Dairy Queen – all of these businesses have help wanted signs posted all the time. As community members, we should want these businesses to have all the employees they need – how can we provide good customer service to the multitude of tourists that come to visit us if we don't have enough workers? Tourism is a large part of the economy in Whitefish, if businesses close their doors, people will stop coming.

Please place my email as part of the public record for the Deer Tract Residences.

Respectfullly,

Rebecca

REBECCA KYLE
REALTOR, GRI, RRS
(406) 863-1090 OFFICE
(406) 260-5339 CELL
(866) 552-8901 FAX
rebecca@cmpmontana.com
www.cmpmontana.com

CLEARWATER MONTANA PROPERTIES, INC
903 SPOKANE AVENUE, SUITE 4
WHITEFISH, MT 59937 USA
LICENSED IN MONTANA
If you no longer wish to receive emails from me, please reply with "Unsubscribe" in the subject line

Wendy Compton-Ring

From: Nikkee Day <nikkee@montanabuild.com>
Sent: Tuesday, October 14, 2014 2:18 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Deer Tract Residences

Dear Wendy,

I started my relocation plans to Whitefish in January 2013. I mainly relied on Craigslist, Daily Interlake, and Mountain Traders online services for jobs and rentals. However, I was unsuccessful in finding a decent, affordable, unfurnished, and long term rental in Whitefish. A couple of friends living in Whitefish confirmed it was a very difficult market for rentals. Upon arrival we drove around, and that's when I found my current place. It shouldn't have to be like this. There should be more housing for people like me!

Whitefish has everything to offer from great outdoor adventures, culture, awesome social scene, and a wonderful place to raise a family. However, what it doesn't have is affordable home rentals, and this really needs to change!

Sincerely,

Whitefish Resident

Nikkee Day

Wendy Compton-Ring

From: Phyllis Quatman <quatmanp@gmail.com>
Sent: Wednesday, October 15, 2014 1:42 PM
To: wcompton-ring@cityofwhitefish.org
Cc: sean@twre.com
Subject: Sean Averill's Planned Apartment Comples

Hi, Wendy,

Jack and I want to add our support to Sean's latest project, the apartment complex proposed near Pizza Hut. Our main objection to his former project on East Second Street was the location - a single family residential area not consistent with his then-proposed apartments.

However, this new location seems perfect. No traffic issues, no major rezoning required, and located within walking distance to the schools, food stores, and downtown. The idea that these will be affordable, with an actual affordable housing credit, adds an even greater benefit to this project.

Please add our names to the list of supporters.

Thanks,

Phyllis and Jack Quatman

Robert Horne, Jr., AICP
151 Wedgewood Lane
Whitefish, MT 59937
(406) 250-6632
rhorne@appcom.net

Whitefish City Planning Board
c/o Whitefish Planning Department
via e-mail

October 16, 2014

Re: WPUD14-04

Dear Planning Board:
I am writing in support of the above referenced PUD by Montana Development Group for a 60-unit multi-family residential complex located just off Hwy. 93 south in Whitefish.

Back around 2002-03, it was my privilege to work on a project with Dave Leland, who still heads Leland Consulting Group-----a world-wide consulting practice specializing in real estate economics. Dave is often brought into communities to revitalize a stagnant downtown or commercial corridor. One of his standard approaches that he takes in many cases is to immediately recommend that the community reduce its zoned commercial land by half. In Dave's experience, most communities are 50% over-zoned for commercial. This "over-supply" results in an undervalued land market which in turn leads to development of marginal quality that under performs economically both in terms of bringing dollars into the community and generating tax revenue. It doesn't take a rocket scientist, or an urban economist, to see that Whitefish has a surplus (meaning more than the market can absorb in the foreseeable future) of commercially zoned land that, oh by the way, happens to be rather poorly located. (But the latter consideration is a topic for another time.)

I was a member of a large group of east side residents who opposed the Second Street Residences, a proposed multi-family development on the Kauffman property just east of Cow Creek, as it moved through the development review process during the spring and summer of 2013. At that time, I testified that there were far more suitable sites for multi-family development in Whitefish, including some properties in the Hwy. 93 south corridor that are zoned WB-2. Therefore, I am happy to see that some of the commercial surplus is being proposed for a needed residential product type in the community----multi-family rental housing.

From a community planning standpoint, the Hwy. 93 corridor offers a number of advantages for multi-family housing. First, this type of development is less likely to impact the scale, character, and qualities of existing neighborhoods. Most of the surrounding property is commercial, and access is afforded directly from Hwy. 93 via a future public street. There will be no infiltration of project traffic into any residential neighborhood. Second, this corridor provides shopping,

services, and some employment opportunities within walking/biking distance, thus reducing the need for automobile trips. Finally, the Hwy. 93 corridor provides ready access to all parts of the community as well as transit service in the winter.

While I would have liked to have seen some of the more progressive and innovative development concepts that were featured in the Second Street Residences incorporated into this project, the need for a public street running east-west through the middle of the site seems to take those options off the table. The public street leaves two relatively shallow parcels for the design team to deal with. Still, I trust that landscaping, thoughtfully designed building facades, and exterior finishes and materials that reflect well on the Whitefish community will be employed. Thank you for the opportunity to comment on this proposed development and to participate in the local decision making process that we all value.
Respectfully submitted,

Robert Horne, Jr., AICP

Thomas T. Tornow, P.C.

Memo

To: Whitefish Planning Board

From: Thomas T. Tornow

CC: Clients

Date: October 16, 2014

Re: Maximum Density for a PUD on WLR

THE PROPOSED DENSITY EXCEEDS WHAT IS PERMITTED BY THE CITY ZONING CODE ON WLR ZONED PROPERTY.

The density standards for a PUD are found in Title 11, Chapter 2, Article S, Section 3(B) [Section 11-2S-3(B)] of the City's Zoning Code.

Section 11-2S-5 identifies which development standards can be varied in a PUD and which cannot. Section 11-2S-5(B)(1) expressly prohibits a deviation from the density standards set forth in the PUD Chapter (see attached).

Per Section 11-2S-3(B) of the City's Zoning Code (attached), the maximum PUD density in a WLR zone without the 10% affordable housing bonus is 3 units per acre. The maximum PUD density in a WLR zone with the 10% bonus is 5 units per acre.

Page 3 of the PUD Application recites that the subject property includes 1.44 acres. As such, the maximum density permitted on the property zoned (or to be re-zoned) WLR is 7 units.

The proposed Dear Trac PUD far exceeds this density on the WLR property. As such, the Board can either:

(1) recommend denial of the Application; or

(2) recommend a condition that the density on the property zoned (including that to be re-zoned) WLR not exceed 5 units per acre. In addition to bringing the Application into compliance with the density limits mandated by the City's PUD Code, the condition would provide an appropriate density buffer between the high density apartments on the WB-2 zoned property and the adjacent single family residences.

CONFIDENTIAL: THIS MEMORANDUM AND THE ATTACHMENTS MAY CONTAIN PRIVILEGED ATTORNEY/CLIENT INFORMATION OR ATTORNEY WORK PRODUCT. ONLY THE ADDRESSEE IS THE AUTHORIZED RECIPIENT OF THIS MESSAGE AND ATTACHMENT. PLEASE SEE THAT NO OTHER PERSON OBTAINS ACCESS TO THIS MATERIAL. ANY OTHER DISTRIBUTION IS UNAUTHORIZED.

ONE AFFORDABLE HOUSING UNIT SHOULD BE REQUIRED IN THE WLR ZONE.

The Application does not identify where the Applicant proposes to locate the affordable units creating the 10% density bonus. It makes sense, and is good public policy, that if the Applicant is receiving the density bonus allowed in a particular zone that the affordable units supporting the bonus be situated in that zone. Otherwise, an applicant could reap the benefits of the density bonus in one zone; and create an affordable housing ghetto in another zone unrelated to the zone category giving rise to the bonus. This is inconsistent with the City's public policy of including affordable housing units within market rate housing.

If approved, the Board should recommend a condition that one affordable unit in the WLR zoned property (10% of the maximum 7 units permitted), be situated in the property zoned WLR.

TTT

14. No terrain disturbance for development purposes may be undertaken until such time as a site plan pursuant to a building permit is approved by the planning and building department or, in the unincorporated area of the city's zoning jurisdiction, the property owner has received either preliminary plat approval, PUD approval, or a conditional use permit, if required. For purposes of this section, "terrain disturbance for development" shall mean any grading, excavation, stockpiling of fill material, or clearing of vegetation in preparation to construct and/or provide access to a principal or accessory structure. Nothing in this subsection shall prohibit or preclude routine property maintenance, forest management, or any lawful grading or excavation of property not associated with development. (Ord. 07-22, 7-16-2007; amd. Ord. 07-33, 10-15-2007)

15. Uncovered, open air access ramps and stairs no wider than four feet (4'), or as required by building code, may encroach up to the property line or public right of way when providing primary access to an exterior door. (Ord. 10-04, 2-1-2010)

11-2S-5: DEVIATIONS FROM STANDARDS:

In order to provide flexibility in the design approach, the planned unit development overlay allows deviations from many standards of the underlying zoning district as well as from certain standards in the "Standards For Design And Construction" (public works design manual). Any proposed deviations from adopted standards must be justified as a clear public benefit, and shall directly relate to the purpose and intent of the PUD as set forth in section 11-2S-1 of this article.

A. The following standards may be deviated from through approval of a PUD site plan and PUD overlay:

1. Setbacks;

2. Building height;

3. Lot coverage;

4. Minimum lot size;

5. Lot width and/or frontage;

6. Any other lot standards set forth in the subdivision regulations;

7. Street design;

8. Storm water management;

9. Sidewalks, except that fee in lieu of sidewalks may not be waived except by the city council for just cause;

10. Landscape standards, except for required buffers; and

11. Parking and loading standards.

B. Standards that may not be deviated from through the PUD overlay include, but are not necessarily limited to, the following:

1. Density standards as set forth in this chapter;

2. General categories of use as set forth in the underlying zoning district (nonresidential use in a residential zoning district, etc.) except as set forth in this chapter;

3. Lakeshore protection standards;

4. Utility standards for construction, installation, sizing, etc.;

5. Fire code requirements such as through access, specific access and circulation requirements, hydrant locations, and sprinkling; and

6. Any and all fees and charges except as set forth in this chapter. (Ord. 06-01, 1-17-2006)

14. No terrain disturbance for development purposes may be undertaken until such time as a site plan pursuant to a building permit is approved by the planning and building department or, in the unincorporated area of the city's zoning jurisdiction, the property owner has received either preliminary plat approval, PUD approval, or a conditional use permit, if required. For purposes of this section, "terrain disturbance for development" shall mean any grading, excavation, stockpiling of fill material, or clearing of vegetation in preparation to construct and/or provide access to a principal or accessory structure. Nothing in this subsection shall prohibit or preclude routine property maintenance, forest management, or any lawful grading or excavation of property not associated with development. (Ord. 07-22, 7-16-2007; amd. Ord. 07-33, 10-15-2007)

15. Uncovered, open air access ramps and stairs no wider than four feet (4'), or as required by building code, may encroach up to the property line or public right of way when providing primary access to an exterior door. (Ord. 10-04, 2-1-2010)

11-2S-3: STANDARDS OF DEVELOPMENT:

A. The minimum site area designated for a planned unit development shall be two (2) acres except in the WR-2, WR-3, WR-4, and WB-3 zoning districts where the minimum site area shall be one acre. The minimum site area may be reduced from the standards set forth above should the city council determine that a parcel, by virtue of its unique character, is best developed as a PUD, or, the project meets the provisions for the density bonus described in subsection B of this section.

B. Developments shall be allowed density bonuses when a minimum ten percent (10%) of the total number of units within the development is set aside for affordable housing meeting the needs for "moderate income" families as defined in this title. The residential density bonus for a planned unit development with affordable housing shall be as follows:

Underlying Zone	Maximum PUD Density Without The Ten Percent Affordable Housing	Maximum PUD Density With A Minimum Ten Percent Affordable Units Or In Lieu Payment
WA	1/15 dwelling unit/gross acre	1/15 dwelling unit/gross acre
WCR	0.4 dwelling unit/gross acre	0.5 dwelling unit/gross acre
WSR	1 dwelling unit/gross acre	1.5 dwelling units/gross acre
WER	2 dwelling units/gross acre	3 dwelling units/gross acre
WLR	3 dwelling units/gross acre	5 dwelling units/gross acre
WR-1	4 dwelling units/gross acre	7 dwelling units/gross acre

Park Knoll Estates Homeowners response to WPUD 14-04 & WZC 14-08

Introduction

As a subdivision, with the limited time we've had to review, discuss and develop a more informed and reasoned response, we must conclude that we are strongly opposed to this application as submitted. Some of the more critical reasons follow.

Zoning

This entire proposal seems to address what is stated as a compelling need for more apartment rentals and affordable housing in Whitefish. 60 rental units (including 6 affordable housing units) are proposed to address that stated (not supported by documented evidence) need. It should be noted, as stated in the staff report, that the 6 affordable units were required for this PUD overlay. Whether these needs are genuine, or not, we do not believe this proposal is the right location to address those needs.

All our subdivision residents share a view of what Zoning means as a planning tool and what it means the each of us as homeowners. We do understand that it represents a mechanism for a community to manage development in support of the Whitefish long term growth objectives for their community. For us, as homeowners, it represents a level of assurance that their investment in their property and home is reasonably protected over time and should not be changed without the most rigorous and thorough review and investigative process. We do not believe this application meets that standard. We also recognize that the WLR, or now County R2, zoning over the lands between our subdivision is subject to development. However, our expectation has been, and remains, that this property as currently zoned, is likely to be developed as low density residential properties more consistent with WLR or County R2 zoning, whichever exists.

Instead, we are being presented with a very high density apartment development with a density of 12 or more units per acre instead of the current 1 to 2.5 units per acre available today in the WLR zone. Although Tom Tornow's memo on the Zoning code violation does not directly relate to the zone chage request it pervades the whole proposed development. We are disturbed about the proposed zone change and think it should be denied

It also appears to us that the annexation on Sept 15th and the subsequent zone change request before you tonight, as stated in the staff report, were explicitly done to enable this proposal to proceed. In classical planning terms we think that might be construed as "Spot Zoning", something generally unacceptable and always to be avoided. For all the reasons discussed we oppose this zone change.

Density Implications

There are many concerns here about 60 rental apartment units in a confined space with very limited open space, bounded on both the north and south by commercial development and on the east by a busy US 93 highway corridor. The only truly open space available is to the undeveloped land to the west.

Renters do not share the same ownership responsibilities as home owners at any level. They come and go as they wish and certainly deal with their "home" differently than homeowners. The actual number of residents is unknown, but probably somewhere between 120 and 200 of varying interests and ages from young children to senior citizens.

Realistically, the open space provided is limited and the 30% requirement is only met by adding together all the spaces scattered throughout the development including a small club house, picnic and playground area. Residents with pets who want to exercise them are not going to head to US 93 even though there is a sidewalk, but rather will head for the forested area to the west, Young people who want to explore or seek privacy for any reason will also head west into the forested area. Even today, without this density increase, we have experienced problems with people living temporarily in that area with some fires, as well as limited vandalism. We are convinced that this density change with its characteristics will intensify those problems. Fire and vandalism, in particular, are very scary probabilities to our homeowners. There is also concern about probable devaluation of our property values, but we have not had time to explore that adequately.

Parking is also a problem and this proposal also includes a request to reduce the normal parking requirement for 140 spaces to 120. With our Montana life style and our propensity for vehicles; toys like boats, ATVs and the like, even 140 spaces probably in not enough. Additionally, visitors will also require parking space. The requirement for an acceptable snow removal plan further aggravates the parking challenges. As a practical matter, they will not be able to plow the parking spaces because of the vehicles there. Snow will build up over the winter further reducing the parking space available. We believe that all parking including space for visitors should be within the development—that's where they will park anyway. Thus, we believe the parking variance should not be approved.

As to the height variance request--we would much prefer that we stay within the existing 35 foot height limitation thus would recommend that the height variance not be granted..

The city's desire to preserve trees was addressed. The reality is that when the proposed units are overlaid on the actual property, combined with the requirement to provide a cul de sac turn around for emergency vehicles, most of the forested area at the western edge of the development will be removed. We don't think that is consistent with the community's goal of preserving trees. As a subdivision, if this PUD application goes forward in any form, we strongly believe the density must be significantly reduced.

Traffic implications

When looked at by itself, as was done, no traffic study was required. Our concerns center on the traffic implications of not only this proposed development but also the broader impacts of increased traffic in this area with our 5 lane US 93 corridor. The suggested 366 trips per day estimated for this development coupled with the impacts of the recently approved Hampton Inn (70+ rooms with associated staff), together, probably represent an additional 600 trips per day at a minimum.

When one considers the aggregate volume of trips from just south of the Hampton Inn to 19th street, there are 4 hotel/motels, this proposed housing development, one RV park and several restaurants and businesses on just the west side of US 93. There are also business on the east side of US93. Collectively they represent a very large US 93 entry/exit volume and certainly deserve a traffic study. It should also be noted that the speed limit on US93 in this area is 45 MPH—another safety hazard

The problems center primarily on traffic exiting these and other developments entering this highway north bound from the west side, requiring crossing two lanes of traffic and the turn lane to move toward the center of Whitefish (the same problem exists for drivers on the east side wanting to head south toward Kalispell).

According to the Montana Highway Patrol and the Montana Department of Transportation the center turning lane is not to be used as a merging lane for safety reasons. That means a person exiting, headed north from any west side entry point, is supposed to wait until the way is clear for the driver to cross all the way into the desired northbound lane before starting. Merging into the turning lane and waiting for an opportunity to enter the desired northbound lane is illegal. However, that's what we all have to do short of waiting a very long time to do it legally. Obviously that rule is not enforced. Those of us doing this on a regular basis call the turning lane the "suicide lane", exposing anyone taking this action to a potential accident and without question represents a traffic safety hazard. All of us who do this have experienced a serious problem at onetime or another. We also believe the 366 trip estimate is low. The staff report states that this subdivision provides reasonable proximity to the schools, However, the schools are all on the other side of US93 and there is no school bus service to this area. Consequently, children have to get there on their own or more realistically someone will take them to and from school adding to the traffic volume and to the associated traffic safety exposures.

We do not understand why a traffic study is not a requirement for this area focused on finding a safe solution. Instead we will have to wait until someone is badly injured or killed and then the city will be asked why they let this problem persist. Obviously, as subdivision residents who experience this danger daily, we all think a "safety focused" traffic study of the entire area must be a requirement.

Conclusions

With the limited time we've had to review the available information and for the reasons stated above, we must conclude that this proposal is incomplete and does not adequately address the issues discussed above. This proposed very high density residential development is sandwiched in the middle of commercial development and is the only residential development along US93 south of 6th St. It doesn't fit belong there and changes the character of that area and conflicts with some Growth Policy visions, like maintaining the small town character of Whitefish and providing safe roads for all. We also think it is the wrong location for addressing any rental and affordable housing needs. With the information in Tom Tornow's memo to you it also appears that a portion of the proposed density is in violation of the city zoning regulations.

However, if you choose to move ahead with this PUD in any form, here are a few ways to address some of the concerns:

1. Change the density of all the WLR portions back to the existing WLR density limits, or to the zoning code requirements of 5 units per acre for a PUD overlay of WLR with an affordable housing bonus..
2. Fence the western and most of the northern and southern boundaries of the entire project. discouraging use of the forested areas to the west with the very real associated dangers.
3. Require a " safety oriented" traffic study of that entire area.

In summary we cannot support this proposal as submitted. It is the wrong solution in the wrong place and we ask that you deny or seriously modify this PUD application.

Respectfully,

Don Spivey, representing
Park Knoll Homeowners Association
117 Park Knoll Lane

Wendy Compton-Ring

From: Paula Johnson-Gilchrist <paula.johnsongilchrist@gmail.com>
Sent: Thursday, October 16, 2014 5:07 PM
To: wcompton-ring@cityofwhitefish.org.
Subject: Proposed land use re WPUD for 60 unit apt.

WPBD:

Please be advised that Randy Schwickert and myself as property owners at 6336 U.S. Hwy. 93 South, Whitefish, do object to the land use change.

We object based on safety, traffic impact, non-conforming use, and density.

The traffic for us to get into and out of our office is already horrendous. To add 60 apt. units with an estimated 240 car trips per day (2 cars per unit, 2 times per day) is frightening. Add that to The Hampton Inn next door to be built next spring.

These are our concerns. 60 units of apartments would bring added security concerns as well.

Perhaps less density at a minimum (maybe 24 units) should be allowed, if the change is considered.

I hope a traffic light is in our future for safety reasons irregardless of this project.

Thanks

Paula

Paula M. Johnson-Gilchrist
Johnson-Gilchrist Law Firm, P.C.
6336 U.S. Hwy. 93 South
Whitefish, MT. 59937
Phone 406-862-3920
Fax 862-1447
johnsongilchristlaw.com
pmjgatty@centurytel.net

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Chuck Stearns

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Monday, October 27, 2014 9:20 AM
To: Chuck Stearns
Subject: FW: Affordable Housing Whitefish

From: ABC Seamless [mailto:abcseamless@blackfoot.net]
Sent: Friday, October 24, 2014 3:15 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Affordable Housing Whitefish

To Whom It May Concern:

Khoury Incorporated provides construction services. We have a strong desire to have a permanent presence in Whitefish; however we are are forced to bring labor in from Kalispell or Missoula because our employees are unable to find affordable housing in Whitefish.

Providing affordable housing for local employees benefits all members of the community. Local employees living within their community are going to be more committed and involved rather than someone who is commuting from an outlying area.

I was born and raised in Montana. Most, if not all, of my employees were too. It's a sad deal that they can't afford to live in the place they work.

Damian R. Khoury
ABC Seamless
257-9329

This email is free from viruses and malware because avast! Antivirus protection is active.

Thomas T. Tornow, P.C., *Attorneys-at-Law*

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October 27, 2014

Mary VanBuskirk
Whitefish City Attorney
Via email: mvanbuskirk@cityofwhitefish.org

RE: Whether the Zoning Code permits density transfer between zones

Dear Mary:

I represent the Park Knoll Homeowner's Association, comprised of homeowners within the Park Knoll Subdivision.

I am writing you concerning a legally erroneous position being taken by the Whitefish Planning Office that adversely impacts my client.

The Park Knoll Subdivision is adjacent to Dear Trac (a/k/a Dear Track a/k/a Whitefish Crossing) property that is the subject of a Re-zoning Application and a Planned Unit Development (PUD a/k/a WPUD) Application. The applicant wants to construct 60 apartments on 4.07 acres.

There are numerous planning issues with both Applications. Those are being addressed through the public hearing process. This letter is to address a legal issue with the PUD Application.

The property that is the subject of the PUD Application has two zones. Part of the property (2.634 acres) is zoned WB-2 and part of the property (1.44 acres) is zoned WLR. The zoning code establishes a maximum density for each zone. With a PUD overlay, the maximum density in each zone increases. With the inclusion of affordable housing units, the maximum density in each zone increases again. With both increases, the maximum density in the WB-2 zone is 20 units per acre; and 5 units per acre in the WLR zone.

The applicant, and apparently the Planning Office, has taken the position that, under the guise of "blending," density permitted in the WB-2 zone can be transferred to the WLR zone. Nowhere is such transfer permitted by the WF Zoning Code. To the contrary, as detailed below, the Code expressly prohibits such transfers.

PUD zoning is addressed in Title 11, Chapter 2, Article S of the City Code.

Section 11-2S-1, Purpose and Intent, states in pertinent part that:

> The purpose of the WPUD overlay is to provide...flexibility.... In return for increased flexibility and the opportunity to vary standards of the underlying zone, it is the intent of the WPUD that the proposed development provides the following benefits as applicable...D. Preserve and protect the character and qualities of existing neighborhoods... [and] F. Provide effective buffers or transitions between potentially incompatible uses of land.

Section 11-2S-3, Standards of Development, establishes various development standards required in a PUD, including the density bonuses and maximum densities discussed above.

Section 11-2S-5, Deviations from Standards, identifies which of the development standards can be varied and which cannot. That Section states in pertinent part that: "In order to provide flexibility in the design approach, the planned unit development overlay allows deviation from many standards of the underlying zoning district..." Subsection A lists 11 development "standards that may be deviated from through approval of a PUD site plan and PUD overlay." Subsection B lists 6 "Standards that <u>may not</u> be deviated from through the PUD overlay." (Emphasis added). Number 1 of those 6 is "Density standards as set forth in this chapter [2]."

The only possible way to read Section 11-2S-5(B)(1) is that the density standards set forth in Section 11-2S-3 for the WLR zone may not be exceeded through the PUD overlay.

This prohibition against density transfers is supported by the Code's definition of a PUD: "A tract of land developed or proposed to be developed as an integrated unit....<u>This option is limited to the allowable density of the underlying use district</u> and the predominant uses within the PUD must be that of the underlying zone." (Emphasis added). The prohibition against density transfers is also found in Subsection 11-2-2(C), which states in pertinent part that: "If...a property is divided into two (2) use districts, the property may be utilized in conformance with one zoning district or the other as long as the use is confined to that portion of the property for which it is zoned."

By contrast, I cannot find anything in the Zoning Code allowing a transfer of density between zones, or any reference to the more benign term "blending."

My clients do not want to litigate this issue with the City. Please advise the Planning Office that the City's Zoning Code does not allow a "blending" or transfer of density between zones and that

the density in a WLR zone, with a PUD overlay and the affordability housing bonus cannot exceed 5 units per acre.

If you have any questions, desire additional information, or wish to discuss this further, please contact me at your convenience.

Sincerely,

THOMAS T. TORNOW, P.C.

By: Thomas T. Tornow

cc: Wendy Compton-Ring
Dave Taylor
City Council
Client

received
10-28-14

October 25, 2014

To: Whitefish City Council

Subject: Whitefish Crossing, WPUD 14-04

Council members and staff—

In our most recent Homeowners Association meeting the quorum of members present voted unanimously to oppose this development. The Park Knoll Homeowners have carefully re-considered this proposal, the October 9, 2014 staff report and the various presentations at the Planning Board Hearing on October 16, 2014. Although we understand and support the community's need for more rental and affordable housing, we have concluded that we cannot support this high-density apartment PUD. It is absolutely the wrong place for such a development and we believe it should be denied. Our reasons will be discussed in the following categories for your consideration.

Impacts to the Park Knoll homeowners

Park Knoll Estates is a subdivision of 16 lots and 13 homeowners just west of Whitefish Crossing. The impacts discussed here are a consolidation of their concerns.

We all understand the role of zoning to help a community manage growth in an orderly manner. Even more important is the assurance it provides to property owners that their investment and the character of the area are protected. We all carefully considered the zoning in this area before purchasing our homes or property. We also understand that the land between Park Knoll and the commercial developments along US 93 will be developed over time and would anticipate that the WLR (or County R-2) lands would be developed as suburban residential properties (as zoned) to some logical boundary between those lands and the commercial developments along the highway. Instead, we are faced with a high-density rental development (14.7 units per acre) which crosses both the commercial and a portion of the WLR zoned properties in that area. There will likely be between 120 and 200 people of all ages living there. It will change the character of the area forever. We believe this is the wrong place for such a development.

Realistically, the open space provided is limited and scattered throughout the development. The children and adults seeking quiet and privacy have two choices: the highway corridor or the woods to the west. Adults walking their pets, young children playing while parents are working and young adults seeking privacy for whatever reason will migrate toward the woods to the west. We believe that this will intensify problems we have already experienced, without this additional pressure. There have been people living temporarily in the woods, fires, and even vandalism. In particular, increased exposure to fire and vandalism are very real probabilities to the community, homeowners and businesses in this area.

The required paved and plowed turn around at the west end of the new road (which we support) will effectively remove most of the remaining trees in the subdivision—at odds with the City's objective of preserving trees.

Finally there is genuine concern that Whitefish Crossing will negatively impact our property values—something we all cherish and want to protect.

Traffic and safety issues

We listened to the extensive discussion about the lack of MDT and City staff support for a "Traffic Study" in the Planning Board Hearing. However, as a group of homeowners who access US 93 on a daily basis, we strongly believe there is a genuine traffic and safety issue in this area. Here are those reasons.

1. US 93 is a busy 5 lane traffic corridor. At certain times of the day and for the entire tourism season ingress/egress is a serious challenge. Both the tourism season growth and general growth of Whitefish will add more challenges. It is also important to remember that the speed limit in this area is 45 MPH.

2. The projected additional trips per day for this development are 366. The recently approved 70+ room Hampton Inn, next door, with staff, will probably add another 200+ trips per day. When one adds in the trips necessary to transport children to school these two developments alone will add in excess of 600 trips per day onto this already busy corridor. In that small area, with the Hampton Inn, there will be 4 hotel/motels, 1 RV Park, several restaurants and small business just on the west side of US 93. adding to the traffic congestion. We also believe that the majority of the traffic exiting Whitefish Crossing will be making a left turn toward the center of Whitefish, accessing work sites, schools, restaurants and all the other City of Whitefish amenities. There are a growing number of businesses on the east side of US 93 as well .

3. The need to make a left turn across this busy highway is of particular concern. According to MDT and the State Police, the center turning lane (often referred to by users as the "suicide lane") is only to be used for turning and not as a merge lane. That means that a driver wanting to make a left hand turn is supposed to wait until a clear access is available from his/her starting point all the way into the lane they wish to occupy. However, common practice, because of congestion delays, is to wait until a driver can safely enter the turning lane and wait until they can merge into the desired lane with traffic moving at 45 MPH. Dangerous, but common practice and not enforced by State or local police. Presumably, they also recognize the challenge.

4. The City of Whitefish has, for years, promoted and supported alternative forms of transportation—biking, walking, hiking, etc., and that is commendable. The Whitefish Crossing proposal does provide sidewalk access to the sidewalk along US 93. With the existing 3 motels and RV park there is already an unusually large volume of pedestrian traffic walking and accessing the restaurants and businesses in that area.

With the addition of Whitefish Crossing and the Hampton Inn, that pedestrian traffic will increase dramatically. Today there is quite bit of bicycle traffic on the sidewalk (individual riders, adults, children and families) as well as a growing number of riders in the shoulder lane along the highway. These volumes of pedestrian and bicycle traffic will grow over time. There are already dangerous interactions between cars entering and exiting US 93 with all these pedestrians and cyclists. Whitefish has experienced some unfortunate bike/vehicles accidents. As more visitors and residents take advantage of the City's strong support for alternative transportation, this situation will only get worse.

5. This proposal suggests good access to schools for the children in the development. We have a problem with that. All the schools are on the east side of busy US 93 more than a mile away. There is no school bus service to this area. The children must get to schools and activities on their own; by car, bike, on foot, or more likely, parents will transport them. This will certainly expose the children to traffic safety risks and add to the growing traffic volumes.

6, The staff report suggests that the State required separate left and right hand turning lanes outbound from the development somehow help with these problems These lanes will probably alleviate some backup congestion within the subdivision, but do not address any of the traffic concerns expressed here.

Collectively, these challenges cry out for a traffic and safety solution. With the Whitefish Growth Policy vision focus on managing traffic and making the community safe for pedestrians and cyclists, it is incumbent on the city to not only focus on traffic from this development but on the entire area. It is also imperative to consider how these traffic concerns and growing traffic volumes will impact the future of Whitefish. We believe that City should initiate a traffic/safety study, with or without State support, before moving ahead with any consideration of approving this development.

Variance requests

The requested parking variance should be denied. Given our Montana propensity for vehicles and toys (boats, ATV's, etc.), even 140 spaces may not be sufficient. There is no separate provision for parking such toys. Visitor parking should also be provided within the subdivision. That is where visitors will try to park. With 60 units there will be lots of visitors.

With respect for the building height variance request, we understand the desire for attractive buildings. However, continually granting height variances, as has been happening, makes the 35 ft. height regulation ineffective (too many precedents). This variance should be denied. We are confident there are other means of making these buildings attractive.

Wrong location for this development

Although we support the need for rental and affordable housing we believe strongly that this is the wrong location for a high density rental housing project. Here are some of the reasons:

1. Whitefish Crossing (hereafter referred to as WC) significantly changes the character of the area and is in conflict with the vision statement which addresses the scale, character and small town feel of Whitefish. It is a high-density residential development squeezed into a commercially zoned and already developed area.
2. WC is in conflict with the vision statement that says we will manage our traffic and make our community safe for pedestrians and bicyclists. This proposal does not support that Growth Policy vision (see traffic concerns addressed above)
3. WC is in conflict with the adjacent residential neighborhood (see home owner impacts addressed above).
4. WC does provide rental apartments and 6 units of affordable housing. That seems to be the singular virtue. There are several zoning districts in our community that support high-density affordable housing, e.g., WR-4 supports 57 rental units per acre, WR-3 allows 21 dwelling units per acre—and there are more. These districts are more appropriate for high-density rental developments, providing improved safety for motorists, pedestrians and cyclists.
5. WC does not conform to the zoned and well established commercial use in this area. In fact, it is in direct conflict with commercial use and is the only such development south of 6th street in place or planned. It sets a dangerous and undesirable precedent.
6. We believe this proposed PUD is in violation of one aspect of your Zoning Regulations.
7. There are some Growth Policy statements in the WPUD staff report dated October 9, with which we disagree, to wit:
    a. Page 9: we do not believe it supports Land Use Goals 5 and 7 or Transportation Goal 1.
    b. Page 10 (considerations for adopting zoning regulations): we believe the **only** consideration it might support is "Reasonable provision of adequate light and air".

For all the reasons expressed , we strongly believe this is the wrong location for such a development.

Conflict with the Whitefish Zoning Regulations

We believe the practice of transferring ("blending"--aggregating allowed densities and redistributing across multiple zoning districts in a PUD) is not supported by the Whitefish WPUD regulations as currently written. Our attorney, Tom Tornow, will address this issue in a separate letter and presentation.

Summary

In summary, we believe this PUD application and the staff report are too narrowly focused on this single development and the need for rental and affordable housing. Whitefish Crossing does not adequately address the implications to the entire area and to all the City's relevant current and future needs (as addressed in this communication). Thus, for the reasons expressed, coupled with our Attorney's assessment of the Zoning Regulations, we do not believe this PUD should be approved as submitted. Therefore, we respectfully request that you **deny** this application.

Although we strongly feel you should **deny** this application, if you choose to support this PUD in any form we respectfully request that you do the following:

1. Ask that the proposal be re-configured with strict adherence to the Whitefish PUD Regulations which do not currently support transferring ("blending") across multiple zones. That is, the density in the WLR portion not exceed 5 units per acre with the affordable housing bonus, and none of the WB-2 allowance will be transferred to it..
2. Before any approval, require a traffic and safety study of the entire area as we discussed.

Respectfully submitted,

David Hunt, Vice President
Park Knoll Estates Homeowners Association

received
11-26-14

To: Whitefish City Council
From: Judith E. Spivey
117 Park Knoll Lane
Whitefish

In each of our lives there are times when we are called to TAKE A STAND.

The city of Whitefish currently has established building and development zones to assure dependable, reasonable areas for now and future growth of the city. Present and future owners place their trust in this planned zoning. Multi-family zones are available for development where density, traffic, safety, pedestrian use, access and egress are suitable and appropriate.

An apartment complex of this size and density, in this location does NOT CONFORM to the present and future use of commercial zoning and does NOT represent continuity nor familiarity with the surrounding businesses and structures. Approval of this non-conforming project will set a dangerous precedent. I urge Council to TAKE A FIRM STAND against this proposal in this location.

In 1960...53 years go, in Pasadena, California, developers were seeking a zone change in order to build apartments in a single family zoned neighborhood. We moms, infuriated by the prospect of piece by piece destruction of a genuine family neighborhood, marched on city hall, babies in strollers, and TOOK A STAND. Today that 110 year old neighborhood is a treasure in that community.

This little city of Whitefish is a treasure, not only in our state but in this country. Businesses, services, living are centered within the community. What a concept! COMMUNITY is the operative word. Do not allow hodge-podge development. Combine community with continuity and familiarity. I am NOT against growth and development...without this communities tend to stagnate and wither. Consider the future. I know from experience that GOOD PLANNING makes GREAT towns and cities. Stick with what is best for now and the future of Whitefish. TAKE A STAND.

Thank you for the opportunity to speak to you.

Judith E. Spivey

Judith E. Spivey (23 year Whitefish resident)

Thomas T. Tornow, P.C., *Attorneys-at-Law*

309 Wisconsin Avenue, Whitefish, MT 59937
Telephone: (406) 862-7450 Facsimile: (406) 862-7451 Website: www.tornowlaw.com

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Justin E. Pfaff, Attorney
assistant@tornowlaw.com

Katherine C. Troiano, Paralegal
katherine@tornowlaw.com
Sue A. Brown, Office Administrator
sue@tornowlaw.com
Sandra L. Bellissimo, Assistant
assistant@tornowlaw.com

February 17, 2015

The City of Whitefish
c/o Dave Taylor
Zoning Administrator
dtaylor@cityofwhitefish.org

RE: Withdrawal of Appeal

Dear Dave:

I represent the appellant Park Knoll Estates Homeowner's Association ("HOA").

Please accept this letter as the HOA's withdrawal of the appeal to the Board of Adjustment of your written decision or interpretation dated October 28, 2014 (WZA-14-01).

If you have any questions, desire additional information, or if we have omitted anything necessary to withdraw the appeal, please contact me at your convenience.

Sincerely,

THOMAS T. TORNOW, P.C.

mas T. Tornow

By: Thomas T. Tornow

cc (w/o enc.): City Clerk
Mary VanBuskirk (*via* email)
Judah Gersh, Esq. (*via* email)
Client (*via* email)

SANDS SURVEYING, INC.
2 Village Loop Road
Kalispell, MT 59901
406-755-6481
Fax 406-755-6488

February 24, 2015

City of Whitefish Planning and Building Department
Attn: Wendy Compton-Ring
P.O. Box 158
Whitefish, MT 59937

RE: Whitefish Crossing, a sixty unit apartment complex

Dear Wendy:

On behalf of our Clients, Montana Development Group, LLC and developers of the Whitefish Crossing, we are submitting a revised Site Plan for the apartment project. The reason for amending the site plan is primarily to address concerns raised by the neighbors of Park Knoll. The revised plan shift the units to the east and away from the Park Knoll properties leaving only parking and the club house on the proportion of the property zoned WLR.

Park Knoll had appealed a decision of the Zoning Administrator allowing blending of the zoning densities as the property in question is split by two zoning district WLR and WB-2. The appeal stayed any further review of the project until such time as the appeal was resolved. Park Knoll agreed to withdraw the appeal based on the revised site plan.

The major difference between the plan reviewed and approved by the Planning Board and the revised Site Plan are as follows:

- Building A moves closer to the Dry Cleaners.
- Building D flips with the parking so that Building D backs up to Building B.
- Building E and the Club House flip so that building E backs up to Building C
- We are still proposing a deviation to the off-street parking as we are twenty spaces short of the required 2.33 spaces per unit. We meet with the Public Works director after the Planning Board meeting and if we make the street driving aisles 12 feet each and eight feet of parking on both sides of the street. This will create 40-feet of asphalt and 44 to back of curb the street will accommodate on-street parking along both sides. This should provide ample guest parking for the development. This provides 12 foot driving isles and eight feet of parking on both sides this complies with the City of Whitefish Engineering Standards (Collector Street with Parking both side). The plan proposes 89 off-street parking spaces and 33 on-street for a total of 122 spaces. This is a greater deviation than previously proposed.

02-24-2015 A11:45

What does not change is the following:

- The location of the 60-foot City street extension remains in the same location.
- The building footprints, elevations, and unit count remains the same.
- Lot coverage remains the same
- We still request the height deviation to 39.5 feet to allow for architectural character of roof line.
- The project will still provide 10% of the units (six units) as affordable rent controlled properties in partnership with the Whitefish Housing Authority.

With the efforts of the developer and the Park Knoll residents working together, we encourage the City Council to review and consider the revised plan for PUD approval.

Sincerely,

Eric H. Mulcahy, AICP
Sands Surveying Inc.

Encl: Letter – Tom Tornow on behalf of Park Knoll.
Email correspondence for John Wilson.
10 copies of the revised site Plan

Eric H. Mulcahy

From: John Wilson <jwilson@cityofwhitefish.org>
Sent: Monday, November 03, 2014 5:00 PM
To: 'Jeff Badelt'
Cc: 'Sean Averill'; 'Eric H. Mulcahy'; 'Wendy Compton-Ring'
Subject: RE: Whitefish Crossing Parking

Jeff

I informed Eric that the collector street section with parking on one side will be required because we envision this road will eventually extended through to Karrow Ave. Brett's initial drawing showed the typical section for a local street with parking on one side and that is not an option. It's a question of what the Standards require, not what I support. Eric and I also discussed that this road section, with 12 foot wide driving lanes, will increase the likelihood that we won't have to eliminate on-street parking when the traffic counts increase.

I don't have a position regarding the project's compliance with zoning requirements.

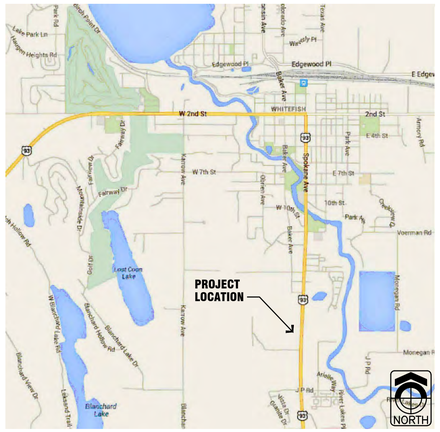
From: Jeff Badelt [mailto:Jeff@MtDevGroup.com]
Sent: Monday, November 03, 2014 10:38 AM
To: John Wilson
Cc: Sean Averill; Eric H. Mulcahy
Subject: Whitefish Crossing Parking

John,
Just touching base with you, a couple weeks ago there was a conversation w Eric regarding changing our proposed street design to a "collector standard" vs. "city standard". You indicated this was something that you could support regarding allowing residents some on street parking for the foreseeable future and Sean and I will agree to build to that standard.
I recognize this is more of a zoning issue vs. public works issue but your opinion matters and support at council this evening would be appreciated.
Give a call if you have any questions or concerns.

Jeffrey Badelt
Partner
Montana Development Group
406.890.8195

VICINITY MAP

NO SCALE



PROJECT DIRECTORY

OWNER

MONTANA DEVELOPMENT GROUP
CONTACT: JEFF BADELT
V: (406) 890–8195
E: Jeff@MtDevGroup.com

ARCHITECT

THE ARCHITECTS OFFICE, PLLC
499 MAIN ST.
BOISE, IDAHO 83702
CONTACT: MATT RHEES
V (208) 343–2931 EXT. 5
F (208) 343–1306
C (208) 331–1499
E matt@taoidaho.com
CONTACT: JOHN PRICE
V (208) 343–2931 EXT. 2
F (208) 343–1306
E john@taoidaho.com

SURVEY

SANDS SURVEYING, INC.
2 VILLAGE LOOP
KALISPELL, MONTANA 59901
CONTACT: ERIC MULCAHY
V (406) 755–6481
F (406) 755–6488
E eric@sandssurveying.com

CIVIL

48 NORTH CIVIL ENGINEERING SERVICES
151 BUSINESS CENTER LOOP, SUITE A
KALISPELL, MONTANA 59901
CONTACT: BRETT WALCHECK
V (406) 756–4848
F (406) 456–4849
C (406) 249–4736

LANDSCAPE

WHITE CLOUD DESIGN, INC.
150 RAILWAY ST.
BOX 67
WHITEFISH, MONTANA 59937
CONTACT: JOHNNY McDONALD
V (406) 863–2828
C (406) 261–2827

PROJECT DATA

LEGAL DESCRIPTION:
LOT 2 OF DEAR TRACS SUBDIVISION AND A PORTION OF TRACT 1 OF COS 10669 IN SECTION 1, T30N, R22W, P.M.M., FLATHEAD COUNTY.

CURRENT ZONING:.....WB-2 / WLR

PROPOSED ZONING:.....WB-2 / WLR WITH A PUD

PARCEL AREA:.....195,705 S.F. / 4.493 ACRES

RETAIL USE:.....18,077 S.F. / 0.415 ACRE
NORTH APARTMENT USE:....45,738 S.F. / 1.050 ACRE
SOUTH APARTMENT USE:....91,151 S.F. / 2.093 ACRES
PROPOSED R.O.W.:.....40,739 S.F. / 0.935 ACRE

DEVELOPMENT STANDARDS

MINIMUM LOT SIZE: 6,000 S.F. + 1,000 PER UNIT

LOT REQUIREMENTS	WLR REQUIRED	WB-2 REQUIRED	PROPOSED
NORTH LOT SIZE:	15,000 S.F.	N/A	45,738 S.F.
SOUTH LOT SIZE:	15,000 S.F.	N/A	91,151 S.F.
MIN. NORTH LOT WIDTH	80 FT.	N/A	330 FT.
MIN. SOUTH LOT WIDTH	80 FT.	N/A	730 FT.
FRONT YARD SETBACK*:	25 FT.	20 FT.	20 FT.**
STREET SIDE SETBACK*:	15 FT.	20 FT.	20 FT.
SIDE YARD SETBACK*:	15 FT.	20 FT. / NA	20 FT.+
REAR YARD SETBACK*:	20 FT.	20 FT. / NA	15-20 FT.
MAXIMUM HEIGHT	35 FT.	35 FT.	40 FT.
LOT COVERAGE	30%	N/A	18 %

* FRONT YARD IS INTERPRETED AS THE SPACE BETWEEN THE PROPOSED 60 FT. R.O.W. AND THE SIDE OF THE PROPOSED BUILDINGS.

** PROPOSED STREET SETBACK FOR CLUBHOUSE IS 10 FT.

BUILDING DATA

PROPOSED APARTMENT OFFICE / CLUBHOUSE:.....1

PROPOSED APARTMENT BUILDINGS:.....5

PROPOSED UNITS PER BUILDING:.....12

PROPOSED TOTAL UNITS:.....60

UNIT TYPE	PER BLD.	NO. OF BLD.	TOTAL
1-BED/1-BATH	3	5	15
2-BED/1-BATH	3	5	15
2-BED/2-BATH	3	5	15
3-BED /2-BATH	3	5	15
TOTALS	12		60

PARKING DATA

PARKING REQUIRED:.....2 STALLS PER UNIT
PLUS 1 GUEST STALL PER EVERY 3 UNITS

60 UNITS X 2 STALLS PER UNIT = 120 STALLS
60 UNITS X .33 STALL PER UNIT = 20 STALLS

TOTAL STALLS REQUIRED:.....140 STALLS
(2.33 STALLS PER UNIT)

RECOMMENDED PARKING:
CLUBHOUSE: 1.0 STALL PER 200 S.F. = 2
ONE BEDROOM UNITS: 1.0 STALLS X 15 UNITS = 15
TWO BEDROOM UNITS: 1.5 STALLS x 30 UNITS = 60
THREE BEDROOM UNITS: 2.0 STALLS x 15 UNITS = 30
GUEST PARKING: 1.0 STALLS PER 5 UNITS = 12
TOTAL RECOMMENDED STALLS: 117

TOTAL OFF-STREET STALLS PROPOSED:.....89 STALLS

TOTAL ON-STREET STALLS PROPOSED:.....33 STALLS

TOTAL STALLS PROPOSED:.....122 STALLS
(2.03 STALLS PER UNIT)
(18 STALL REDUCTION)

1 SITE PLAN
SCALE: 1" = 30'-0"

THE ARCHITECTS OFFICE PLLC
PRICE SANDERS COOPER RHEES RUBY
499 MAIN STREET (208) 343-2931
BOISE, IDAHO 83702 TAOIDAHO.COM

PROJECT

MONTANA DEVELOPMENT GROUP

DEER TRACK RESIDENCES

6348 U.S. HIGHWAY NO. 93
WHITEFISH, MONTANA

SEAL

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FILE

DATE
JANUARY 5, 2014

FILE NO.
14-535 SD2.0.6

DRAWN
MATT RHEES

REVISIONS

SHEET

SD2.0.6

SCHEMATIC DESIGN

received
2-20-15

Thomas T. Tornow, P.C., *Attorneys-at-Law*

309 Wisconsin Avenue, Whitefish, MT 59937
Telephone: (406) 862-7450 Facsimile: (406) 862-7451 Website: www.tornowlaw.com

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sue@tornowlaw.com
Sandra L. Bellissimo, Assistant
assistant@tornowlaw.com

February 17, 2015

The City of Whitefish
c/o Dave Taylor
Zoning Administrator
dtaylor@cityofwhitefish.org

RE: Withdrawal of Appeal

Dear Dave:

I represent the appellant Park Knoll Estates Homeowner's Association ("HOA").

Please accept this letter as the HOA's withdrawal of the appeal to the Board of Adjustment of your written decision or interpretation dated October 28, 2014 (WZA-14-01).

If you have any questions, desire additional information, or if we have omitted anything necessary to withdraw the appeal, please contact me at your convenience.

Sincerely,

THOMAS T. TORNOW, P.C.

By: Thomas T. Tornow

cc (w/o enc.): City Clerk
Mary VanBuskirk (*via* email)
Judah Gersh, Esq. (*via* email)
Client (*via* email)

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

February 24, 2015

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

RE: Spotted Bear Spirits, 505 Railway Street; (WCUP 15-04)

Honorable Mayor and Council:

Summary of Requested Action: Eric Mulcahy of Sands Surveying on behalf of Spotted Bear Spirits is proposing to operate a microdistillery and tasting room in an existing building at 505 Railway Street. The property is currently developed with a variety of retail uses and is zoned WB-3 (General Commercial District). The Whitefish Growth Policy designates this property as "Core Commercial".

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

Public Hearing: The applicant and her representative spoke at the public hearing on February 19, 2015 and no one else spoke. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on February 19, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with six (6) conditions as contained in the staff report and adopted the staff report as findings of fact.

Proposed Motion:

- I move to approve WCUP 15-04 along with the Findings of Fact in the staff report and the amended six conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on March 2, 2015. 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: Exhibit A: Recommended Conditions of Approval
Draft Minutes of 2-19-15 Planning Board Meeting

Exhibits from 2-19-15 Staff Packet:

1. Staff Report – WCUP 15-04, 2-12-15
2. Adjacent Landowner Notice, 1-30-15
3. Advisory Agency Notice, 1-30-15

The following were submitted by the applicant:

4. Application for Conditional Use Permit, 1-22-15

The following were submitted after the Planning Board packets:

5. Letter, Becky Rygg, 2-11-15
6. Letter, Pat Carloss, 2-11-15
7. Letter, Trek Stephens, 2-13-15

c: w/att Necile Lorang, City Clerk

c: w/o att Eric Mulcahy, Sands Surveying, 2 Village Loop Kalispell, MT 59901
Spotted Bear Spirits, Lauren Osciloski 130 Edgewood Place, unit B
Whitefish, MT 59901

Exhibit A
Spotted Bear Spirits
WCUP 15-04
Whitefish Planning Board
Recommended Conditions of Approval
February 19, 2015

1. The project shall be in compliance with the plan submitted on January 22, 2015, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. Water service may need to be upgraded to accommodate proposed use. Proposed flow requirements need to be evaluated. All wastewater discharges must be in compliance with all the rules and regulations of the wastewater utility per the Public Works Department. (Whitefish Engineering Standards, Section 3, 4)

3. Necessary business licenses and sign permits shall be obtained. (§3-1, §11-5-7)

4. The existing building remodel will need a professional design. This design shall be reviewed and approved by the Building Department. (IBC)

5. The Fire Department requires the applicant to comply with all city fire codes for this classification of occupancy and the building shall be sprinklered. (IFC)

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

proceeds. Jim seconded. Frank said one of the reasons to require the continuation of compliance is because we have at least one property in the City that we let get away from us and he is very sensitive to not letting that happen again. John called for the question.

VOTE

The motion passed with Melissa, Ken S., Frank, John and Jim voting in favor. Rebecca was opposed and Ken M. abstained from voting. The matter is scheduled to go before the Council on March 16, 2015.

ACTION BY CHAIR

Ken M. resumed Chair position.

PUBLIC HEARING 3: SPOTTED BEAR SPIRITS CONDITIONAL USE PERMIT REQUEST

A request by Lauren Osciloski on behalf of Spotted Bear Spirits for a Conditional Use Permit to start a handcrafted microdistillery. The property is located at 505 Railway Street and can be legally described as Unit 1 of Double Summit Condo in S36 T31N R22W.

STAFF REPORT WCUP 15-04 (Compton-Ring)

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

Staff recommended adoption of the findings of fact within staff report WCUP 15-04 and for **approval** to the Whitefish City Council.

APPLICANT/AGENCIES

Erica Wirtala, Sands Surveying, spoke on behalf of the applicants. She said the proposed location is a smallish building space, with approximately 2,000 square feet, and will seat approximately 30 people. The applicants are in agreement with the six Condition of Approval as outlined in the Staff Report.

Rebecca asked the applicant, Lauren Osciloski, about the water use issue. Lauren said as a distillery they do use water, but nothing like the amount used by a brewery. They plan to outsource the mashing process, not handle that onsite, so there will not be as much water use. Rebecca asked odor involved with a microdistillery and Lauren said there shouldn't be much, and compared it to that of a bakery. Melissa asked if they had asked other businesses, potentially competitors, about the impact on their businesses, and Lauren replied they had received a very positive reception. Melissa asked if outdoor seating was planned and Lauren replied no.

BOARD QUESTIONS OF STAFF

Frank wanted to make sure we are not putting a user on our water system that would be more than it could handle, and whether something about that needed to be added to

the Conditions of Approval, and Wendy replied Public Works was not concerned about the water use.

PUBLIC COMMENT None.

MOTION Ken S. moved and Rebecca seconded to adopt the findings of fact within staff report WCUP 15-04, with the six Conditions of Approval. The motion passed unanimously. Ken S. called for question.

BOARD DISCUSSION None.

VOTE The motion passed unanimously. The matter is scheduled to go before the Council on March 2, 2015.

PUBLIC HEARING 4: WHITEFISH THEATRE COMPANY CONDITIONAL USE PERMIT REQUEST A request by the Whitefish Theatre Company on behalf of the City of Whitefish for a Conditional Use Permit to construct an addition onto the O'Shaughnessy Center. The property is located at 1 Central Avenue and can be legally described as Lot 2 of Depot Square Amd L1A & 1B of Amd L1 Subdivision, S36 T31N R22W.

STAFF REPORT WCUP 15-02 (Minnich) Planner II Minnich reviewed her staff report and findings.

Staff recommended adoption of the findings of fact within staff report WCUP 15-02 and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF Rebecca asked Bailey whether the additional toilets are on the outside of the building and Bailey said no, those are already operational, the two new ones are next to the waiting area. John asked what is happening to the front of the building, and Bailey said from what she understood, the interior doors on the inside of the building will now go outward, but not past the current awning. John also asked whether these proposed changes to the O'Shaughnessy Center would have an effect on the possible bike/pedestrian tunnel under Wisconsin or Baker, and Bailey said based on the proposed modifications to the Downtown Master Plan, she does not think that this structure should affect that at all.

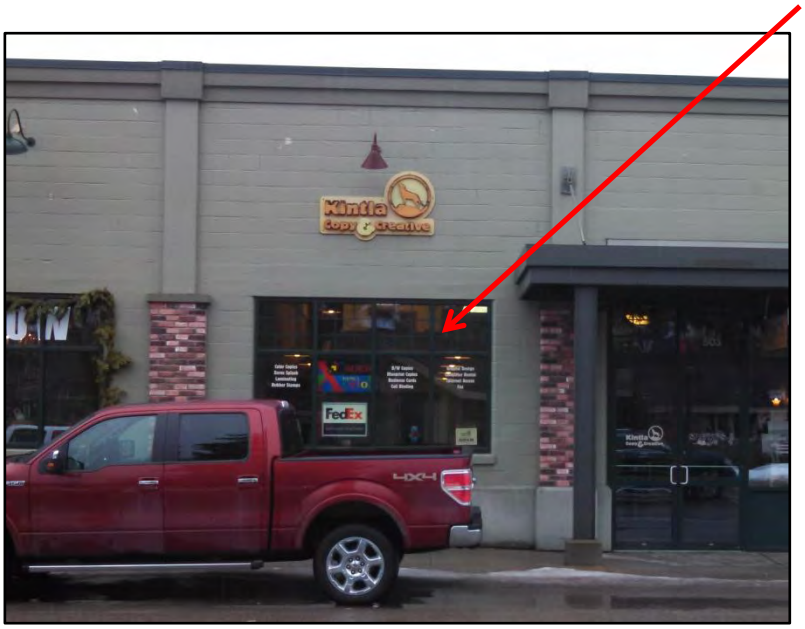
APPLICANT/AGENCIES None.

PUBLIC COMMENT Wayne Saurey, 10 Lupfer Avenue, Whitefish Theatre Board, spoke regarding the front entry question. He said the existing setup is a design flaw which causes a bottleneck in front of concession stand. Their proposal is to move interior door to where the current exterior door is which will open up the airlock to provide more space in front of

SPOTTED BEAR SPIRITS
CONDITIONAL USE PERMIT
WCUP 15-04
February 12, 2015

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request for a conditional use permit to operate a microdistillery and tasting room. This application has been scheduled before the Whitefish Planning Board for a public hearing on Thursday, **February 19, 2015**. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, **March 2, 2015**.

PROJECT SCOPE



Eric Mulcahy of Sands Surveying on behalf of Spotted Bear Spirits is requesting a Conditional Use Permit in order to operate a handcrafted distillery and small tasting room in an existing building at 505 Railway Street. The applicant is proposing to remodel the existing building to accommodate the distillery. No exterior modifications are proposed. The distillery will operate under State Liquor Board requirements which limits hours of operation and maximum number of ounces permitted per customer.

A.

OWNER:
Alpha Apartments llc
Attn: William Hileman Jr.
204 Central Ave
Whitefish, MT 59937

APPLICANT:
Spotted Bear Spirits
Attn: Lauren Osciloski
130 Edgewood Place, unit B
Whitefish, MT 59937

REPRESENTATIVE:
Eric Mulcahy
Sands Surveying, Inc
2 Village Loop
Kalispell, MT 59901

B. SIZE AND LOCATION OF PROPERTY:

The project is located at 505 Railway Street in an existing building. The project will be located in an existing building. The project can be legally described as Unit 1 of Double Summit Condo S36 T31N R22W, P.M.M., Flathead County, Montana.

C. EXISTING LAND USE:

The subject property is currently developed with retail uses.

D. ADJACENT LAND USES AND ZONING:

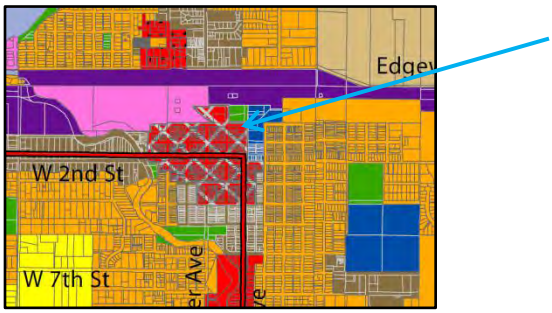
North:	Depot Park	WB-3
West:	Commercial	WB-3
South:	Commercial	WB-3
East:	Commercial	WB-3

E. ZONING DISTRICT:

The property is zoned WB-3 (General Commercial District). The purpose of the WB-3 District is 'a broad commercial district intended to accommodate financial, retail, governmental, professional, institutional and cultural activities.'

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Growth Policy designation is Core Commercial which corresponds to the WB-3 zoning district.



G. 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:	Whitefish Fire Department

H. PUBLIC COMMENTS:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on January 30, 2015. A notice was emailed to advisory agencies on January 30, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on February 4, 2015. As of the writing of this report, no letters have been received.

REVIEW AND FINDINGS OF FACT

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

1. **Growth Policy Compliance:** The Growth Policy designates this area as Core Commercial which is consistent with the WB-3 zoning District.

   Finding 1: The proposed use complies with Growth Policy Designation of Core Commercial because it is zoned WB-3 (General Commercial District) and the proposed use is consistent with the WB-3 zone.

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

   The property is zoned WB-3 which conditionally permits microbreweries, but is silent on microdistilleries. The zoning administrator has made a determination that a microdistillery is similar enough to a microbrewery permit this applicant to submit an application for a Conditional Use Permit. There are no proposed changes to the footprint of the building nor to the exterior of the building.

   Finding 2: The project complies with the zoning regulations because all the zoning standards are being met or will be met with conditions of approval.

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

   Adequate usable land area: The business is proposed to be located within an existing building. There is adequate land area for the project.

   Access that meets the standards set forth in these regulations, including emergency access: The building fronts on Railway Street which provides adequate emergency access.

   Absence of environmental constraints that would render the site inappropriate for the proposed use or development, including, but not necessarily limited to floodplains, slope, wetlands, riparian buffers/setbacks, or geological hazards: The proposed development is not located within the 100-year floodplain nor within an

area mapped for high groundwater. There are no water bodies within 200-feet the project.

Finding 3: Project is suitable for the site because there is adequate usable land area, the existing access meets emergency standards and there are no environmental constraints.

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: Not applicable, as parking is not a requirement in the WB-3 zone. (§11-6-6-3A)

Traffic Circulation: The applicant is not proposing to change the traffic circulation patterns of the neighborhood as they are established. Traffic will continue to utilize Railway Street to access the business or park in a parking lot and walk to the business.

Open space: Not applicable.

Fencing/Screening: Not applicable.

Landscaping: There is no landscaping required pursuant to §11-4-5C.

Signage: Staff has not seen any proposed signage. All new signage is required to obtain a permit from the Planning & Building office.

Undergrounding of new and existing utilities: Not applicable.

Finding 4: The quality and functionality of the proposed development has effectively dealt with the site design issues because it is an existing building with an established site plan and the applicant is not proposing to make any changes to the site plan.

5. Availability and Adequacy of Public Services and Facilities.

Sewer: Sewer is in place and adequate to service the project.

Water: Water services are currently available on site.

Storm Water Drainage: All stormwater is currently being managed through the city's system and there are no proposed changes.

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

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

Streets: The project is accessed off of Railway Street. This is a paved street with curb, gutter and sidewalk. No street improvements are proposed or required.

Finding 5: Municipal water and sewer are available. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to a city street.

6. Neighborhood/Community Impact:

Traffic Generation: The existing streets should be able to handle any additional traffic.

Noise or Vibration: No impact is anticipated beyond what would be expected from a typical commercial use.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from a typical commercial use.

Smoke, Fumes, Gas, and Odor: No impact is anticipated with regards to smoke, fumes or gas. Distilleries emit a slight odor of baking bread from the yeast.

Hours of Operation: The hours of operation will be from 10AM to 8PM – Monday through Saturday and 12PM to 8PM on Sunday.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected.

7. Neighborhood/Community Compatibility:

The neighborhood is a combination of commercial and retail uses. The structural bulk and massing, density and scale of the project will not be changed from the current configuration. No exterior changes are proposed.

Finding 7: The project is compatible with the existing uses in the neighborhood because there are no proposed changes to the building, it fits within the context of the neighborhood and community character.

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 15-04 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 in compliance with the plan submitted on January 22, 2015, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. Water service may need to be upgraded to accommodate proposed use. Proposed flow requirements need to be evaluated. All wastewater discharges must be in compliance with all the rules and regulations of the wastewater utility per the Public Works Department. (Whitefish Engineering Standards, Section 3, 4)

3. Necessary business licenses and sign permits shall be obtained. (§3-1, §11-5-7)

4. The existing building remodel will need a professional design. This design shall be reviewed and approved by the Building Department.

5. The Fire Department requires the applicant to comply with all city fire codes for this classification of occupancy and the building shall be sprinklered. (IFC)

6. 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 Lauren Osciloski on behalf of Spotted Bear Spirits is requesting a Conditional Use Permit to start a handcrafted distillery business. The property is developed with a multi-tenant retail building and is zoned WB-3 (General Business District). The property is located at 505 Railway Street and can be legally described as Unit 1 of Double Summit Condo in S36 T31N R22W.

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, February 19, 2015
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, March 2, 2015 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a floor plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, February 9, 2015, 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: January 30, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, February 19, 2015 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 items 1-3 on Monday, March 2, 2015 and items 4-5 on Monday, March 16, 2015. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Ben Davis on behalf of Timberlane Real Estate for a Conditional Use Permit to develop four (4) two-unit condominium buildings. The property is located at 722 Edgewood Place and can be legally described as Lot 9, Block 11 in S25 T31N R22W. WCUP 15-03 (Compton-Ring)

2. A request by Lauren Osciloski on behalf of Spotted Bear Spirits for a Conditional Use Permit to start a handcrafted microdistillery. The property is located at 505 Railway Street and can be legally described as Unit 1 of Double Summit Condo in S36 T31N R22W. WCUP 15-04 (Compton-Ring)

3. A request by the City of Whitefish for an amendment to Section 11-2S, WPUD, Planned Unit Development District, to clarify the blending of uses and density where a PUD overlays multiple underlying zones. WZTA 15-01 (Taylor)

4. A request by CJ Fullhouse LLC for a Conditional Use Permit to construct a guesthouse on a residential property. The property is located at 1199 W. 7th Street and can be legally described as Tract 3GA in S35 T31N R22W. WCUP 15-01 (Minnich)

5. A request by the Whitefish Theatre Company on behalf of the City of Whitefish for a Conditional Use Permit to construct an addition onto the O'Shaughnessy Center. The property is located at 1 Central Avenue and can be legally described as Lot 2 of Depot Square Amd L1A & 1B of Amd L1 Subdivision, S36 T31N R22W. WCUP 15-02 (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.

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

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

FEE ATTACHED $1,980.00 (See current fee schedule)

OWNER(S) OF RECORD:

Name: Alpha Apartments, LLC; Attn: William Hileman ,JR.

Mailing Address: 204 Central Avenue

City/State/Zip: Whitefish, MT 59937 Phone: (406) 862-2528

APPLICANT:

Name: Spotted Bear Sprits; Attn: Lauren Osciloski

Mailing Address: 130 Edgewood Place, Unit B

City/State/Zip: Whitefish, MT 59937 Phone: (406) 407-5909

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

Name: Sands Surveying, Inc. Attn: Eric Mulcahy

Mailing Address: 2 Village Loop

City/State/Zip: Kalispell, MT 59901 Phone: (406) 755-6481

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street Address: 505 Railway Sec. No. 36 Town-ship 31 Range No. 22

Subdivision Name: Unit 1 of Double Summit Condo Tract No(s). Lot No(s). Unit 1 Block No.

DESCRIBE PROPOSED USE: The applicants are requesting a conditional use permit to start a handcrafted distillery business in an existing building in downtown Whitefish. The interior condominium space will be remodeled to accommodate the new distillery business. The property is located at 505 Railway just east of the Mackenzie River Pizza Company. The exterior of the building will remain the same. Ancillary to the business will be a small tasting area of approximately 1,000 square feet where customers can taste the spirts and purchase products and merchandise such as shirts and glasses with the company logo. The business would operate similarly to the nearby Whitefish Brewery.

ZONING DISTRICT: WB-3 (General Business District)

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

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

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

The 2007 Whitefish Growth Policy addresses the downtown area and references the Downtown Business District Master Plan. According to the Growth Policy, the Downtown Master Plan places a "heavy emphasis on streetscape and pedestrian improvements to enhance walkability of downtown as well as strengthen pedestrian connections to adjacent parklands and residential neighborhood." Another objective of the Downtown Master Plan is to encourage one-of-a- kind retail and restaurant establishments, while discouraging "formula" businesses. The proposed location of the distillery business will certainly promote the ideals described in the City's long range planning documents.

Specific Goals and Policies of the Whitefish Growth Policy are listed as follows:

Future Land Use Goals:

1. Preserve and enhance the character, qualities, and small town feel and ambiance of the Whitefish Community through an innovative and comprehensive growth management system

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

Economic Development Goals:

1. Maintain a healthy and vibrant base economy that sustains an influx of dollars into the community.

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

Economic Development Policies:

3. It shall be the policy of the City of Whitefish to promote beneficial job growth in the base economy, and especially in those areas that tend to diversify the base economy beyond development related and visitation based business and industries.

Economic Development Recommended Actions:

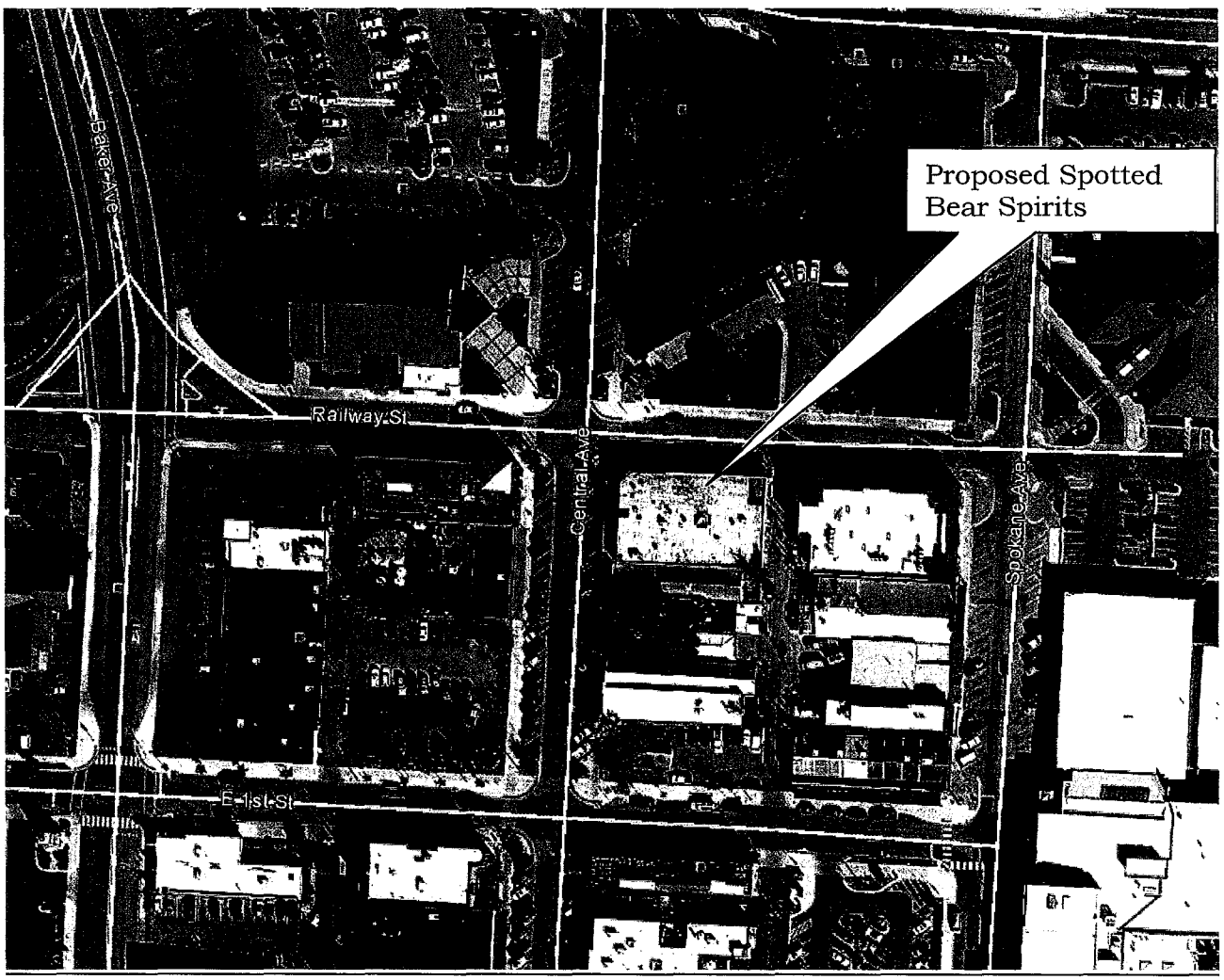
6. Investigate alternatives and possible partnerships to identify and recruit clean, community-compatible industry to Whitefish.

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

The property is zoned WB-3 General Business District) per the Whitefish Zoning Ordinance. The WB-3 zoning classification has been specifically tailored to promote and protect businesses in the downtown through the use of special bulk, dimension, and parking provisions. The proposed distillery is listed in the Conditional Use Permit category under the term "microbreweries". The Code does not specifically define microbreweries, but the zoning administrator for the City of Whitefish has determined that in absence of a specific "distillery" category and definition in the zoning ordinance, the microbrewery category is the closest fit.

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 is a suitable location for the proposed distillery. The location is near the existing Great Northern Brewery, downtown restaurants, and the farmers market. The locations promotes pedestrian access by its proximity to bike paths, sidewalks, neighboring businesses, and downtown residential uses. The use will occupy an existing building in the downtown so there are no sensitive areas on the site, such as wetlands, steep slopes, or rivers/streams.



4. How are the following design issues addressed on the site plan?
   a. Parking locations and layout _

As the property is located in the WB-3, Downtown Zoning District, off-street parking is not required. In fact requiring or developing off-street parking for each new business would be detrimental to the downtown streetscape because it would create gaps along the sidewalk which discourage pedestrian movement and the vitality of the downtown business district.

b. Traffic circulation
The proposed business fronts on Railway Street which is a City owned and maintained street. Railway provides public parking on both sides of the street in order to support the businesses. There is a public parking lot one block to the southeast and within easy walking distance for employees and/or patrons. As with most businesses in downtown Whitefish, circulation is provided by the public street and alley systems. Patrons of these businesses find a place to park in the downtown and walk to the various business. This pedestrian movement promotes a positive economic spin-off with people of utilizing other businesses spontaneously.

c. Open space
The downtown area promotes building lot line to lot line and therefore open space is not a requirement in this area of the City. The City of Whitefish has placed significant investment in the acquisition of Depot Park just north of the proposed business.

d. Fencing/screening
As the proposed business will occupy an interior unit of the existing building, no fencing or screening is needed or proposed..

e. Landscaping
The downtown building is developed to the lot line. No landscaping exists on the site and none is proposed.

f. Signage
A sign package has not yet been developed for the use. If the CUP is approved, the applicant will work with the condominium owner and sign maker to prepare a sign permit that complies with the Whitefish Sign Regulation.

g. Undergrounding of new utilities
See Attached Site Plan. All utilities entering the site are underground

h. Undergrounding of existing utilities
All utilities exist to service the proposed use. Overhead power that runs along the downtown alleyways would be cost prohibitive for this or any new business to underground.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities are upgraded?
a. Sewer
The building is currently connected to City Sewer services.

b. Water
The building is currently connected to the City Water services.

c. Stormwater

The proposed CUP will not alter the building footprint nor the existing building coverage. The City right-of-way currently manages stormwater for the downtown.

d. Fire Protection

Whitefish Fire Department currently serves the property. The fire department will require a one hour separation on all sides of the distilling room.

e. Police Protection

Whitefish Police Department currently serves the property.

f. Street (public or private)

The property fronts on Railroad Street, publicly owned and maintained street. The street and adjoining sidewalk will provide access to the business.

g. Parks (residential only)

N/A

h. Sidewalks

There is a public sidewalk within the City's right-of-way that provides safe and convenient access to the property.

i. Bike/pedestrian ways – including connectivity to existing and proposed developments

There are bike paths along Railroad Street, however the downtown is connected to bike paths on Baker and Second Street. The City's river path also connects to the downtown and provides safe and convenient pedestrian movement from residential neighborhoods to the downtown area.

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

The property is zoned for commercial use. Mackenzie River Pizza is nest door and sells beer and wine to go with the food. The Grat Northern Brewery is located a short distance to the west operating in a similar fashin to the proposed distillery only at a much larger scale. The Great Northern Bar is located on the same block and to the south. The proposed distillery will complement these existing businesses in the neighborhood. The commercial core of downtown Whitefish is designed to accommodate traffic and this traffic is encouraged to support the businesses that locate here. The proposed micro distillery will not overburden the City's street system .

b. Noise, vibration, dust, glare, heat, smoke, fumes, odors

Making of the product will occur within the confines of the building. As this is a craft business, the volumes will be low starting with 5000 proof gallons per year and working up to 25,000 proof gallon maximum by year

four if all goes right. With such volumes, the project will not create excessive noise, vibration, glare, heat, fumes, or odors.

7. What are the proposed hours of operation?

Spotted Bear Spirits will be open to the public Monday through Saturday 10 am to 8:00 pm and Sunday 12:00 pm to 8:00 pm.

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:

a. Structural bulk and massing

The proposed distillery will be located in a portion of an existing building that anticipates commercial ventures. Neighboring uses restaurants, bars, breweries, clothing stores.

b. Scale

The scale of the existing building is a good fit to the historic massing of the downtown.

c. Context of existing neighborhood

The subject property is within the downtown commercial district and the proposed use fits the context of neighboring uses.

d. Density

There are currently three tenants within Unit 1 of the Double Summit Condominium. If the CUP is approved by the City, there will still be three tenants within the condominium unit. The density matches existing use and this density is encouraged in the downtown.

e. Community Character

The City of Whitefish along the business community of the Downtown has spent much time and effort preserving and building the character of the downtown. This effort has created a remarkable place that is enjoyed by Whitefish residents and the visiting tourists. The building in question is part of the downtown fabric and the proposed use will blend nicely with the character of the community.

B. PROPERTY OWNER LIST

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

C. SITE PLAN

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

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

Applicant's Signature

1/22/15
Date

Lauren Oscilowski
Print Name

Revised 3-22-10

INSTRUCTIONS FOR CONDITIONAL USE PERMIT APPLICATION

1. A pre-application meeting with the planning director or member of the planning staff is required.

2. Submit the application fee (per current fee schedule), completed application and appropriate attachments to the Whitefish Planning & Building Department (address on the front of this form).

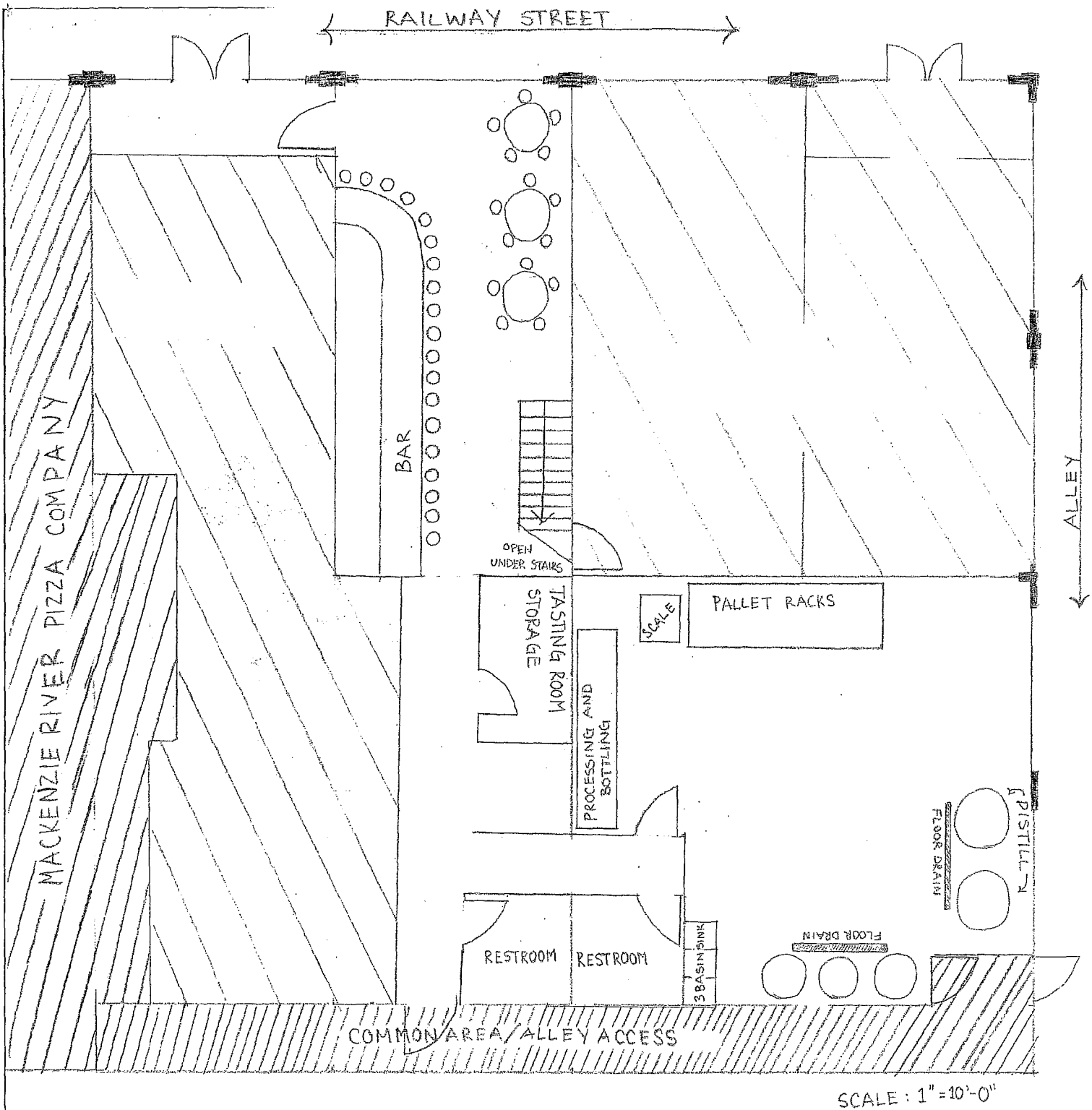
3. Attach a list of the names and mailing addresses of all property owners within 150 feet of the subject property as shown in the Flathead County Assessor's records. This list is obtained from the Flathead County GIS Department.

4. Application must be completed and submitted a minimum of **forty five (45) days prior** to the Planning Board meeting at which this application will be heard.

5. The regularly scheduled meeting of the Planning Board is the third Thursday of each month.

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

7. Once the application is complete and accepted by Whitefish Planning & Building Department, final approval usually takes 60 days, but never more than 90 days.



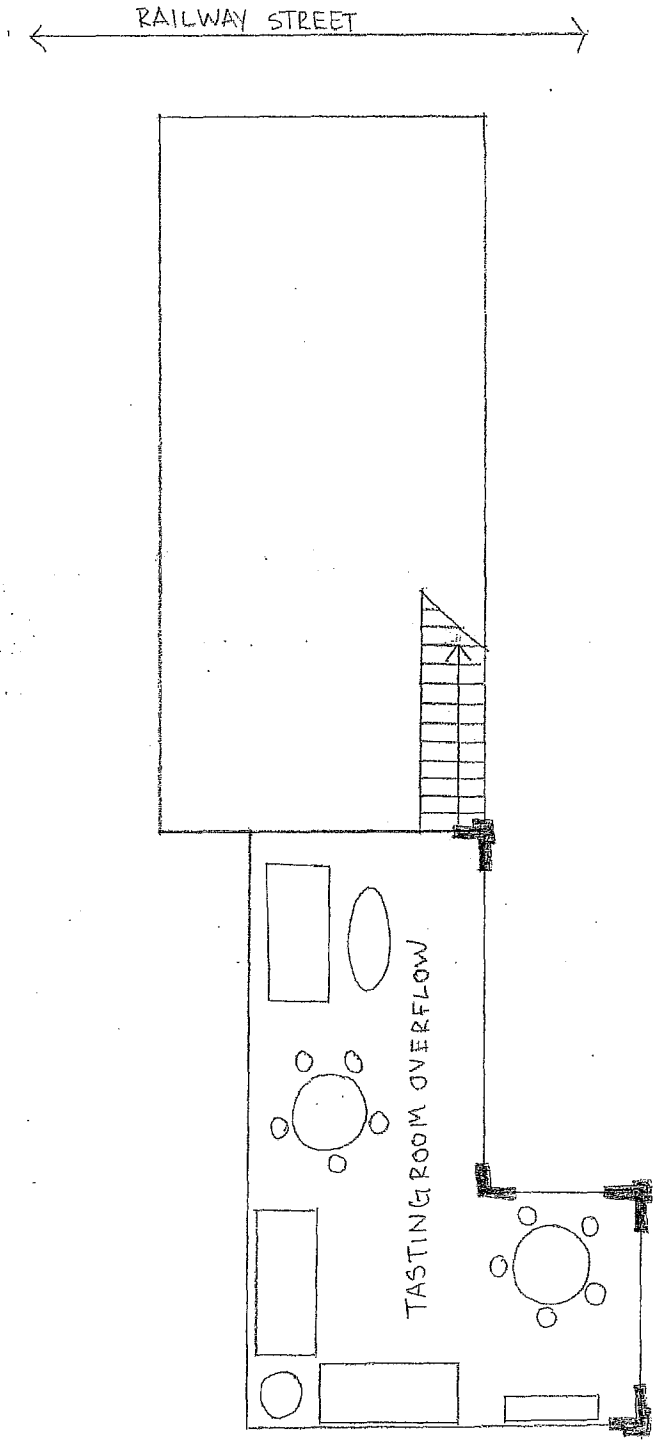
SCALE : 1" = 10'-0"

SPOTTED BEAR SPIRITS

PROPOSED FLOOR PLAN

PRODUCTION : 1192 ft^2

TASTING ROOM : 1000 ft^2

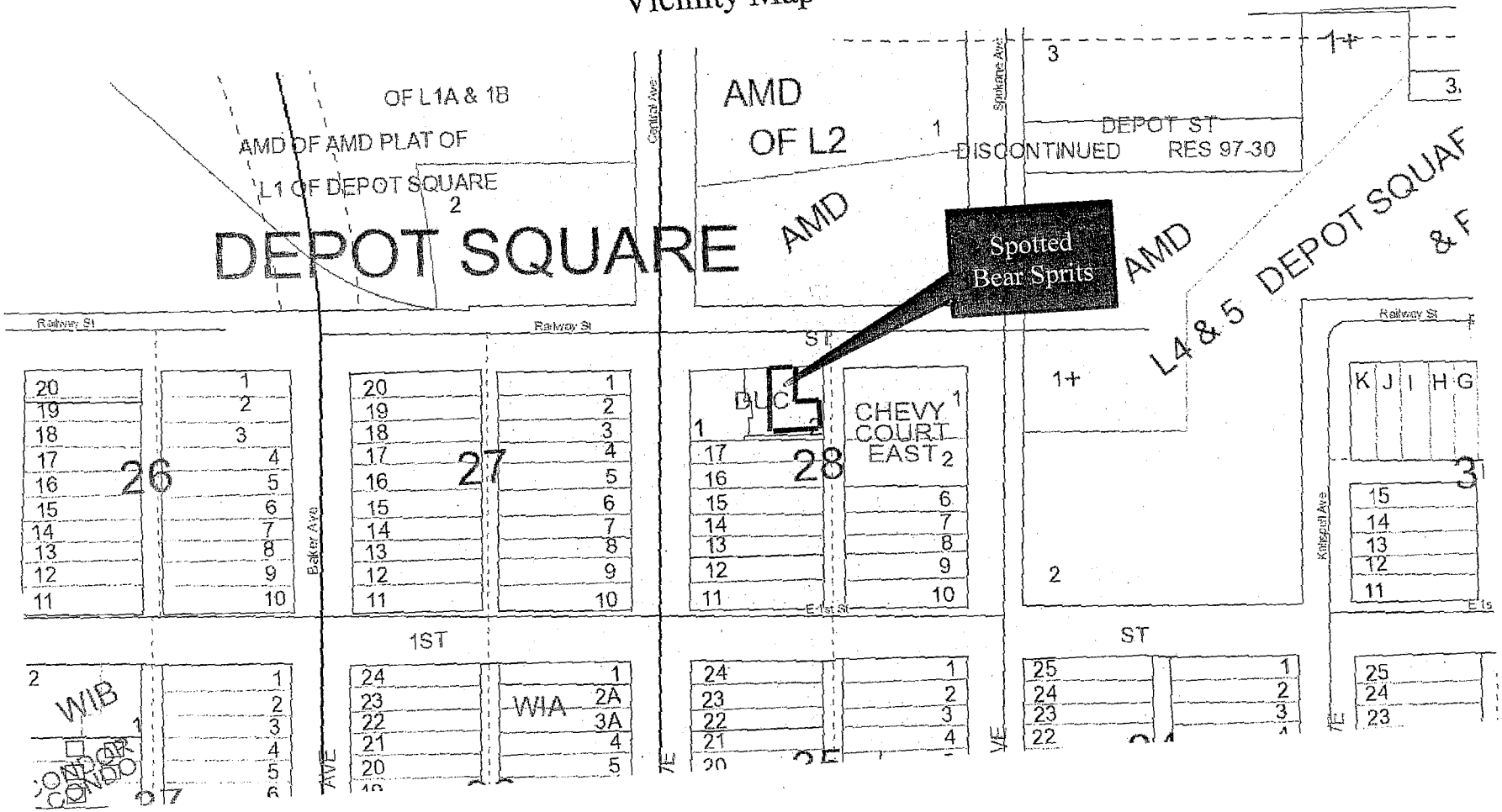


SPOTTED BEAR SPIRITS

PROPOSED FLOOR PLAN

LOFTED SECOND FLOOR : 409 ft²

Spotted Bear Spirits
Vicinity Map



February 11 2015

02-12-2015 P03:48

Whitefish Planning Board
504 Central Avenue
Whitefish, MT 59937

Dear Members of the Whitefish Planning Board,

I am writing you today in support of the Conditional Use Permit for Spotted Bear Spirits on 505 Railway. As a tenant of the building I believe the distillery will make a wonderful addition to our corner of town and bring additional foot traffic around the corner from Central Avenue. I believe their tasting room and production facility will make a great use of the existing space and bring fresh business to all the shops on Railway. I look forward to growing our businesses together.

Sincerely,

Becky Rygg, Harlow

February 11 2015

Whitefish Planning Board
504 Central Avenue
Whitefish, MT 59937

Dear Members of the Whitefish Planning Board,

I write this letter in support of the proposed Conditional Use Permit for Spotted Bear Spirits on 505 Railway. The distillery is a great addition to our network of downtown businesses and will help connect foot traffic between Spokane and Central Avenue. I look forward to building a working relationship with Spotted Bear Spirits.

Sincerely,

Pat Carloss, Tupelo

02-17-2015 A09:09

February 13, 15

Whitefish Planning Board
504 Central Avenue
Whitefish, MT 59937

Dear Members of the Whitefish Planning Board,

I am writing in support of the Conditional Use Permit for Spotted Bear Spirits at 505 Railway. The craft distillery will be a great addition to our downtown network of restaurants and retail establishments. Their location on north end of our downtown shopping district will bring new business to the current store fronts on Railway and Spokane helping to connect that corner of town to the flow of pedestrian traffic on Central Avenue.

I look forward to visiting their distillery and believe Spotted Bear Spirits will be a wonderful addition to our community.

Sincerely,

Trek Stephens, The Toggery

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

February 24, 2015

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

RE: Edgewood Townhomes, 722 Edgewood Place; (WCUP 15-03)

Honorable Mayor and Council:

Summary of Requested Action: Benjamin Davis of Timberland Real Estate llc is proposing to construct four two-unit residential condominiums at 722 Edgewood Place. The property is currently undeveloped and is zoned WR-4 (High Density Multi-Family Residential District). The Whitefish Growth Policy designates this property as "High Density Residential".

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with fourteen (14) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing on February 19, 2015 and no one else spoke. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on February 19, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with fourteen (14) conditions as contained in the staff report and adopted the staff report as findings of fact.

Proposed Motion:

- I move to approve WCUP 15-03 along with the Findings of Fact in the staff report and the amended fourteen conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on March 2, 2015. 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: Exhibit A: Recommended Conditions of Approval
Draft Minutes of 2-19-15 Planning Board Meeting

Exhibits from 2-19-15 Staff Packet:

1. Staff Report – WCUP 15-03, 2-12-15
2. Adjacent Landowner Notice, 1-30-15
3. Advisory Agency Notice, 1-30-15
4. Email, Neidig, 2-9-15

The following were submitted by the applicant:

5. Application for Conditional Use Permit, 1-7-15

c: w/att Necile Lorang, City Clerk

c: w/o att Benjamin Davis, Timberlane Real Estate llc 140 Burly Bear Trail Whitefish, MT 59937
Bruce Boody, Bruce Boody Landscape Architecture 301 E 2nd St, suite 1B Whitefish, MT 59937

Exhibit A
Edgewood Townhomes
WCUP 15-03
Whitefish Planning Board
Recommended Conditions of Approval
February 19, 2015

1. The project shall be constructed in compliance with the plan submitted on January 7, 2015, except as amended by these conditions. Any significant deviation from the plans shall require approval. (§11-7-8, WCC)

2. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The infrastructure improvements (water, sewer, road, stormwater management, on-site lighting, etc.) shall be designed and inspected by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, the internal road and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (Engineering Standards, Chapter 1)

3. Approval of the conditional use permit (CUP) is also subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed road and drainage plans, the applicant is advised that the number, density and/or location of buildings, as well as the location of the road shown on the CUP site plan may change depending upon constructability of the driveway, on-site stormwater retention, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (Engineering Standards, Chapter 5)

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

- Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way. (Engineering Standards, Appendix K)

5. Prior to the issuance of a building permit for each building, an all-weather drivable surface shall be installed. (IFC)

6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)

7. The shared driveway will also serve as the emergency access. It shall be paved to a minimum of 20-foot width, maintained cleared year round and no parking shall be permitted on the driveway. No parking signage shall be installed, according to the requirements of the Fire Marshal, indicating the road as a Fire Lane/No Parking. (IFC)

8. Identify refuse disposal areas on the plat. These locations shall be reviewed and approved by the Public Works Department and North Valley Refuse. (§4-2, WCC)

9. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Engineering Standards, Chapter 8)

10. Identify a snow storage area or other method for disposal of snow. (Engineering Standards, Chapter 5)

11. Architectural Review approval is required for all buildings. (§11-3-3, WCC)

12. The site plan shall be revised to show the WR-4 setbacks with Edgewood Place as the front, the east and west property lines as the sides and the north property line as the rear. (§11-2I-4, WCC)

13. Covenants shall be developed for the project and shall, at a minimum, include:

    - A maintenance plan for the stormwater facility
    - A maintenance plan for the private driveway – including plowing
    - A maintenance plan for the landscaping and open space areas

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

the concession area. The proposed changes also include a conference room and a waiting room for rehearsals. The Whitefish Theatre Company currently rents containers for custom storage, but will now have onsite storage, as well as storage for the seats that roll out. Another improvement will be the view of the building from the overpass will be greatly enhanced, and they are also talking about changing the color of the exterior of the building. Rebecca asked if the conference room can be rented by the community and Wayne said yes. He said the additional bathrooms in the conference room area will also make this a more pleasant arrangement as people will not have to use bathrooms in dressing area, which currently double as changing rooms.

BOARD DISCUSSION

None.

MOTION

Rebecca moved and John seconded to adopt the findings of fact within staff report WCUP 15-02, with the seven (7) Conditions of Approval attached.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on March 16, 2015.

PUBLIC HEARING 5: TIMBERLAND REAL ESTATE CONDITIONAL USE PERMIT REQUEST

A request by Ben Davis on behalf of Timberlane Real Estate for a Conditional Use Permit to develop four (4) two-unit condominium buildings. The property is located at 722 Edgewood Place and can be legally described as Lot 9, Block 11 in S25 T31N R22W.

STAFF REPORT WCUP 15-03 (Compton-Ring)

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

Staff recommended adoption of the findings of fact within staff report WCUP 15-03 and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF

Rebecca asked about water and stormwater concerns. Wendy said those will need to be addressed through an engineering plan. Melissa asked if these are rentals and Wendy said that would be a question for the applicant, but that 30-day minimum rentals, no nightly rentals, would be allowed in this zoning area. Frank asked whether this is before the Planning Board because of the proposal including four buildings with two units rather than one large building, or if there is also a density problem, and Wendy said density is not a problem, but the zoning requires a CUP for multiple buildings on one lot.

APPLICANT / AGENCIES

Ben Davis, 140 Burly Bear Trail, applicant and owner of the property, said they are fine with the 14 Conditions of

Approval contained in the staff report. He said the setbacks will be addressed and buildings will be moved a little bit to accommodate setbacks, with the front building moving approximately 10' and the back building approximately 5', to help alleviate some of the concerns. There are two units sizes, 1,600 and 1,100 square feet. The larger units will include a two-car garage and two parking spaces in front of the garage, and the smaller units will have a one-car garage with one space in front of the garage. He and Bruce Boody have looked for additional parking and think there might be room for one additional guest spot. They had anticipated room for two spots in the back but that area is needed for a fire turnaround, but they are still hoping to find additional room for parking. Rebecca asked who will be responsible for snow removal and Ben replied there will be a condo association to provide for snow removal and landscaping. She asked Ben if he is aware of the ground water situation and whether there will be basements, and Ben replied they know it is an issue and they are working with an engineering firm, and there will not be basements.

PUBLIC COMMENT None.

MOTION Frank moved and Melissa seconded to adopt the findings of fact within staff report WCUP 15-03, with the fourteen (14) Conditions of Approval as drafted by staff. The motion passed unanimously.

BOARD DISCUSSION Rebecca said she is concerned about the impact on adjacent neighbors but since the area is already zoned for this density level it is allowed. Jim called for the question.

VOTE All voted in favor except John who abstained from voting. The matter is scheduled to go before the Council on March 2, 2015.

NEW BUSINESS None.

GOOD AND WELFARE 1. Matters from Board. Frank asked that the electronic packet include page numbers and imbedded bookmarks and Bailey agreed to include those.

Ken M. asked that we discuss what Mayre brought up about meetings, and Dave said the Planning Board could have a "be done time". Ken S. said he suggested that last month and was shot down. Ken M. said it needs to be clear that anyone can make a motion at any time to adjourn the meeting. Melissa said there seems to be a lot on the Planning Board's agenda and only one has gone that late.

EDGEWOOD TOWNHOMES
CONDITIONAL USE PERMIT
WCUP 15-03
FEBRUARY 12, 2015

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request for a conditional use permit for a condominium development. This application has been scheduled before the Whitefish Planning Board for a public hearing on Thursday, **February 19, 2015**. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, **March 2, 2015**.

PROJECT SCOPE

Benjamin Davis, of Timberlane Real Estate llc, is requesting a conditional use permit to construct four two-unit condominium buildings. Access to the units will be from a private 20-foot wide driveway along the east side of the property. Each unit will have a single car garage with another parking space available in each driveway. Two guest parking spaces will be available at the north end of the driveway adjacent to Units 1A & 1B.

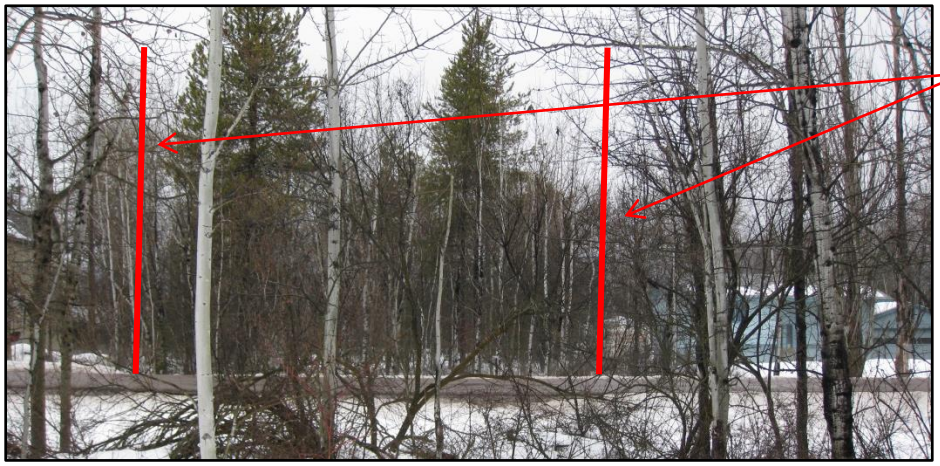
A.

OWNER/APPLICANT:
Benjamin Davis
Timberlane Real Estate llc
140 Burly Bear Trail
Whitefish, MT 59937

TECHNICAL PROFESSIONAL:
Bruce Boody
Bruce Boody Landscape Architecture
301 E 2nd St, suite 1B
Whitefish, MT 59937

B. SIZE AND LOCATION OF PROPERTY:

The project is located on one parcel that is 0.77 acres. It is addressed as 722 Edgewood Place and can be legally described as Lot 9, Block 11 of Whitefish Townsite Company 5 Acre Tracts, 1st Addition in S25 T31N R22W.



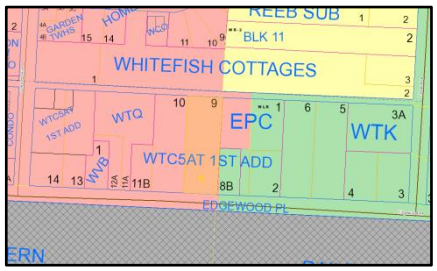
C. EXISTING LAND USE:

The subject property is currently undeveloped.

D. ADJACENT LAND USES AND ZONING:

North:	Vacant	WR-4
West:	Residential	WR-4
South:	BNSF	County Zoning
East:	Residential	WR-3/WLR

E. ZONING DISTRICT:



The property is zoned WR-4, High Density Multi-Family Residential District. The purpose of this district is intended for higher density residential purposes and for limited nonresidential uses that are compatible with such a residential setting connected to municipal utilities and services.

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Growth Policy designation for this area is 'High Density Residential' which corresponds to the WR-4. "Multi-family residential, mostly in the form of apartments, condominiums, and townhomes, are accounted for by this designation. Areas designated for High Density Residential development are mostly near the downtown and along major transportation routes. All multi-family structures are now subject to architectural review, and the City will be looking for a higher quality of site planning, architecture, and overall development high density projects have exhibited in the past. The applicable zones are WR-3 and WR-4, but WR-2 with a PUD option also allows for high densities."

G. UTILITIES:

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

H. **PUBLIC COMMENTS:**

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on January 30, 2015. A notice was emailed to advisory agencies on January 30, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on February 4, 2015. As of the writing of this report, one email was received citing concerns with the impact of this project in the neighborhood and expanding higher density to the east of established high density along Colorado Avenue.

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 High Density Residential because it is zoned WR-4 (High Density Multi-Family Residential District) and the proposed use is consistent with the WR-4 zone.

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

The property is zoned WR-4, High Density Multi-Family Residential District. The purpose of this district is intended for high density residential uses 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. The WR-4 zoning has the following setbacks: 25-foot front, 10-foot side and 15-foot rear. The current site plan is fronting on the driveway, but the setbacks will front onto Edgewood Place. Staff will recommend a condition of approval to revise the setbacks and it will be confirmed at building permit. The maximum lot coverage is 40% and the applicant is proposing 24%. The density standard is 6,000 square feet for the first dwelling unit + 1,000 square feet per each addition dwelling unit and the applicant is proposing 4,192 square feet per unit which meets the density requirements of the zone.

Finding 2: The project complies with the zoning regulations because all the zoning standards are being met or will be met with conditions of approval.

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

Adequate usable land area: The subject parcel is 0.77 acres in size. There is adequate space for the proposed structures to meet all required setbacks. The

maximum permitted lot coverage in this zoning district is 40% and the project is well under this standard.

Access that meets the standards set forth in these regulations, including emergency access: They are proposing one driveway into the development. The driveway will run along the east side of the property and serve all the condominiums. This driveway should provide adequate emergency access. Access to Edgewood Place will not be impeded by this project.

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 nor within 200-feet of a water body. The area is mapped as possibly having high groundwater. This will be confirmed at the time of engineering plan review.

Finding 3: The site is suitable for the proposed development because there is adequate land area for the development, access meets the standards, including emergency access, and there is an absence of environmental constraints.

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: Parking requirements for the residential units are two spaces per unit. The proposed site plan shows adequate parking for the residential uses. The site plan shows space for guest parking at the end of the shared

driveway next to Unit 1A & 1B – probably two spaces, but, otherwise, there is no guest parking. The zoning regulations do not require a duplex to provide any guest parking, but staff thinks we ought to encourage the applicant to find a location to provide some guest parking. The sides of the shared driveway cannot be used for parking, as it is emergency access and staff will recommend a condition that this area be signed 'no parking'. In addition, there is no on-parking on Edgewood Place.

Finally, the end of the driveway where the guest parking is shown cannot be used for overflow parking because it is the emergency access/turn-around. The Fire Department is permitting a 'T' turnaround at the end of the shared driveway within this development instead of a cul de sac so this area needs to be free of vehicles and snow. Staff will recommend this be a condition of approval.

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

Open space: The site plan has adequate open space.

Fencing/Screening: Fencing and screening are not required.

Landscaping: A conceptual landscaping plan has been submitted along with the application. The plan shows a variety of trees and shrubs. A final landscaping plan will be reviewed and approved at the time of building permit review.

Signage: Any proposed signage shall require compliance with the residential signage requirements.

Undergrounding of new and existing utilities: Any new utilities will be required to be installed underground.

Finding 4: The site plan for the proposed development has effectively dealt with design issues because adequate parking for the units is being provided, traffic circulation is unchanged, open space is preserved, landscaping is proposed and any new utilities will be placed underground.

5. Availability and Adequacy of Public Services and Facilities.

Sewer: Sewer is located in the alley along the north property line. Separate sewer service is required for each unit.

Water: Water is located in Edgewood Place along the south property line. Separate water service is required for each unit and space needs to be made available for eight meter pits near Edgewood Place.

Storm Water Drainage: Impervious area on the project will exceed 5,000 square feet; therefore, staff will recommend a condition of approval that an engineered stormwater plan be submitted to the Public Works Department for review and approval.

Snow storage needs to be located on-site or a plan for hauling needs to be implemented. Snow storage cannot be located in the same place as stormwater facilities. This will need to be coordinated with the review of engineering drawings.

Fire Protection: The Whitefish Fire Department serves the site. The proposed use is not expected to have significant impacts upon fire services. Unless all the infrastructure is installed prior to the issuance of building permits, as the project is phased, an all-weather drivable surface along with water service shall be installed and inspected prior to the issuance of each building permit. Staff will recommend this be a condition of approval

Police: The City of Whitefish Police Department serves the site. The proposed use is not expected to have significant impacts upon police services.

Streets: The subject project is accessed off Edgewood Place. No improvements to the street are being requested. East Edgewood Place from Wisconsin Avenue to the eastern city limits in on the list of street reconstruction projects with Resort Tax. It is currently listed as project #4.

Finding 5: Public services and facilities are available and adequate for the development because municipal water and sewer are adjacent to the development, response times for police and fire are not anticipated to be affected due to the proposed development and the property has adequate access to a city street.

6. Neighborhood/Community Impact:

Traffic Generation: The project should generate an average of 80 trips per day at full build-out. The existing roadways should be able to handle the additional traffic.

The property is adjacent to the City bike path between Edgewood Place and the BNSF rail yard and is well suited to take advantage of nonmotorized transporation.

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 typical residential use.

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

Hours of Operation: The use will have typical residential hours of operation.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact because no impacts related to noise, dust, smoke, odor or other environmental nuisances are not expected.

7. Neighborhood/Community Compatibility: The applicant has not submitted any conceptual building elevations with the Conditional Use Permit application, as they are working on the design. All duplex buildings are required to obtain Architectural Review approval prior to submitting a building permit. These standards include specific standards for multi-family development: visual variety standard (§6.6.2., Arch Review Standards) and no garage-forward structures (§6.6.3., Arch Review Standards).

Visual Variety. Development containing more than one multi-family structure are required to assure there is visual variety in exterior appearance from other structures in the same development. The standards go onto describe various options to achieve this standard.

No Garage-Forward Design. The use of garage-forward units is not permitted. The site plan is showing the garages either in line or behind the main foundation line of the main structure. This standard is being met and will be confirmed at the time of Architectural Review and building permit.

Structural Bulk and Massing: *Mass* means a building's bulk, size and magnitude – the overall volume. The Architectural Review Committee (ARC) will look at issues of mass. The zoning permits structures up to 35-feet tall.

Scale: *Scale* means the spatial relationship with neighboring buildings. There are setbacks and lot coverage requirements in the WR-4 to mitigate issues of scale. The ARC will look at issues of scale.

Context of Existing Neighborhood: While the neighborhood is zoned for high density multi-family, the immediate neighborhood mostly consists of single family homes. There is more multi-family development to the west along Colorado Avenue. The proposed use will bring about change to the neighborhood. The proposed use is consistent with the zoning, uses allowed and those located within the neighborhood.

Density: The density of the project comes in at ten dwelling units per acre. The zoning requires 6,000 square feet for the first dwelling unit plus 1,000 square feet for each dwelling unit thereafter. The project is meeting the density requirements.

Community Character: The proposed buildings will be required to obtain Architectural Review prior to their construction. One of the criteria for review is to insure neighborhood compatibility. This project is consistent with the zoning.

Finding 7: The project is compatible with the neighborhood and community because it meets all the zoning requirements and will be reviewed according to the Architectural Review Standards.

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 15-03 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 plan submitted on January 7, 2015, except as amended by these conditions. Any significant deviation from the plans shall require approval. (§11-7-8, WCC)

2. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The infrastructure improvements (water, sewer, road, stormwater management, on-site lighting, etc.) shall be designed and inspected by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, the internal road and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (Engineering Standards, Chapter 1)

3. Approval of the conditional use permit (CUP) is also subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed road and drainage plans, the applicant is advised that the number, density and/or location of buildings, as well as the location of the road shown on the CUP site plan may change depending upon constructability of the driveway, on-site stormwater retention, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (Engineering Standards, Chapter 5)

4. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning & Building Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.

- Control of erosion and siltation.
- Routing for heavy equipment, hauling, and employees.
- Construction office siting, staging areas for material and vehicles, and employee parking.
- Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way. (Engineering Standards, Appendix K)

5. Prior to the issuance of a building permit for each building, an all-weather drivable surface shall be installed. (IFC)

6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)

7. The shared driveway will also serve as the emergency access. It shall be paved to a minimum of 20-foot width, maintained cleared year round and no parking shall be permitted on the driveway. No parking signage shall be installed, according to the requirements of the Fire Marshal, indicating the road as a Fire Lane/No Parking. (IFC)

8. Identify refuse disposal areas on the plat. These locations shall be reviewed and approved by the Public Works Department and North Valley Refuse. (§4-2, WCC)

9. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Engineering Standards, Chapter 8)

10. Identify a snow storage area or other method for disposal of snow. (Engineering Standards, Chapter 5)

11. Architectural Review approval is required for all buildings. (§11-3-3, WCC)

12. The site plan shall be revised to show the WR-4 setbacks with Edgewood Place as the front, the east and west property lines as the sides and the north property line as the rear. (§11-2I-4, WCC)

13. Covenants shall be developed for the project and shall, at a minimum, include:

    - A maintenance plan for the stormwater facility
    - A maintenance plan for the private driveway – including plowing
    - A maintenance plan for the landscaping and open space areas

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

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 Ben Davis on behalf of Timberlane Real Estate llc is requesting a Conditional Use Permit in order to construct four (4) two-unit condominium buildings. The property is undeveloped and is zoned WR-4 (High Density Multi-Family Residential District). The property is located at 722 Edgewood Place and can be legally described as Lot 9, Block 11 of Whitefish Townsite Company 5 Acre Tracts, 1st Addition in S25 T31N R22W.

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, February 19, 2015
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, March 2, 2015 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, February 9, 2015, 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: January 30, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, February 19, 2015 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 items 1-3 on Monday, March 2, 2015 and items 4-5 on Monday, March 16, 2015. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Ben Davis on behalf of Timberlane Real Estate for a Conditional Use Permit to develop four (4) two-unit condominium buildings. The property is located at 722 Edgewood Place and can be legally described as Lot 9, Block 11 in S25 T31N R22W. WCUP 15-03 (Compton-Ring)

2. A request by Lauren Osciloski on behalf of Spotted Bear Spirits for a Conditional Use Permit to start a handcrafted microdistillery. The property is located at 505 Railway Street and can be legally described as Unit 1 of Double Summit Condo in S36 T31N R22W. WCUP 15-04 (Compton-Ring)

3. A request by the City of Whitefish for an amendment to Section 11-2S, WPUD, Planned Unit Development District, to clarify the blending of uses and density where a PUD overlays multiple underlying zones. WZTA 15-01 (Taylor)

4. A request by CJ Fullhouse LLC for a Conditional Use Permit to construct a guesthouse on a residential property. The property is located at 1199 W. 7th Street and can be legally described as Tract 3GA in S35 T31N R22W. WCUP 15-01 (Minnich)

5. A request by the Whitefish Theatre Company on behalf of the City of Whitefish for a Conditional Use Permit to construct an addition onto the O'Shaughnessy Center. The property is located at 1 Central Avenue and can be legally described as Lot 2 of Depot Square Amd L1A & 1B of Amd L1 Subdivision, S36 T31N R22W. WCUP 15-02 (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: MN <mn1971@hotmail.com>
Sent: Monday, February 09, 2015 4:46 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Comments - 722 Edgewood Place Development

I am writing in regards to the proposed development at 722 Edgewood Place (Lot 9, Block 1, Whitefish Townsite Company 5 Acre Tracts). My efforts to provide a comprehensive collection of comments and concerns are hindered by the limited details available on this project (e.g., one-story or two-story units, number of bedrooms, etc.). I contacted the planning board but they were unable to provide additional information. Nonetheless, please see my comments below.

- It does not appear that the setbacks included on the plans align with current regulations.
- I have a number of concerns with respect to the potential impacts on the neighborhood and neighboring properties.
  - With the first condominium unit being built so closely to Edgewood Place, the structures will be in the direct sight line of many neighboring properties and will develop an area of the lot incongruent with other properties. Subsequently, the character of the area will be effected. If the condominiums are comprised of two-story units spanning the entire length of the lot, privacy of the surrounding properties (e.g., houses, backyards) will be compromised. To reduce these impacts, I request that consideration be given to providing ample buffers with landscaped screening along the property lines to reduce visual impacts and ensure privacy to surrounding properties. Due to the shortened growing season, there may be value in planting evergreen landscape buffers to provide year-round coverage for surrounding properties.
  - Although zoned accordingly, development of this nature in the immediate area has been limited to the Colorado Avenue block. This proposed condominium development will expand this type of architectural "character" to a new area of Edgewood Place which will be in contrast to the existing properties. A look at the houses dwarfed by the condos located along Colorado Avenue and Edgewood Place provides a window into the potential impacts this type of development can have on neighboring properties and character. I am not sure what steps can be taken to minimize the impacts realized by a similar development just up the road but I hope alternatives to mitigate these issues are considered.
  - Although there are some unknowns with respect to specific condominium capacity (e.g., bedrooms), there are concerns related to increased congestion from the addition of an eight-unit high density complex located along an already busy section of road.

Thank you for the opportunity to provide feedback on the proposed development.

Marc

EXHIBIT

4

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

File #: _____
Date: _____
Intake Staff: _____
Date Complete: _____

CONDITIONAL USE PERMIT

**FEE ATTACHED $** 2,500$
(See current fee schedule)

INSTRUCTIONS:

- ☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: 12/4/14
- ☐ 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: Edgewood Townhomes

Project Address: 722 Edgewood Place

Assessor's Tract No.(s) 0347375 Lot No(s) 9
Block # 11 Subdivision Name WFSH TSTE CO 5 AC TR ADD 1
Section 25 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 1/7/15

Timberlane Real Estate, LLC / Benjamin Davis
Print Name

Applicant's Signature — Date 1/7/15

Benjamin Davis
Print Name

Representative's Signature — Date 1/7/15

Benjamin Davis
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

Revised 12-31-13

EXHIBIT 5

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: Timberlane Real Estate, LLC / Benjamin Davis Phone: 352-222-9530

Mailing Address: 140 Burly Bear Trail

City, State, Zip: Whitefish, MT 59937

Email: bpdavis2@gmail.com

APPLICANT (if different than above):

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

TECHNICAL/PROFESSIONAL:

Name: Bruce Boody Landscape Architect, Inc. Phone: (406) 862-4755

Mailing Address: 301 2nd Street, Suite 1B

City, State, Zip: Whitefish, MT 59937

Email: boodyla@bruceboody.com

C. DESCRIBE PROPOSED USE:

Four two-unit condominium buildings

ZONING DISTRICT: WR-4

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 project provides for 8 residential dwellings in the designated "high density residential" land use area. All services (city water & sewer, electric, gas) are provided in the immediate vicinity, and Edgewood Place provides suitable traffic access. Residences are located in very close proximity to downtown.

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

   This project provides for 8 units on 0.77 acres, well below the of units permitted under the applicable high-density residential zoning (27). To increase the community feel and general aesthetics, the 8 units have been separated into four two-unit condominium buildings as opposed to a single building. All city regulations will be satisfied.

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 close proximity to downtown is ideally suited for a development of this density. Edgewood place is a collector road adjacent to there development and a 20' drive on the property is provided for emergency vehicles. There are no known environmentally sensitive areas on this 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) Each unit has either a one or two car garage, with additional parking provided in front of each garage. Minimum standards of 2 spaces per unit are met or exceeded in all cases.
b) A paved 20' drive is provided through the length of the development, which is adequate for two way traffic
c) Ample open/landscaped space is provided on all sides of each building
d) A 5' landscaping buffer is provided for on the front side of the units (where traffic goes through)
e) Ample open/landscaped space is provided on all sides of each building. Every attempt will be made to preserve existing trees not directly located on a building site.
f) N/A
g&h) All utilities to be undergrounded (gas & water supply in front, sewer & electric in rear)

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 & b) All utilities are available and adequate.
c) An engineered stormwater management plan is to be provided before project start.
d & e) Access for police & fire is provided. A new fire hydrant will be placed in the front of the development as shown on the site plan.
f) a 20' drive will be paved down the side of the lot. It will be able to be tied in to the rear alley in the event the alley gets paved in future development.
g) Numerous parks exist within 1 mile of the proposed development
h & i) A bike/pedestrian way exists on the opposite side of Edgewood from this development, providing easy access for residents

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

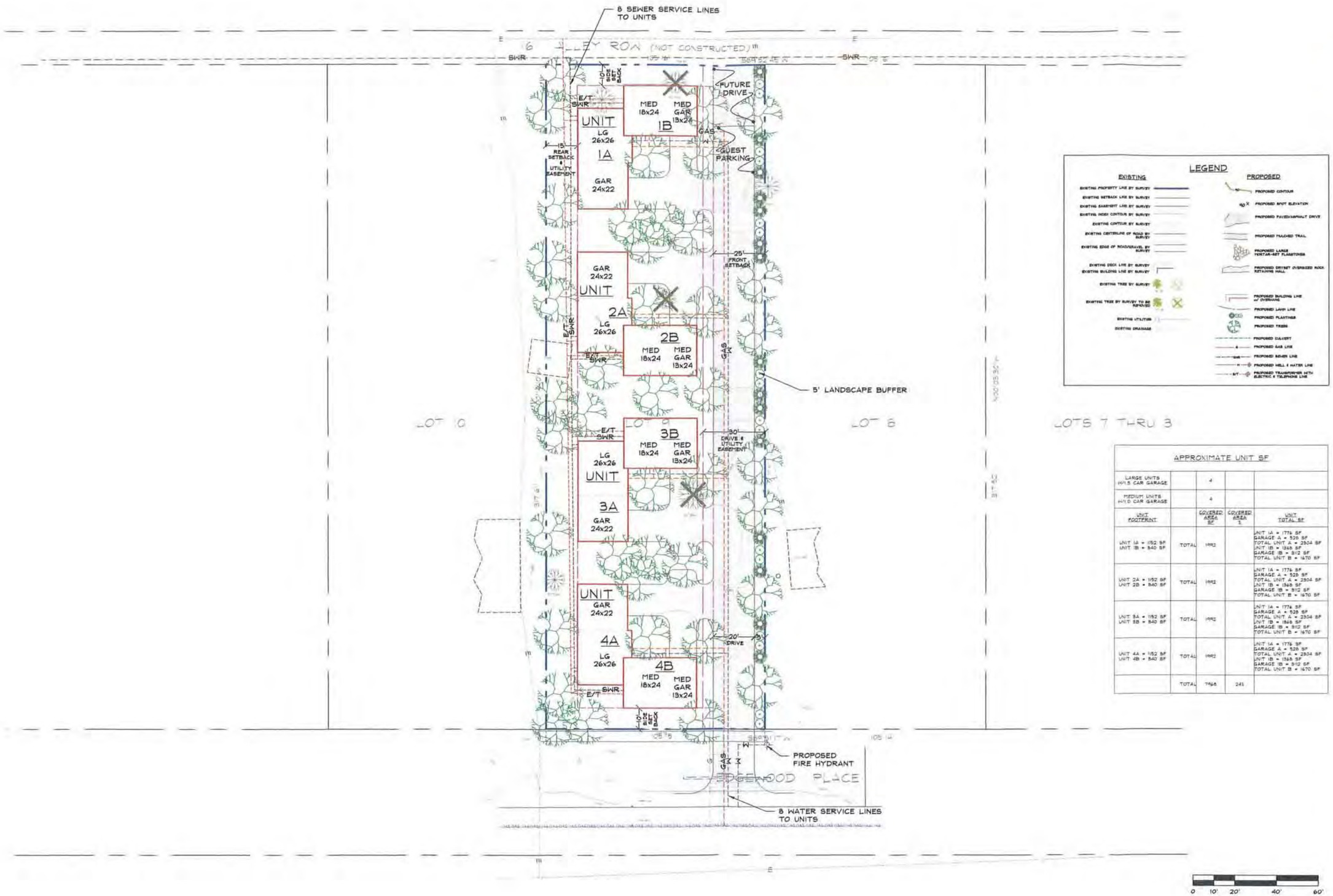
With residential development of this size, no adverse traffic or other impacts are anticipated.

7. What are the proposed hours of operation?

N/A - ordinary residential

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 8 units are split into four buildings to reduce overall mass and avoid the "apartment complex" feel. The duplex/townhome look is distinctly residential, and care was taken to include ample open/landscaped space to make the community desirable to residents and neighbors. Numerous duplex/multifamily structures have been built on Edgewood Place and in the area behind on Waverly Place. This lot is one of the closest lots there is to the city core, and it was assigned the highest density classification to reflect that.



APPROXIMATE UNIT SF

LARGE UNITS W/1.5 CAR GARAGE		4		
MEDIUM UNITS W/1.0 CAR GARAGE		4		
UNIT FOOTPRINT		COVERED AREA SF	COVERED AREA %	UNIT TOTAL SF
UNIT 1A = 1152 SF UNIT 1B = 840 SF	TOTAL	1992		UNIT 1A = 1776 SF GARAGE A = 528 SF TOTAL UNIT A = 2304 SF UNIT 1B = 1848 SF GARAGE 1B = 312 SF TOTAL UNIT B = 1670 SF
UNIT 2A = 1152 SF UNIT 2B = 840 SF	TOTAL	1992		UNIT 1A = 1776 SF GARAGE A = 528 SF TOTAL UNIT A = 2304 SF UNIT 1B = 1848 SF GARAGE 1B = 312 SF TOTAL UNIT B = 1670 SF
UNIT 3A = 1152 SF UNIT 3B = 840 SF	TOTAL	1992		UNIT 1A = 1776 SF GARAGE A = 528 SF TOTAL UNIT A = 2304 SF UNIT 1B = 1848 SF GARAGE 1B = 312 SF TOTAL UNIT B = 1670 SF
UNIT 4A = 1152 SF UNIT 4B = 840 SF	TOTAL	1992		UNIT 1A = 1776 SF GARAGE A = 528 SF TOTAL UNIT A = 2304 SF UNIT 1B = 1848 SF GARAGE 1B = 312 SF TOTAL UNIT B = 1670 SF
	TOTAL	7968	24%	

BRUCE BOODY Landscape Architect Inc.
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59937
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fax 406 863-9739
boody@montanaboody.com

SURVEY BY:
JACKOLA ENGINEERING
JIM BURTON
1830 3RD AVE. E.
KALISPELL, MT.
(406) 755-3218

Revisions:
10-02-14 Corrected Subiots

722 Edgewood
Block 11, Lots 8 & 9 First Addition to Whitefish Townsite Company's Five Acre Tracts
722 Edgewood Place, Whitefish, MT
Sec 25, T31N, R22W

NORTH

SCALE: 1"= 20'

DATE: 12-19-14

JOB #: 14-19

REV DRAFT 2
CONCEPTUAL SITE PLAN
WR-4 DUPLEX CONDOMINIUM UNITS

SHEET 1 of 1

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P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

February 24, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Summary of February 11, 2015 City Hall Committee Meeting - Review of Schematic Design Revisions

Introduction/History
At the January 20th, 2015 City Council meeting Mosaic Architecture presented revised plans based on Council direction from the January 5th, 2015 Council Work Session. Mosaic presented the revisions to Council for their review and direction. City Council requested Mosaic to return with revised schematic drawings as follows:

1. Provide optional schematic design showing the building to lot line with a prominent entry, singular prominent entry, on a chamfered corner.
2. Provide optional schematic design integrating a diagonal entrance with the straight western wall/hallway, diagonal counters matching the diagonal entrance, front counters extended out into the lobby, and build out of second floor in the southwest corner over the entry-vestibule (possibly create a conference room).
3. Provide optional schematic design without the third floor and a siren tower within the height restrictions.
4. Stair Location (curved staircase or wrapped staircase around elevator).

The newest revised schematic drawings with the four topics listed above were presented to the City Hall Committee for their review and comment at their February 11, 2015 meeting. These revised schematic drawings were also provided to Crandall Arambula for review and comment.

Current Report
During the February 11th City Hall Committee meeting members were asked to provide their opinions/recommendation for the entry (90 degree diagonal dual entry or 45 degree chamfered corner with one entry), lobby counters curved or straight, stairway location and what type of features on the outside of building (contemporary or historical). I have included in this packet the draft minutes from the meeting, Crandall Arambula's critique and additional revised drawings received February 19, 2015 from Mosaic Architecture with small revisions based on comments from the City Hall Committee (rectangular lobby windows at south façade, elimination of stone panels at chamfered entry).

I have consolidated and summarized the comments into a table for quick view and consideration. There were twelve of fifteen Committee members present for the meeting which are listed and delineated in the top portion of the table. Two members of the public are listed at the bottom of the table with their comments reflected.

Committee Member	90 Degree Diagonal Corner (two door entry)	45 Degree Chamfered Corner (single entry)	Lobby Counter Curved	Lobby Counter Straight	Curved Staircase	Wrapped Staircase	Historical Features	Some Contemporary Features
John Anderson		X		X		X	X	
Toby Scott	X		X		X		X	
Ross Anderson	X		X		X		X	X
Rhonda Fitzgerald		X		X		X	X	
Necile Lorang	X			X	X		X	
Ian Collins	X					X	X	
George Gardner	X				X		X	X
Wendy Compton-Ring	X			X			X	X
Richard Hildner	X		X		X		X	X
John Muhlfeld	X		X			X	X	X
Chuck Stearns		X	X		X		X	
Sherri Baccaro	X		X		X		X	X
Public – MaryJo Look	X				X		X	
Public – Vanice Woodbeck		X	X		X		X	

Summary:

- Nine Committee Members preferred the 90 degree/two door entry and three Committee Members preferred the 45 degree chamfered/single entry.
- Six Committee Members preferred the curved lobby counter and four Committee Members preferred the straight lobby counter.
- Seven Committee Members preferred the curved staircase and four Committee Members preferred the wrapped staircase.
- All twelve Committee Members present prefer the outside of the building to have historical features with six Committee Members of the twelve would like to see some contemporary features included.

The City Hall Committee respectfully requests the City council to consider the information provided and proceed with decisions and direction to Mosaic on the four above listed design issues.

Sincerely,

Sherri L. Baccaro

Sherri L. Baccaro
Chair, Future City Hall Committee

WHITEFISH FUTURE CITY HALL STEERING COMMITTEE
WEDNESDAY, FEBRUARY 11, 2015
CITY COUNCIL CHAMBERS

CALL TO ORDER
Sherri Baccaro called the meeting to order at 3:00 p.m. Members present were Toby Scott, Richard Hildner, Wendy Compton-Ring, George Gardner, Ross Anderson, Chuck Stearns, John Muhlfeld, Rhonda Fitzgerald, Ian Collins, John Anderson, Necile Lorang and Vanice Woodbeck. Ben Tintinger from Mosaic Architecture.

In the audience were Steve Conway, Tony Martel, Ryan Dunn, Mike Cronquist and Mary Jo Look.

City Manager Chuck Stearns introduced the GCCM team from Martel Construction (Tony Martel, Ryan Dunn and Steve Conway) and the City Owners Representative, Mike Cronquist.

APPROVAL OF MINUTES FROM LAST MEETING (December 9, 2014)
John Muhlfeld made a motion, seconded by Richard Hildner, to approve the December 8, 2014 minutes. The motion passed unanimously.

REVIEW AND DISCUSS ALTERNATE DESIGN
Presentation by Mosaic-Alternate Design (emailed to all Committee Members): Ben from Mosaic went through the changes of the double entry showing that the entry is more visible. He also refined the 45 degree entry and with both designs showing the building with or without the 3rd floor. They also changed the angle of the front desk showing a straight angle versus a curved angle. They added a meeting room on the 2nd floor and gave the administration office more room. Ben said these changes were based on comments from the council.

The double entry will have 2 arched windows with larger windows in the lobby area and smaller windows for the office areas.

Ian thought maybe the entry off of Baker Avenue could not be recessed as much so when people came into City Hall it would be a straight line into the building. Richard feels the curved counter has a softer feel. Steve Conway from Martel said there would no cost difference between curved or straight counters.

Sherri asked the council members present what they would like the Committee to provide to them; recommendation, analysis of opinions? John Muhlfeld said the Council would like a recommendation on the entry, lobby counters curved or straight, stairway location and what kind of contemporary or historical features of the outside of the building. John Anderson said the Council would like to know how everyone feels about the points John Muhlfeld mentioned, not necessarily a recommendation.

Sherri stated she will go around the room and ask everyone to state their opinions on the four criteria the Council is interested in on the new City Hall (entry, lobby counters curved or straight, stairway location and contemporary or historical features of the outside of building) and will consolidate and provide the information to Council for their March 2nd meeting.

John Anderson likes the 45 degree chamfer entry, straight counter, wrap around stairway and least contemporary design.

Toby Scott prefers the 2 door entry, curved counters, curved stairway as he feels the wrapped stairway is not inviting and you have to keep going around corners, keep it historical on outside as the contemporary factor would be the open stairway.

Ross Anderson like the 2 door entry, curved counters is more inviting, curved stairway as it feels more inviting and it would give more relief in the building, have some respect for the design from Mosaic with some of the contemporary.

Rhonda Fitzgerald likes the 45 degree chamfer but would like the details on the double doors put into the chamfer, straight counters as it would be more inviting coming in from the parking structure, wrapped stairway as it is more inviting and have a skylight over the stairway, not contemporary.

Necile Lorang likes the 2 doors, the straight counter, the curved stairway as the wrapped takes away from the office space, not contemporary more traditional.

Ian Collins likes the 2 door entry as this has more meaning to entry but has no issues with the chamfer, wrapped around stairway with lighted well as it would give a very generous lobby and would like a timeless feel on the exterior.

George Gardner like the 2 door entry as the chamfer looks like a bus terminal, curved stairway, and the outside historical with a little contemporary would not hurt.

Wendy Compton-Ring like the 2 door entry, no option on the stairway, straight counter and some contemporary features on the outside if done right.

Richard Hildner like the 2 door entry gives more tradition and has some contemporary features and defines the area, the curved counter, the curved stairway, historical with a mix of new, the inside should meet the needs of the citizens of our city.

John Muhlfeld wanted to thank Ben for being very responsive to the council comments. John likes both the entries the 2 doors is more prominent and they could add additional detail to the chamfer, feels the curved counter will keep people moving, wrapped stairway, some contemporary.

Chuck Stearns likes the chamfer entry but would be ok with the 2 doors, curved counter as it is more inviting, feels very strongly with a curved stairway as it would be more active and wrapped would not be inviting, more traditional on outside.

Sherri Baccaro likes the 2 door entry, curved counter, curved stairway and likes mixed historical and contemporary design.

Steve Conway said the wrapped stairway would be more expensive then the curved stairway, there would be more cost on the 2 door entry because of the two doors.

Crandall Arambula Critique Comments: Attached

DRAFT

COMMUNICTIONS FROM THE PUBLIC
Mary Jo Look likes the 90 degree entry with the two doors, likes the nice brick building, it needs to be designed for the people who work for the City, does not like to see the elevator as the first thing when walking into the building and we need a nice sturdy staircase.

Vanice Woodbeck prefers the chamfer but would ok with the 2 door entry, the curved counter as it is more inviting, likes the curved stairway as it does break up the lobby space. She said everybody wants to keep the building historical and she has never seen a wrapped around stairway in any place in town so that is not historical.

The designs Ben showed the committee will be going to the council on March 2, 2015. Ben said after the March 2nd meeting and if decisions are made he can then move on to more refined details of a schematic design. They could start getting some material boards together. Maybe if they stay on track they could start with demolishing the existing building this fall.

Rhonda Fitzgerald's additional comments are attached to the end of the minutes.

SET DATE AND TIME FOR NEXT MEETING: Did not set up a meeting at this time.

ADJOURNMENT
Meeting adjourned at 5:03 p.m.

DRAFT

Rhonda F. comments

Comments on City Hall drawings from 1/28/15 and 2/6/15- Rhonda Fitzgerald

- INTERIOR first floor (1/28) is a huge improvement. Straightened-out west wall and wrap stair provide a pleasing public space plus allow increased space for offices . Extended ceiling across top of vestibule will improve sound management and eliminate "dust collector". Partition at southwest side of vestibule is unnecessary. Northwest entrance doors could move to the west so that storage closet door is not the first thing a visitor sees when entering. Align north entranced with west hallway and widen hallway a bit. This could be achieved by reducing depth of exterior recess off Baker sidewalk.
- Northwest entrance to City Hall must have an elevator serving the Parking Garage and City Hall.
- Interior second floor is also a huge improvement. Added space from extending floor across vestibule is great. I would like to see the resulting meeting room enlarged to accommodate larger meetings.
- Clerestory above Council chambers should be eliminated. Building should be engineered for "future" third floor. Stairway should have a large skylight above it to bring in natural light and accentuate "inviting" wraparound stair.
- I prefer a half basement for storage. / NO THIRD FLOOR
- Can the line-of-sight be improved from the Council Workshop room, for occassions when that room is opened up to expand the Council Chambers?
- Where will the A/V screen and other demonstration "stations" be placed in the Council Chambers?

- EXTERIOR -45 degree angled entrance (1/28) provides a better floorplan and a prominent entrance.
- Contrasting brick, awning braces, banner signage, and other embellishments should be eliminated.
- Cornice brickwork should be expanded, with a stone or brick top edge. Metal horizontal top edging should be eliminated.
- Rectangular second floor lobby windows from 2/6 drawings should be adopted for this design.
- Recess in south facade (2/6) could be adopted into this design.
- Exterior brick west wall along Baker should be same dimension as exterior brick south wall along 2nd St.
- Undersides of canopy appear to be wooden. They should be another material, and entrance canopy could be glass or other material to give an enhanced prominence.

February 8, 2015

Sherri,

Thank you for sending the Schematic Design revisions. The City Council directive informed our review. Our recommendations relate to the City Hall façade and not the parking structure façade. When City Hall façade decisions are finalized, it will be appropriate to review the parking structure façade for compatibility.

In summary, with a few minor refinements the January 28 schematic will provide a design that is consistent with the community's stated values.

COUNCIL DIRECTIVE

*1) **Signature Entry** - Provide a design with a single signature entry at the Southwest corner. The entry should be the obvious front door, which can be identifiable from a distance. It should be chamfered and have a single arch, which will echo the original City Hall. The signage should be above the entry, like the original City Hall.*

*2) **Lobby** - Council chooses the wraparound stair. Design the lobby with wrap-around stair, diagonal entry, straighten-out curved wall at west lobby repeating diagonal from corner to stair. Extend 2nd floor across over entry vestibule to create more usable space (public meeting room), and to reduce size of double-floor space.*

*3) **Third Floor** - Provide elevations of building without third floor and siren tower.*

*4) **Building Character** - Building should reference Original City Hall in design features: The cornice should be brick and similar to Original City Hall. Smaller 2nd floor windows, and smaller parking structure openings. Eliminate contrast colors of masonry. Eliminate wood beams and wood posts . Canopy should be suspended, no wood columns.*

SCHEMATIC DESIGN REVISIONS - JANUARY 28, 2015

Signature Entry – The chamfered entry is consistent with the Council directive. It is a big improvement. The arched entry would have more prominence if the two arched windows on 2nd were eliminated (The rectilinear window forms used in the February 4, schematic would be appropriate).

The fussy entry embellishments are not needed (light stone, canopy brackets and round signs on the canopy brackets).

The proposed recessed chamfer (2 feet plus or minus) is not a problem. The solid masonry walls framing the chamfered entry along 2nd and on Baker should be the same length. Along 2nd the wall is approximately 6 feet in length and along Baker approximately 2 feet. The Baker wall should be 6 feet also.

CRANDALL ARAMBULA

The enclosed space on the south side of the vestibule is not needed. It should be eliminated.

Lobby – The wrap around stair and the uncluttered lobby space are a big improvement. The curved west wall is a hangover from the circular lobby stair scheme. The revised plan that eliminates the curved west wall should be used.

Third Floor – The raised roof and clerestory windows over the council chamber will be a problem when sun shading is required or the room needs to be darkened for a slide presentation. Even if the third floor is eliminated, the clerestory windows on the roof will be a problem.

Building Character – The projecting horizontal metal roof eyebrows on top of the cornice are curious and inappropriate. The cornice over the entry area and other raised corner masonry forms should be a more robust version of the typical masonry building cornice.

SCHEMATIC DESIGN REVISIONS – FEBRUARY 4, 2015

Signature Entry –There are two entry locations in the February 4, schematic. Important civic buildings typically have one distinguishing entry. The entry expression cannot be classified as distinguished or signature.

There is nothing special about the proposed entry. The building form with its raised cornice is repeated on the northwest and northeast corners of the parking structure.

The corner is not in harmony with the chamfered design vocabulary already established on two other Baker and 2nd corners.

Lobby – No drawings were provided.

Third Floor – The raised roof and clerestory windows over the council chamber will be a problem when sun shading is required or the room needs to be darkened for a slide presentation. Even if the third floor is eliminated, the clerestory windows on the roof will be a problem.

Building Character - The projecting horizontal metal roof eyebrows on top of the cornice are curious and inappropriate. The cornice over the entry area and other raised corner masonry forms should be a more robust version of the typical building cornice.

OTHER ISSUES

Parking Structure Elevators - The parking structure is a retail parking structure and it must be shopper friendly. If shoppers park on the third floor and want to shop south of 2nd or they have been shopping south of 2nd, they will have to walk up or down three floors to get to the ground or back up to their cars. The lack of an elevator is shopper hostile.

CRANDALL ARAMBULA

Building Interior – Some thought should be given to an interior design theme as it may provide direction on color and material selection. For example it could be "nature" or something unique to Whitefish.

RECOMMENDATIONS

Signature Entry – Use the chamfered January 28 entry with suggested modifications (Eliminate fussy details around the entry and provide rectilinear windows on south façade along 2nd in lieu of arched windows). Lengthen the wall next to the entry along Baker to match the wall next to the entry along 2nd.

Lobby – Use wrap around stair and eliminate the curved west wall.

Roof – Obtain information on ability to block out sun through the clerestory and darken the Council Chambers for presentations. Eliminate clerestory if a solution is not apparent.

Building Character – Eliminate horizontal eyebrows on the top of all cornices.

Retail Parking Structure – Provide a second elevator on the southwest corner of the parking structure.

CRANDALL ARAMBULA

WHITEFISH **CITY HALL** AND **DOWNTOWN PARKING STRUCTURE**

mosaic
architecture | planning | design

City of Whitefish

Feb. 11th, 2015

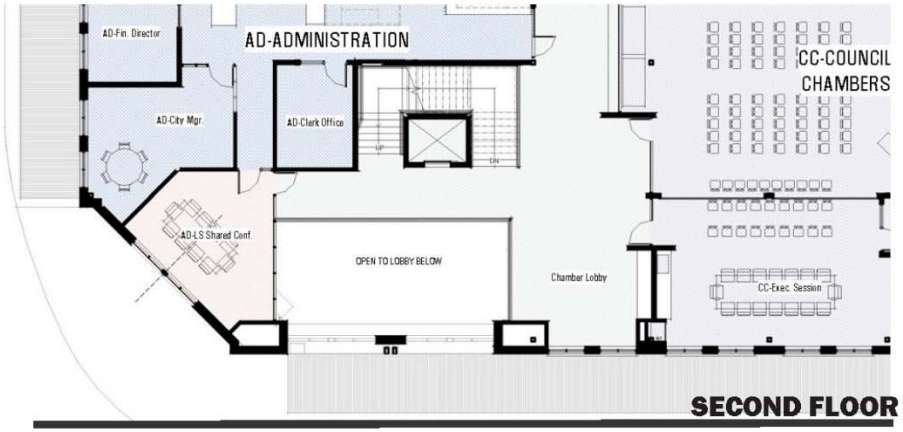
BUILDING COMMITTEE REVIEW

PHASE 2- SCHEMATICS REVIEW

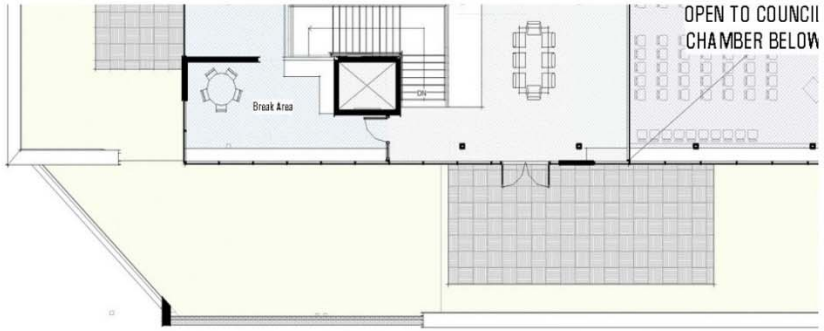
Index

- Schematic Design
- Stair Options
- Parking and Retail Components
- Project Goals
- Building program
- Concept Design – Plan Schemes
- Project Cost & Budget
- Design Context/Example Historic Images

FIRST FLOOR



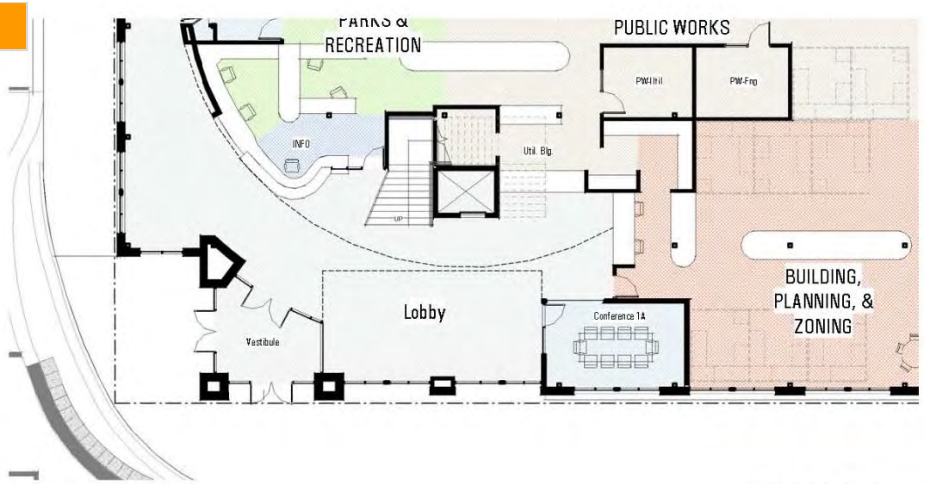
SECOND FLOOR



THIRD FLOOR

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



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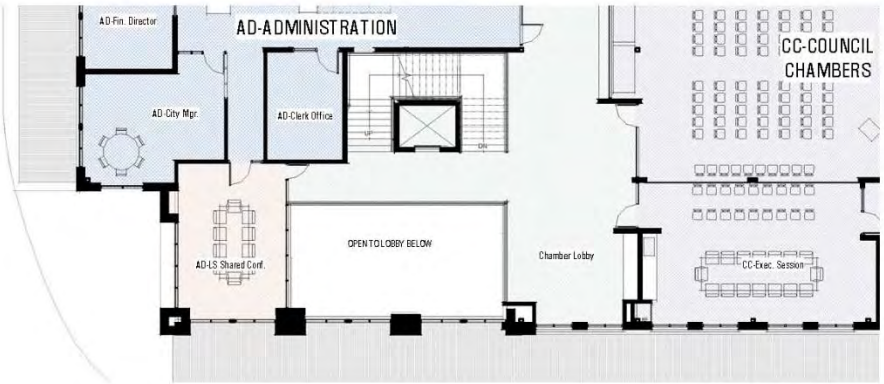

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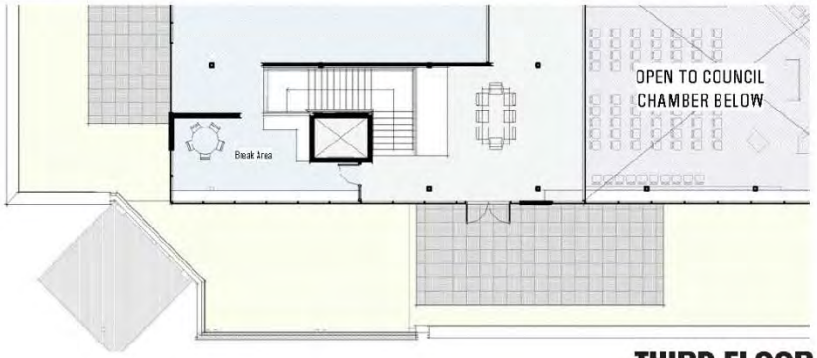


THIRD FLOOR

SW Corner

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

SW Corner Aerial w/o Third Floor

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

SW Corner w/ Third Floor

SW Corner South w/o Third Floor

SW Corner South w/ Third Floor

SW Corner at Street

South Elevation

South
Elevation w/o Third Floor

South
Elevation w/ Third Floor

West
Elevation w/o Third Floor

West
Elevation w/ Third Floor

Baker Street West Elevation

Main Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

Main Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

2nd Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

3rd Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

SW Corner

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

SW Corner Aerial

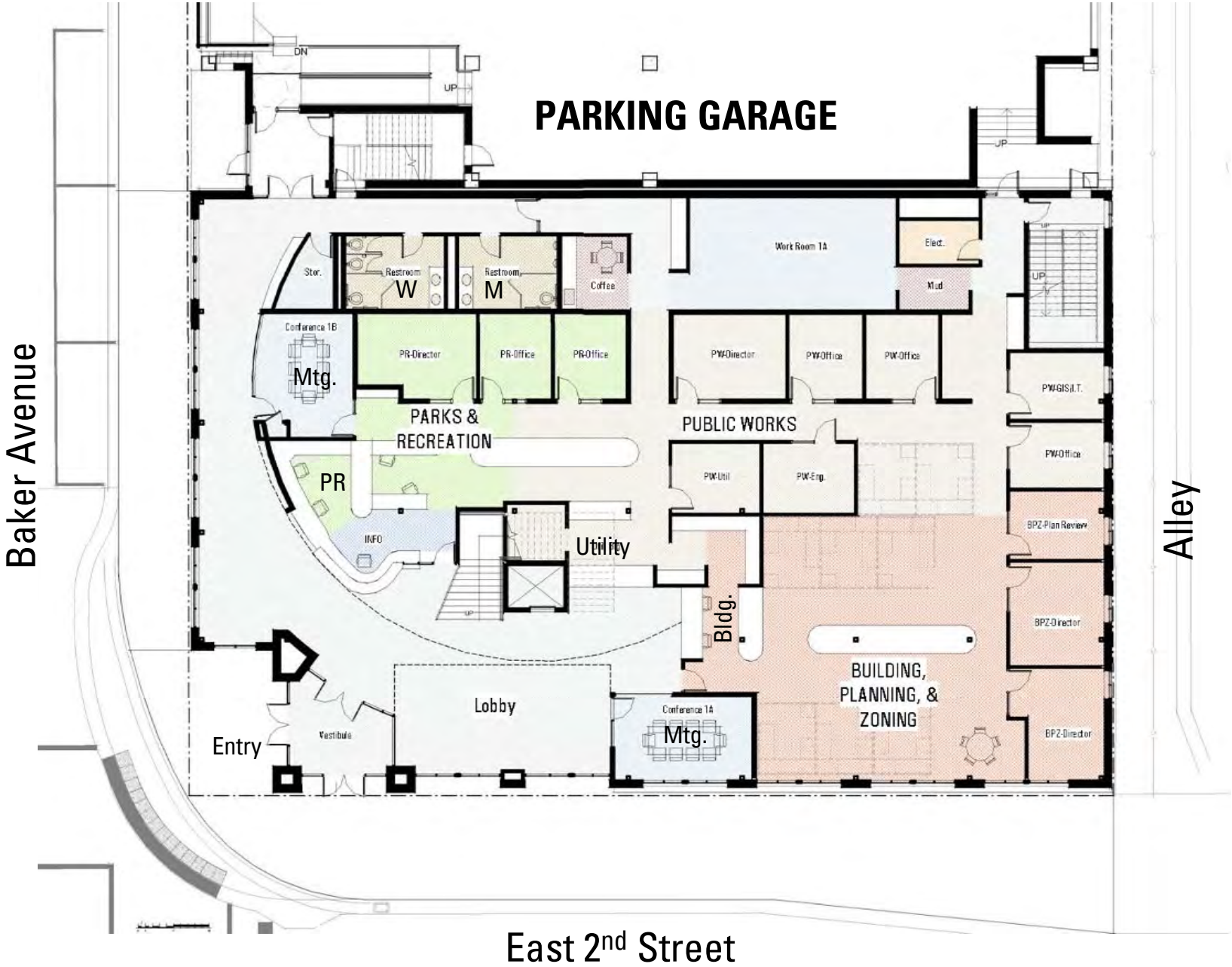
SW Corner at Street

South Elevation

South Elevation

South
Elevation w/ Third Floor

South
Elevation w/o Third Floor



Main Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

2nd Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

Ceiling, roof, and South wall hidden for clarity.

Lobby Area Stairs

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

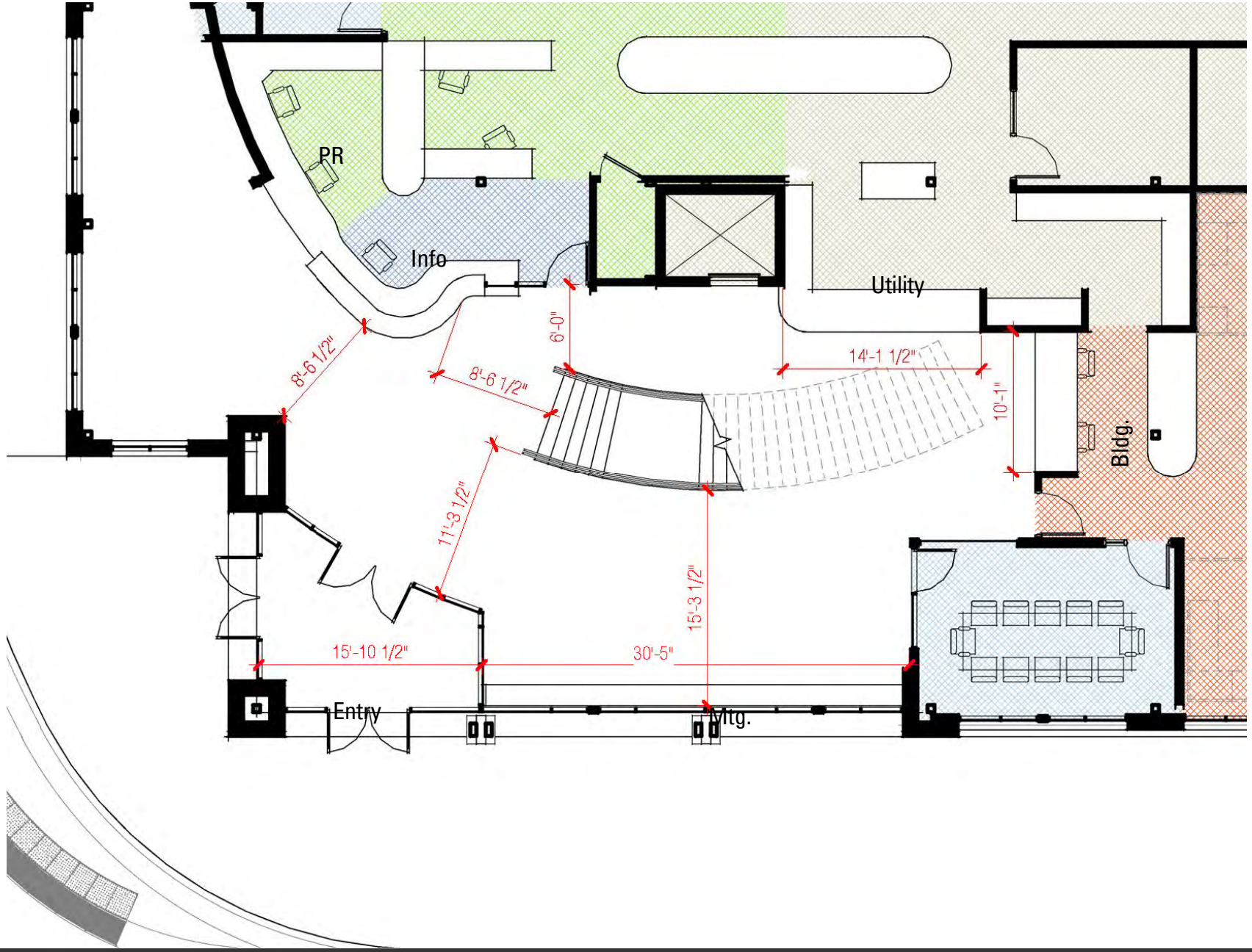
mosaic architecture planning design

Lobby Area Stairs

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



Main Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

CURVED STAIR in Lobby

mosaic architecture planning design

Ceiling, roof, and South wall hidden for clarity.

Lobby Area Stairs

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

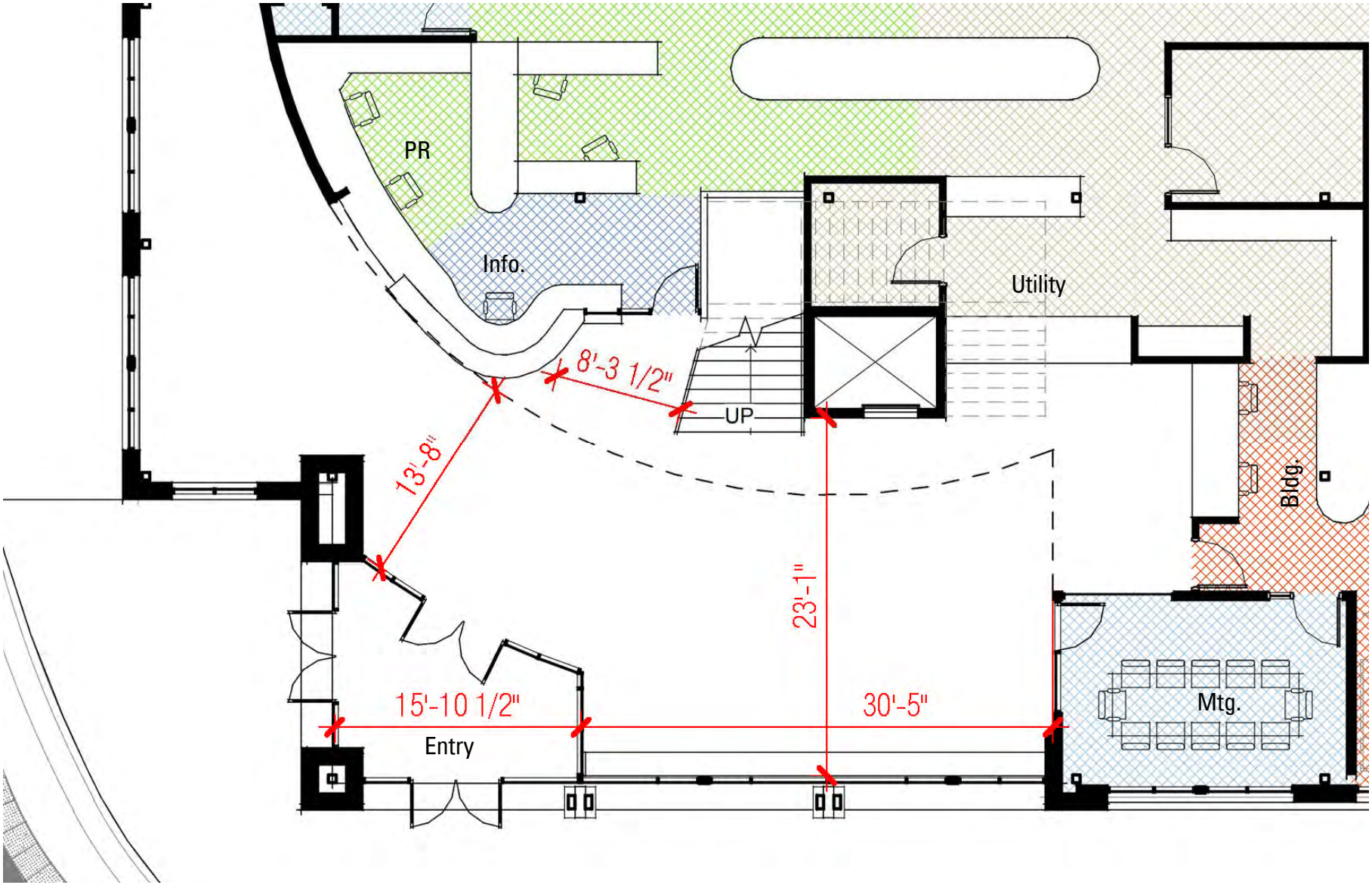
mosaic architecture planning design

Lobby Area Stairs

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



East 2nd Street

Main Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

STAIR WRAPS AROUND ELEVATOR

mosaic architecture planning design

Lobby Area Stairs

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

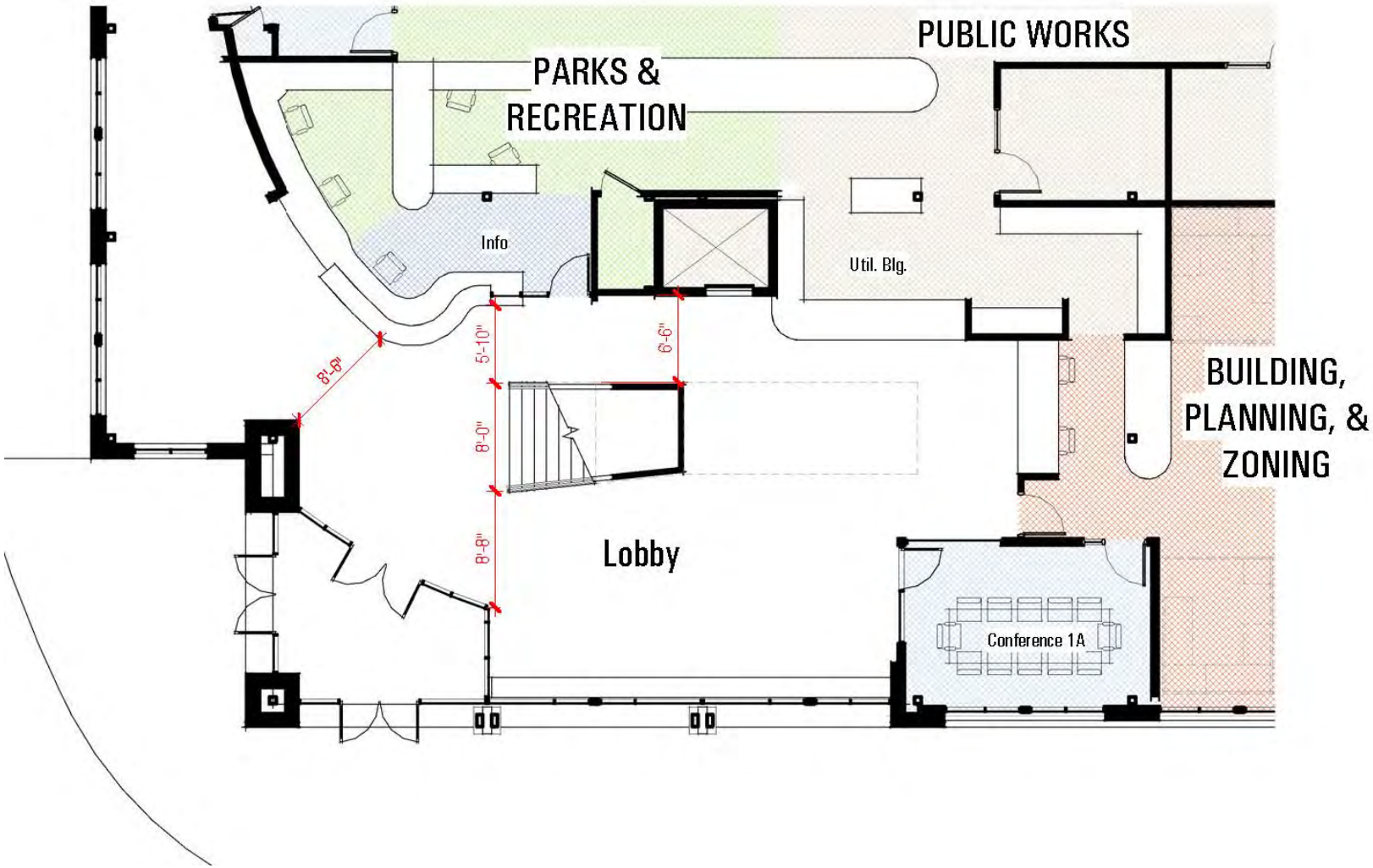
Ceiling, roof, and South wall hidden for clarity.

Lobby Area Stairs

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



Main Floor

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

STRAIGHT STAIR in Lobby

mosaic architecture planning design

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

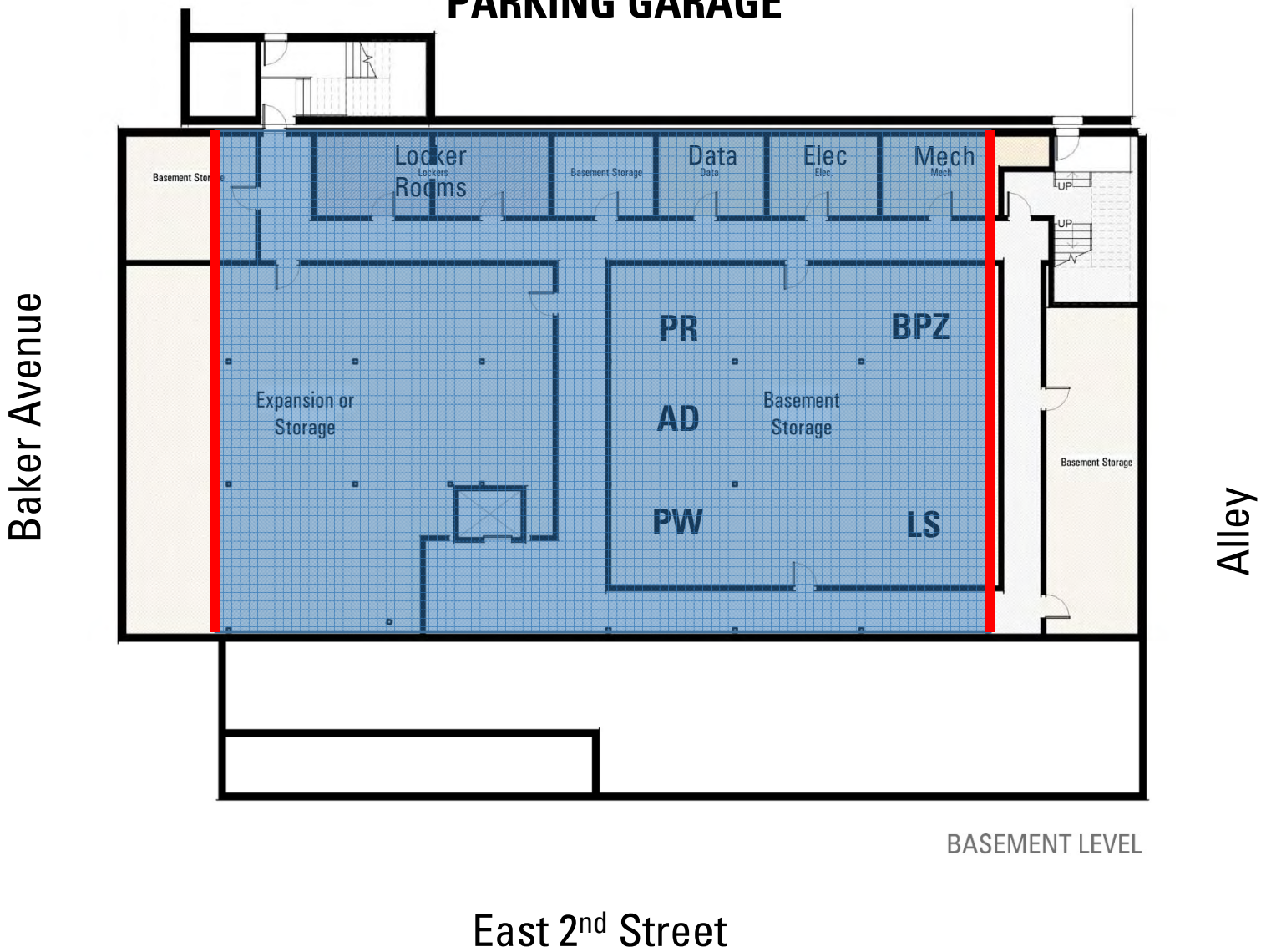
City Hall: Plan Organization

WHITEFISH CITY HALL AND PARKING STRUCTURE

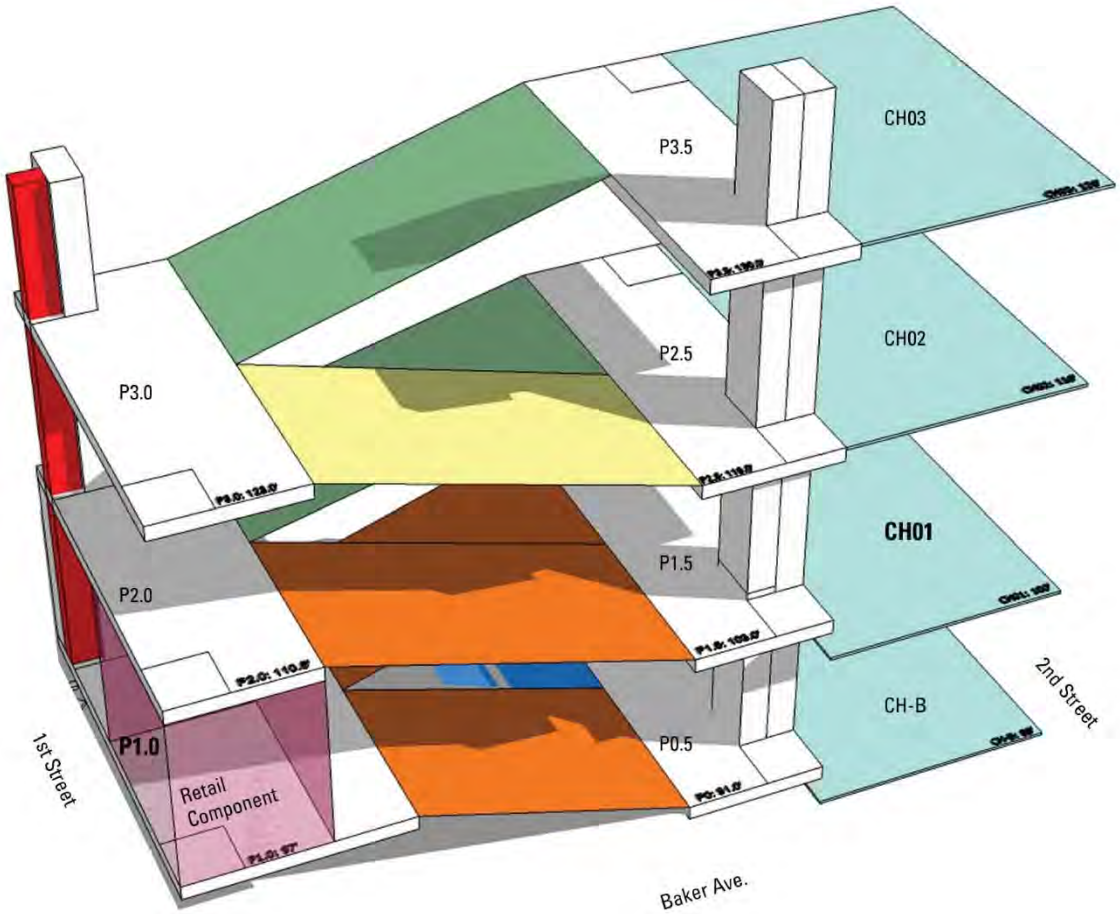
mosaic architecture planning design

Basement Floor

PARKING GARAGE



Basement Floor



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

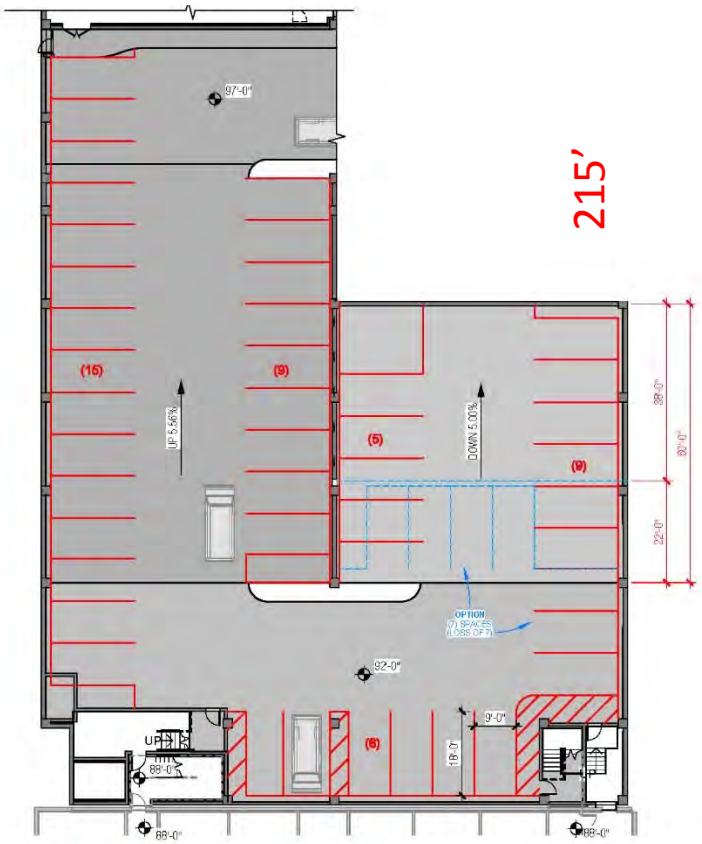
The aesthetic appearance of the parking structure will be contextually sensitive to the rhythmic facades and covered walkways typical in Downtown Whitefish.

Parking Structure / Retail Component

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

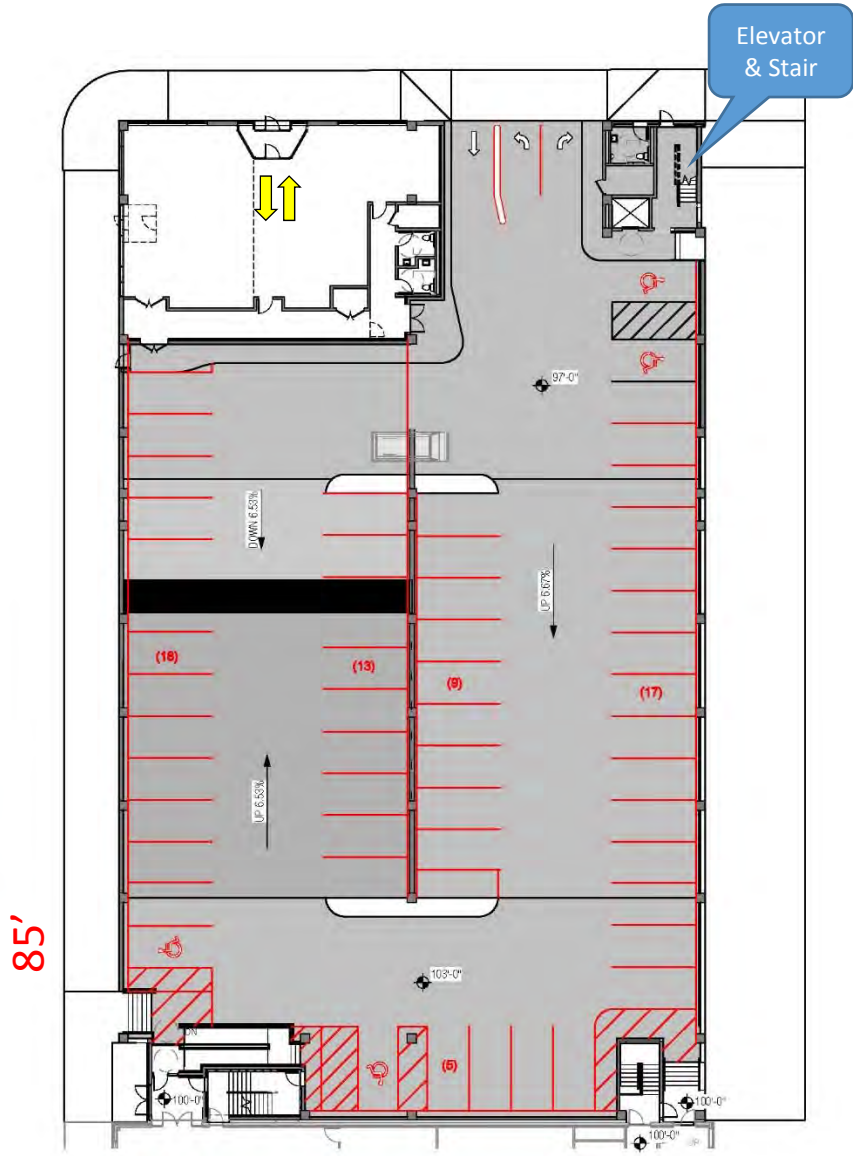
PARKING COUNTS (preliminary)				
9'-0" X 18'-0" SPACES				
TIER	STANDARD	VAN ACCESSIBLE	CAR ACCESSIBLE	TOTALS
BASEMENT Level B0.5 to Level 1	44	0	0	44 W/REDUCED BASEMENT OPTION: 37 SPACES (LOSS OF 7)
FIRST Level 1 to Level 1.5	58	3	1	62
SECOND Level 2 to Level 2.5	73	3	0	76
THIRD-TOP Level 3 to Level 3.5	51	2	0	53
TOTALS	226	8	1	235 SPACES WITH REDUCED BASEMENT OPTION: 228 SPACES (LOSS OF 7)



44 SPACES

WITH REDUCED BASEMENT OPTION: 37 SPACES (LOSS OF 7)

B **TIER B Layout - Parking Level B0.5 to Level 1**
1" = 20'-0"



62 SPACES

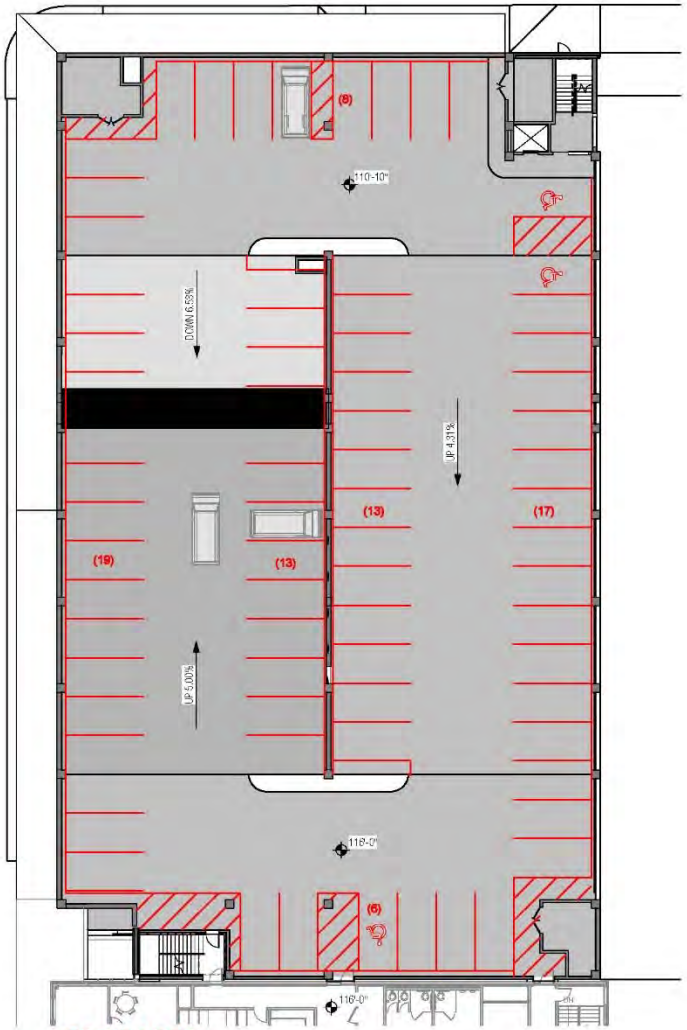
1 **TIER 1 Layout - Parking Levels 1 to 1.5 to 2**
1" = 20'-0"

Parking Structure Updated Concept – 215'

Parking Structure: Layout

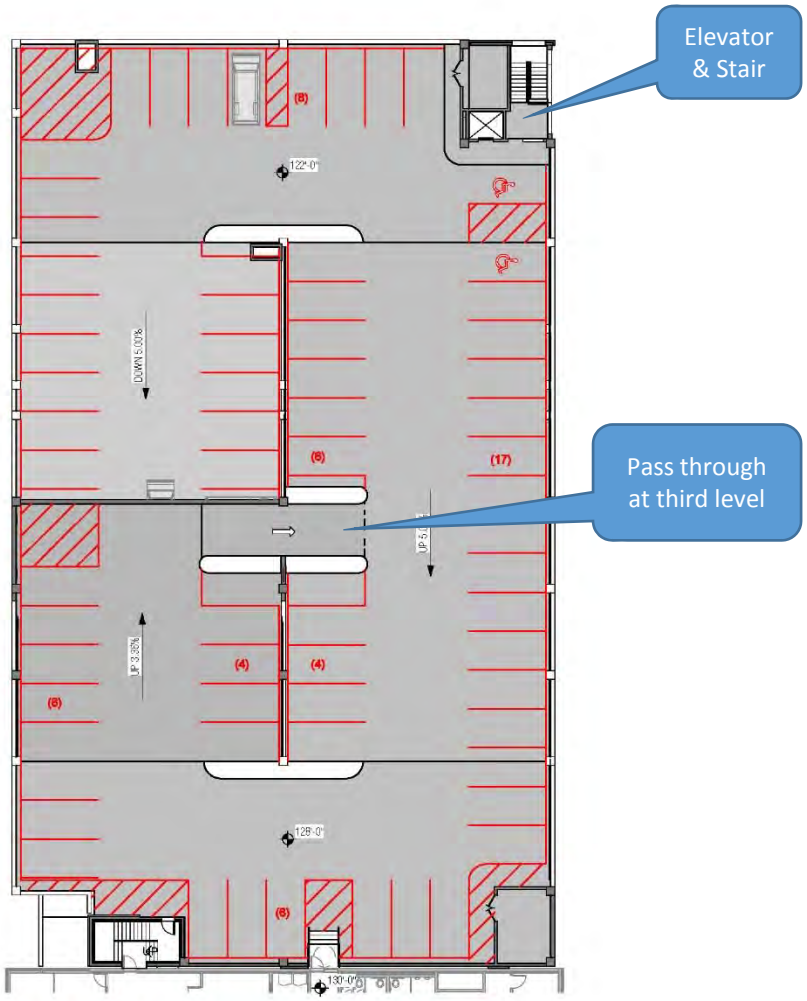
WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



76 SPACES

2 TIER 2 Layout - Parking Levels 2 to 2.5 to 3
1" = 20'-0"



53 SPACES

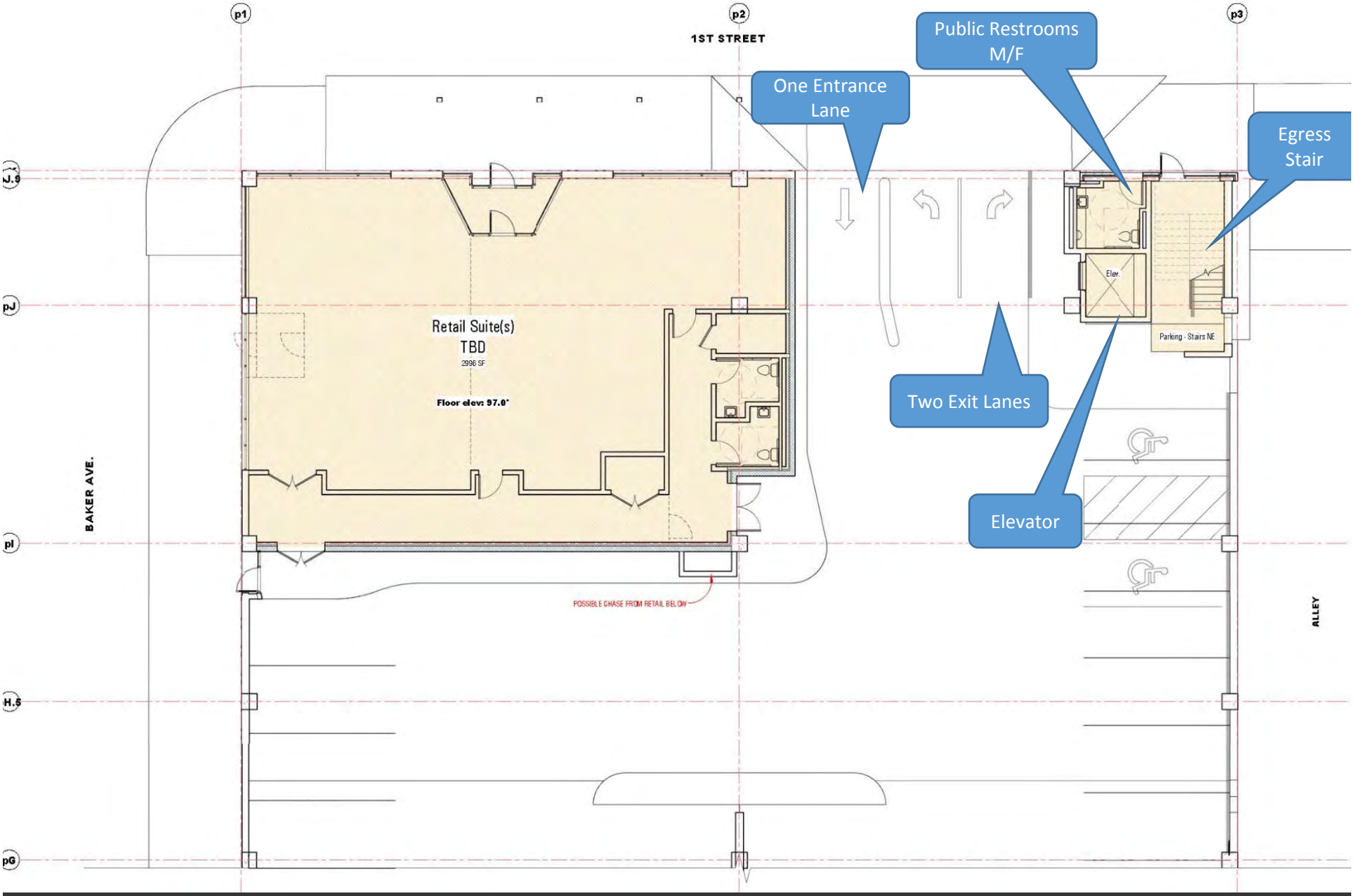
3 TIER 3 Layout - Parking Level 3 to 3.5
1" = 20'-0"

Parking Structure Updated Concept – 215'

Parking Structure: Layout

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

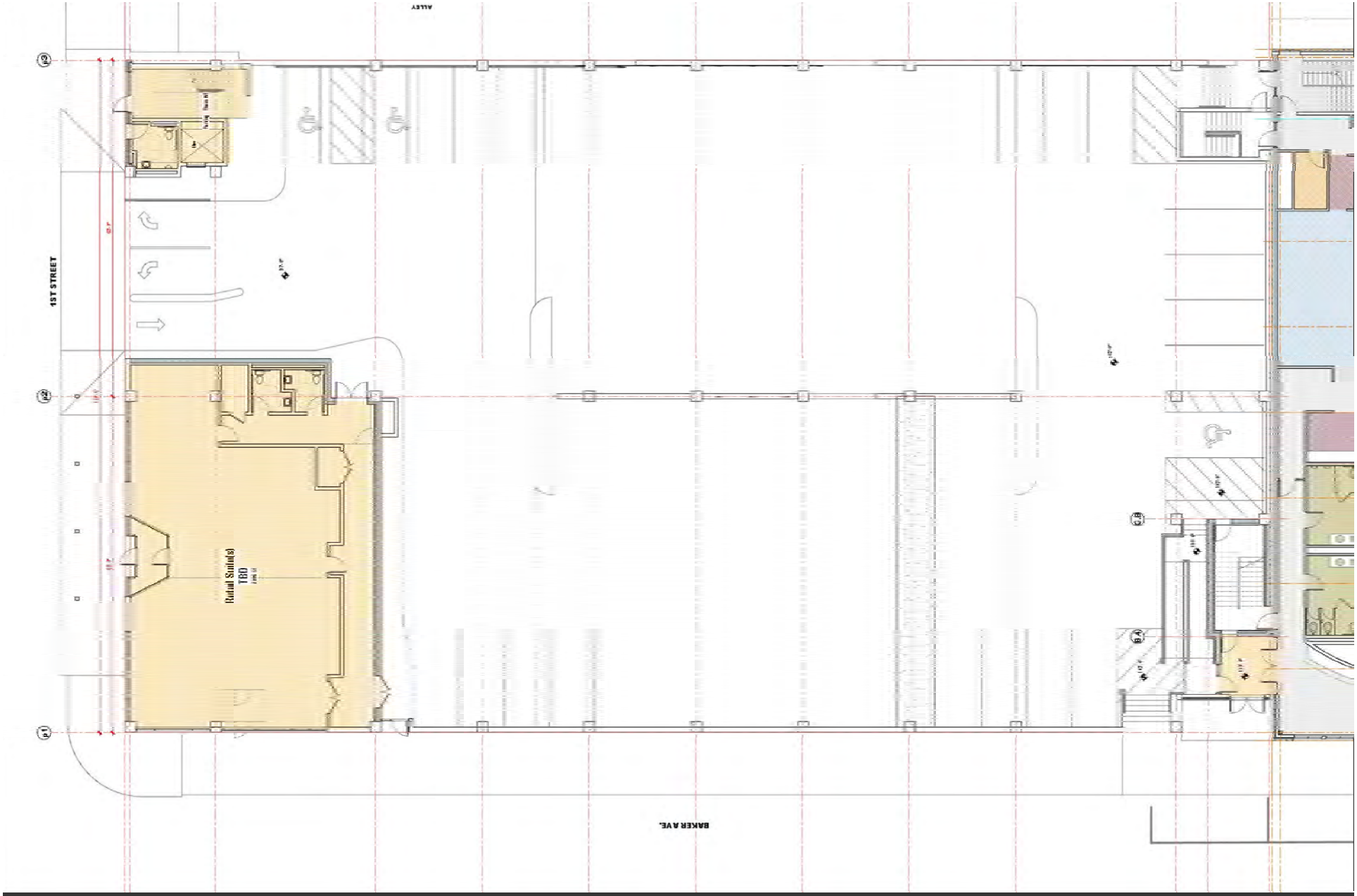


Parking Structure Concepts

Parking Garage / Retail Component

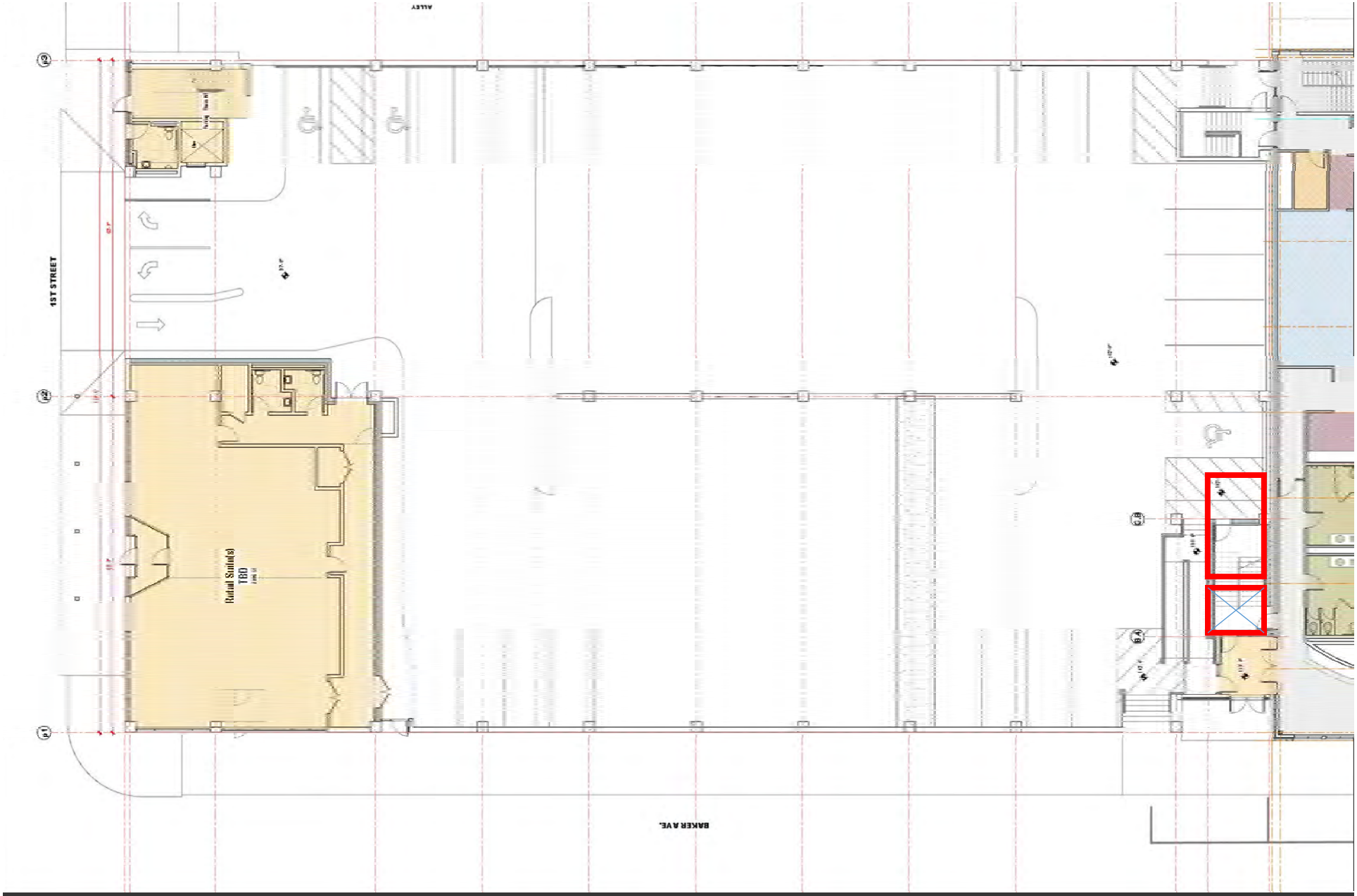
WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



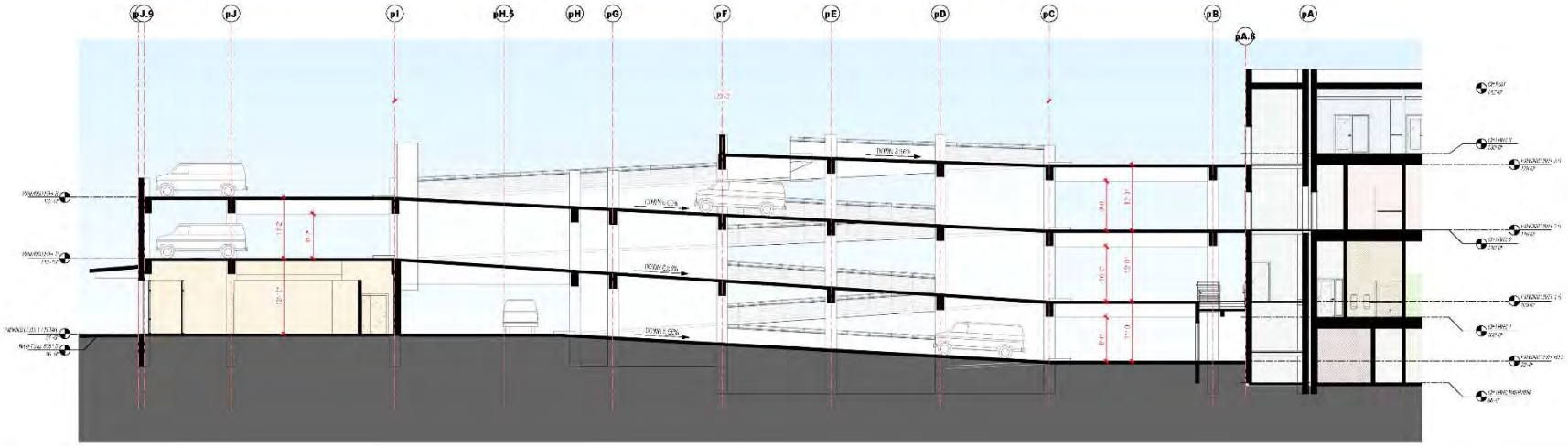
WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

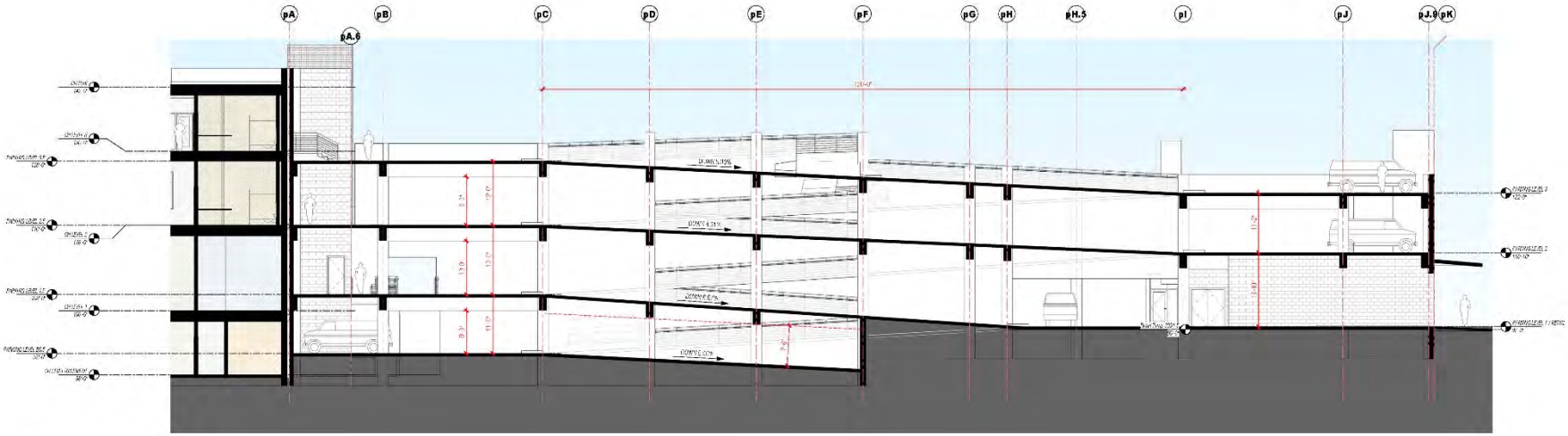


WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design



1 SD-PG NS West Half Looking East
1" = 10'-0"



2 SD-PG NS East Half Looking West
1" = 10'-0"

Parking Garage Sections

WHITEFISH CITY HALL AND PARKING STRUCTURE

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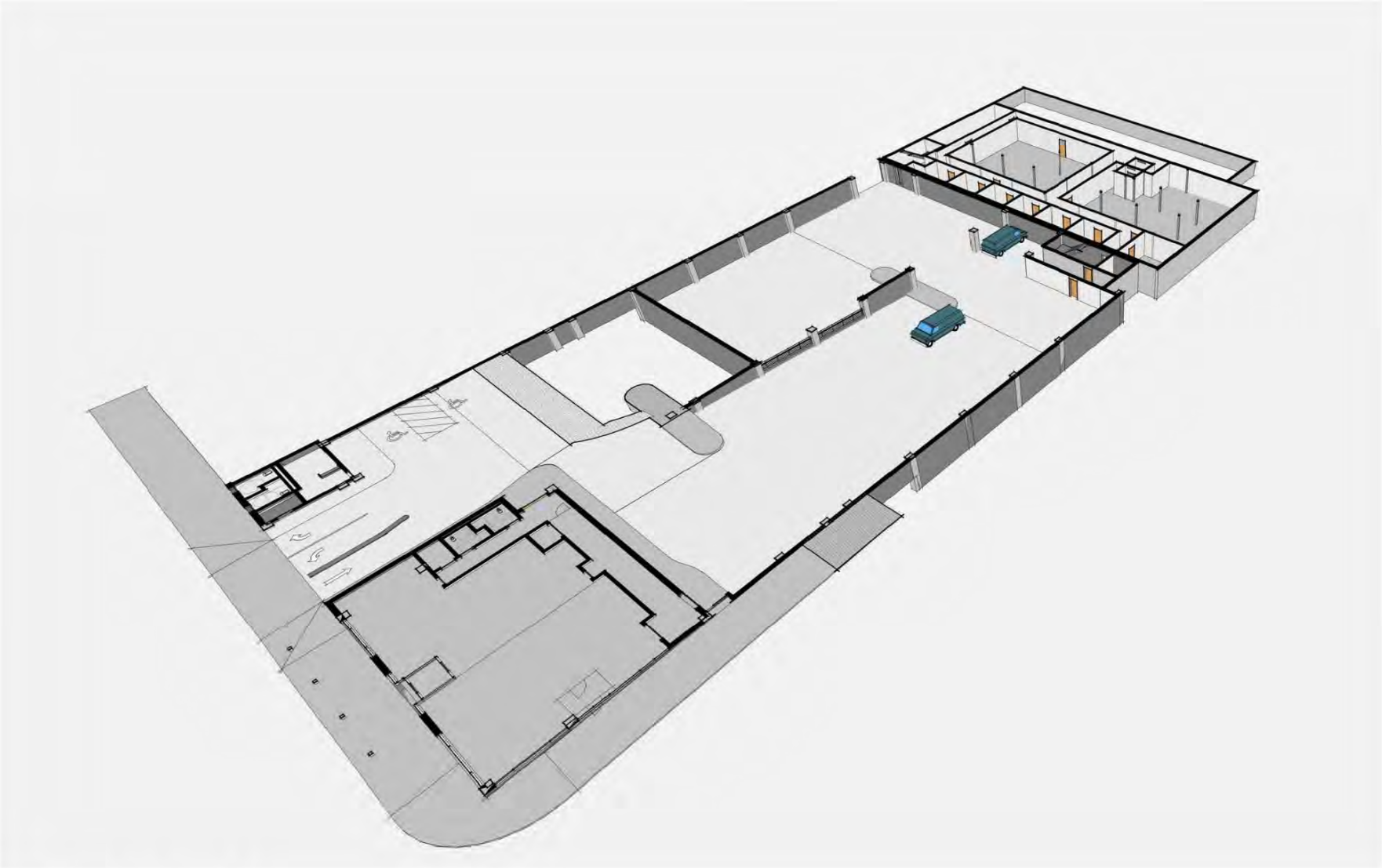
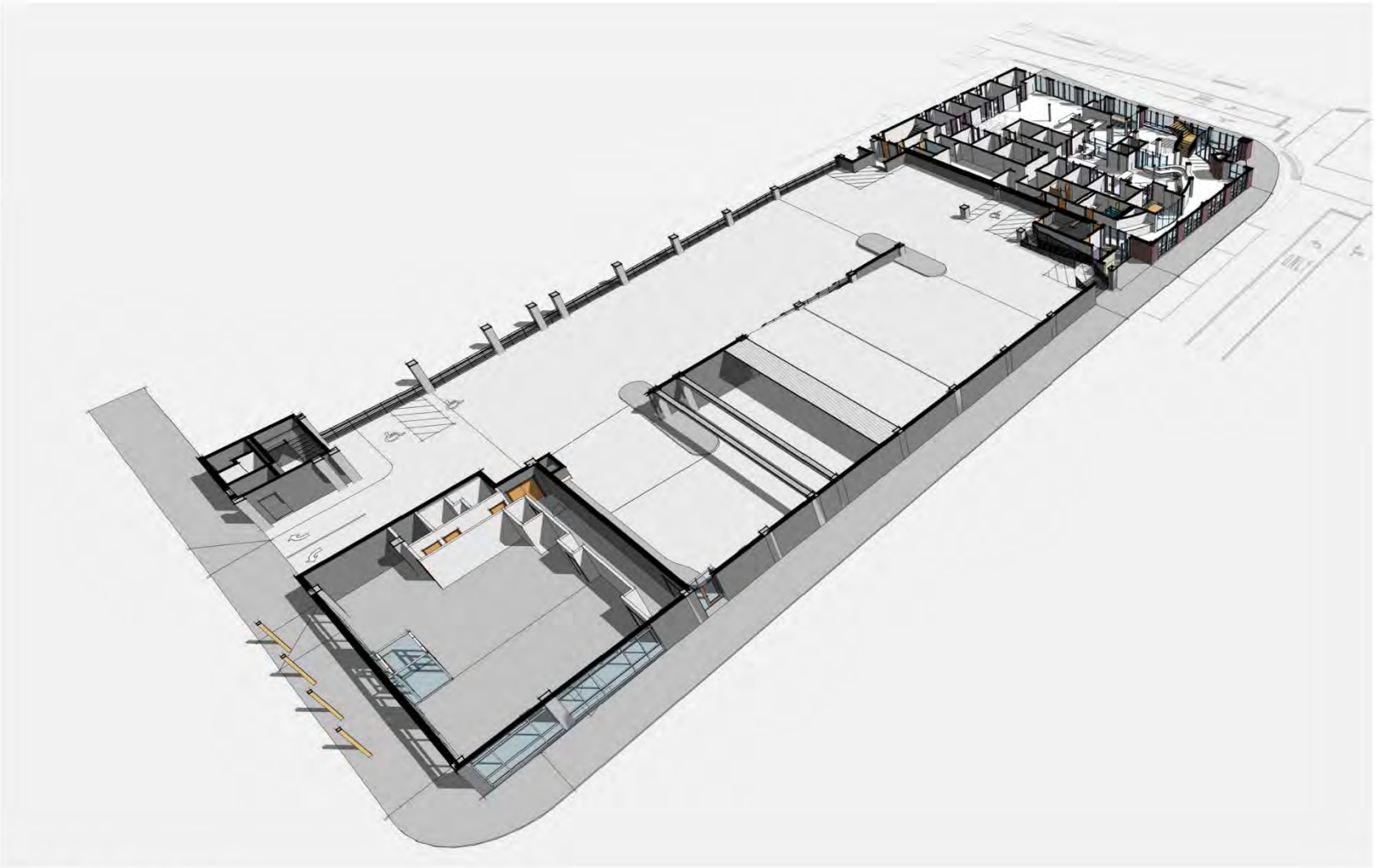
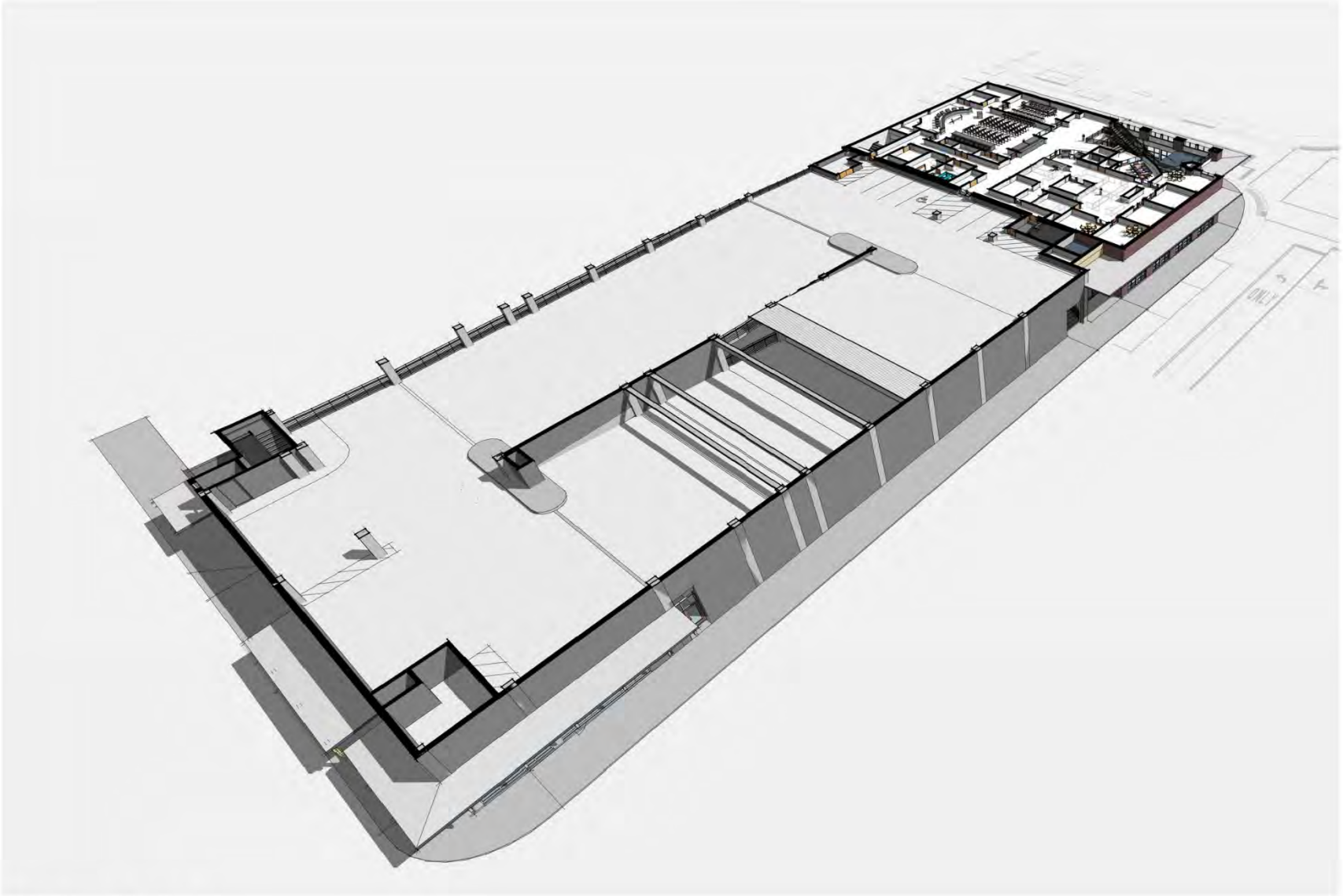


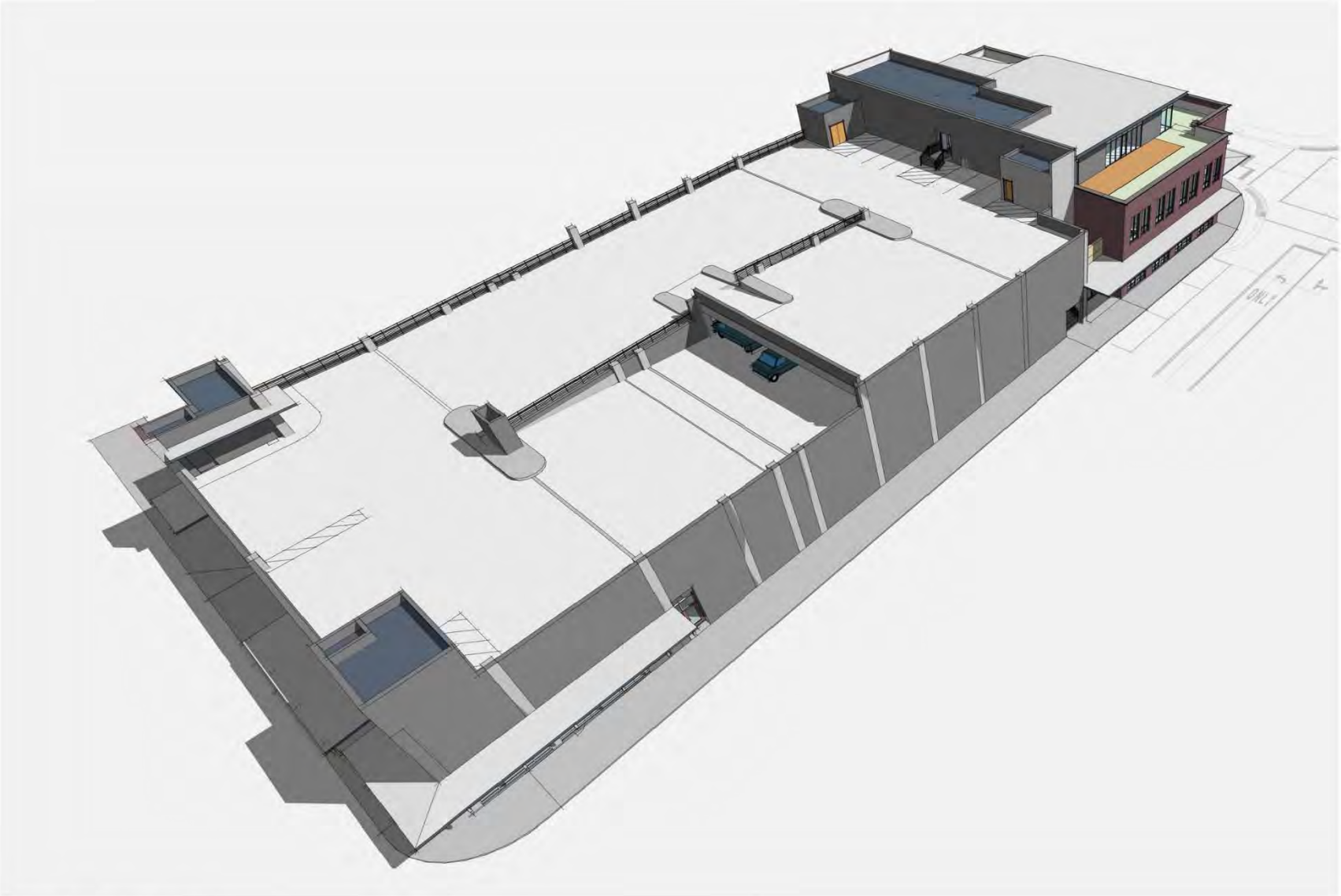
4 SD-PG Persp Plan Level B0.5



1 SD-PG Persp Plan Level 1



2 SD-PG Persp Plan Level 2



3 SD-PG Persp Plan Level 3

1st & Baker

Parking Garage

WHITEFISH CITY HALL AND PARKING STRUCTURE

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NW Corner – Retail Corner

Parking Garage

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

NW Corner – Aerial

Parking Garage

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

PG– North East Corner

Parking Garage

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

PG – West Elevation

Parking Garage

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

Parking Garage Display Windows

PG – North Elevation

Parking Garage

WHITEFISH CITY HALL AND PARKING STRUCTURE

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Baker Avenue

Central Avenue

FAÇADE DIVISION: West Elevation Along Baker Ave.

WHITEFISH CITY HALL AND PARKING STRUCTURE

mosaic architecture planning design

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February 12, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Award an Engineering Consultant Contract for the Depot Park Master Plan Project

February 12, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Introduction/History
The Parks and Recreation Department has advertised a Request for Qualifications from engineering consultants, interviewed finalists and negotiated a contract with the top ranked consultant to provide engineering services for the Depot Park Master Plan.

This memo is to recommend a contract with Robert Peccia and Associates, for services to include surveying, conceptual design, and preliminary outreach, allowing for a refinement and update to the Master Plan to be presented to the public during monthly Park Board meetings and approved by the Park Board of Commissioners. The proposed contract is for an amount not to exceed $88,300.

Current Report
Tax Increment Funds have been committed to the Depot Park Master Plan. Work for the three above tasks are anticipated to be completed by October 2015. Our plan is to proceed with design of Depot Park and be ready to advertise for construction bids as early as 2016, if sufficient funds should be available.

The scope of work for this initial consultant agreement provides surveying, conceptual design, and preliminary outreach, allowing for a refinement and update to the Master Plan to be presented to the public during monthly Park Board meetings and approved by the Park Board of Commissioners. This work will be completed by fall and we expect to return with a contract amendment in November for final design services.

Financial Requirement

The Parks and Recreation Department and RPA have negotiated a contract for the services describe above in an amount not to exceed $88,300. This amount will be paid out of Tax Increment Fund. Currently, $247,000 has been set aside for this project this fiscal year.

From June 2011 to date the following funds have been budgeted and allocated to this project:

Master Plan

Total Budgeted (FY12): $53,000 Total Cost (FY12): $64,314.03

Phase I (Building Demolition & New Sod / Irrigation)

Total Budgeted (FY13): $525,000 Total Cost (FY13): $46,358.86

Phase II (Depot Park Improvements & O'Shaughnessy Restrooms)

*NEITHER THE PARK IMPROVEMENTS NOR O'SHAUGHNESSY BATHROOMS WERE PART OF THE ORIGINAL COST ESTIMATE

Total Budgeted (FY14-FY15): $547,000 Total Cost (FY14-FY15): $281,991.75

Total Budgeted (FY12-FY15): $1,125,000.00
Total Funds Allocated To Date: $ 392,664.64
Remaining Budget To Date: $ 732,335.36

Recommendation

Staff respectfully recommends the City Council authorize the execution of a consultant contract with Robert Peccia and Associates, in an amount not to exceed $88,300, for engineering services for the Depot Park Master Plan Project. These services will include surveying, conceptual design, and preliminary outreach, allowing for a refinement and update to the Master Plan to be presented to the public during monthly Park Board meetings and approved by the Park Board of Commissioners. Additional services for final engineering design and construction management will be subject to future negotiations and Council approval.

Sincerely,
Maria Butts
Director of Parks, Recreation and Community Services

EXHIBIT "A"
SCOPE OF SERVICES

DEPOT PARK IMPROVEMENTS PROJECT, CITY OF WHITEFISH
TASK 1 – SURVEYING
TASK 2 – CONCEPTUAL DESIGN
TASK 3 – PRELIMINARY PUBLIC OUTREACH

Project Description: The Depot Park Improvements Project, the "Project", generally consists of reconstructing Depot Park and the adjacent right-of-ways. The project will include revisiting the Depot Park Master Plan and updating/incorporating other planning documents, such as the Downtown Master Plan Update. The project may incorporate multiple phases of construction, spanning multiple construction seasons.

Scope of Work Description: The full scope of services will be presented in several scopes of services, containing tasks. The first scope of services, which is included in this contract, will include Task 1 - Surveying, Task 2 - Conceptual Design, and Task 3 - Public Involvement. Subsequent scopes of services will include such things as Roadway, Sidewalk and Utility Design; Landscape Design, Gazebo Design, Final Engineering Design; Final Plan Preparation; Contract Documents and Technical Specifications; Advertising and Bidding Assistance; and Construction Administration and Observation.

TASKS 1 THROUGH 3

Task 1 – Surveying

Project Coordination and Management

Throughout this task the Consultant will provide project coordination and management. The Consultant will manage this task in an effort to make sure the task project is delivered on time and within budget.

Deliverables: The Consultant will prepare invoices on a monthly basis for this task.

Review As-builts

The Consultant will request all pertinent "As-builts" from the City and review them. As-built information will be incorporated into the base map.

Deliverables: None.

Field Surveys

The Consultant will verify the previously established control network and conduct topographic field surveys to incorporate any elements that have changed since the original survey. Anticipated survey items under this task order include the intersection at Railway Street and Central Avenue and the improvements to the Depot. Additional surveying, following a solidified scope of services, may be necessary for final engineering design

and final plan preparation. Additional field surveys, either needed or requested by the owner, will be defined as "out of scope".

Deliverables: None.

Update Base Maps

Using the updated field survey data, "as-built" drawings, and any other information provided, the Consultant will prepare updated base maps as required at a suitable scale showing the physical features of the project. These maps will provide the basis for design and details.

Deliverables: The Consultant will provide two (2) full size plots of the survey. Also, the Consultant will deliver a .PDF file and a .DWG file on CD of the survey.

Task 2 –Conceptual Design

Project Coordination and Management

Throughout this task the Consultant will provide project coordination and management. The Consultant will manage this task in an effort to make sure the task project is delivered on time and within budget.

Deliverables: The Consultant will prepare invoices on a monthly basis for this task.

Review Meetings with City

The Consultant will attend review meetings with the Parks & Recreation Department/Public Works Department/Park Board/City Staff to review previously completed planning documents, ongoing planning documents and establish a conceptual plan for the proposed improvements during this task. Six (6) meetings are scheduled for this task, with each meeting anticipated to take one (1) hour.

Deliverables: The Consultant will prepare meeting agendas and meeting minutes for each meeting.

Review Planning Documents

The Consultant will review the existing and ongoing planning documents/efforts that affect the Depot Park area. Approved elements of planning documents will be incorporated into the conceptual design for the Project.

Deliverables: The Consultant will prepare a summary of planning documents reviewed and summarize the aspects of those that affect Depot Park.

Conceptual Design

The Consultant will prepare a preliminary design for the project and review it with the City. It is anticipated that this will be an iterative process, with several iterations being required to solidify the design elements and overall conceptual design of the project.

The elements of the project that will be designed by the Consultant during the Preliminary Engineering Design will include the following elements:

- Roadway Improvements & Intersection Concepts

- Sidewalk/Bicycle Path Locations
- Light Pole Type and Location
- Gazebo Sizing
- Landscaping Concepts

After working through multiple iterations of the preliminary design, the Consultant will evaluate the project and develop a preliminary construction cost estimate and construction time estimate. Based on the outcome of meetings with the City and public, the "preferred" design will more than likely have to be modified several times to address concerns.

Deliverables: None. Work will be included in Conceptual Design Exhibits.

Conceptual Design Exhibits

The Consultant will prepare exhibits of the conceptual design(s) to present information to the City and public. These exhibits are intended to show information to the City and public so that they can visually see what the Conceptual Design would look like. The exhibits will accurately and clearly represent the Conceptual Design and assist the Owner and public in understanding the proposed improvements.

Deliverables: The Consultant will prepare exhibits at a suitable scale to show the conceptual design and details of features. It is anticipated that the exhibits will consist of plan views of the proposed improvements and details, including materials for the gazebo and pictures of plantings.

Task 3 –Preliminary Public Outreach

Project Coordination and Management

Throughout this task the Consultant will provide project coordination and management. The Consultant will manage this task in an effort to make sure the task project is delivered on time and within budget.

Deliverables: The Consultant will prepare invoices on a monthly basis for this task.

Review Meetings with City

The Consultant will attend review meetings with the Parks & Recreation Department/Public Works Department/City Staff/Park Board to review work during this task. Six (6) meetings are scheduled for this task, with each meeting anticipated to take one (1) hour.

Deliverables: The Consultant will prepare meeting agendas and meeting minutes for each meeting.

Public Meetings

The Consultant will attend public meetings with the Parks & Recreation Department/Public Works Department to discuss proposed improvements and take comments from the public. The Consultant will prepare presentations and public comment survey forms for the public. Four (4) public meetings are anticipated and scheduled for this task.

Deliverables: The Consultant will prepare presentations and public comment survey forms for each meeting.

Anticipated Timeline for Project Completion

Work for Tasks One, Two and Three are anticipated to be completed by October 2015.

It is anticipated that the Contract Amendment for additional work will be developed and executed in November 2015.

Other

All fees or charges required by the Utility Companies will be paid directly by the Owner. The Consultant has not included these fees or charges in this Scope of Work or the Cost Proposals.

K:\Kal-Proj-Data\15101.000 - Depot Park - Phase II Project\B. Contract\2. Task Orders\15101.000_EXH_A.DOC

EXHIBIT "B"
COMPENSATION SCHEDULE AND PROCEDURE; REIMBURSEMENT OF EXPENSES

DEPOT PARK IMPROVEMENTS PROJECT
CITY OF WHITEFISH
TASK 1 – SURVEYING
TASK 2 – CONCEPTUAL DESIGN
TASK 3 – PRELIMINARY PUBLIC OUTREACH

A. COMPENSATION

Compensation for the Depot Park Improvements Project will be on an hourly basis not to exceed a ceiling limit of Eighty Eight Thousand Three Hundred Dollars and Zero Cents ($88,300.00), without prior written authorization. This fee is for Tasks 1 through 3.

A cost proposal is shown on Attachments "B-1".

Cost will be the Consultant's current billable hourly rates. Profit will be 15% of the Consultant's loaded labor.

B. METHOD OF PAYMENT

The Consultant will submit invoices during the last week of each month, identifying the tasks performed and the number of hours worked by each staff member during the billing period. The consultant will indicate total cost to date and percent of project completion for the billing period.

C. REIMBURSABLE EXPENSES

An estimate of reimbursable expenses required for the proposed projects are shown on Attachment "B-2" of this addendum. Other reimbursable expenses will be paid in accordance with the Consultant's January 1, 2015 Schedule of Reimbursable Expenses shown as Attachment "B-3".

Attachment "B-1"
Cost Proposals

See separate attachments

ROBERT PECCIA & ASSOCIATES, INC.
ENGINEERING SERVICES CONTRACT
SCHEDULE OF ESTIMATED COSTS

DEPOT PARK IMPROVEMENTS PROJECT

SUMMARY OF ESTIMATED FEES

RPA Project #: 15101.000

ATTACHMENT B-1

	Initial Agreement										
	Task 1	Task 2	Task 3								
	SURVEYING	CONCEPTUAL DESIGN	PRELIMINARY PUBLIC OUTREACH								
RPA Fees =	$6,780.77	$36,789.51	$11,173.12								
Sub Fees =											
BBLA =	$880.00	$16,180.00	$5,400.00								
Ross Anderson =	$0.00	$5,400.00	$1,540.00								
Direct Expenses =	$1,597.75	$1,857.50	$675.50								
Subtotal Fees =	$9,300.00	$60,200.00	$18,800.00								
	Total Fees =		**$88,300.00**								**$0.00**

Summary of Estimated Reimbursable (Direct) Expenses

Computer Expense =	$1,282	
Mileage Expense =	$469	
Telephone, Postage and Fax =	$40	
Printing and Copies =	$1,100	
Survey Equipment Expense =	$1,200	
Survey Supply Expense =	$40	
Total Direct Expenses =	**$4,130.75**	$4,130.75 check

Summary of Total Contract

Initial Agreement =	$88,300.00
Total Contract Amount =	**$88,300.00**

ROBERT PECCIA & ASSOCIATES
CIVIL ENGINEERING SERVICES CONTRACT
SCHEDULE OF ESTIMATED COSTS

Depot Park Improvements Project
Whitefish, MT

Attachment B-1

TASK NO. 1
SURVEYING

RPA Project No. 15101.000
Date: February 2015

Work Item/Subtask	Project Manager $54.31	Project Engineer $41.09	Project Surveyor $36.04	Survey Technician $21.62	CADD Tech. $24.98	Total Person Days
	Person Days					
TASK 1: SURVEYING						
Project Coordination and Management	1.0					1.0
Review As-Builts		1.0				1.0
Field Surveys			1.0	3.0		4.0
Update Base Maps					3.0	3.0
TOTAL PERSON-DAYS:	**1.0**	**1.0**	**1.0**	**3.0**	**3.0**	**9.0**
TOTAL PERSON-HOURS:	**8.0**	**8.0**	**8.0**	**24.0**	**24.0**	**72.0**
LABOR COST PER EMPLOYEE:	**$434.48**	**$328.72**	**$288.32**	**$518.88**	**$599.52**	**$2,169.92**

DIRECT EXPENSES

Subcontracted Services (BBLA)	$880.00
Equipment (Survey GPS $400/day)	$1,200.00
Equipment (Computers)	$264.00
Equipment (Survey Robotic $200/day)	
Per Diem - Day	
Per Diem - Overnight	
Mileage - 5 trips	$93.75
Telephone, Postage and Fax	$10.00
Printing	$20.00
Misc. Supplies	$10.00
Total:	**$2,477.75**

Assumptions / Exclusions:

SUMMARY OF ENGINEERING SERVICES

Direct Labor	$2,169.92
Overhead (Current OH Rate X Direct Labor)	$3,726.40
Subtotal Labor Cost:	$5,896.32
Direct Expenses	$2,477.75
Subtotal Project Costs:	$8,374.07
Profit (15% of Loaded Labor):	$884.45
Total Engineering Fee (Rounded):	**$9,300.00**

ROBERT PECCIA & ASSOCIATES
CIVIL ENGINEERING SERVICES CONTRACT
SCHEDULE OF ESTIMATED COSTS

Depot Park Improvements Project
Whitefish, MT

Attachment B-1

TASK NO. 2
CONCEPTUAL DESIGN

RPA Project No. 15101.000
Date: February 2015

Work Item/Subtask	Project Manager $54.31	Project Engineer $41.09	Project Designer $33.15	CADD Tech. $24.98	Admin. Assist. $19.45	Total Person Days
	Person Days					
TASK 2: CONCEPTUAL DESIGN						
Project Coordination and Management	4.0				1.0	5.0
Review Meetings with City (6 meetings)	3.0					3.0
Review Planning Documents	1.0	2.0			0.5	3.5
Conceptual Design	2.0	5.0	5.0			12.0
Conceptual Design Exhibits	1.0	2.0		12.0	0.5	15.5
TOTAL PERSON-DAYS:	**11.0**	**9.0**	**5.0**	**12.0**	**2.0**	**39.0**
TOTAL PERSON-HOURS:	**88.0**	**72.0**	**40.0**	**96.0**	**16.0**	**312.0**
LABOR COST PER EMPLOYEE:	**$4,779.28**	**$2,958.48**	**$1,326.00**	**$2,398.08**	**$311.20**	**$11,773.04**

DIRECT EXPENSES

Subcontracted Services (BBLA)	$16,180.00
Subcontracted Services (Ross Anderson)	$5,400.00
Equipment (Survey GPS $400/day)	
Equipment (Computers)	$770.00
Equipment (Survey Robotic $200/day)	
Per Diem - Day	
Per Diem - Overnight	
Mileage - 10 trips	$187.50
Telephone, Postage and Fax	$10.00
Printing	$880.00
Misc. Supplies	$10.00
Total:	**$23,437.50**

Assumptions / Exclusions:

SUMMARY OF ENGINEERING SERVICES

Direct Labor	$11,773.04
Overhead (Current OH Rate X Direct Labor)	$20,217.84
Subtotal Labor Cost:	$31,990.88
Direct Expenses	$23,437.50
Subtotal Project Costs:	$55,428.38
Profit (15% of Loaded Labor):	$4,798.63
Total Engineering Fee (Rounded):	**$60,200.00**

ROBERT PECCIA & ASSOCIATES
CIVIL ENGINEERING SERVICES CONTRACT
SCHEDULE OF ESTIMATED COSTS

TASK NO. 3
PRELIMINARY PUBLIC OUTREACH

RPA Project No. 15101.000
Date: February 2015

Depot Park Improvements Project
Whitefish, MT

Attachment B-1

Work Item/Subtask	Project Manager $54.31	Project Engineer $41.09	Project Designer $33.15	CADD Tech. $24.98	Admin. Assist. $19.45	Total Person Days
	Person Days					
TASK 3: PRELIMINARY PUBLIC OUTREACH						
Project Coordination and Management	1.0					1.0
Review Meetings with City (6 meetings)	3.0				1.0	4.0
Public Meetings (4 meetings)	2.0	2.0			1.0	5.0
TOTAL PERSON-DAYS:	**6.0**	**2.0**			**2.0**	**10.0**
TOTAL PERSON-HOURS:	**48.0**	**16.0**			**16.0**	**80.0**
LABOR COST PER EMPLOYEE:	**$2,606.88**	**$657.44**			**$311.20**	**$3,575.52**

DIRECT EXPENSES

Subcontracted Services (BBLA)	$5,400.00
Subcontracted Services (Ross Anderson)	$1,540.00
Equipment (Survey GPS $400/day)	
Equipment (Computers)	$248.00
Equipment (Survey Robotic $200/day)	
Per Diem - Day	
Per Diem - Overnight	
Mileage - 10 trips	$187.50
Telephone, Postage and Fax	$20.00
Printing	$200.00
Misc. Supplies	$20.00
Total:	**$7,615.50**

Assumptions / Exclusions:

SUMMARY OF ENGINEERING SERVICES

Direct Labor	$3,575.52
Overhead (Current OH Rate X Direct Labor)	$6,140.24
Subtotal Labor Cost:	$9,715.76
Direct Expenses	$7,615.50
Subtotal Project Costs:	$17,331.26
Profit (15% of Loaded Labor):	$1,457.36
Total Engineering Fee (Rounded):	**$18,800.00**

Attachment "B-2"
Estimated Reimbursable (Direct) Expenses

DEPOT PARK IMPROVEMENTS PROJECT, CITY OF WHITEFISH
TASK 1 – SURVEYING
TASK 2 – CONCEPTUAL DESIGN
TASK 3 – PRELIMINARY PUBLIC OUTREACH

1. Subcontracted Services

The Consultant will subcontract with Bruce Boody Landscape Architect and Ross W. Anderson Architect for this project. The Attachment B-1 shows the breakdown of each subconsultants fees.

TOTAL ESTIMATED SUBCONTRACTED SERVICES = $ 29,400.00

2. Computer Expenses

Computer expenses will be incurred for use of software and computer stations. Computer expenses are calculated at $6.50/hour for CADD Time and $2.25/hour for PC Time.

TOTAL ESTIMATED COMPUTER EXPENSES = $ 1,282

3. Mileage Expenses

The basis for calculating mileage expenses is the assumption that round trip mileage between RPA Kalispell office and Whitefish is 30 miles. Mileage for RPA four-wheel drive vehicles would be charged at a rate of $0.625/mile. We estimate the following trips will be required:

Tasks 1 through 3 (25 trips)	750 miles

TOTAL MILEAGE EXPENSES = $ 469

4. Telephone, Postage, and Fax

Postage and shipping charges will likely be incurred in delivering correspondence, reports, and mailing project newsletters to the City of Whitefish and citizens.

TOTAL TELEPHONE/POSTAGE/FAX CHARGES = $ 40

5. Printing and Copies

Printing and copying charges will be incurred in delivering correspondence, reports, news letters and plans to the City of Whitefish.

TOTAL PRINTING AND COPIES EXPENSES = $ 1,100

6. Survey Equipment Expense

We estimate the use of a GPS System for 3 days @ $ 400.00/day.

TOTAL EQUIPMENT EXPENSES = $ 1,200.00

7. Survey Supplies Expense (Stakes, Lathe, Paint, etc.)

Supply charges will be incurred during the surveying activities including use of stakes, lathe, paint, etc.

TOTAL SUPPLIES EXPENSES = $ 40.00

Attachment “B-3"
RPA Schedule of Reimbursable Expenses
January 1, 2015

See separate attachment

ROBERT PECCIA & ASSOCIATES, INC.
SCHEDULE OF REIMBURSABLE EXPENSES
January 1, 2015

TRAVEL EXPENSES:

Mileage Expense--Two Wheel Drive Vehicles	*$0.575 per mile or current Federal mileage rate*
Mileage Expense--Four Wheel Drive Vehicles	*$0.625 per mile*
SUE Truck - Mileage	*$1.00 per mile*
Per Diem	*State or Federally Allowable Rates*
Cessna 172	*$75.00 per hour*
Other	*$ at actual cost*

REPRODUCTION EXPENSES:

Plain Paper Photocopies	*$0.10 per copy*
Color Photocopies - 8 1/2 X 11	*$1.00 per copy*
Color Photocopies - 11 X 17	*$1.15 per copy*
All Other Outside Printing Expenses	*$ at actual cost*
Photographic Developing Charges	*$ at actual cost*

CONSTRUCTION ENGINEERING & SURVEYING EQUIPMENT:

Nuclear Densometer	*$100.00 per day/$200 per week/$650 per month*
Flow Recorder	*$10.00 per day/$30 per week/$100 per month*
Wind Recorder	*$75.00 per month*
Laser Level	*$20.00 per day/$75 per week/$225 per month*
Digital Level	*$75.00 per day/$350 per week/$1000 per month*
Line Locator	*$30.00 per day*
Robo - 5600	*$225.00 per day*
Robot S6	*$325.00 per day*
GPS - RTK System	*$400.00 per day*
GPS - Rover	*$225.00 per day*
Sewer Flow Meter	*$25.00 per day/$50 per week / $150 per month*
Confined Space Entry Equipment	*$100.00 per day*
Submersible Transducers (with data logger)	*$120.00 per day*
Nonsubmersible Transducers (with data logger)	*$100.00 per day*
Controlotron Ultrasonic Flow Meter	*$15.00 per hour/$100.00 per day*
4-Wheeler	*$100.00 per day*
Jackhammer	*$45.00 per day*
Turbidimeter	*$20.00 per day*
Trimble Juno GPS / GIS Hand Held	*$50.00 per day*
Troll 9500 (Water Quality Sampler)	*$560.00 per month*
SUE - Vacuum Truck Usage	*$150.00 per hour*

TRAFFIC & TRANSPORTATION EQUIPMENT:

Traffic Counters	*$50.00 per day*
Range Tracking System	*$50.00 per day*
Electronic Turning Movement Counters	*$15.00 per day*
Traffic Signs	*$20 per job per sign*

OFFICE EQUIPMENT & SUPPLIES:

Computers: Word Processing / Accounting	*$2.25 per hour*
Computers: CADD /Microstation/Corel Draw	*$6.50 per hour*
Fax Machine	*$1.00 per page*
Long Distance Telephone Charges	*$ at actual cost*
Postage Costs	*$ at actual cost*
Federal Express Services	*$ at actual cost*
Other Office Supplies (Specifically purchased for project)	*$ at actual cost*

SUBCONTRACTORS:

Invoiced at actual cost incurred by Consultant plus administrative charges.

OTHER EQUIPMENT:

All other equipment is included in the hourly rate charge, and the client will not be charged separately for such items. This policy is subject to change in the future. The above equipment list may be amended as necessary for future equipment purchases.

APPROVED BY: RPA BOARD OF DIRECTORS Date: 01/27/15

F:\Acctg\ADMIN\REIMBEXP 2015.xls

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P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

February 10, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Request for Direction Concerning FEC and an Analysis of Undergrounding Utilities on W. 7th Street

Introduction/History

Starting with the Whitefish West/Highway 93 and E. 2nd Street Reconstruction Projects, the Public Works Department has presented information concerning costs associated with undergrounding utilities (power, phone and cable) to the City Council. Prior to that, utility conversion was not generally considered as part of street reconstruction projects. We also investigated undergrounding utilities years ago with the Wisconsin Avenue bike path project, but were told by Flathead Electrical Cooperative (FEC) that it was impossible due to the size of their power lines.

In the case of West 7th Street, there are existing transmission power lines that increase the cost and difficulty of undergrounding the power. FEC has given us a very approximate cost for undergrounding the power lines, but they are not sure that it is even feasible. If the City Council decides that it is serious about undergrounding the utilities on this project, then FEC will proceed with a feasibility analysis. The Resort Tax Committee voted, at their last meeting, to recommend that the Council not proceed with undergrounding the utilities on W. 7th Street.

Underground versus Above Ground Utilities

1. The cost difference
   RPA has estimated that it will cost approximately $1.3 million dollars to convert the existing overhead utilities to underground on the project.
2. The construction time difference
   The attached spreadsheet shows a comparison of quarterly tax resort revenue versus quarterly estimated expenses with utilities underground and left above ground. By installing utilities underground the construction period would extend one entire year. The main reconstruction of the road would occur in 2017 versus 2016. The neighborhood would be impacted for about eight additional months of construction due to overhead to underground utility conversions during 2016. Future resort tax street reconstruction projects would be pushed back by a year.

3. The change to the landscape on the south side

   By moving the utilities underground the extent of vegetative clearing would be expanded. The entire south side of W. 7th Street (from Grouse Mountain to O'Brien Avenue) and north side of W. 7th Street (from O'Brien to Baker) would need to be cleared of trees, etc…to accommodate the utility trench and vaults. This would open up the view and could lead to higher driving speeds on the road (the opposite of traffic calming). The attached Figure 1 and 2 show the extent of additional clearing that would be required. The cleared area is hatched in red.

4. How many poles remain standing?

   FEC has estimated that approximately 15 service poles would need to be installed with the undergrounding of power. This could change if the City had an incentive program for individuals to install underground power to their homes. Otherwise, the cost is quite high for each resident to switch to underground power.

5. What do electrical vaults look like?

   The attached Figure 3 shows the probable location of the electrical vaults and photos of similar vaults. The VFI vaults are about the size of a small Volkswagen. They are required because the existing overhead lines are transmission lines.

6. What do the neighbors prefer?

   We have had one public meeting and are holding another one tomorrow night, February 11th. We will discuss this topic briefly with the neighborhood. Some neighbors have expressed an interest in having the utilities placed underground. Several neighbors have expressed an interest in keeping as much existing vegetation along the road as possible. Many have concerns about traffic speeds and higher speeds caused by an improved road. Several mentioned that they would prefer a construction time period as condensed as possible.

7. Would the choice limit future development?

   FEC mentioned that undergrounding power would require a feasibility study partly because it is very difficult with existing transmission lines. Also, they have indicated that it may limit the availability of power for future development. We don't clearly understand the implications at this point.

<u>Financial Requirement</u>

We are asking the Council to provide direction on whether it would like FEC to proceed with a feasibility study concerning the undergrounding of power on W. 7th Street. There would be no cost to the City for FEC to prepare the study. However, FEC does not want to prepare the study unless the City is seriously considering placing the utilities underground on this street.

<u>Request for Direction Concerning FEC Feasibility Study</u>

The Public Works Department respectfully requests that you provide us direction on whether to have FEC proceed with a feasibility study to place power underground on W. 7th Street.

Sincerely,

Karin Hilding, PE, LEED AP
Interim Public Works Director

West 7th Street Reconstruction Project - 2014 Resort Tax Revenue vs. Estimated Expenses

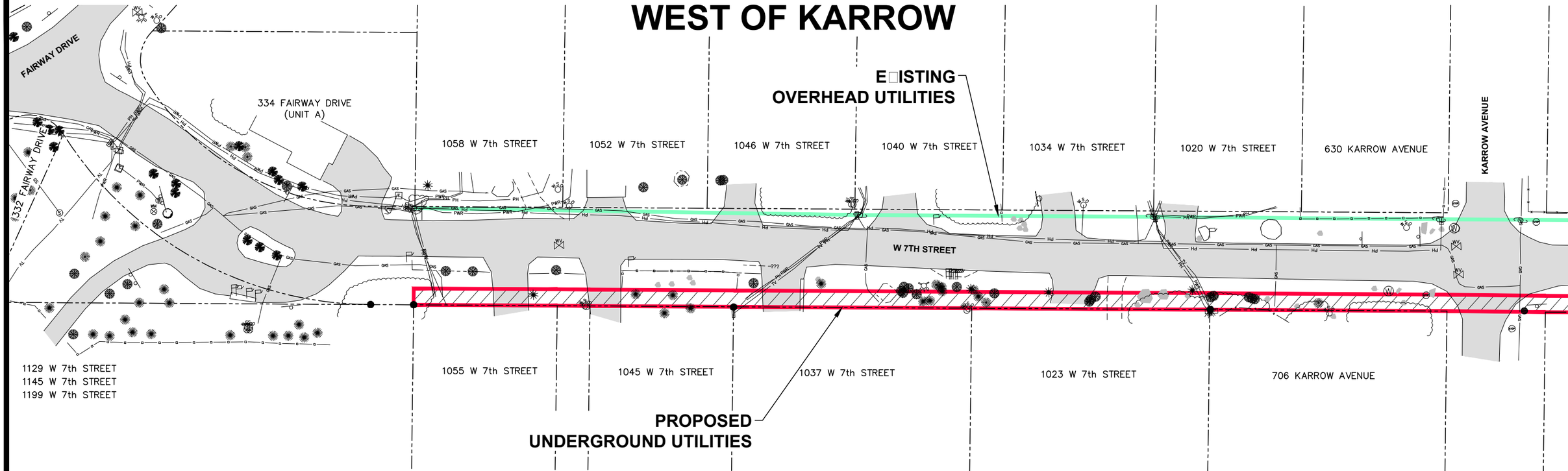
2014 Calendar

Q1	$ 264,419
Q2	$ 308,744
Q3	$ 547,540
Q4	$ 277,184

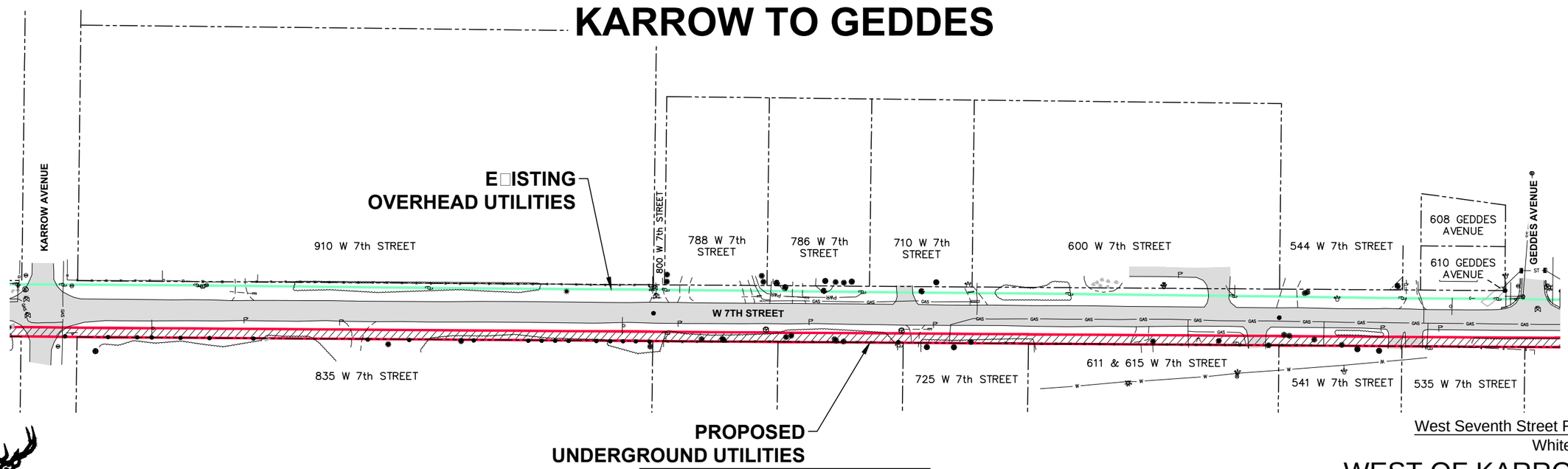
Overhead Utilites Converted to Underground - Roadway Construciton in 2017					
Calendar Year	**Quarter**	**Revenue**	**Expense**	**Balance End of Period**	
2015	1		32,500		
	2		**81,200**	195,000	**Plus Land Acquisition?**
	3	547,540	91,200	651,340	
	4	277,184	81,200	847,324	
2016	1	264,419	11,000	1,100,743	
	2	308,744	474,500	934,987	
	3	547,540	509,000	973,527	
	4	277,184	264,500	986,211	
2017	1	264,419	11,000	1,239,630	
	2	308,744	539,000	1,009,375	
	3	547,540	1,058,000	498,915	
	4	277,184	510,000	266,099	
Totals			**$ 3,663,100**		

Overhead Utilites Remaining Overhead - Roadway Construciton in 2016					
Calendar Year	**Quarter**	**Revenue**	**Expense**	**Balance End of Period**	
2015	1		32,500		
	2		**99,300**	195,000	**Plus Land Acquisition?**
	3	547,540	99,300	643,240	
	4	277,184	41,000	879,424	
2016	1	264,419	11,000	1,132,843	
	2	308,744	539,000	902,587	
	3	547,540	1,058,000	392,127	
	4	277,184	510,000	159,311	
Totals			**$ 2,390,100**		

WEST OF KARROW



KARROW TO GEDDES



RPA

Prepared By:
ROBERT PECCIA &
ASSOCIATES

Figures 1–3_W7ST.dwg

15 0 15 30
(SCALE IN FEET)
(APPLIES ONLY TO WEST OF KARROW)

EXISTING OVERHEAD UTILITIES

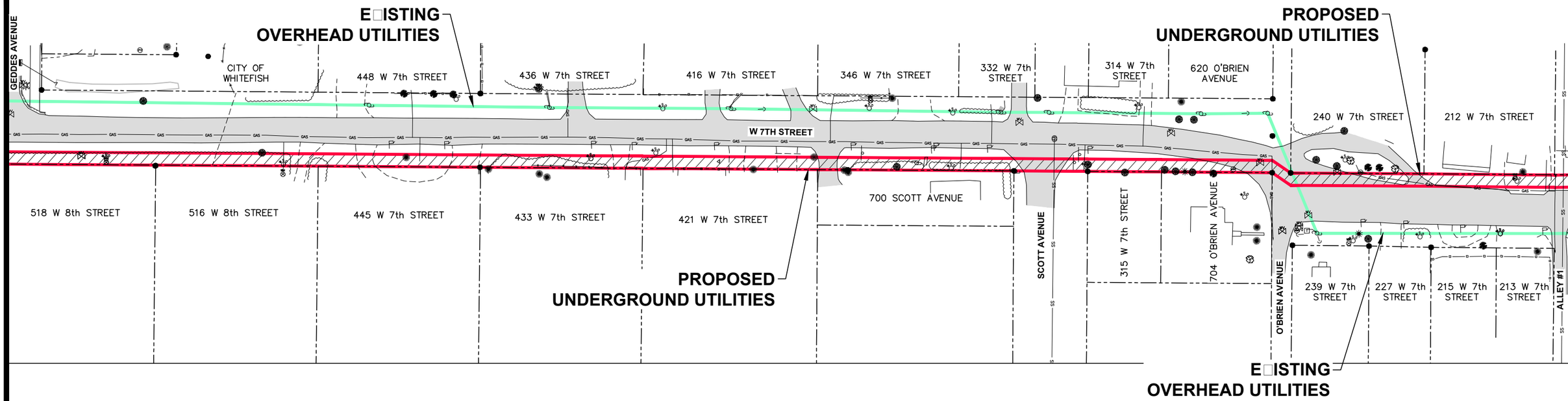
PROPOSED UNDERGROUND UTILITES

30 0 30 60
(SCALE IN FEET)
(APPLIES ONLY TO KARROW TO GEDDES)

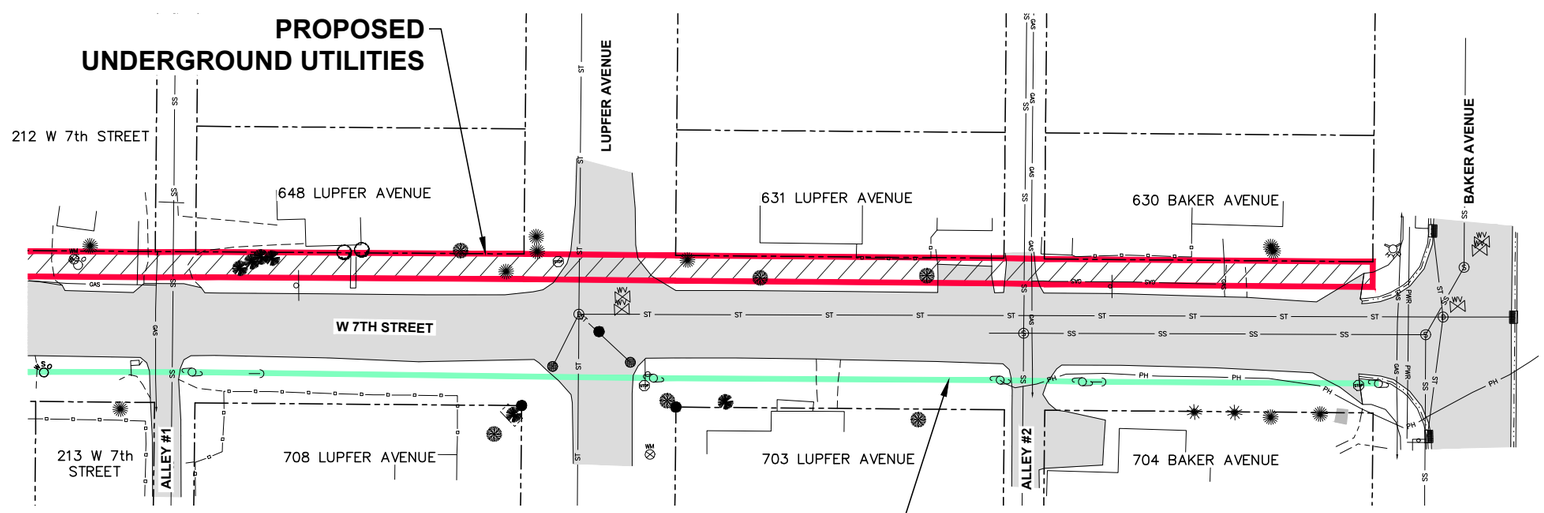
West Seventh Street Reconstruction
Whitefish, Montana

WEST OF KARROW AND
KARROW TO GEDDES
Figure#1

GEDDES TO ALLEY #1



ALLEY #1 TO BAKER



RPA

Prepared By:
ROBERT PECCIA &
ASSOCIATES

Figures 1–3_W7ST.dwg

20 0 20 40
(SCALE IN FEET)
(APPLIES ONLY TO GEDDES TO ALLEY #1)

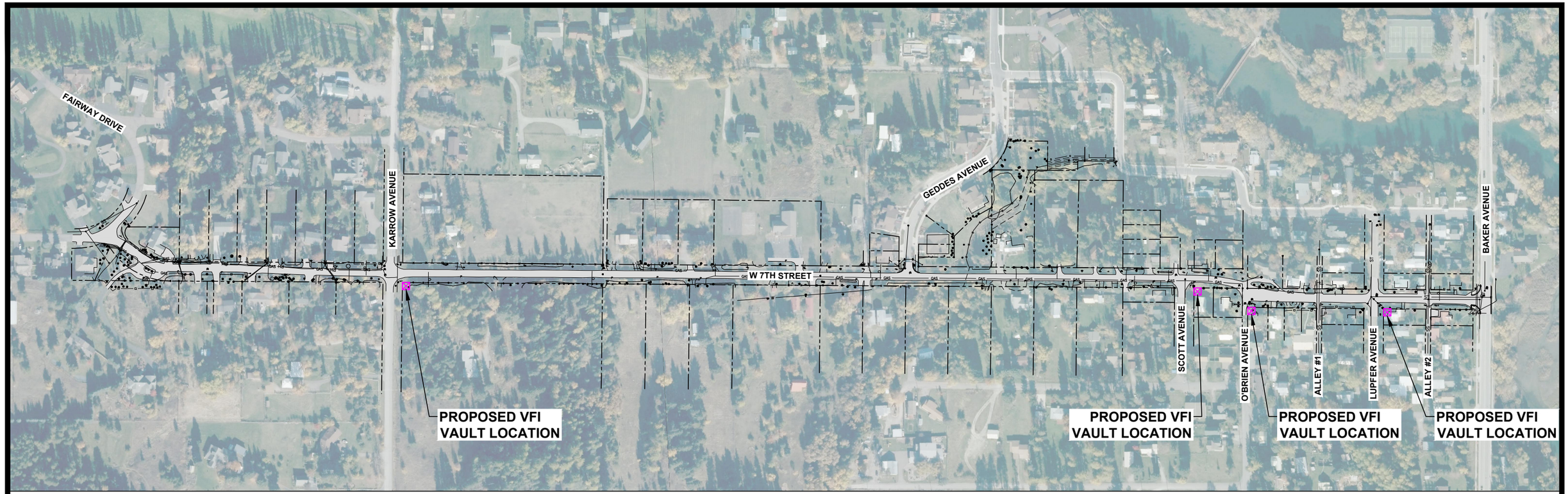
EXISTING OVERHEAD UTILITIES

PROPOSED UNDERGROUND UTILITES

15 0 15 30
(SCALE IN FEET)
(APPLIES ONLY TO ALLEY #1 TO BAKER)

West Seventh Street Reconstruction
Whitefish, Montana

GEDDES TO ALLEY #1 AND
ALLEY #1 TO BAKER
Figure#2



TYPICAL VFI VAULT

8' (L) x 8' (W) x 5' (H)

TYPICAL POWER/PHONE/CABLE CLUSTER

8' (L) x 6' (W) x 3' (H)

RPA

Prepared By:
ROBERT PECCIA &
ASSOCIATES

Figures 1–3_W7ST.dwg

150 0 150 300
(SCALE IN FEET)
(APPLIES ONLY TO PLAN VIEW)

West Seventh Street Reconstruction
Whitefish, Montana

W 7th STREET
VAULT LOCATIONS
Figure#3

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

February 24, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Approve Amendment No 1 to our Engineering Consultant Agreement for the West 7th Street Reconstruction Project

Introduction/History

This memo is to request City Council approval for an amendment to our engineering consultant agreement with Robert Peccia and Associates for the West 7th Street Reconstruction project. On July 21st, 2014 the Council approved the preliminary engineering, Phase 1, contract with RPA for a fee not to exceed $78,600. The approval included payment of this engineering fee out of the Resort Tax Fund.

Current Report

John Wilson's July 14th staff memo and the July 21st Council minutes are attached for background and overall project information. Phase preliminary engineering work is about 95% complete and we are ready to move forward with Phase II, project design.

The proposed Amendment No. 1 provides engineering services at an additional cost not to exceed $212,600, including:

- Public involvement
- Project management
- Final design for roadway, bike paths, sidewalks, decorative lighting, sewer, water and storm drainage infrastructure
- Preparation of the construction contract, detailed specifications and bid documents

Financial Requirement

The proposed addendum provides the services outlined above for a cost not to exceed $212,600. The total Contract Agreement will not exceed $291,200. All costs will be paid from adequate reserves in the infrastructure portion of the Resort Tax Fund.

Recommendation

We respectfully recommend the City Council approve Amendment No. 1 to our consultant agreement with Robert Peccia and Associates, providing for engineering services to design the West 7th Street Reconstruction project, as described above.

Sincerely,

Karin Hilding, PE, LEED AP
Interim Public Works Director

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

July 14, 2014

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Award an Engineering Contract for the West 7th Street Reconstruction Project

Introduction/History
The City Council, on February 18th, designated West 7th Street as the City's next street reconstruction project and authorized staff to proceed with the consultant selection process. The project area is shown on the attached drawing.

The Public Works Department advertised a Request for Statements of Qualifications from interested engineering consultants and interviewed the three top ranked firms in mid-April. The highest ranked firm following the interviews was Robert Peccia and Associates (RPA). We chose to delay contract negotiations because of heavy workloads and returned to that task over the past few weeks.

This memo is to recommend the City Council award a Phase I engineering consultant contract for the West 7th Street Reconstruction Project to RPA in an amount not to exceed $78,600.

Current Report
Several recent large projects have depleted the Street portion of the Resort Tax Fund, leaving a projected ending cash balance of only $200,129 for FY 2015. This means the schedule for design and construction of the West 7th Street project will be drawn out over a longer period than has been typical in the past. We hope to reconstruct the roadway in 2016, but will develop an overall project schedule during preliminary design.

Given the limited budget for street reconstruction in FY 2015, the proposed consultant agreement is intended to proceed in several phases. The first phase will involve field surveys, preliminary engineering and substantial public involvement to work through the

many concerns expressed at City Council meetings back in February. Subsequent phases will provide for engineering design, preparation of construction documents, easements and temporary construction permits, coordination for the relocation of private utilities, bidding services and construction management.

The Public Works Department has negotiated a Phase I scope of services to include:

- Project administration;
- Detailed field surveys, documentation of existing monuments, and preparation of base maps;
- Preliminary engineering for consideration of typical sections, alignment and profiles for the roadway, sidewalks and bicycle/pedestrian path;
- Preparation of drawings and exhibits to help the City and land owners understand the impacts of various alternatives and see how the work would affect their property;
- Assistance with preliminary public outreach to gather information, provide design concepts and obtain property owners' comments and reactions. We foresee an iterative process of design, public presentation, discussion and redesign to find a workable solution. The scope of work calls for three newsletters and two public meetings in this phase.

Phase I is scheduled to be completed by November 2014, when we will return to the Council with an addendum for Phase II services, including final design for the street reconstruction and coordination for relocation of private utilities. Depending on the availability of funds, we hope to relocate private utilities next summer and begin street reconstruction in the spring of 2016.

Financial Requirement

The Public Works Department has negotiated this Phase I scope of services for a fee not to exceed $78,600, which would be paid out of the Resort Tax Fund.

Recommendation

We respectfully recommend the City Council approve a Phase I engineering consultant contract for the West 7th Street Reconstruction Project with Robert Peccia and Associates, as described above, in an amount not to exceed $78,600.

Sincerely,

John C. Wilson
Public Works Director

8) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR (CD 1:35: 2 2)

a) Consideration of approving the selection of an engineering firm for the design of the East 3rd Street sewer and street overlay project (Block 46 sewer relocation) (p. 254)

Public Works Director Wilson said the City advertised for requests for proposals for consulting engineers and received three (3) responses that the Public Works Department reviewed. Subsequently, the Department negotiated a Phase I engineering contract with Robert Peccia and Associates for the East Third Street Sewer Project. The proposed new sewer main would intercept the flow at manhole 2 4-103 in the alley east of Kalispell A venue, as shown on the attached drawing in the packet, and is proposed for TIF funding. The time it takes for engineering design, State approval and construction bidding will not allow a start on this improvement project until next spring. These improvements will correct the current problem with the sewer main under the church and enable development of Block 46, which could go ahead and be started this fall and the sewer main would be abandoned next year. Staff respect fully recommends the City Council approve a Phase I engineering contract for the East Third Street Sewer Project with Robert Peccia and Associates in an amount not to exceed $3 4,300. Awards for construction and management services of the project will come before the Council next spring.

When asked by Councilor Sweeney if this project was predicated on a development of Block 46 for which we have not yet received a proposal; Manager Stearns said yes, but preliminary engineering is the first step of an improvement project. If the potential development of Block 46 falls through, this contract could be canceled or the Council could decide to proceed with this planning part of a project that probably should go forward at some time. Manager Stearns said he has drafted a development agreement for a boutique hotel at Block 46 that the developer is currently reviewing, and the developer has said they are currently moving forward with the purchase of the property.

Councilor Frandsen made a motion, second by Councilor Hildner, to approve a Phase I engineering contract for the East Third Street Sewer Project with Robert Peccia and Associates in an amount not to exceed $34,300. The motion passed unanimously.

b) **Consideration of approving the selection of an engineering firm for the design of the West 7 th Street (Baker Avenue to beyond Karrow Avenue) Resort Tax street reconstruction project (p. 257)**

Director Wilson said the City Council, on February 1 8th, designated West 7th Street as the City's next street reconstruction project and authorized staff to proceed with the consultant selection process. The project area is shown on the attached drawing, (page 259). The Public Works Department advertised a Request for 7 WHITEFISH CITY COUNCIL MINUTES JULY 21, 201 4 Statements of Qualifications from interested engineering consultants and interviewed the three top ranked firms in mid- April. The highest ranked firm following the interviews was Robert Peccia and Associates (RP A). Staff chose to delay contract negotiations because of heavy workloads and returned to that task over the past few weeks, and have now negotiated for Phase 1 of this project. Given the limited budget for street reconstruction in FY 2015, the proposed consultant agreement is intended to proceed in several phases. The first phase will involve field surveys, preliminary engineering and substantial public involvement to work through the many concerns expressed at City Council meetings back in February. Subsequent phases will provide for engineering design, preparation of construction documents,

easements and temporary construction permits, coordination for the relocation of private utilities, bidding services and construction management. The Public Works Department has negotiated this Phase I scope of services as outlined in the staff report (page 25 8) for a fee not to exceed $7 8,600, which would be paid out of the Resort Tax Fund. Councilor Hildner questioned how the cost was determined and Director Wilson said it is based on what they wanted to accomplish per the scope of work. Mayor Muhlfeld asked about other street projects planned for the Resort Tax fund and Director Wilson said it depends on cash flow, but this will be the priority project for 2015, 2016, and maybe into 201 7.

Councilor Anderson made a motion, second by Councilor Sweeney, to approve a Phase I engineering consultant contract for the West 7th Street Reconstruction Project with Robert Peccia and Associates, as described above, in an amount not to exceed $78,600. The motion passed unanimously.

c) Consideration of an amendment to the engineering contract with WGM Group for the Whitefish West (Hwy 93) utilities project for construction inspection and management (p. 260) Director Wilson reported that Phase II of the State's Whitefish West-Highway 93 Reconstruction Project is starting up, along with the City's improvements for water and sewer infrastructure between Karrow

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MANAGER REPORT

February 25, 2015

HUMAN RESOURCES DIRECTOR HIRING

As the Mayor and City Council already know, after an extensive search process, 51 applications, and three interviews, I have offered the new position of Human Resources Director to Sherri Baccaro of the Public Works Department and she has accepted our offer. Sherri will begin work as the Human Resources Director officially on March 16th, but there will be a lot of transition work to do before and after March 16th as she transitions out of the Public Works Department.

UPDATED TIF PRO FORMA CASH FLOW SPREADSHEET

Dana and I have worked with our Financial Advisor, David MacGillivray of Springsted, Inc., on the sizing and timing of a Tax Increment Bond for the City Hall and Parking Structure. Right now, the bond is sized to provide $15,000,000 for the City Hall/Parking Structure - $14,000,000 for the project and $1,000,000 right now to cover moving expenses, lease for interim offices for 2 years, Owner's Representative costs, and other costs. We can refine those costs as the costs for the City Hall and Parking Structure are refined.

As shown in an attachment to this report, the $15,000,000 would come from:

Bond issue	$12,360,000
Cash on hand – City Hall Fund and TIF cash	3,350,000
SID proceeds	750,000
Total	$16,460,000
Less issuance costs, debt service reserve	1,460,000
Available for construction and other costs	$15,000,000

Also attached in the packet is an updated TIF pro forma spreadsheet for the future cash flows in the TIF fund through its termination on June 30, 2020. Dana has inserted two lines for the future TIF bond – one for the "new money" bond for the City Hall/Parking Structure and one line for the refunding of our existing 2009 TIF Bond. We can save a significant amount of money by refunding the 2009 bond at current interest rates.

What this TIF spreadsheet shows is that funding for other projects is very limited. We can finish the Depot Park project if we delay some of the costs until FY20. There will be very limited funding for other TIF projects until FY20 unless the costs for the City Hall/Parking Project come down, TIF revenues grow by more than 3% per year, or if the City Council diverts money from the Depot Park project. Of course, all of these figures are estimates and will change every year. We may want to schedule a work session to review the TIF pro forma spreadsheet in detail and answer questions.

SANTA'S IN THE BARN – REALITY TV FILMING IN WHITEFISH ON MARCH 7TH AND MARCH 18-20

Producers for a TRU-TV reality show called Santa's In The Barn is currently filming nine episodes in the Flathead Valley, on a ranch east of Kalispell (see http://web.poptower.com/santas-in-the-barn.htm or http://www.dailyinterlake.com/members/film-project-under-way-off-foothill-road/article_64b6d530-b97b-11e4-a03f-e78516d23094.html). They have secured a Special Event Permit to film on one block of Central Avenue (200 Block) on Saturday, March 7th and then film the finale episode from March 18-20th. Central Avenue will remain open on March 7th as they will film from parking spaces. During March 18-20th, the half block of Central Avenue (south end) between Railway Street and Depot Street will be closed and filming down Central Avenue will be done. They will also decorate the street along Depot Park and the O'Shaughnessy Center and they will likely decorate some businesses in the block of Central Avenue between Railway Street and 1st Street. They will also have various promotions to encourage local citizens to come out and line the streets during the filming. The filming of the episode will occur on Thursday, March 19th from 7:00 p.m. to midnight.

MEETINGS

Employee Health Insurance Committee (2/19) – The Employee Health Insurance Committee met on February 19th and voted to continue our medical insurance plans with the Montana Municipal Interlocal Authority (MMIA) rather than investigate an alternative plan. MMIA's early indication on rate increases for next year is in the 7-9% rate increase range, but they have typically reduced this early estimate as we get closer to budgeting. Last year there was a slight decrease in medical insurance premiums.

UPCOMING SPECIAL EVENTS

Santa's In The Barn – Reality TV show filming in Whitefish on March 7th and March 18-20

REMINDERS

Thursday, March 12th at 5:30 p.m. – Montana Department of Environmental Quality (DEQ) public meeting on the BNSF rail yard diesel plume clean-up project – City Council Chambers

Respectfully submitted,
Chuck Stearns, City Manager

TIF Financial Plan July 2014 through July 2020

	A	B	F	G	H	I	J	K	L	M	N
38			FY 2015	FY15 Projected	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020		Total
39	**Beginning Cash Balance**		$ 2,325,843	$ 2,325,843	$ 2,044,797	$ 944,032	$ 225,769	$ 328,616	$ 649,446		
40	**Revenues**										
41	Property Taxes [1]		$ 4,611,600	$ 4,611,600	$ 4,842,180	$ 5,084,289	$ 5,338,503	$ 5,605,429	$ 5,885,700		31,367,701
42	State Entitlement Payment		248,865	248,865	248,865	248,865	248,865	248,865	248,865		1,493,190
43	Miscellaneous		20,000	20,000							20,000
44	Transfer from Impact Fees (ESC repayment) [4]		90,000	90,000	100,000						190,000
45	Total Revenues		$ 4,970,465	$ 4,970,465	$ 5,191,045	$ 5,333,154	$ 5,587,368	$ 5,854,294	$ 6,134,565		33,070,891
46	**Expenditures**										-
47	Proposed Additional TIF Bond Debt Service - City Hall/Parking (last yr uses reserves)		$ -	$ -	$ 2,646,275	$ 2,645,338	$ 2,645,888	$ 2,645,200	$ 1,412,275		11,994,975
48	Current TIF Bond Debt Service w/refi savings of $260K per yr (last yr uses reserves)		$ 1,778,896	$ 1,778,896	$1,518,886	$1,516,586	$1,520,933	$1,519,898	$ -		7,855,199
49	Semi-annual School Payment [1]		668,800	668,800	702,240	737,352	774,219	812,930	853,577		4,549,117
50	Transfer to City Hall Fund [2]		$250,000	$250,000	650,000						900,000
51	Salaries and O&M [3]		364,667	364,667	375,607	386,875	398,481	410,436	422,749		2,358,816
52	Business Rehab Loan		30,000	30,000	30,000	30,000	30,000	30,000	30,000		180,000
53	Land Purchase										-
54	Urban Renewal Projects:										-
55	Misc Urban Renewal Projects		300,000	300,000	15,000	15,000	15,000	15,000	15,000		375,000
56	High School TIF project		750,000	750,000							750,000
57	Depot Park ($2 million - phase 1-4)		247,000	247,000	253,802	620,267			827,534		1,948,603
58	Ice Den Roof Renovations and E-Ceiling		85,000	85,000							85,000
59	Ped-Bike bridge to Skye Park (Total ~$829k)		360,000	360,000							360,000
60	Develop additional downtown parking ($6.5M now in Debt Service)										-
61	Assist Private Developer - Boutique Hotel		513,633	100,000	?	?	?	?	?		100,000
62	Assist Private Developer - Idaho Timber		?		?	?	?	?	?		-
63	Assist Private Developer - N. Valley Hospital		?		?	?	?	?	?		-
64	Assist Private Developer - Other Redevelopment		200,000	200,000	?	?	?	?	?		200,000
65	Downtown/O'Shaugnessy Restrooms		120,000	117,148							117,148
66	Other Real Estate Committee Land Purchase Options		?		?	?	?	?	?		-
67	Housing Authority										-
68	Chamber ($96k)	$96,000									-
69	Depot Park Snow Lot (phase 5 of depot park)	$550,000									-
70	Install/refurbish water & sewer lines throughout district		?	?	?	?	?	?	?		-
71	Contingency		500,000	-	100,000	100,000	100,000	100,000	100,000		500,000
72	Total Approximate Non-Committed	$646,000									-
73	Total Expenditures		$ 6,167,996	$ 5,251,511	$ 6,291,810	$ 6,051,417	$ 5,484,521	$ 5,533,464	$ 3,661,135		32,273,858
74	Revenues less Expenditures		$ (1,197,531)	$ (281,046)	$ (1,100,765)	$ (718,263)	$ 102,847	$ 320,830	$ 2,473,430		$ 797,033
75	**Ending Cash Balance**		$ 1,128,312	$ 2,044,797	$ 944,032	$ 225,769	$ 328,616	$ 649,446	$ 3,122,876		

76 1 Assumes 5% growth per year. Since FY2000 the average growth has been 9.62%.

77 2 Originally assumed City Hall for $4,800,000 in 2014, $750k land already purchased. Current available cash as of January 2015 = $1,979,303. The project currently assumes $650,000 of additional cash contributions from the TIF Fund

78 and $2.7M of cash that will be in the City Hall Construction Fund as of 6/30/2015, for a total of a $3.35M cash on-hand contribution. The remainder will be financed through the TIF Bonds through July 2020.

79 3 Assumes 3% growth per year.

80 4 Impact Fees transferred to TIF Fund to payoff TIF Bond issued for the ESC construction. Total transfers of $190,000 based on cash balance of ESC Impact Fees on 1/30/15 + $10K additional revenues expected in FY15. Prepared: 1/30/2015

MEMORANDUM
#2015-004

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Future City Hall – Recommendation for selection of an Owner's Representative for the City Hall/Parking Structure project

Date: February 5, 2015

Introduction/History

The Mayor and City Council, along with staff, determined that because of workload and lack of expertise on city staff, it is desirable to hire and use an Owner's Representative on the future City Hall/Parking Structure project. An Owner's Representative takes the day to day oversight of the construction project from city staff, even though I, as City Manager, will still sign all pay requests and monitor the project. An Owner's Representative can devote the time needed to oversee such a large project.

Current Report

A copy of the City's RFP is contained in the packet. In response to the first RFP, we received four submittals by the January 30th deadline. The proposals were from:

- John Constenius and the Brookwood Group
- Montana Creative Architecture and Design
- Bison Creek, PLLC
- Mike Cronquist

The selection committee consisting of Mayor John Muhlfeld, Councilor Richard Hildner, myself, and Sherri Baccaro (Future City Hall Steering Committee representative) decided to interview three candidates, John Constenius and the Brookwood Group, Montana Creative, and Mike Cronquist. Those interviews were held on Friday, February 6th.

After the three interviews, the four selection committee members discussed the proposals and the interviews. In a very close decision, the Committee's consensus decision was to recommend that the City select Mike Cronquist as the City's Owner's Representative and try to negotiate a

satisfactory contract with Mike first. If we were unable to negotiate a satisfactory contract with Mike, we would pursue negotiations with the next ranked firm, The Brookwood Group.

Mike was the City's Owner's Representative for the construction of the O'Shaughnessy Center and the Library. He also was the Owner's Representative for Iron Horse during the construction of their clubhouse and he oversaw large construction projects throughout his career. A copy of the proposal from Mike Cronquist is attached to this report in the packet.

Financial Requirement

Any such fees will be paid by the City Hall Construction Reserve Fund (January 1, 2015 balance of $2,098,030.5). This construction fund was created from Tax Increment revenues earmarked for construction of City Hall since 2004. Total construction costs and other costs will be paid by money in this fund, funds in the Tax Increment Fund, and a future Tax Increment Bond issue later this year. It is the committee's recommendation that we try to negotiate a contract with Mike Cronquist that would not have an administrative assistant, but that City staff might be able to provide necessary staff support for Mike.

Recommendation

Staff respectfully recommends the City Council select Mike Cronquist as the Owner's Representative for the future City Hall/Parking Structure project and authorize the City Manager to negotiate and sign a contract for these services.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2015, 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 Mike Cronquist of 2270 Witty Lane, Columbia Falls, MT 59912, hereinafter referred to as "Consultant".

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 Consultant 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 on or before the 31st day of December, 2017.

3. Scope of Work: Act as the City's representative during all phases of the planning, bidding, construction, and completion processes related to constructing the new City Hall and Parking Structure. The Owners' Rep will represent the interests of the City of Whitefish and will report directly to the City Manager and Mayor/City Council. Consultant will perform the work and provide the services in accordance with the requirements of the Scope of Services as shown in Exhibit A.

4. Payment: City agrees to pay Consultant an amount on a time and materials basis as shown in the Fee Structure in Exhibit B not to exceed Three Hundred Thirty Two Thousand, One Hundred and Thirty Dollars ($332,130.00) for services performed pursuant to the Scope of Services if the project extends twenty-four months. Any alteration or deviation from the described work that involves extra costs will be performed by Consultant 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.

5. Independent Contractor Status: The parties agree that Consultant is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Consultant 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. Consultant is not authorized to represent the City or otherwise bind the City in any dealings between Consultant and any third parties.

Consultant 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. Consultant shall maintain workers' compensation coverage for all members and employees of Consultant's business, except for those members who are exempted by law.

Consultant 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. <u>Indemnity and Insurance</u>: Consultant 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 or omission on the part of Consultant or Consultant's agents or employees. For this purpose, Consultant shall provide City with proof of Consultant'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. Such policy will name the city as an additional insured, be primary and non-contributory, and contain a provision that no cancelation thereof will be effective by the insurer without 30 days prior written notice to the City and to the Consultant. A current copy of the policy will be sent to the City annually. The insurance must be in a form suitable to City.

The City agrees to indemnify, defend and save the Consultant, his agents or 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 or omission on the part of City, its officers, agents and employees.

Consultant shall maintain, during the term of this contract, **Professional Errors and Omissions Insurance** in the minimum amount of $1.5 million.

7. <u>Professional Service</u>: Consultant agrees that all services and work performed hereunder will be accomplished in a professional manner.

8. <u>Compliance with Laws</u>: Consultant 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. Consultant will purchase a City business license.

9. <u>Nondiscrimination</u>: Consultant agrees that all hiring by Consultant 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. <u>Default and Termination</u>: 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. In addition, for other reasons, the parties agree that they may mutually terminate this agreement with ten (10) days written notice.

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 Consultant may not subcontract or assign Consultant'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 Consultant 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 Consultant for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the Consultant. 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 Consultant is Charles C. Stearns, City Manager, and Consultant's designated liaison with City is Mike Cronquist.

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	**MIKE CRONQUIST** CONSULTANT (Type Name Above)
By: _____ Charles C. Stearns, City Manager	By: _____ Printed Name: Mike Cronquist Printed Title: Owner

EXHIBIT A

Mike Cronquist
2270 Witty Lane
Columbia Falls, MT

January 30, 2015

Scope of Services
City of Whitefish Request for Proposal
Owner's Representative – New City Hall / Parking Structure

The Owner's Representative Perform the Following Duties and Responsibilities in Accordance with the Terms and Conditions of the Request for Proposal

General / Preliminary:

- Establish a working relationship with City* personnel. Determine areas of responsibility and expectations thereof.
- Meet with the Architect as soon as practicable to become familiar with personnel, current plans and progress.
- Determine current status of design & drawing development.
- Review reporting & approval procedures. Assist AE* with streamlining and expediting the process wherever possible.
- Meet and establish a working relationship with the Contractor.*
- Assist the City with contract negotiations.
- Assist with development of phasing plans
- Facilitate logistical planning with City and Contractor – including staff relocation, rerouting of city traffic, material storage and handling, Contractor construction offices and possible removal and disposal of contaminated material.
- Assist City in communicating plans to the Community.

1. Scheduling / Reporting

    - Coordinate drawing issue schedule progress reports with AE
    - Direct development of project phasing plans
    - Assist Contractor with preparation of project construction schedule. Facilitate effort with City personnel.
    - Provide ongoing scheduling communications with the City.
    - Produce and maintain a management level schedule for periodic review by City personnel.
    - Provide biweekly progress reports to the City.
    - Provide progress updates in such form and format as established by this RFP or as may be, from time to time requested by the City.
    - Assist City personnel with the issue of periodic updates to the Community.

Cost Control.

- Prepare management level cost report for presentation the City – to include AE costs, construction costs and indirect field and administrative costs.
- Define changed conditions and negotiate change order pricing and incorporate same into the cost report.
- Issue cost reports biweekly
- Identify changing conditions and associated costs and report same to the City as soon as recognized.

2. Design

- Provide coordination among AE, City and Contractor for design timelines, drawing issues and specification preparation.
- Facilitate material specifications. Assist with expediting issue thereof.
- Establish coordination meetings with AE, in AE's office.
- Manage submittal and approval process.
- Provide ongoing, and timely, communications between AE and City.
- Expedite equipment selection and procurement.
- Facilitate process of determining finish schedules.
- Provide constructability expertise to AE and City.

3. Construction

- As City Representative, oversee all on and offsite construction activities.
- Provide direction and support to Contractor, City and AE staff.
- Facilitate all communications among City, Contractor and AE staff.
- Assist Contractor with selection of subcontractors as may be necessary, including any approvals required by the City.
- Isolate and resolve problems.
- Work with Contractor to identify any changed conditions and establish a scope and cost. Determine any ramifications resulting therefrom.
- Assist Contractor in the preparation of change order documents.
- Negotiate all added / deleted costs with Contractor.
- Set up biweekly project review meeting with Contractor.
- Work with Contractor project manager to establish periodic progress and cost reporting to City.
- Assist Contractor with coordination of construction activities with City department heads.
- Establish City construction office
- Manage RFI (request for information) process between AE and Contractor.
- Manage and coordinate all inspection, testing and documentation efforts.

4. Budgeting, Contracts and Administration

Duties and responsibilities for this section shall be in accordance with the RFP and as restated below.

- In conjunction with the City Manager facilitate all project related contract negotiations and scope of work progress or completion.
- Provide the review and analysis of the bidding process, and work with the architect and general contractor in support of the bid-out, sub-contracting and final cost estimating of the project.
- Provide review and analysis of the preliminary project estimates (based on Architect's Schematic Design) presented by Contractor.
- Review bills and payment applications by architect and general contractor and provide the City with recommendation for payments.
- Coordinate, develop, and track budgets for approval by the City Manager.

5. Completion

- Assure all projection testing records and as -built drawing information is complete.
- Provide direction for all precommissioning, checkout and testing.
- Manage commissioning and startup of all operating equipment and systems.
- Assist AE with delivery and installation of all FF&E.
- Assist with Facility transfer of care, custody and control to the City
- Assist City and Contractor with turnover and move in.
- Manage the resolution of any remedial work.
- Assure all guarantees and warranties are in place.
- Assist with contract close out and final payment.

* "City" means City Manger, City Council, City Staff and other committees or entities associated with the City of Whitefish

"AE" means Architect / Engineer

"Contractor" means General Contractor

_____

Mike Cronquist

Mike Cronquist
2270 Witty Lane
Columbia Falls, MT

EXHIBIT B

Fee Structure
City of Whitefish Request for Proposal
Owner's Representative – New City Hall / Parking Structure

January 30, 2015
Revised: February 23, 2015

Item	Hourly Rate	Monthly rate	Project Cost (24 Mo.)	Comments
Owner's Representative	65.00	11,245.00	269,880.00	
Administrative Assistance	20.00	2,000.00	36,000.00	Revised to be part time - 100hrs /mo / 18 mo.
Phone		Incl		
Computer Systems		Incl		
Internet		Incl		
Office Space		750.00	18,000.00	May be provided by Owner
Furnishings & Equipment - incl: computer, copier, etc		Incl		
Professional Insurances		Incl		
Office Supplies		Incl		
Postage / Overnight Services		Incl		
Vehicle		250.00	6,000.00	Not Incl Travel
Totals:		14,245.00	329,880.00	

Other / Additional Costs

Travel (In State)		375.00	2,250.00	Assume 6 Trips to A/E's Office
Travel (Out of State)				Travel to Engr's (Kimley's) office to be determined by City Mgr and Consultant
Expenses, including those included for travel:				All expenditures, not specifically mentioned, but incurred during the execution of the Consultants work, shall be reimbursed by City at actual, reasonable cost, with no additional markup or fee.

January 30, 2015

Mike Cronquist
2270 Witty Lane
Columbia Falls, MT 59912
Ph: (406) 261-6202
Email: mcronquist@ironhorsemt.com

Mr. Chuck Stearns
City Manager, City of Whitefish
PO Box 158
Whitefish, MT 59937-0158

Subj: Owners Representative Whitefish City Hall and Parking Structure

Dear Mr Stearns:

I am pleased to present my proposal in response to the City of Whitefish's request for a qualified individual to serve as the Owner's Representative for the New City Hall / Parking Structure. The new facility will both enhance Whitefish and help the city employees streamline service and communication with the Community.

The City's fundamental task requires one person represent the City from start to finish. The City recognizes that this task does not require a cadre of backup personnel; it is in fact better accomplished by one consistent, dedicated advocate providing friendly and clear communication to ensure project success.

My local experience with the O'Shaughnessy Center and Iron Horse at Whitefish Clubhouse will help expedite these tasks. I am familiar with local personnel, code compliance, weather and other issues likely to affect scheduling and may constrain construction dates

I anticipate that you will find my proposal straightforward, and that you can expect all communication with me to be equally simple and direct.

Thank you for the opportunity to submit my proposal for your review and consideration.

Regards:

Mike Cronquist

Encl.

Mike Cronquist
2270 Witty Lane
Columbia Falls, MT

January 30, 2015

Scope of Services
City of Whitefish Request for Proposal
Owner's Representative – New City Hall / Parking Structure

The Owner's Representative Perform the Following Duties and Responsibilities in Accordance with the Terms and Conditions of the Request for Proposal

General / Preliminary:

- Establish a working relationship with City* personnel. Determine areas of responsibility and expectations thereof.
- Meet with the Architect as soon as practicable to become familiar with personnel, current plans and progress.
- Determine current status of design & drawing development.
- Review reporting & approval procedures. Assist AE* with streamlining and expediting the process wherever possible.
- Meet and establish a working relationship with the Contractor.*
- Assist the City with contract negotiations.
- Assist with development of phasing plans
- Facilitate logistical planning with City and Contractor – including staff relocation, rerouting of city traffic, material storage and handling, Contractor construction offices and possible removal and disposal of contaminated material.
- Assist City in communicating plans to the Community.

1. Scheduling / Reporting

- Coordinate drawing issue schedule progress reports with AE
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- Assist Contractor with preparation of project construction schedule. Facilitate effort with City personnel.
- Provide ongoing scheduling communications with the City.
- Produce and maintain a management level schedule for periodic review by City personnel.
- Provide biweekly progress reports to the City.
- Provide progress updates in such form and format as established by this RFP or as may be, from time to time requested by the City.
- Assist City personnel with the issue of periodic updates to the Community.

Cost Control.

- Prepare management level cost report for presentation the City – to include AE costs, construction costs and indirect field and administrative costs.
- Define changed conditions and negotiate change order pricing and incorporate same into the cost report.
- Issue cost reports biweekly
- Identify changing conditions and associated costs and report same to the City as soon as recognized.

2. Design

- Provide coordination among AE, City and Contractor for design timelines, drawing issues and specification preparation.
- Facilitate material specifications. Assist with expediting issue thereof.
- Establish coordination meetings with AE, in AE's office.
- Manage submittal and approval process.
- Provide ongoing, and timely, communications between AE and City.
- Expedite equipment selection and procurement.
- Facilitate process of determining finish schedules.
- Provide constructability expertise to AE and City.

3. Construction

- As City Representative, oversee all on and offsite construction activities.
- Provide direction and support to Contractor, City and AE staff.
- Facilitate all communications among City, Contractor and AE staff.
- Assist Contractor with selection of subcontractors as may be necessary, including any approvals required by the City.
- Isolate and resolve problems.
- Work with Contractor to identify any changed conditions and establish a scope and cost. Determine any ramifications resulting therefrom.
- Assist Contractor in the preparation of change order documents.
- Negotiate all added / deleted costs with Contractor.
- Set up biweekly project review meeting with Contractor.
- Work with Contractor project manager to establish periodic progress and cost reporting to City.
- Assist Contractor with coordination of construction activities with City department heads.
- Establish City construction office
- Manage RFI (request for information) process between AE and Contractor.
- Manage and coordinate all inspection, testing and documentation efforts.

4. Budgeting, Contracts and Administration

Duties and responsibilities for this section shall be in accordance with the RFP and as restated below.

- In conjunction with the City Manager facilitate all project related contract negotiations and scope of work progress or completion.
- Provide the review and analysis of the bidding process, and work with the architect and general contractor in support of the bid-out, sub-contracting and final cost estimating of the project.
- Provide review and analysis of the preliminary project estimates (based on Architect's Schematic Design) presented by Contractor.
- Review bills and payment applications by architect and general contractor and provide the City with recommendation for payments.
- Coordinate, develop, and track budgets for approval by the City Manager.

5. Completion

- Assure all projection testing records and as -built drawing information is complete.
- Provide direction for all precommissioning, checkout and testing.
- Manage commissioning and startup of all operating equipment and systems.
- Assist AE with delivery and installation of all FF&E.
- Assist with Facility transfer of care, custody and control to the City
- Assist City and Contractor with turnover and move in.
- Manage the resolution of any remedial work.
- Assure all guarantees and warranties are in place.
- Assist with contract close out and final payment.

* "City" means City Manger, City Council, City Staff and other committees or entities associated with the City of Whitefish

"AE" means Architect / Engineer

"Contractor" means General Contractor

Mike Cronquist 1/30/15

Mike Cronquist

Mike Cronquist
2270 Witty Lane
Columbia Falls, MT

January 30, 2015

Statement of Qualifications
City of Whitefish Request for Proposal
Owner's Representative – New City Hall / Parking Structure

Article 6: Projects of Similar Scope / Municipal Projects

Iron Horse at Whitefish Clubhouse Facility:

25000 SF, state of the art golf clubhouse, including:

- Structural concrete, steel and wood framing
- Underground cart storage
- Dining and bar areas
- Commercial kitchen, food handling and storage facilities
- Men and women's locker rooms and lounges
- Fitness facility
- Pro shop
- Administrative offices and related spaces
- Dual natural gas fired boilers for building heating and hot water.
- Multi-zoned HVAC systems. Included both roof and floor mounted equipment.
- Industrial fire protection systems, with attendant alarms, sprinklers, smoke & heat detectors with remote monitoring and alarming.
- Intrusion alarms
- Emergency lighting systems

Duties and Responsibilities

Managed all phases of plan development and construction planning, including architecture and engineering, layout, site development and preparation of submittal documents for approval by City, County and State agencies.

Coordinated with Local and State authorities throughout the course of the project.

Prepared and managed all construction contracts. Prepared all change orders and change order budgets. Reviewed and approved all contractor cost proposals and invoices.

Developed and managed all project budgets, cost control and schedules.
Provided onsite direction of multiple contractors, suppliers and specialty services.

Directed checkout, testing and commissioning of all facility systems and equipment.
Requested and coordinated all inspection by City, County and State officials.

I A O'Shaughnessy Center and New Public Library, City of Whitefish

Theater:

- 326 seat state of the art performing arts facility.
- Structural concrete, steel and wood frame construction.
- Multi-zone HVAC systems.
- Sound enhancing material and construction in the theater.
- State of the art theater lighting and lighting controls.
- Enhanced sound and sound control systems
- Theater seating
- Specialized performance and dance floor / stage.
- Industrial fire protection systems.
- Security, smoke and fire alarm systems
- Emergency lighting throughout

Library:

- New facility with mostly open spaces for book storage, review and reading areas. including administration offices and restrooms.
- Structural concrete, steel and wood frame construction
- Multi-zoned HVAC systems with natural gas fired heating components.
- Multi-zoned fire suppression systems
- Book storage cabinets
- FF&E suitable to the multi-functionality of the facility.
- Smoke, fire and security alarm systems
- Emergency lighting throughout

Duties and Responsibilities:

Provided ongoing coordination with the architects and engineers during the construction and turnover process.

Onsite construction management of various contractors for building site work, construction, and landscaping. Coordinated the installation of power and gas by utility companies.

Managed offsite infrastructure and street work concurrent with, and, necessary to, the completion and operation of the theater and library.

Directed the identification and disposal of contaminated materials left over by former railway operations. Retained and coordinated specialty engineering firms to assist in the process.

Prepared budgets, costs and progress reports for the Owners and worked closely with City and Community Center personnel to assure their reporting needs were met.

Managed the change order development and implementation process. Negotiated all change order costs with contractor.

Reviewed and recommended all invoices for approval for payment.

Directed the checkout, testing and acceptance processes.

Directed turnover and transfer of care, custody and control to the Community Center and the City of whitefish.

Work on the theater and library was managed concurrently with road and infrastructure work.

Marathon Refinery Plant Control Building, Indianapolis, IN

- 7500 SF blast proof steel frame and concrete block building
- Ergonomically designed and installed plant control stations.
- Redundant positive pressure air handling and filtration systems including 200 micron filters for incoming air.
- Halon 1301 fire suppression systems.
- Fiber optic control systems for plant operational equipment
- New 7.5 KW transformers and switchgear.

Duties and Responsibilities:

Onsite construction management of multiple contractors for building site work, construction, and landscaping. Coordinated with Marathon's site utility operations for installation of power and gas.

Prepared budgets and work schedules for the Owner.

Prepared weekly costs and progress reports for the Owners. Worked closely with Owner personnel to assure their reporting needs were met and understood.

Managed the change order development and implementation process. Negotiated all change orders costs with contractors.

Reviewed and approved all invoices for payment.

Directed the checkout, testing, commissioning and acceptance processes.

Managed the cutover program such that the plant operated continually while new control systems were brought online

Directed turnover and transfer of care, custody and control to Marathon Oil Co..

US Postal Facilities

Facilities ranged from small 1000SF design and lease back buildings to 100000 – 15000SF major municipal postal handing complexes.

Large Complexes, only:

- 10,000 to 15,000 SF building systems consisting of structural and architectural concrete, and steel and wood framing.
- Redundant, multi-zoned HVAC systems with gas fired heating
- Multi-zoned fire protection systems.
- Observation "galleries" for use by postal inspectors for monitoring facility employees and mail handling operations.
- Sometimes included covered parking, but in all cases included parking for customers and employees
- Customer lobby and mail delivery areas.
- Postal boxes.
- Security Systems, including lobby monitoring cameras.

Duties and Responsibilities:

Assisted Postal Service employees with conceptual layout and site selection.

Participated in the interview and selection of architectural firms.

Managed the design and review process with the successful firm. Assisted with the drawing development schedule. Coordinated all preconstruction planning with the Owner and architect.

Routinely met with architects to review progress and design changes.

Prepared management cost and schedule reports for the Owner.

Participated in the selection of construction contractors and suppliers with the Owner and architect.

Provided oversight of all construction activities for the Owner.

Evidence of Experience in Construction Management / Field Supervision:

Please see attached Personal Resume'

Project Experience of $12,000,000 or more:

Construction & Development Manager for the Iron Horse Project.
In excess of $50,000,000

Managed the construction of the Phase 1 Road and Infrastructure Work for Gozzer Ranch. The Work included five miles of new road construction, water distribution system, sewer system electrical and cable, a sand filter water treatment plant and the installation of a new 150,000 gal storage reservoir.
$15 – 20,000,000

Site Construction Manager for the placement of concrete for a computer wafer chip manufacturing facility. Work included foundations and structural walls and columns, and elevated concrete floors
$17,000,000

Constructability Manager for front end engineering development work for the Abu Dhabi National Oil Company. **$600,000,000+**

General Superintendent responsible for the installation of a new 25,000 BPD Alkylation Unit for Chevron USA at El Segundo, CA **$180,000,000**

Construction manager responsible for the direction of all on-site contractors for various capital projects for Marathon Oil Company at the Indianapolis Refinery. **$45,000,000**

Technical Support Manager on the San Diego Convention Center Project responsible for the evaluation and resolution of claims and requests for extensions of contract time. **$147,000,000**

Chief Field Engineer responsible for all field engineering activities for the construction and installation of new Produced Water Injection facilities for Sohio Petroleum Company at Prudhoe Bay, AK and Oakland, CA **$600,000,000**

Senior Engineer assigned to civil phase of grass roots NGL Plant at Shedgum, Saudi Arabia. **$1200,000,000**

Experience in Architecture and Design.

Iron Horse and Gozzer Ranch:

Worked closely with engineering and architectural personnel to assure that the projects were designed within Owner's parameters. Continued to work in the field to resolve issues. Coordinated with Local and State agencies to ensure acceptance and compliance. Met with engineering and design personnel, on a weekly basis, to develop and implement changes as conditions in the field dictated.

Iron Horse at Whitefish (Specific)

Managed all phases of engineering, surveying, architectural design, and preparation of submittal documents for approval by City, County and states Agencies.

City of Whitefish / Whitefish Community Center:

Met and coordinated with the architect on a weekly basis to review design changes and new scopes requested by the Owner.
Coordinated the flow and resolution of all change requests and requests for information.

Abu Dhabi National Oil Company: (Fluor Constructors)

Constructability Manager assigned to the home office to provide technical expertise and advice to the engineering task force for front end engineering development work for the Abu Dhabi National Oil Company. Provided construction infrastructure planning, feasibility studies and budget and schedule preparation.

Fluor Constructors (General)

Started as a Senior Field Engineer. Learned all phases of practical engineering from highly skilled home office task force engineers, ranging from concrete and structures to state of the art electronics and control systems.

Chief Field Engineer responsible for all field engineering activities for the construction and installation of new facilities for Sohio Petroleum Company at Prudhoe Bay, AK and Oakland, CA. Provided technical expertise covering all disciplines, to Fluor, Client and Contractor staff. Prepared scope and direction for changed conditions and/or engineering clarifications.

Senior Construction Coordinator for Houston and Calgary division offices. Assigned to engineering task forces to provide technical expertise and advise. Responsible for front-end construction planning for various domestic and overseas projects.

All projects shown herein were designed and constructed with the express purpose of conserving energy and minimizing emissions. This is particularly true of industrial installations.

All hydrocarbon processing facilities were designed and constructed in accordance with the newest methods in order to minimize impacts on the environment and personnel.

While the engineers and architects took the lead in the design and material selection process (as well should be) I worked closely with designers to ensure that all ideas were implemented in the field exactly as designed and desired.

Additional Pertinent Knowledge and Experience not Specifically Requested

Safety:

Although not specifically addressed in the RFP, I consider safety to be the single most important responsibility of the site manager. I have been through extensive training in safety techniques, procedures and OSHA regulations, and have implemented and managed safety programs on all assignments.

Concrete:

Extensive experience in conrete design, placement, inspection and testing on industrial facilities.

Structural Steel:

In depth knowledge of steel erection, bolting and welding procedures.
Experience in bolt testing methods.

Experience in NDE weld inspection and testing.
Knowledge of materials.

Piping:

Have extensive knowledge of, and experience in industrial piping, inspection and testing.
Extensive knowledge of, and experience in piping pressure testing.

Industrial Fire Protection Systems

Have in-depth understanding of installation, zoning, and sprinkler placement.
Extensive knowledge of and experience in sprinkler piping pressure testing.
Have coordinated the inspection, pressure testing, performance testing and acceptance of a number of industrial fire protection systems.

Electrical:

Have installed and tested numerous high voltage transformers and distribution systems.
Have good knowledge of state and local codes.

Control Systems;

Have managed the installation of a significant number of systems for controlling lighting, HVAC, fire protection, security and fire alarms, emergency lighting

Cranes and Rigging:

I am skilled in the use and positioning of most types of cranes and hoists and have performed rigging engineering for lifts of 100,000lb or more.

Technical Skills and Abilities

Experience working with architects, engineers, contractors and financial personnel.
Computer literacy - Windows, Excel, MSWord, several scheduling software systems.
Extensive knowledge of CPM scheduling techniques and procedures.
Ability to control costs.
Experience in claims resolution and avoidance.
Experience in contracts management and administration. Experience in all phases of field engineering.
Experience in management of quality assurance/control programs.
Experience in management of proactive safety programs.

References provided on request

Mike Cronquist 1/30/15

Mike Cronquist

Request for Proposals
City of Whitefish
Owner's Representative – City Hall/Parking Construction Design, Bidding, and Construction

The City of Whitefish desires to contract with an 'Owner's Representative' (or 'Owners Rep') during the planning, bidding, and construction of a new City Hall and Parking Structure. The estimated construction cost of the City Hall and Parking Structure is currently $12,000,000.00 to $14,000,000.00.

Fundamental Task: Act as the City's representative during all phases of the planning, bidding, construction, and completion processes related to constructing the new City Hall and Parking Structure.

The Owners' Rep will represent the interests of the City of Whitefish and will report directly to the City Manager and Mayor/City Council.

City Hall and Parking Structure Project:
The Project includes designing, constructing, furnishing and equipping a new City Hall and Parking Structure on the half block of Block 36 where the current City Hall is located. The project involves demolition of existing buildings and construction of a new City Hall and Parking Structure, currently estimated to cost for construction (not including ancillary costs) between $12,000,000.00 and $14,000,000.00. The project is currently in the Schematic Design phase and should progress to the Design Development phase in early 2015. Construction is estimated to begin in summer or early fall, 2015 and be completed approximately 18 months later. The City Hall building is estimated to be 23,500 to 31,500 square feet on two to three levels plus a basement and the parking structure is estimated to be 93,500 square feet with three decks.

See attached Project information (work-in-progress – facility program, concept layout, site plan, and schedule)

The primary responsibilities of the Owner's Representative shall be:

1. Scheduling, Reporting and Communications
   - Establish and coordinate routine meetings amongst City Manager, Mayor/City Council, and Future City Hall Steering Committee.
   - Generate and contribute, throughout all phases of project, informational reports as needed, detailing project progress, schedule, and financial status. The City will maintain all financial project accounting and reporting with Owners' Rep to assist in account and report formulation.
   - Schedule, facilitate and attend meetings as a representative of the City. Owners' Representative shall attend meetings amongst the City Manager and Mayor/City Council

on a regular basis. The Owner's Rep shall provide a verbal and written update report to the City Manager and Mayor/City Council every two weeks and shall provide a brief verbal report at each City Council meeting (two per month). The Owner's Representative shall attend all meetings of the Future City Hall Steering Committee.

- Oversee the development of construction phasing plans in conjunction with the City Manager, Mayor/City Council, the General Contractor/Construction Manager, and the Architect.

2. Design

- Coordinate design timeline, deliverable timing and scheduled visits with architect.
- Manage process of reviewing design proposals, submittals and documentation - and - gathering input from the administration and staff, Mayor/City Council, and Future City Hall Steering Committee.
- Work with the City Manager and Mayor/City Council to communicate the proposed design to the community.
- Coordinate the process of gaining approval for the design at appropriate stages from the Mayor/City Council.
- Oversee and manage the completion of all project phases for the City, functioning as primary conduit between the City staff, Mayor/City Council, community and the architecture and engineering firms.
- Coordinate material specification submittals and selections with the City Manager and architect to assure installation of low maintenance products and highest life cycle value.
- Provide ongoing review and input directly to the architect to improve constructability and cost effectiveness including review of structural and other critical systems, design critical details and finish schedules as well as identification of missing information required for accurate bidding and accurate construction.
- Assist the architect in the process and solution that defines the scope of sustainability, costs and benefits for the project (e.g., pursuit of any/appropriate LEED Certification)

3. Construction

- Act as the City's representative during all phases of the planning, bidding, construction, and completion processes, including serving as the City's primary point of contact with the architect and general contractor.
- Under the direction of the City, establish an in-City construction office, including maintenance of related records, documentation, design data, drawings, correspondence, etc., pertaining to the project.
- Coordinate communication between the architect, general contractor, and the City Manager and staff regarding operational logistics, timing and construction requirements.
- Attend meetings with architect, city staff, general contractor/construction manager, sub-contractors.
- Oversee the on-site observation and review of all construction activities.
- In collaboration with the general contractor's Onsite Construction Manager, provide routine reporting on project progress. Track communication between the general contractor and the Architect including Change Order Requests and Requests for

Clarifications during the construction process to ensure effective communication and to mediate disputes.

- Approve all Change Orders up to a specified delegation of authority, and obtain approval from the City Manager for all Change Orders exceeding that delegation of authority.

4. Budgeting Contracts and Administration

- In conjunction with the City Manager facilitate all project related contract negotiations and scope of work progress or completion.
- Provide the review and analysis of the bidding process, and work with the architect and general contractor in support of the bid-out, sub-contracting and final cost estimating of the project.
- Provide review and analysis of the preliminary project estimates (based on architect's Schematic Design) from general contractor.
- Review bills and payment applications by architect and general contractor and provide the City with recommendation for payments.
- Coordinate, develop, and track budgets for approval by the City Manager.

5. Completion and Close-out

- In conjunction with the architect, manage the procurement, storage, handling, and installation of furniture, fixtures and equipment.
- Oversee General Contractor, Architect and City Manager in building commissioning process.
- Manage the project close-out process with general contractor, architect, engineers and City Manager.

6. Applicants shall submit the Following Information:

- Documentation on significant projects of similar scope, with project description and professional involvement
- Evidence of experience in construction management, field supervision, current construction methods and materials, technology design and application; project manager; sustainable project management and construction (municipal buildings, parking structures, or other)
- Examples of services you have provided for previous municipal building and/or parking structure construction projects or similar projects (including experience in evaluating how the project fulfilled the needs and requirements of the client).
- Demonstrated experiences with projects budgeted at $12,000,000.00 or more.
- Experience in architecture and design (including knowledge and experience with LEED projects).
- Submit resume for each person or persons proposed to work on the project and define the scope of responsibilities for each person's role.
- Submit a range of fee proposal.
- All proposals shall be typewritten or prepared in ink and must be signed in longhand by the proposer or proposer's agent or designee, with his/her usual signature. A proposal

submitted by a partnership must be signed with the partnership name to be followed by the signature and designation of the partner signing. Proposals by corporations must be signed with the legal name of the corporation, followed by the name and signature of an authorized agent or officer of the corporation. Proposals submitted by a proprietorship must be signed by the owner and the name of each person signing shall be typed or printed legibly below the signature.

- Insurance Requirements - The Proposer certifies that they can comply with the minimum insurance requirements of:

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- $750,000 per claim and $1,500,000 per occurrence.
3. Commercial automobile liability -- $1,500,000 per accident.
4. Professional liability in the amount of $1,500,000 per claim.

The City shall be named as an additional insured on CGL and Commercial Auto liability.

With the exception of resumes, submit the above information in 10 pages or less.

Please mail or deliver three paper copies and a digital copy to
Chuck Stearns
City Manager
City of Whitefish
P.O. Box 158
418 East 2nd Street
Whitefish, MT 59937
(406) 863-2406

Please email digital response materials to **cstearns@cityofwhitefish.org**

Deadline for submission is Friday, January 30, 2015 at 4:00 pm

i. January 30, 2015 – 4:00 pm: Deadline for receipt of submittals to RFP; digital (pdf) and hard copy
ii. Week of February 9, 2015: Conduct interviews at City Hall; 45 (forty five) minute interview
iii. February 17, 2015 – City Council selects Owner's Representative. Contract negotiations to follow.

7. Evaluation Criteria:
The RFQ for the Owners' Rep will be posted on the City's website.

The Selection Committee shall use the following criteria to rate the applicants and to provide a recommendation to the City Council.

The evaluation of proposals will be based on the following criteria (per the RFQ):

- ☐ Pertinent experience of the applicant
- ☐ Resumes of key personnel
- ☐ Commitment of specific personnel to the project
- ☐ Understanding of City needs and requirements
- ☐ Fee Structure

Disclaimer: This RFP does not form or constitute a contractual document. The City of Whitefish shall not be liable for any loss, expense, damage or claim arising out of the advice given or not given or statements made or omitted to be made in connection with this RFP. The City also will not be responsible for any expenses which may be incurred in the preparation of this RFP. Nor for other costs, including attorney fees associated with any (administrative, judicial, or otherwise) challenge to the determination of the highest-ranked Proposer and/or award of contract and/or rejection of a proposal. By submitting a proposal each Proposer agrees to be bound in this respect and waives all claims to such costs and fees. This RFP is not to be construed as a contract or commitment of any kind. The City reserves the right to accept or reject any and all responses received as a result of this RFP if it is in the City's best interest to do so.

Request for Proposals
City of Whitefish
Owner's Representative – City Hall/Parking Construction Design, Bidding, and Construction

The City of Whitefish ("City") requests proposals from qualified individuals or firms for the purpose of engaging a qualified Owner's Representative for the construction of the proposed new Whitefish City Hall and Parking Structure.

The City intends to enter into a contract with the selected Owner's Representative firm that will include scheduling, reporting, communication, design assistance, construction management, contracts, construction completion and close-out.

This RFP shall not commit the City to enter into any agreement, to pay any expenses incurred in preparation of any response to this request, or to procure or contract for any supplies, goods or services. The City reserves the right to accept or reject any and all responses received as a result of this RFP if it is in the City's best interest to do so.

To meet the deadline for initial consideration, please submit hand delivered proposals no later than 4:00 P.M., MDT, Friday, January 30, 2015, at the office of the City Clerk, 418 East 2nd Street, Whitefish, MT 59937. Mailed proposals must be received by this time and date for initial consideration. The mailing address for proposals is: City Clerk, City of Whitefish, P.O. Box 158, Whitefish, MT 59937-0158. Please indicate "Owner's Representative Whitefish City Hall and Parking Structure" on the outside of the sealed package.

All questions should be directed to the City of Whitefish, Attention: Chuck Stearns, City Manager, P.O. Box 158, Whitefish, MT 59937-0158. Telephone: (406) 863-2406. E-mail: cstearns@cityofwhitefish.org. A full RFP is available from Chuck Stearns or is on the City's website at http://www.cityofwhitefish.org/business/rfps-and-bids.php.

Published in the Whitefish Pilot
January 14, 2015
January 21, 2015

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UPCOMING WORK SESSIONS

The tentative schedule for upcoming work sessions is shown below:

February 17th – Interviews for board and committee vacancies and Downtown Master Plan update
March 2nd – Lakeshore regulations and processes and Parking Structure SID
March 16th – currently open – possibly Manager and City Attorney annual evaluations?
April 6th – currently open – possibly annual goals setting session?
April 20th – Hwy 93 West Corridor Plan
May 4th – interviews for boards and committees – possible 2nd topic?
May 18th – interview for boards and committees
June 1st – open
June 15th – open

or Hwy 93 West Corridor Plan and/or Downtown Master Plan

City of Whitefish
FY2016 Budget Calendar

Feb 2	Finance Director begins reformatting budget spreadsheets, updating historical budget data, and estimating final year end revenues and expenditures for FY15.
Feb 20	Department Directors to submit individual updated 5 year Capital Improvement Plans to Finance Director.
Feb 27	Finance Director to submit newly compiled 5-year Capital Improvement Plan to City Manager.
Mar 2	Finance Director submits budget preparation instructions and materials to all Department Heads.
March	City Manager meets with Mayor and Council members in groups to get preliminary comments on budget.
Mar 27	All Department Directors submit estimates of expenditures and revenues to the Finance Director.
April 1	Optional notice deadline for City Council or Municipal Judge to submit request for an adjustment in Municipal Judge's compensation other than automatic cost of living. (Ordinance)
Apr 6	City Council consideration of Capital Improvement Program.
May 1	City Manager to provide Municipal Judge with proposed "status quo" Municipal Court Budget.
May 4	Finance Director produces budget document and it is distributed to Mayor and City Council.
May 15	Municipal Judge's deadline to submit his Municipal Court budget proposal. (Ordinance)
May 26	Tentative Budget Meeting - City Manager presents proposed budget to Mayor and City Council. Department Directors other than Public Works present budget requests.
June 8	Tentative Budget Meeting – Public Works and Municipal Court present budgets.
June 1 or 15	Preliminary Public Hearing and City Council adopts Preliminary Budget.
Jul 1	City begins fiscal year using preliminary budget as approved by the City Council.
Aug 3	DOR to submit Certified Taxable Value.
Aug 5 & 12	Advertise notice of public hearing on budget for August 17, 2015.
Aug 17	Public hearing on budget. Final budget adopted by resolution.

Bold denotes deadlines

Chuck Stearns

From: Necile Lorang <nlorang@cityofwhitefish.org>
Sent: Tuesday, February 24, 2015 8:16 AM
To: cstearns@cityofwhitefish.org
Subject: Fwd: Fwd: Quiet Zone Effort Revived - Article in WF Pilot 2/11/15

-------- Original Message --------
Subject: Fwd: Quiet Zone Effort Revived - Article in WF Pilot 2/11/15
Date: Tue, 17 Feb 2015 16:50:12 -0700
From: Angel Dominguez <angel4wf@gmail.com>
To: nlorang@cityofwhitefish.org

16 February 2015

Necile Lorang

City of Whitefish
402 East 2nd Street
Whitefish, MT 59937

Dear Necile:

I wanted to bring to all members of Whitefish City County's attention the "Quiet Zone Effort Revived" article in the Whitefish Pilot on February 11, 2015. This issue directly impacts the daily lives of Whitefish residents and should not be so easily discarded.

I live on Ramsey Avenue, just behind the Whitefish Lake Golf Course, and have been dismayed by the ever-increasing train traffic over the past few years. It is especially annoying each night, as I am routinely awakened numerous (4-6) times throughout the hours of 12:30 am and 4:30 am, as trains blast the horn at lengthy intervals four times before crossing.

I find it disgusting that BNSF railroad is so eager to benefit from the increase in railroad traffic, yet find it of little importance to be a "good neighbor" in helping to maintain the peace that helps make Whitefish so special. Should we not believe that the increased revenues they receive from oil being transported from North Dakota Backen Fields to the west coast should not be used to help offset the costs of doing business at all hours of the night?

If they do not wish to take responsibility, and be good neighbors, then why not regulate the train traffic during waking hours. If they have no regard for the people of the community, rather only for fattening their pocket books, please restrict the hours for allowing the train blasts. Good neighbors would

make the effort to live peacefully, and not have their actions impede on the rest of their community. So how about it BNSF? Please be a good neighbor - invest in the community of Whitefish - a town of importance. Help fund the railroad crossing at Birch Point.

If you can provide a contact from BNSF that I can address this to, I would appreciate.

Sincerely,

Angel Dominguez

510 Ramsey Avenue

Whitefish, MT 59937

406-640-4274

The following pages were handed out at the City Council meeting the night of the meeting. They are included here as an addendum to the packet.

received
2-26-15
after Packet

Park Knoll HOA
PO Box 4051
Whitefish, MT 59937

February 26, 2015

City of Whitefish
P.O. Box 158
Whitefish, MT 59937-0158
RE: Staff Report dated 2-24-15 on WPUD 14-04

Mayor, Council Members and Planning Staff:

Over the past three months, Park Knoll HOA and the Whitefish Crossing Developers have met to discuss ways in which we might resolve our neighborhood's concerns regarding the proposed WPUD 14-04. We have reached an agreement based upon a revised site plan, shifting proposed apartment buildings east and away from the WLR zoned areas within the project boundaries. That revised site plan (SD2.0.6) was submitted to you by Eric Mulcahy as an amendment of the PUD and included in your briefing packet for the March 2nd Council meeting.

Our HOA now supports the WPUD 14-04 as amended to incorporate the revised site plan (SD2.0.6) as submitted by Eric Mulcahy on 2-24-15. Our HOA has dropped our earlier appeal with the Board of Adjustments which had stayed further action by the Council. Since the new site plan moves the apartment units out of the WLR zones, our appeal became moot with our agreement with the Developers.

We found both the Ordinance and Proposed Motion in the briefing packet confusing in that neither references the revised site plan which is what has allowed this matter to proceed. Hence, we just want to make it clear that we do not support the original site plan (July 31, 2014) submitted as part of the original proposal but do support approval of WPUD14-04 as amended with site plan SD2.0.6. The Proposed Motion in the briefing packet actually recommends approval based upon the original site plan (July 31, 2014) which is the last thing our HOA would want.

Thanks for your patience in allowing the discussion between our HOA and the Developers to reach a conclusion that we feel, with compromises by all, will be a direction that will work for the City, the Developers and our HOA.

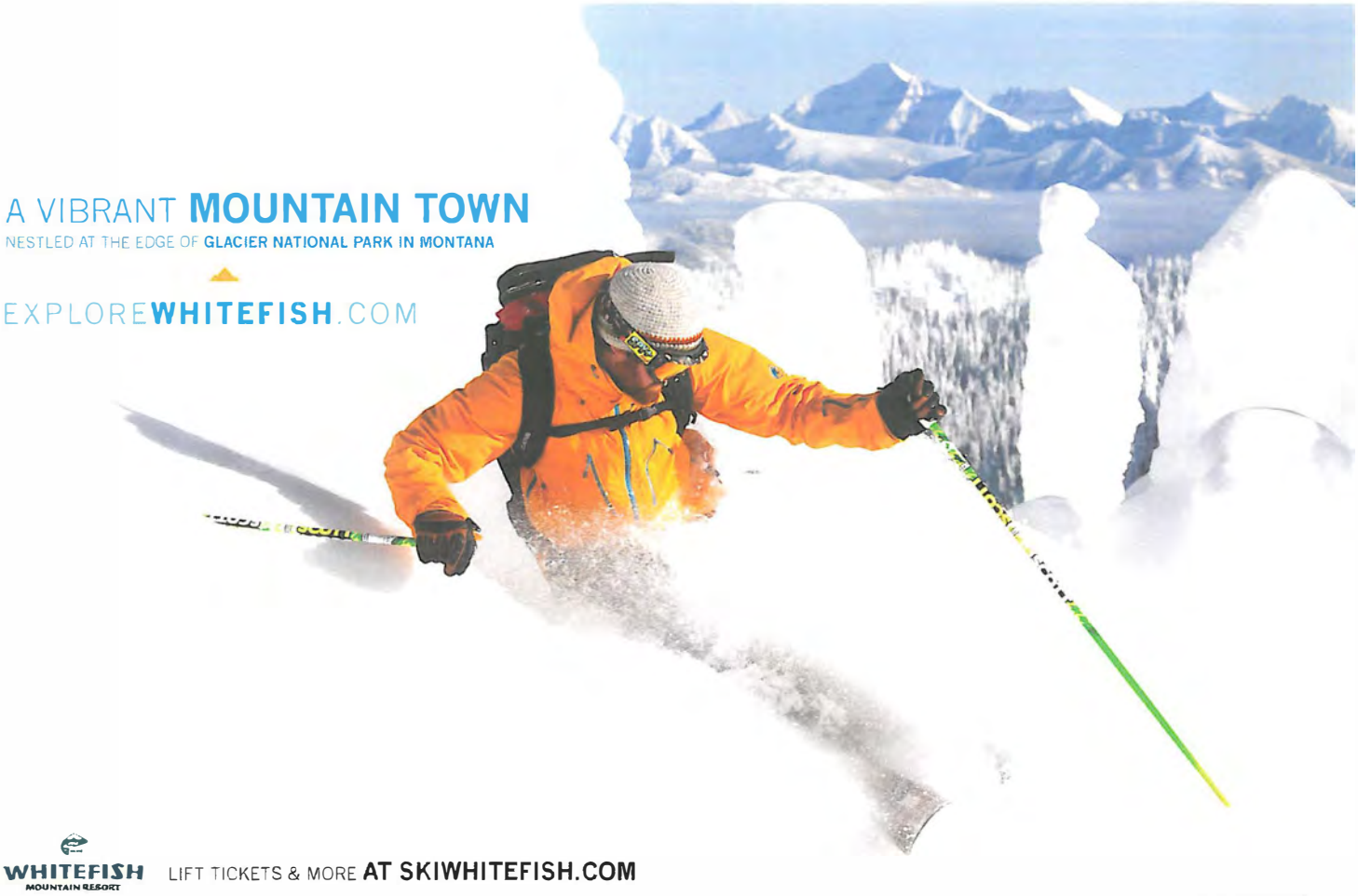
Sincerely,

Park Knoll HOA

David Hunt, Vice President

Rec'd at Council Meeting 3-2-15

Whitefish CVB Chicago Campaign Creative



DIRECT FLIGHTS ON UNITED FROM O'HARE
TO KALISPELL, MONTANA—**JUST 15 MINUTES FROM WHITEFISH**

WHITEFISH
MONTANA

A VIBRANT **MOUNTAIN TOWN**
NESTLED AT THE EDGE OF **GLACIER NATIONAL PARK**

EXPLORE**WHITEFISH**.COM

DIRECT FLIGHTS ON UNITED TO KALISPELL, MONTANA (FCA)
JUST 15 MINUTES FROM WHITEFISH

WHITEFISH
MONTANA

WHITEFISH MOUNTAIN RESORT

Received at Meeting 3-2-15

PO Box 771 | 35 4th Street West

Kalispell, Montana 59903

T: 406.756.8993 | F: 406.756.8991

citizens@flatheadcitizens.org

www.flatheadcitizens.org

To: The Whitefish City Council
RE: Whitefish Policies on Recycling and Consideration of a Buy Local Policy by the City

1. Recent changes in what materials Pacific Steel and Recycling is accepting for recycling has opened up new options for the city to offer recycling for items that are now being standardly recyled at County sites and at sites in the other two cities. We are looking for your support to include mixed paper at all Whitefish drop of sites. **See attached listing.**

   New is the ability for Whitefish residents to know be able to recycle all #1& #2 plastics both bottle and clam shells and cups. This is great news for local businesses who are selling their products in this #1 or #2 plastic and for their customers. New is also the ability of Whitefish to also now collect in one bin Mixed Paper which includes: All forms of newsprint including inserts, magazines, catalogs, junk mail, office paper.

   We now have in place commitments from the county and the privately sponsored drop-off recycling sites in Kalispell and Columbia Falls to agree to accept mixed paper and we hope that Whitefish will also come on board now that both Pacific Steel and Recycling or Valley Recycling ---the only firms that are capable of bailing and shipping out bails of recycled materials for markets who buy these material--- are both able and willing to accept mixed paper from North Valley. North Valley Refuge currently takes the recycling they collect to Pacific Steel.

2. The City can provide leadership by buying items that are locally recycable like the #1 plastics cups as opposed to the #6 plastic cups that are not locally recycable.

3. We appreciate recent statements by some council members about the importance of the city promoting the benefits that occur to by shopping local; like local investments in trails, open space, recreational lands, and clean water and encouraging a shop local commitment in Whitefish. We think that to give an effort such as this the support it deserves you should establish a task force to work on this and bring you recommendations. One early suggestion we think has merit is for the City to look at adopting its own Buy Local Ordiance as many cities across the county have done. Below are several links for you to look at for consideration of this recommendation.

   http://ilsr.org/rule/local-purchasing-preferences/2727-2/

   http://www.cedar-rapids.org/government/departments/purchasing/pages/buylocal.aspx

Draft 3-2-2015 WasteNot—Where to Recycle in the Flathead Brochure excerpts

METALS

ALUMINUM CANS Accepted at all Recycling Sites. Mix with plastics #1 & #2 EXCEPT at Pacific Steel & Recycling, North Valley Recycling, and City of Whitefish drop off sites.

TIN/STEEL CANS Clean cans accepted at all Recycling Sites. No need to remove labels or flatten. Mix with plastics #1 & #2 EXCEPT at Pacific Steel & Recycling, North Valley Recycling, and City of Whitefish drop off sites.

OTHER SCRAP METALS

Pacific Steel & Recycling • 755-7011

Pays for scrap iron, steel, aluminum, stainless steel, brass, copper, radiators, wire, & large appliances that do not contain Freon.

Valley Recycling • 257-2574

Accepts same as above, except no large appliances.

Jeff the Rovin' Recycler • 260-5262

Will buy: radiators, screen doors, stainless steel, silverware, aluminum cans and other aluminum items, catalytic converters, wire, copper, brass, lead, alloys, pipe fittings.

PAPER PRODUCTS

MIXED PAPER

All forms of newsprint including inserts, magazines, catalogs, junk mail, office paper. Accepted at all Recycling Sites

MIXED CORRUGATED CARDBOARD, PAPER BOARD & BROWN PAPER BAGS

Remove all non-cardboard packing materials. No waxed cardboard. Include non waxed paper board like cereal boxes (Remove non-recyclable plastic liners!) and paper egg cartons. Accepted at all Drop-Off Sites and Recycling Centers.

Montana Coffee Traders • 862-7633 Accepts cardboard boxes & clean shipping materials. Drop off at Hwy 93 location in Whitefish.

PLASTIC #1 and #2 ONLY

MIXED PLASTICS # 1 AND # 2 ONLY

All clean #1 and #2 plastics accepted at all Recycling Sites. Mix with aluminum and tin/steel cans EXCEPT at Pacific Steel & Recycling, North Valley Recycling, and City of Whitefish drop off sites. Includes all #1 and #2 plastics, clear and colored, bottles (caps removed) and clamshells. If there is not a clearly marked chasing arrow recycling sign with at #1 or #2 on the container bottom—even if it looks similar to other #1 or # 2 plastics please place unmarked plastics in the trash along with all #3-#7 plastics.

Plastic Shopping Bags

Do not place any plastic bags in with #1 and #2 plastics (they jam sorting equipment) Most grocery stores have return bins for plastic shopping bags sold at their stores. Remember to use reusable bags when ever possible.

COMPUTERS and ELECTRONICS

Call for prices on older TVs and computer monitors, as fee may be higher than on newer equipment. There may be no charge or even a value paid for newer equipment depending on the current market. No microwaves accepted.

Pacific Steel & Recycling • Kalispell • 755-7011
Staples Office Supply • Kalispell • 257-8200
Best Buy • Kalispell • 752-1300

SHIPPING and MAILING MATERIALS
BUBBLE WRAP, STYROFOAM, PEANUTS

The UPS Store • Kalispell • 755-8333
The UPS Store • Whitefish • 862-8300
Whitefish Pottery Store • Whitefish • 862-1417

PLASTIC SHRINK WRAPPING

Pacific Steel & Recycling – Kalispell • 755-7011

Rec'd @ Council Meeting 3-2-2015

PO Box 771 | 35 4th Street West

Kalispell, Montana 59903

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www.flatheadcitizens.org

To: The Whitefish City Council
RE: Deer Track Residences PUD & Staff Report; WPUD 14-04

We ask that you move to remand the revised site plan submitted to the City on February 24, 2015 back to Planning Board for a new public hearing for the following reasons:

1. The new site plan is new information that was not part of the application acted on by the planning board and has not been available for adequate review by the public or by the planning staff.

2. In addition to the new site plan and letter accompanying it asks for even more off site parking and again this has not been reviewed by the public, the staff, or the planning board.

3. The proposed findings of fact are no longer consistent with the new site plan and should be revised and reviewed again by the planning staff and planning board with public comment provided for.

4. The staff report and proposed finding fail to set forth and review the zoning variation that is created by a concept not yet authorized under Whitefish Zoning regulations, which is being referred to as a "Blended PUD." This concept has been inappropriately and illegally, we believe, been applied to this proposal. We agree with the legal arguments that were set forth in a series of letters to you that are part of this hearing record from Attorney Tom Tornow that outline why this "Blended PUD" is illegal as proposed.

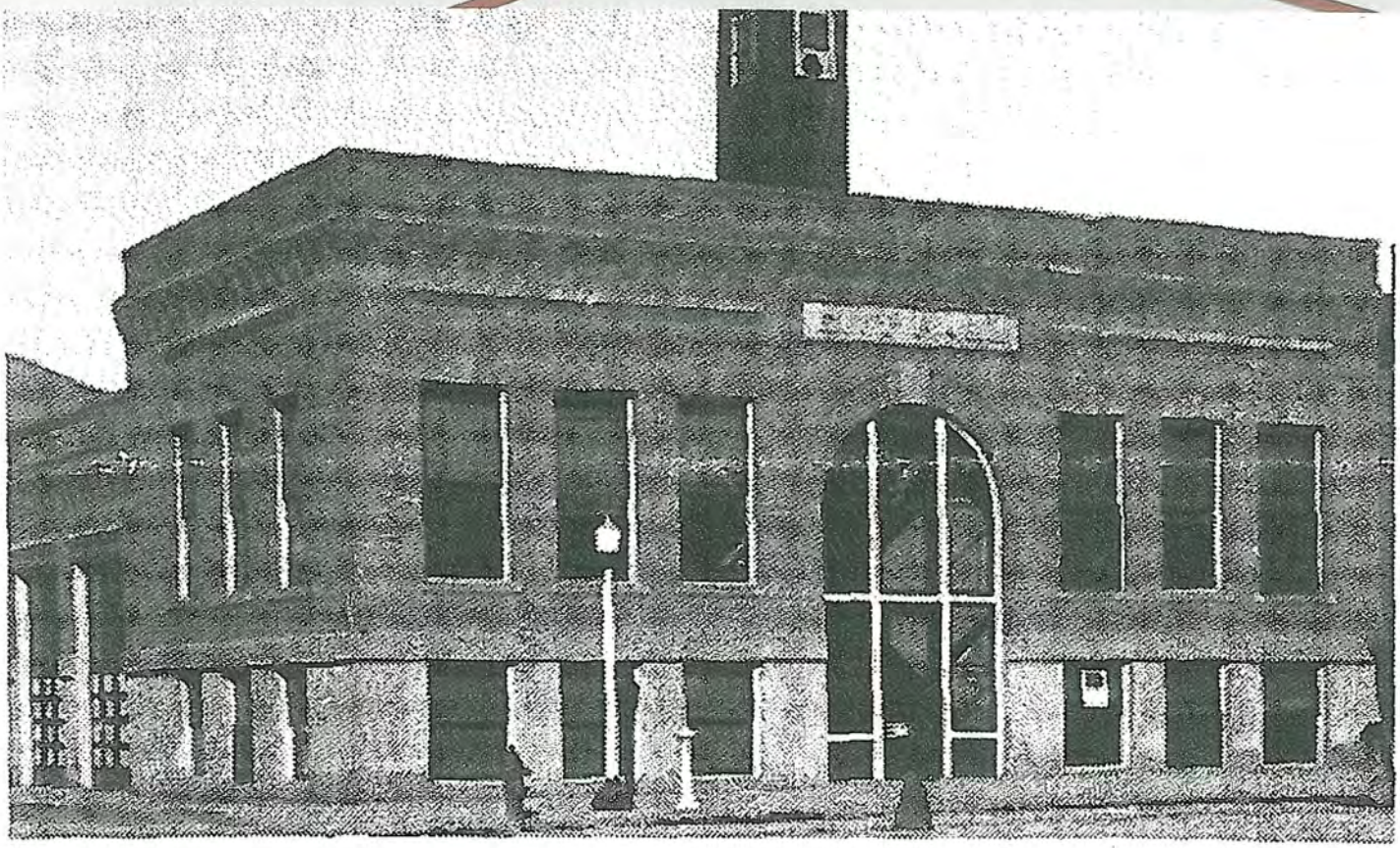
5. At the last planning board meeting, the proposed zoning text amendment to allow a "Blended PUD" as a zoning option was tabled and sent back to the planning staff to review and revised based on concerns raised by the public and the planning board.

6. We find that as proposed the "Blended PUD" zone text amendment is too open ended and lacking in standards or criteria. As it was proposed, a "Blended PUD" could be used to seriously undermine the existing integrity of established zoning districts with little to no benefits or predictability to adjoining property owners.

7. The Deer Track Residences PUD & Staff Report should be sent back to the planning board with the instructions that it not be reviewed and sent back to council until the planning board acts on the planning staff's request for a text amendment allowing for "Blended PUDs."

8. Your own regulations allow for and encourage this: 11-2S-7: APPROVAL OF THE PLANNED UNIT DEVELOPMENT: D. Because the site planning and design issues involved with PUDs can be complex, there is no time limit for final action by the city council.

Rec'd at Council Mating 3-2-15



SW Corner at Street