



## **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, August 3, 2015, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 15-13. Resolution numbers start with 15-24.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)
- 4) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 5) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council’s action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
  - a) Minutes from the July 20, 2015 City Council regular session (p. 12)
- 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) Ordinance No. 15-\_\_\_; An Ordinance rezoning approximately 3.6 acres of land located adjacent to Reservoir Road and Wheeler Lane, to become a part of 1735 East Lakeshore Drive, Section 24, Township 31 North, Range 22 West, Whitefish, Montana, from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) and adopting Findings with respect to such rezone (First Reading) (p. 25)
  - b) Ordinance No. 15-\_\_\_; An Ordinance rezoning approximately 9.99 acres of land located at 325 Monegan Road, Section 5, Township 30 North, Range 21 West, Whitefish, Montana, from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District) and adopting Findings with respect to such rezone (First Reading) (p. 43)
  - c) Consideration of an application from Whitefish Partners 1 LLC for a Conditional Use Permit to develop Phase II of Monterra with 54 units in four (4) buildings and complete Phase I with 12 units in one (1) building. The project is unaddressed and is bounded by Monterra on the north, Highway 40 on the south, Riverlakes Parkway on the west and Kallner Lane on the east (p. 63)
- 7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
  - a) Consideration of approving Amendment #2 to engineering contract with WGM Group for construction management services for the Monegan Road stormwater project (p. 113)

8) COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 121)
- b) Other items arising between July 29<sup>th</sup> and August 3<sup>rd</sup>

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Letter from Jan Gordon of 1930 East Lakeshore Drive regarding whose responsibility it is for trimming trees in the right-of-way under overhead electrical wires (p. 124)

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



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

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

Adopted by Resolution 07-09  
February 20, 2007

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July 29, 2015

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

Mayor Muhlfeld and City Councilors:

**Monday, August 3, 2015 City Council Agenda Report**

There will **NOT** be a work session on Monday, therefore food will **NOT** 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 July 20, 2015 City Council regular session (p. 12)

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

**Item a is an administrative matter.**

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

- a) Ordinance No. 15-\_\_\_; An Ordinance rezoning approximately 3.6 acres of land located adjacent to Reservoir Road and Wheeler Lane, to become a part of 1735 East Lakeshore Drive, Section 24, Township 31 North, Range 22 West, Whitefish, Montana, from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) and adopting Findings with respect to such rezone (First Reading) (p. 25)

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

**Summary of Requested Action:** This is a request by the City of Whitefish on behalf of Kent & Kim Taylor for a rezone of one parcel with the zoning designation of County RR-1 to City WRR-1 (Low Density Resort Residential District). The property is located at 1735 E Lakeshore Drive and totals 3.6 acres.

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

**Public Hearing:** No members of the public spoke at the public hearing. The draft minutes from the Planning Board for this item are attached as part of this packet.

**Planning Board Action:** The Whitefish City Planning Board met on July 16, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 5-0 (unanimously, Laidlaw, Picoli were absent) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

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

**RECOMMENDATION:** Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board, approve An Ordinance rezoning approximately 3.6 acres of land located adjacent to Reservoir Road and Wheeler Lane, to become a part of 1735 East Lakeshore Drive, Section 24, Township 31 North, Range 22 West, Whitefish, Montana, from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) and adopting Findings with respect to such rezone.

**This item is a quasi-judicial matter.**

- b) Ordinance No. 15-\_\_\_; An Ordinance rezoning approximately 9.99 acres of land located at 325 Monegan Road, Section 5, Township 30 North, Range 21 West, Whitefish, Montana, from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District) and adopting Findings with respect to such rezone (First Reading) (p. 25)

From Senior Planner Wendy Compton-Ring transmittal memo:

**Summary of Requested Action:** This is a request by the City of Whitefish on behalf of William & Caroline Vlachos for a rezone of one parcel with the zoning designation of County SAG-10 to City WA (Agricultural District). The property is located at 325 Monegan Road and totals 9.99 acres.

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

**Public Hearing:** No members of the public spoke at the public hearing. The draft minutes from the Planning Board for this item are attached as part of this packet.

**Planning Board Action:** The Whitefish City Planning Board met on July 16, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 5-0 (unanimously, Laidlaw, Picoli were absent) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

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

**RECOMMENDATION:** Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board,

**This item is a quasi-judicial matter.**

- c) Consideration of an application from Whitefish Partners 1 LLC for a Conditional Use Permit to develop Phase II of Monterra with 54 units in four (4) buildings and complete Phase I with 12 units in one (1) building. The project is unaddressed and is bounded by Monterra on the north, Highway 40 on the south, Riverlakes Parkway on the west and Kallner Lane on the east (p. 63)

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

**Summary of Requested Action:** Whitefish Partners 1, LLC, is requesting a Conditional Use Permit in order develop Phase II of Monterra with 54 units in four (4) buildings and complete Phase I with 12 units in one (1) building. The project is unaddressed and is bounded by Monterra on the north, Highway 40 on the south, Riverlakes Parkway on the west and Kallner Lane on the east. The property is undeveloped and is zoned WR-2/WPUD (Two-Family Residential District with a Planned Unit Development overlay). The Whitefish Growth Policy designates this property as "Urban".

**Planning & Building Department Recommendation:** Staff recommended approval of the above referenced conditional use permit with eleven (11) conditions set forth in the attached staff report.

**Public Hearing:** The applicant and his representatives spoke at the public hearing on July 16, 2015 and two neighbors spoke. The draft minutes for this item are attached as part of this packet.

**Planning Board Action:** The Whitefish Planning Board met on July 16, 2015 and considered the request. Following the hearing, the Planning Board recommended approval of the above referenced conditional use permit (4-1, Norton voting in

opposition) with eleven (11) conditions as contained in the staff report and adopted the staff report as findings of fact.

There are a staff report, letters, and additional documents in the packet.

**RECOMMENDATION:** Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board, approve a Conditional Use Permit and the findings of fact in the staff report for Whitefish Partners 1 LLC to develop Phase II of Monterra with 54 units in four (4) buildings and complete Phase I with 12 units in one (1) building.

**This item is a quasi-judicial matter.**

#### COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of approving Amendment #2 to engineering contract with WGM Group for construction management services for the Monegan Road stormwater project (p. 113)

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

At the July 20<sup>th</sup> Council meeting the City Council awarded a \$225,398.40 construction contract to Downing Construction for the Monegan Road Storm Drainage Project. The project includes the installation of a 24-inch diameter drain pipe, a pond outlet structure, manholes, and drain pipe outlet.

The design contract with WGM Group for the Monegan Road Storm Drainage Project is for \$53,944.00. This included a preliminary engineering report and final engineering design. Bidding and construction management services were not included in this consultant contract. This memo is to recommend Amendment No. 2 to the consultant contract in the amount of \$25,430 for construction management services.

We have attached the proposed contract amendment scope and fee estimate. The scope of services for this contract amendment includes:

- Bidding assistance
- General administrative services – attend construction meetings, review contractor submittals, coordinate communications between City staff and contractors
- Half-time construction inspection for the scheduled period of 45 calendar days
- Preparation of record drawings and close out of the project.

The Public Works Department has negotiated these construction management services for a fee not to exceed \$25,430, which would be paid from the Stormwater budget. The total WGM Group consultant contract with this amendment would increase to \$79,374.

The Stormwater Fund has budgeted \$300,000 in FY16 for Monegan Road Storm Drainage Improvements. The total construction cost of \$225,398 plus the construction management fee of \$25,430 equals a total expected project cost in FY16 of \$250,828.

**RECOMMENDATION:** Staff respectfully recommends the City Council approve Amendment No. 2 to the Monegan Road Storm Drainage Project consultant contract with WGM Group in an amount not to exceed \$25,430.

**This item is a legislative matter.**

#### COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 121)
- b) Other items arising between July 29<sup>th</sup> and August 3<sup>rd</sup>

#### COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Letter from Jan Gordon of 1930 East Lakeshore Drive regarding whose responsibility it is for trimming trees in the right-of-way under overhead electrical wires (p. 124)

#### ADJOURNMENT

Sincerely,



Chuck Stearns, City Manager

## "Cheat Sheet" for Robert's Rules

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

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## **WHITEFISH CITY COUNCIL**

**July 20, 2015**

**7:10 P.M.**

### **1) CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Feury, Sweeney, Anderson and Hildner. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney Jacobs, Finance Director Smith, Planning Director Taylor, Interim Public Works Director Hilding, Parks and Recreation Director Butts, Police Chief Dial, and Interim Fire Chief Page. Assistant City Clerk Woodbeck was in the audience. Approximately 30 people were in the audience.

### **2) PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Ross Pickert to lead the audience in the Pledge of Allegiance.

### **ADMINISTRATION OF OATH**

Mayor Muhlfeld said at this time he will administer the Oath to newly contracted City Attorney Angela Jacobs. Following her Oath, City Attorney Jacobs was welcomed to the staff.

### **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)

Rebecca Norton, 530 Scott Avenue, thanked City Manager Stearns for the brief chronology of the City Hall and Parking Structure projects that he included in his Council Memo (packet page 162), and said she is against the effort that is second guessing decisions already made.

Tom Wright, 835 O'Brien Avenue, spoke to the Council regarding the narrow right-of-way for O'Brien Avenue and said it is a safety concern and needs addressing. He said it should be added to the planning for the 7th Street Reconstruction Project.

### **4) COMMUNICATIONS FROM VOLUNTEER BOARDS**

Rebecca Norton, Government Review Study Commission, reported there was a public meeting held at the O'Shaughnessy Center, it had good attendance and they felt it was a success. Their committee is gathering suggestions from the public for possible items to be brought forth in an election on proposed changes for the City's Charter and/or suggestions to bring back for Council's consideration. During the meeting compliments were voiced for the City's new Finance Director Smith. The Committee will be holding another public meeting, hoping to gather more public input, this week on Wednesday at City Hall.

Councilor Feury had attended the last Resort Tax Monitoring Committee. He said one of the agenda items was to discuss issues regarding the 1% increase that went into effect July 1<sup>st</sup>. He said it was a short discussion because no issues were brought up. He reported resort tax revenue was up in June. The Committee held a discussion regarding shortage of service employees for local businesses, some businesses are even having to close a day each week because of lack of employees. He said lack of a workforce is a community issue and may be connected to lack of workforce housing.

Councilor Hildner reported he had attended the Planning Board Meeting, and items from that meeting are scheduled to come before the Council in upcoming meetings.

Mayor Muhlfeld said he has been appointed to the Whitefish Legacy Partners Board and will be giving Council regular updates on the meetings he attends.

- 5) **CONSENT AGENDA** (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) **Minutes from the July 1, 2015 City Council special session (p. 38)**
  - b) **Minutes from the July 6, 2015 City Council regular session (p. 40)**

**Councilor Hildner made a motion, second by Councilor Frandsen, to approve the Consent Agenda as presented. The motion passed unanimously.**

- 6) **PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) **Resolution No. 15-22; A Resolution to establish public usage fees for the Stumptown Ice Den (p. 54) (CD 11:42)**

Parks and Recreation Director Butts said the resolution before the Council provides proposed fees for ice rentals by private groups, public skate admissions and stick and puck season passes. In addition to the information in the staff report, Director Butts said when she was first hired as Parks and Recreation Director, she was asked to review operations at the ice rink because it had historically been operating at a deficit. After review she put in place new operating and managing procedures and this year, for the first time, the rink is operating in the black. In addition, she was asked to review operations for both 6 month and year-round ice; and staff along with the Park Board and the user groups have spent a lot of time over the last few months considering those options. One of the larger considerations in ice rink operations is the deferred maintenance, and the best management practices and budget to properly care for the rink and rink equipment. Historically the rink operated for 6 months, this last year for 8 months, and there is some interest for camps in the off-season. Also, historically in the off months, the rink has housed Summer Parks Programs, trade shows, and private rentals for other activities. Regarding maintenance; it used to be that her staff had the time but not the funds for maintenance, and now they are faced with having the funds but not the time. She reviewed the current and proposed fees from the staff report and discussed the challenges of year-round operations, also as listed in the staff report.

City Manager Stearns added that over the past three to four years he has been pointing out to the Council the deficits in this fund during the budget process, up to \$100,000 one year; and the Council's decision has been not to make it up with a loan, but continue to subsidize the operations with General Fund Cash Balance. The deficit over 8 or 9 years is close to \$600,000. It is now again before the Council to make the decision if a subsidy is appropriate, and if so, how much. He said overall, municipal rinks are usually partially subsidized; he said that typically youth programs are subsidized but not adult programs. He said the trouble with subsidies, as the Council is now experiencing, is that once they are given it is difficult to make any changes because of the demands of the user groups. Another difficulty is governmental accounting, which is complicated and the Parks Department covers a wide and complex range in the City's budget. He said in the future the Council could consider setting up the rink in an Enterprise Fund, which means it has its own cash balance but has to be self-sufficient from fees and charges, it cannot use additional tax dollars. Or

it could be set up as a special revenue fund. The difficulty is that the rink budget is an integral and large part of the Park and Recreation Department's budget. Staff recently had the opportunity to meet with the consultant and contractor from Arena Products installing the low-e ceiling, along with representatives from the user groups, the Ice Rink Advisory Committee, and some Park Board and Council were present, and he (Gary Smith) said, among other things, that he felt it a great reach for the City to consider 11-month ice; that the facility and equipment is better for a 6 to 8 month ice operation and use the off-ice time for other activities, which does take time to market. Lastly, Manager Stearns reminded the Council that as Director Butts said; State Law provides the Park Board the authority to determine facilities operations; the Council's authority is to set fees and provide the budget for operations. So whatever the Council decides on fees tonight; it will still be up to the Park Board to decide the months of operation. The Council will have to balance tax-payer interests and user-group interests, and staff is here to help them with information for their decisions.

The Mayor and Council had some follow-up questions for Director Butts and staff.

Mayor Muhlfeld opened the public hearing.

Carol Anderson, 1330 Wisconsin Avenue, said her comments would address the facility and the programs; she said when Chad Goodwin arrived on the scene his goal was to have year-round programs for ice – and that has been reached. The Ice Den is a World Class Training Center and has people coming from all over the States and Canada, it is a facility for all users and a place Whitefish can be proud of. The Whitefish Chamber of Commerce and local businesses support and profit from activities at the rink year-round, and she wondered what they would think if they found out it was not supported by the Park Board. Summer camps are set up with good pre-registrations. In August there will be 3 professional ice shows, the hockey groups have teamed up with NHL programs, and there are many other very special events planned. Volunteers have given their time and services to improve the facility, and the classes held for young skaters are taught by the hockey team – on time that they volunteer. The Community Foundation awarded the Big Fish Award to the Ice Den for program growth and facility updates. To continue a World Class Training Center there needs to be ice for 11 months, otherwise the users are not able to stay with Whitefish. She has volunteered at the ice rink for 20 years, working with youth and teaching skating. She, along with all the other volunteers, have worked tirelessly in support of successful ice programs, and feel let down by the Park Board decision to only have a 6-month season. Regarding the restriction in the City's deed to the property requiring a park for public use, she talked to a member of the group that originally donated the land and said the City could provide a kid's park elsewhere that would fill the requirement.

Tanya Gersh, 166 Shooting Star Circle, said this is the first year the rink is in the black, and it can stay in the black as long as it has year-round ice, the user groups will help to keep it in the black. The parents, volunteers, and skaters are committed to having a successful operation. Over the last few years Glacier Skate has donated \$130,000 and were told that with that donation the rink could operate in an extended season; and that an effort would be made to accommodate an extended season. She said if they are told tonight that they need to come up with more money in fees, they will pay; because they are committed to the success of these programs. The programs will be lost without user support.

Kaitlin Daniels, 1053 Creekview Court, is a youth hockey player and part of the girl's hockey team that won the State Championship last year. She said she has played hockey for two years and it has been a great experience, and ice time is so important. She has met many new friends

on the ice, and she has many other friends who are interested in learning to skate because they see her passion and commitment. They will need the ice time to go forward.

Mireille Bierens, 553 Park Avenue, represents Glacier Hockey Association (GHA) and serves as Vice Chairman of the Ice Rink Advisory Committee. GHA is a non-profit that provides for youth hockey. It is increasingly difficult to raise the needed funds, but made more possible with an extended season; summer camps is one of their fund raisers. Their youth teams continually grow and they do well in regional tournaments including one in Canada – however they would be kicked out of that one if they miss a year; she said that opportunity is so important to their program as it introduces them to higher levels of play. GHA wants their program to continue to be successful, and growth is part of that; in cooperation with the other user groups they will do what they need to keep these programs at home in Whitefish. She said they need the extended season to support both the youth that have only recreational interest as well with those who have higher aspirations. She also spoke to the positive economic impact in Whitefish that comes from participants in rink activities. She said the people in the user groups are public too, which goes toward fulfilling the requirement of the deed restriction related to public use.

Donna Maddux, 99 Olney Loop Road, said she is a member of the Saddle Club and spoke to the deed restriction when the land was donated to the City of Whitefish. She said she understands the pain of having a subsidy removed. The land under the rink was donated from Whitefish citizens to citizens of Whitefish, especially for the citizens of that neighborhood; and what was once a gazebo has now, through the efforts of many, been developed to nearly a World Class Training Center. But to be true to the citizens of Whitefish, it still needs to provide skating instruction to our youth and developmental hockey programs – those are essential. She sees the value of the professional user groups only having the value of what they give back to the community, but if that is happening at the expense to the citizens of this town – on an ongoing subsidy of donated land in addition to the subsidy of taxpayer dollars - then that subsidy should be reciprocated in some fashion.

Colby Shaw, 89 Tronstad Road, the current acting president of GHA, said to Mrs. Maddux, thank you for the Saddle Club donation. He reviewed the history; in 1984 land was donated to the City to be used as a public playground and recreation area, in 1990 an outdoor ice rink was built with grants and local donated dollars (he knew of no opposition to an ice rink being built at that time), in 2003 the pavilion was built with \$1.5M raised by the Whitefish Sports Foundation, community citizens and use of City and TIF dollars towards capital improvements. Last year volunteers and \$100,000 donated dollars provided for the needed addition of locker rooms. He didn't know of any opposition to this progress over all these years. Lately, there has been a lot of change and with it, growing pains. He said since 2006, their rates have gone from \$78/hour up to last year's rate of \$115/hour; and at that rate they were told there wouldn't be any more rate increases. Their number one priority has been to keep their programs affordable. Their hours were just under 400 in 2005, now they are over 500, but back in early 2000 there wasn't the demand for ice as there is now with all programs expanding; in addition the Kalispell group who only have outdoor ice, are looking for more ice time in Whitefish. GHA has an 8 month season, but believes that to create the best and highest use of the rink – it should be a rink for at least 11 months. The user groups are probably about 90% of the annual income, their members and families are committed to this rink and endorse local recreational use and learn to skate programs; it all leads to the success of the facility. If this facility isn't available – the 15-year olds in the hockey programs will have to go somewhere else. They can utilize the ice in what used to be the down time. With the additional ice they have been able to form teams that are competitive in regional tournaments. All current programs have been successful and they are getting better all the time. The skaters and

all their families are a family group, supporting each other, committed to their skating, and there to make their programs grow. He asked the Council to work with the Park Board, working towards the best and highest use of this facility. Regarding rate increases; they are willing to pay their fair share, but the proposed rate increases are high and hard to be affordable for their kids in the programs.

Shawn Baker, 2268 Mission Trail Road, an adult hockey player, a coach, his kids play hockey in Whitefish, and he is a member of the Flathead Valley Hockey Association Board in Kalispell. He said they not only come up to use the facility but spend their dollars in Whitefish. They love it up here – they are your neighbors and enjoy time with their Whitefish friends. He said yes, the City has subsidized the ice rink, but in looking at the budget, the City has subsidized the City Beach and other programs as well, but he felt those City dollars were an investment into the community amenities that brings people into Whitefish. He said last year adult hockey tournaments brought in over \$1.5M into the community. Other programs brought in millions of dollars as well, based on user numbers from the tourist's bureau. So the City's dollars of investment is bringing in revenue to the community he said. He is impressed that operations ran in the black last year even picking up some deferred maintenance, and he encouraged support for the extended season; he said that is the only way we'll keep those large user groups.

Chad Waite plays hockey and serves on the Adult Hockey Association Board. The board represents over 200 adults who play hockey from October until March or April, from 9:15 to midnight four nights a week, and he thought the revenue collected should easily cover costs to keep the rink open for those hours and covers the single person who is there to cover that shift and operations costs. The numbers are in the black this year and he said that is due to many of their members stepping up to help with operations; and he said their organization's numbers were in the black this year as well. He said in the past 5 years that he has been involved, he has been very impressed with the comradery and community spirit of this adult group and it should be preserved.

Joakim Fåltz, Wolverine Coach, explained the importance of an extended season for a junior hockey team. They can bring in 25 kids from all over the world, and it is their job to prepare them for college. If the season is shortened, the kids won't come, they need 11 months. Last year they sent four kids from their program to college, however one backed out; and one got on a pro team; and that is just from the first year. He said he has been a coach for 17 years and have sent players to college and pro teams, and a requirement to reach those goals is ice for 10 to 11 months, not less.

Nick Thiel, 116 E. Bluegrass Drive in Kalispell, gave the Council his view of the budget and accounting. He said he picked up hockey four or five years ago and it has been enjoyable exercise, enjoys the comradery in Whitefish and spends his dollars here as well. He spoke to the deficit over the last couple years and noted this year's numbers are in the black and felt that under new city management the numbers are being more carefully kept; which is a positive thing. He said since it went so well this last year – it should be repeated again for this year and see how the numbers come out. The positive trend is looking good for ice rink operations, and according to his analysis it is one of the three programs in the Park's Department that is running in the black while several others are not. He said it made him curious about the other operations, and he had questions regarding the proposed increase in budget for the ice rink for next year, and why the big increase in budget, what does it cover? He thought the numbers should be reviewed.

Doug Wise, 1000 Birch Point Drive, is the Chair of the Park Board (Board), said he was here tonight to give the Council information regarding the decision they made at their meeting last Tuesday when they approved operations for a six month season, with an optional 2-month

extension; a maximum of 8 months ice time. After four years of consideration between the Board, the staff, the user groups and City Council, they have determined the length of ice time based on the facts given to them. There have been numerous public hearings, and the Board finds it phenomenal what the user groups have done with their programs at this facility; so the Board has listened with open minds to the user groups' input. In addition the building and equipment has to be considered; and from one of the Board's membership in a letter to the Council she has written: "We have been told repeatedly by the ice arena experts who install the equipment that this particular installation of equipment was put in using retail application equipment, not arena equipment, and as such, cannot support year round ice." Mr. Wise said this statement has the Board's support. He referred to the meeting Manager Stearns talked about earlier when some of them met with Gary Smith from Arena Products; and Gary Smith told them at that meeting that he would not run this particular facility for year round ice. Gary Smith has 30 years of experience and works with most of the arenas in the region, including other city facilities and some for NHL. Additionally, the Board was told from local legal counsel that if the facility was to go to year round ice, they stand to lose the facility based on the deed restriction. Based on this information, the Board made the decision to have ice for 8 months and have 4 months for maintenance and other City programs, summer programs. He said it has been a long and drawn out, emotional and stressful process for all those involved, and the Board made their decision based on facts and he commended his Board for making that hard decision. The Board supports and respects Director Butts and her staff 100%; and he asked all those involved to treat this process with their respect; that the uses and users are respected and the decisions are respected. He said the Board would like nothing more than to provide for year round ice, but based on the facts, they made their decision for 8-month ice. He suggested that if someone wants to come forth with something different – please let it rest for six to nine months – a cooling off period is needed.

Josh Steele, 239 Dakota Avenue, is the GM and owner of the Whitefish Wolverines, has served on the Ice Rink Advisory Committee and serves as a representative of the GHA to the State of Montana. He agreed with Doug Wise, this is a charged an emotional subject. He felt a key factor was that there are a number of different ways to look at the information that has been provided. He said some professionals have said the facility could have year round ice, other professionals have said no. Historical finance records reflect a deficit but as Manager Stearns said, it is complicated, and the budget is an integral part of Parks Department and all their programs and he felt that sometimes there were accounting errors. But this facility, also historically, has survived on partially private and donated funds, and every year, users and programs grow into the capacity that was provided; it certainly is not a stagnant facility. This year ice was allowed for ten months, and the programs continue to grow; and this year the operations are in the black. And he feels that, for the first time, accounting is really dialed in and accurate this year and that it is reasonable to assume operations will continue in the black. Equipment maintenance is an issue, but some of those factors and best practices are unknowns; in his experience, maintenance is done with ice in. At the most a facility would have to be closed down for a day or two, with a few exceptions. He said he appreciates all the support from the other user groups, and it is his goal to provide a facility for users year round. He said up to this point, the community has lost some valuable users because the ice has not been available. There are plans developing within each of the user groups that will use more time, as long as the ice is available. He thought if ice time is reduced, some of the groups will leave, and then rates will have to be increased again to cover the shortfall. He said we have a model in place that is demonstrating operations in the black and deserves the City's support. He thanked the Council for their time and consideration.

Chris Hyatt, on behalf of the Chamber of Commerce, said the Chamber knows the importance of this ice rink an economic driver in the community with their training programs,

tournaments and shows provided by the user groups. He asked the Council to support the user groups.

There being no further public comment, Mayor Muhlfeld closed the public hearing and turned it over to the Council for their consideration, and called for a short recess. The Council reconvened at 9:13 p.m. (CD 1:47:46)

Before the motion was made there was considerable discussion among Council and some consideration of tabling and meeting again with the Park Board or to move ahead with the new rates.

**Councilor Feury made a motion, second by Councilor Fitzgerald, to approve rates as shown in Option 1 for a 6 month regular season with an option of up to a 5 month extension as set out in the staff report.**

Councilor Feury said this solves budgetary issues and allows the option for the user groups to see if they can fill and fund the additional ice time and then the Park Board can make the decision if they will allow the operations for the additional months with the added budget authority; and it also allows some time for the Council to meet again with the Park Board if it is needed. Clarification was discussed that this allows budget authority for operations but it still will be the Park Board's decision regarding length of the season. An amendment to the motion was considered but then dropped whether or not to require further meetings at this time with staff, Council, Park Board and user groups on an extended season. Further discussion followed between Council and Staff regarding added costs during a longer season.

**The motion passed unanimously.**

- b) Ordinance No. 15-12; An Ordinance setting forth the formula to be used in determining assessments for properties in a proposed Special Assessment District to finance a portion of the costs of a downtown parking structure and calling a public hearing thereon (First Reading) (p. 122) (CD 2:28:28)**

Manager Stearns said from his staff report that starts on page 128 in the packet, that this goes back to a decision Council made in 2013 approving a motion for structured parking with a city hall, including direction to study the feasibility of an improvement district to assist in financing the parking structure. That research has been ongoing for the last two years, as shown in the staff report, and a Special Assessment District is now ready for consideration. This Ordinance and the Resolution of Intention that follows later in the meeting sets up the official public hearing on August 17<sup>th</sup> for the creation of the district and the assessments; both documents have been prepared by our Bond Counsel, Dorsey and Whitney of Missoula. Upon passage of both the Ordinance and Resolution of Intention, staff will be mailing nearly 500 notices to property owners in the proposed district, giving them the notice of the August 17<sup>th</sup> Public Hearing. State Law provides for both the Ordinance and Resolution when intending to create an off-street parking district, and also provides for options and factors considered and used in the assessment method which have been selected over the past couple of years by the Mayor and Council, and are included in the documents being considered tonight. Manager Stearns said he has distributed a revised resolution that was updated just today following staff finding some changes as they were reviewing the spreadsheet for the notices that are going to be mailed. The necessary changes were made and they did not make any difference to any specific amount to be assessed, but there were some corrections on the total number of properties in the district and the total number of assessed and/or exempt properties. The revisions reflect there are 491 total properties in the proposed district, and at this time currently 194

properties will be assessed and 297 are exempt from assessment, and the revised average annual assessment was reduced from \$356.06 to \$348.72. The complex 41-page spreadsheet supporting the assessment information includes over 1700 lines of data and Manager Stearns explained the process of preparing the notices for mailing. The financial details of the total SID Bond for \$880,000 are described in detail on page 131 of the packet; including the dollars for the SID, \$750,000.00, plus related costs. The actual assessments for this district will probably go on the 2017 tax roll, the year the structure is nearly completed and ready for use. The current Parking Lots SID only has one more year of assessments, it will last be assessed on the 2015 Tax Notice. Manager Stearns reviewed the different sections of the Ordinance, as seen in the packet starting on page 122, which includes the history of the project and assessment methods – factors considered, findings, public hearing, and effect of the Ordinance and effective date of the Ordinance. Commercially used properties including properties with valid short-term rental operations are assessed based on square footage of floorspace; residential and vacant properties are exempt unless they undergo a status change for assessed properties. There are two assessment tiers, determined by their relative distance from the parking structure. Credit is given for existing parking provided on a property. A map of the district and the assessment tiers is attached to the Ordinance.

Councilor Fitzgerald said to prevent any perceived conflict of interest she would be stepping down and recusing herself from discussions and decisions on the Ordinance and the Resolution as the firm she works for has been an underwriter for City bonds.

Mayor Muhlfeld opened the public hearing.

Sean Frampton, 341 Spokane Avenue, spoke to the Council regarding his own building at that location that is included in the proposed district. His building provides 31 parking spaces, and in comparison other businesses included in the district provide an average of 4 ½ spaces, the median is 2. His business regularly uses 7 spaces, leaving a net provision of 24 spaces. When the general format of the tiers were circles his business was in Tier 2, but with the decision to go to rectangular tiers, he now sits in Tier 1. Regarding the formula, he disagreed that all the factors were properly considered and he does not believe the formula is correct. He said according to the Code, upon consideration of the square footage of a building, the use must also be considered, and the City's formula fails to do that. Also, the formula's consideration of the need to too broad. He compared his assessment which is nearly double the one for the Great Northern Bar, to the need for parking. The need for the number of bar patrons way outnumbers his need to provide parking for his small staff and customers, so the formula doesn't work. His answer to that is to be placed back into Tier 2 but that hasn't been accepted so he is speaking in opposition.

There being no further public comment, Mayor Muhlfeld closed the public hearing and turned it over to the Council for their consideration.

Manager Stearns said he could address some of Sean's points. Regarding use, it was considered that each year staff would go door to door asking to be let in so all of a business's square footage could be inspected; but it was felt that there would be some businesses that would meet that with resistance. It could be perceived as an intrusion on property and it would be a very time consuming process, but it could be done. Both our Bond Counsel and our City Attorney were consulted whether 'use' had to be used, or just considered, and both legal sources gave the same answer that use had to be considered, as provided for in state law, but it doesn't have to be included in the methodology. He said Sean's property assessment is on line 411 in the spreadsheet and you will see that credit is given for 31 parking spaces; that is the number that we came up with when we did our inventory. We may get other inquiries from other property owners questioning the number of spaces they are getting credit for, sometimes during the inventory it was hard to determine which

parking went with which businesses, so that can always be corrected if errors are found. He discussed the amount given for credit (\$51.46 per parking space); that was determined with the decision point in mind that each commercial property should have some skin in this game; and after working with different variables the \$51.46 credit for each parking space balanced with all properties being assessed. A minimum assessment on every property and crediting onsite parking was suggested and considered, but instead the formula includes a price per square foot of floorspace (column AG on the spreadsheet). That meets the legal requirement of treating all properties the same, and as it says in Section 1(e) of the Ordinance "...square footage of floorspace in improvements on parcels in the District...are significant factors in determining the proportional benefit of the Parking Structure to each benefited parcel in the District." Manager Stearns said Sean probably won't be the only property owner with large onsite parking lots who come in to protest, and their concerns should be listened to but they can probably be addressed. The proposed methodology is a fair and equitable one by treating all properties the same based on the tier they fall in. As shown on the map, Tier 1 includes the downtown core and properties that will enjoy a greater direct benefit from the Parking Structure, and Tier 2 are commercial properties that will enjoy a lesser direct benefit from the Parking Structure based on their relative distance from the Parking Structure. The downtown consultants Crandall and Arambula were proponents of one tier only, but this two tier system seemed more fair and was also similar to the assessment method of the earlier parking SID 155. SID 155 had 5 tiers, and they were in circles; and at the beginning of working on this assessment method we started with circles, but they present a problem as circles split properties – so then it has to be determined if half, or just over half or just under half, of a lot, is in. That is avoided by the rectangles, there is much less subjectivity. All properties within the District will either have a direct benefit, or a derivative benefit, from the Parking Structure that will relieve the pressure of onstreet parking. Opposition and supporting comments will be considered at the August 17<sup>th</sup> public hearing.

**Councilor Hildner made a motion, second by Councilor Barberis, to approve Ordinance 15-12; An Ordinance setting forth the formula to be used in determining assessments for properties in a proposed Special Assessment District to finance a portion of the costs of a downtown parking structure and calling for a public hearing thereon, on its first reading. The motion passed with five votes and one abstention (Councilor Fitzgerald abstained).**

## **7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**

### **a) Consideration of awarding a construction contract for the Monegan Road Storm Drainage project (p. 139) (CD 3:04:43)**

Interim Public Works Director Hilding reported her staff report presents the bid tab and describes the project. The installation of this storm drainage will alleviate the ponding that occurs each year at the south end of Monegan Road, which sometimes gets so bad that it overflows and the road has to be closed. The low bidder was Downing Construction at \$225,398.40. \$300,000 for this project is included the FY16 Budget, funded by the stormwater fund and impact fees.

**Councilor Feury made a motion, second by Councilor Frandsen, to award the construction contract for the Monegan Road Storm Drainage Project to Downing Construction in the amount of \$225,398.40. The motion passed unanimously.**

### **b) Consideration of approving Amendment #5 to the Wastewater Treatment Plant Improvements project contract with Anderson-Montgomery Consulting Engineers for**

**design and construction management services for the Inflow and Infiltration (I&I) project for which the City has received grant awards for partial funding from the State of Montana (p. 143) (CD 03:07:20)**

Interim Director Hilding said the recommendation is for approval of the Amendment #5 to the contract with Anderson-Montgomery Consulting Engineers; this is an ongoing contract that started in 2012 for the City's Wastewater System Improvements Project (the Infiltration Inflow – I & I – Mitigation Project). It has many components as described in the staff report; this particular amendment will provide design engineering, grant administration and construction management engineering services required to implement the I & I Mitigation Project. Funds for this project are set aside in the Wastewater Budget for FY16. When asked if this project addresses ice-melt from the ice rink Hilding said she was not aware of that issue and would have to look into it.

**Councilor Frandsen made a motion, second by Councilor Feury, to approve Amendment No. 5 for the Wastewater System Improvement Project consultant contract with Anderson-Montgomery Consulting Engineers in the amount of \$180,300.00 providing for design engineering, grant administration and construction management engineering services required to implement the I & I Mitigation Project. The motion passed unanimously.**

**c) Consideration of approving a construction management contract for the Skye Park Bridge project (p. 146) (CD 03:11:57)**

Interim Director Hilding said at the July 6<sup>th</sup> Council meeting when the construction contract for this project was awarded to Dick Anderson Construction, the construction management contract with TD&H Engineering, the consulting engineering firm on this project, was discussed. Council requested staff look into other possibilities for construction management. The staff report sets out the process in detail and Hilding summarized that when the design contract was awarded to TD&H it was envisioned that they would also provide construction management. To start that process over now with the competitive bidding process that is required, would delay the project by a year. The current 90 day project schedule has the project extending until the end of October. Staff is recommending approval of awarding the construction management contract to TD&H. Hilding said since the scope was reduced within the Dick Anderson Construction contract, the construction management cost will also be reduced to \$43,670.00.

Manager Stearns added that staff understands the Council's reluctance to accept construction management from TD&H, but the options are not great. This contract provides for 4 hours of inspections/day. If Council directed it be done by staff, only ½ or 1 hour could be scheduled for inspections and that doesn't include reviewing the shop drawings; the other choice is to postpone the project to next spring to allow to re-advertise for bids. When asked, Finance Director Smith said she and Interim Director Hilding reviewed the revised contract numbers and for this project there will be \$165,000 from Trail Impact Fees, and \$143,000 from TIF in the FY16 budget.

**Councilor Hildner made a motion, second by Councilor Barberis, to approve an engineering contract amendment with TD&H Engineering for the Skye Park Bridge construction management in an amount not to exceed \$43,670.00. The motion passed on a vote of 4 to 2, Councilors Fitzgerald and Sweeney voted in the negative.**

**8) COMMUNICATIONS FROM CITY MANAGER (CD 03:21:45)**

- a) **Written report enclosed with the packet. Questions from Mayor or Council? (p. 161)**  
None.
- b) **Other items arising between July 15<sup>th</sup> and July 20<sup>th</sup>**

Manager Stearns said last Wednesday he attended the Whitefish Fire Service Area Board meeting, they did not have a quorum, but he discussed with them the ongoing issue of the City subsidizing fire protection for those county properties in the service area. State Law provides for a flat fee for the service area outside the city, and Manager Stearns said it would be fairer if they tried to get an amendment to the law so they could charge based on taxable valuation as done inside the city. Those negotiations will continue; he also advised the Board that state law will require changes for the city's protection of outside properties when the city reaches a 10,000 population.

- c) **Resolution No. 15-23; A Resolution approving a Commercial Lease Agreement with Stampede Square Office Bldg., LLC, for the lease of a portion of the Stampede Square Office Building at 1005 Baker Avenue for use as an interim City Hall while a new City Hall is constructed (p. 169)**

Manager Stearns said this property should serve the city well for interim offices during construction of the new city hall. The full basement below the offices will serve as ample interim storage; the basement is over 5,000 square feet. Also, since this building formerly housed our Planning & Building Department before they moved to the corner of Central and Railway, we know this location works well with our wireless and microwave communication system. Manager Stearns said he believes it is a fair deal. It is an annual lease with a 90-day termination clause, but if we had to shorten the lease and it is subleased, the City would receive a prorated distribution back, so it would benefit the City if we could help with a sublease.

**Councilor Frandsen made a motion, second by Councilor Feury, to approve Resolution 15-23. The motion passed unanimously.**

- d) **Resolution No. 15-21; A Resolution relating to Special Improvement District No. 167; Declaring it to be the intention of the City Council to create The District for the purpose of undertaking certain local improvements and financing the costs thereof and incidental thereto through the issuance of Special Improvement District Bonds secured by the City's Special Improvement District Revolving Fund (p. 184) (CD 3:28:15)**

Manager Stearns reminded the Council he had given them a revised resolution (appended to the packet) as he described earlier tonight during the discussion of Ordinance 15-12; with the revised number of properties and the average assessment. The revised resolution also added tier numbers in the body of the resolution, other than that the resolution did not change from what was presented in the packet. The ordinance covered assessment methodology as does the resolution, and the resolution states the City's intent to create the district, the district boundaries, the benefits of the district and assessments thereof, and the issuance of bonds relating thereto, and sets a Public Hearing for August 17, 2015, where the Council will consider adopting the Resolution creating the special improvement district.

**Councilor Barberis made a motion, second by Councilor Frandsen, to approve Resolution 15-21 as presented. The motion passed with five votes and one abstention (Councilor Fitzgerald abstained).**

**9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS** (CD 3:32:18)

- a) **Letter from Mayor Muhlfeld to law firm of Triewiler, Hedman, Hileman, and LaCosta thanking them for over 20 years of service as prosecuting attorney (p. 239)**

No additional comments.

**Council Comments:**

Councilor Sweeney acknowledged receipt of a letter from Susan Schnee that was received after the packet. Susan sits on the Park Board and her letter addressed particulars related to issues between user groups at the ice rink, the Park Board, and City Staff. Councilor Sweeney said he sees merit in Susan's recommendation to seek mediation to solve some of the issues. (Susan Schnee's letter will be appended to the packet).

Councilor Frandsen asked if staff would look into public comments made by Tom Wright regarding the narrow right-of-way at O'Brien Avenue. Interim Director Hilding said staff is aware of that and is looking into it.

Councilor Fitzgerald thanked everyone for the really good work done tonight.

Mayor Muhlfeld thanked Directors Butts and Smith for working on numbers related to the Parks and Recreation budget; and thanks to all city staff and especially to Manager Stearns for managing all the demands of the various ongoing projects, his hard work is not unnoticed and the Mayor expressed his appreciation on behalf of he and the Council.

**10. ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 03:35:35)

Mayor Muhlfeld adjourned the meeting at 11:00 p.m.

Attest:

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Mayor John M. Muhlfeld

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Necile Lorang, Whitefish City Clerk

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**ORDINANCE NO. 15-\_\_\_**

**An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 3.6 acres of land located adjacent to Reservoir Road and Wheeler Lane, to become a part of 1735 East Lakeshore Drive, Section 24, Township 31 North, Range 22 West, Whitefish, Montana, from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) and adopting Findings with respect to such rezone.**

WHEREAS, the City of Whitefish initiated a rezone with respect to property located adjacent to Reservoir Road and Wheeler lane, to become a part of 1735 East Lakeshore Drive, and legally described as Parcel A of Certificate of Survey No. 20014, in Section 24, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana; and

WHEREAS, in response to the City-initiated rezone, the Whitefish Planning & Building staff prepared Staff Report WZC 15-02, dated July 9, 2015, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on July 16, 2015, the Whitefish Planning Board reviewed Staff Report WZC 15-02, received an oral report from Planning staff, invited public comment, and thereafter voted unanimously to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on August 3, 2015, the Whitefish City Council reviewed Staff Report WZC 15-02 and letter of transmittal, received an oral report from Planning staff, and invited public comment; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the proposed rezone; and

WHEREAS, the proposed rezone meets zoning procedure and the criteria and guidelines for the proposed rezone required by MCA §§76-2-303 through 76-2-305, and WCC §11-7-12.

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

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

Section 2: Staff Report WZC 15-02 dated July 9, 2015, together with the July 28, 2015 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property located adjacent to Reservoir Road and Wheeler lane, to become a part of 1735 East Lakeshore Drive, and legally described as Parcel A of Certificate of Survey No. 20014, in Section 24, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, previously zoned RR-1 (Low Density Resort Residential) is hereby rezoned to City WRR-1 (Low Density Resort Residential District).

Section 4: The official Zoning Map of the City of Whitefish, Montana, be amended, altered and changed to provide that the rezone and zoning map amendment of the real property identified on the map attached hereto as Exhibit "A", and incorporated herein by reference, shall be designated City WRR-1 (Low Density Resort Residential District).

Section 5: The Zoning Administrator is instructed to change the City's official Zoning Map to conform to the terms of this Ordinance.

Section 6: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

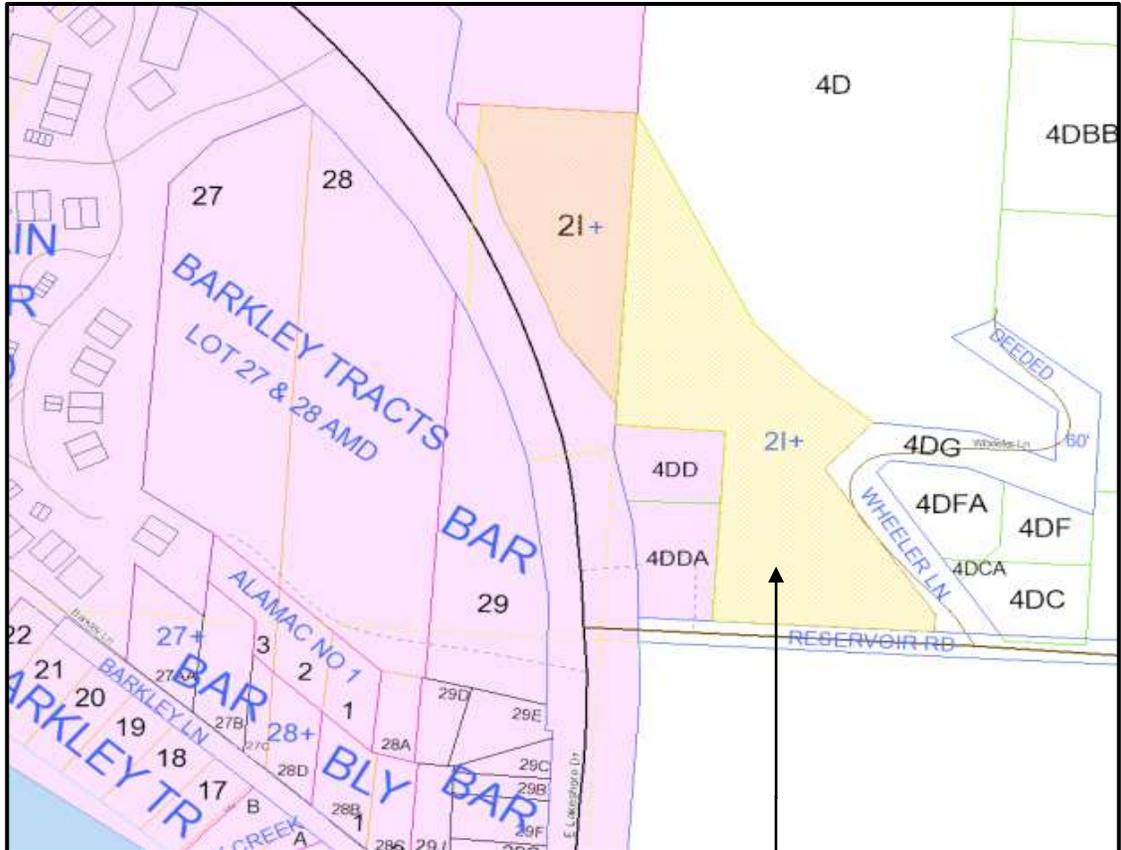
Section 7: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk



Subject  
Property

**EXHIBIT "A"**

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



July 28, 2015

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

RE: Taylor/City of Whitefish Zone Change: WZC 15-02

Honorable Mayor and Council:

**Summary of Requested Action:** This is a request by the City of Whitefish on behalf of Kent & Kim Taylor for a rezone of one parcel with the zoning designation of County RR-1 to City WRR-1 (Low Density Resort Residential District). The property is located at 1735 E Lakeshore Drive and totals 3.6 acres.

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

**Public Hearing:** No members of the public spoke at the public hearing. The draft minutes from the Planning Board for this item are attached as part of this packet.

**Planning Board Action:** The Whitefish City Planning Board met on July 16, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 5-0 (unanimously, Laidlaw, Picoli were absent) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

This item has been placed on the agenda for your regularly scheduled meeting on August 3, 2015. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in black ink that reads "Wendy Compton-Ring". The signature is written in a cursive, flowing style.

Wendy Compton-Ring, AICP  
Senior Planner

Att: Draft Minutes of 7-16-15 Planning Board Meeting

***Exhibits from 7-16-15 Staff Packet***

1. Staff Report WZC-15-02, 7-9-15
2. Adjacent Landowner Notice, 6-25-15
3. Advisory Agency Notice, 6-25-15

**The following was submitted by the applicant:**

4. Application for Zoning Map Amendment, 6-18-15

c: w/att      Necile Lorang, City Clerk

said on the last page of their application that they were requesting annexation as a result of flooding and E. coli in water well. Wendy said she had not heard anything about that other than in the application.

**APPLICANT/AGENCIES** None.

**PUBLIC COMMENT** None.

**BOARD DISCUSSION** None.

**MOTION** John moved and Ken S. seconded to adopt the findings of fact within staff report WZC 15-01.

**VOTE** The motion passed unanimously. The matter is scheduled to go before the Council on August 3, 2015.

**PUBLIC HEARING 4:  
CITY OF WHITEFISH  
REZONE REQUEST** A request by the City of Whitefish to rezone a portion of 1735 E Lakeshore Drive due to annexation into the city from County zoning to WRR-1 (Low Density Resort Residential District). The property can be legally described as Parcel A of COS 20014 in S24-T31N-R22W.

**STAFF REPORT  
WZC 15-02  
(Compton-Ring)** Senior Planner Compton-Ring reviewed her staff report and findings.

Staff recommended adoption of the findings of fact within staff report WZC 15-02 and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS  
OF STAFF** None.

**APPLICANT/AGENCIES** None.

**PUBLIC COMMENT** None.

**BOARD DISCUSSION** None.

**MOTION** John moved and Ken S. seconded to adopt the findings of fact within staff report WZC 15-02.

**VOTE** The motion unanimously. The matter is scheduled to go before the Council on August 3, 2015.

**NEW BUSINESS** None.

**GOOD AND WELFARE** 1. Matters from Board. Ken S. asked who is in charge of appointing Lakeshore Committee Members and Dave advised open positions on the Lakeshore Committee were

**TAYLOR/CITY OF WHITEFISH  
ZONE CHANGE  
STAFF REPORT WZC 15-02  
JULY 9, 2015**

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of Kent & Kim Taylor to rezone one parcel from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) at 1735 E Lakeshore Drive. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **July 16, 2015** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **August 3, 2015** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

**PROJECT SCOPE**

The City is requesting a zone change on one parcel (Parcel A of COS 20014) from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential). The parcel fronts on Reservoir Road and is located within the city limits.

The purpose of rezoning the property to a City zone is due to the adoption of Resolution 15-19 which annexed the property into Whitefish City limits on July 6, 2015. As the property is now within the City, the zoning must be changed from a County zoning designation to a City zoning designation.

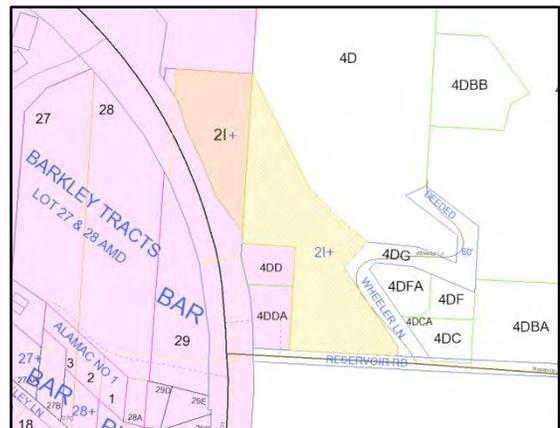
Purpose of WRR-1: The WRR-1 district is intended to provide a low density setting for secondary residential resorts

	<b><u>WRR-1</u> (proposed zoning)</b>	<b><u>RR-1</u> (existing zoning)</b>
Minimum lot area:	n/a	n/a
Front yard setback:	25 feet	15 feet
Side yard setback:	10 feet (15-feet for triplex and up)	10 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	35% maximum	35% maximum

**A. Property Owners:**  
Kent & Kim Taylor  
1735 E Lakeshore Drive  
Whitefish, MT 59937

**Applicant:**  
City of Whitefish  
PO Box 158  
Whitefish, MT 59937

**B. Location and Size:**  
The subject property is located adjacent to Reservoir Road and Wheeler Lane. The



property can be legally described as Parcel A of COS 20014 Section 24, Township 31N, Range 22W, P.M.M., Flathead County, Montana. The subject property is approximately 3.6 acres in size.

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

The property is currently undeveloped, but is adjacent to the Hidden Moose Lodge. The Growth Policy identifies the parcel as Resort Residential on the Whitefish City-County Growth Policy Future Land Use Map. The text within the Growth Policy relating to the classifications states this designation is defined by resort residential development of all types and densities (in accordance with specific zoning). Included are one and two-family residential, rental cabins, vacation cottages, condominiums, and town homes. Commercial hotels and motels are not a part of this designation, but limited resort commercial is allowed. Zoning is generally WRR-1 and WRR-2.

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

North:	undeveloped	Flathead County RR-1	Resort Residential
South:	undeveloped	Flathead County SAG-10	Rural
East:	residential	Flathead County RR-1/R-1	Resort Residential/Rural Residential
West	Undeveloped, restaurant, bed & breakfast	WRR-1/WRB-1	Resort Residential

**E. Public Notice:**

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on June 25, 2015. Advisory agencies were noticed on June 25, 2015. A notice was published in the Whitefish Pilot on July 1, 2015. As of the writing of this report, no public comments have been received.

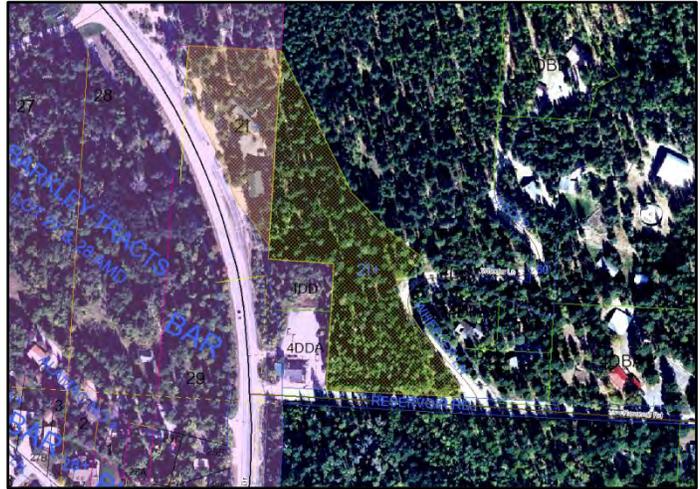
**F. Utilities**

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

**REVIEW AND FINDINGS OF FACT:**

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

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



**A. Made in Accordance with a Growth Policy.**

The Growth Policy Future Land Use Map designates the parcel within the Resort Residential designation. The proposed change to WRR-1 (Low Density Resort Residential District) zoning is consistent with the Resort Residential designation.

**Finding 1:** The proposed zone change to WRR-1 is in accordance with the Growth Policy because it complies with the Resort Residential land use designation.

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

The property is served by the City of Whitefish Police and Fire Departments. Any future development will meet all City requirements for roadway widths and Fire Department standards.

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

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

Public services and utilities are available to the property and will be extended to serve the site.

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

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

Water and sewer will be extended to the property. The subject property is located adjacent to a City maintained road, which is paved. The school district will not change due to the recent annexation, and the subject property is located near public parks.

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

**E. Reasonable Provision of Adequate Light and Air.**

The proposed zoning designation include setbacks, maximum building height and lot coverage. In addition, all construction will require conformance with the Building Code.

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

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

The property is located in the city limits and is served by Reservoir Road which is a County maintained road. The proposed zone change from a County RR-1 zone to a closely equivalent City WRR-1 zone will not have an effect on the motorized and non-motorized transportation systems because the proposed uses in each district are very similar.

**Finding 6:** The proposed zone change will not have an effect on motorized and non-motorized transportation systems because the property is served by a paved County maintained road and the proposed uses in each district are very similar.

**G. Promotion of Compatible Urban Growth.**

The subject property is located in an area identified as Resort Residential by the Growth Policy's Future Land Use Map. The Growth Policy designates Resort Residential as including WRR-1 and WRR-2 zoning. Since the subject property has been recently annexed into the Whitefish City limits, the property must be rezoned to an equivalent City zone, which is WRR-1. Therefore, the proposed zone change will promote compatible urban growth for the surrounding area.

**Finding 7:** The proposed zone change will promote compatible urban growth because the property is served by public services, and is consistent with the adopted Growth Policy.

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

The character of the district is predominately single family. The lot sizes are comparable, and the proposed zoning will be the most equivalent.

**Finding 8:** The proposed zone change considers the character of the district and its particular suitability for particular uses because it is a predominately single family neighborhood, the lot sizes are comparable between both zones, and the proposed zoning will be the most equivalent.

**I. Conserving the Value of Buildings.**

The subject property is undeveloped. The WRR-1 zoning permits a variety of resort residential type of uses. Therefore the value of surrounding buildings will not be negatively impacted by the proposed zone change.

**Finding 9:** The proposed zone change will conserve the value of buildings because the property is undeveloped, and the value of surrounding buildings will be maintained as the WRR-1 zoning permits a variety of resort residential type of uses.

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

As previously stated, the area encompassing the subject property is listed as Resort Residential in the Whitefish Growth Policy. The proposed zoned change to WRR-1 would encourage the most appropriate use of land as it would be similar to adjacent properties currently developed as single-family residential.

**Finding 10:** The proposed zone change encourages the most appropriate use of land throughout the jurisdictional area because it will be similar to adjacent properties and will comply with the Growth Policy.

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

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

**RECOMMENDATION**

It is recommended that the Whitefish Planning Board adopt staff report WZC 15-02 findings of fact and recommend to the Whitefish City Council the map amendment be **approved**.



# Public Notice of Proposed Land Use Action

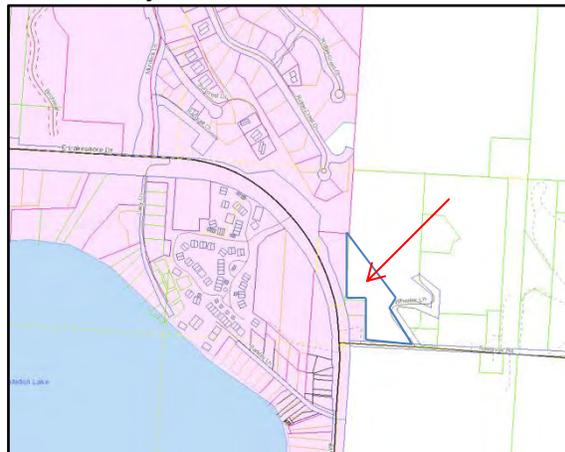
The City of Whitefish would like to inform you that the city of Whitefish is proposing to rezone a portion of 1735 E Lakeshore Drive due to annexation into the city limits from County zoning to WRR-1 (Low Density Resort Residential District). The property is undeveloped and is zoned Flathead County RR-1. The property is located at 1735 E Lakeshore Drive and can be legally described as Parcel A of COS 20014 in S24-T31N-R22W, Flathead County.

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, July 16, 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, August 3, 2015 at 7:10 p.m., also in the Whitefish City Council Chambers.

See below for general location of the property and back for recorded COS. 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](mailto:wcompton-ring@cityofwhitefish.org). Comments received by the close of business on Tuesday, July 7, 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.



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



Date: June 25, 2015  
To: Advisory Agencies & Interested Parties  
From: Whitefish Planning & Building Department

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The regular meeting of the Whitefish Planning Board will be held on Thursday, July 16, 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 1-4 on Monday, August 3, 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 Whitefish Partners 1, llc for a Conditional Use Permit in order to develop Phase II of Monterra and construct 54 units in Phase II and construct 12 units in Phase I. The property is unaddressed and is located at the northeast corner of Highway 40 and River Lakes Parkway and can be legally described as Common Area of Monterra at Whitefish Condominiums in S8 T30N R21W. WCUP 15-10 (Compton-Ring)
2. A request by Whitefish Lake Institute, on behalf of High Point on 2<sup>nd</sup> llc, is proposing to amend the Preliminary Plat/Planned Unit Development approval for High Point on 2<sup>nd</sup> in order to transfer ownership of a 4.04 acre open space to the Whitefish Lake Institute instead of to the City of Whitefish as originally proposed. The open space is located at 100 Wild Rose Lane and is a portion of the area legally described as Tract 1K in S32-T31N-R22W WPP 14-03B/WPUD 14-02B (Compton-Ring)
3. A request by the city of Whitefish to rezone 325 Monegan Road due to annexation into the city from County zoning to WA (Agriculture District). The property can be legally described as Tract 2AAB in S5-T30N-R21W. WZC 15-01 (Compton-Ring)
4. A request by the city of Whitefish to rezone a portion of 1735 E Lakeshore Drive due to annexation into the city from County zoning to WRR-1 (Low Density Resort Residential District). The property can be legally described as Parcel A of COS 20014 in S24-T31N-R22W. WZC 15-02 (Compton-Ring)

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](mailto:dtaylor@cityofwhitefish.org). For questions or further information regarding these proposals, phone 406-863-2410.



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

File #: WBC 19-02  
 Date: \_\_\_\_\_  
 Intake Staff: \_\_\_\_\_  
 Date Complete: \_\_\_\_\_

**ZONING MAP AMENDMENT - ANNEXATION**

**INSTRUCTIONS:**

- Submit the completed application with annexation form and appropriate attachments to the Whitefish City Clerk's Office.
- After annexation, the rezone application will be scheduled at the next available meeting of the City Planning Board, which meets on the third Thursday of each month at 6:00 PM in the City Council Chambers at 402 E 2<sup>nd</sup> 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 Address: 1735 E LALESADRE DR.  
 Assessor's Tract No.(s) 0557400 Lot No(s) TR 1 COS 2001A  
 Block # \_\_\_\_\_ Subdivision Name \_\_\_\_\_  
 Section 24 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.

Kent Taylor  
 Owner's Signature<sup>1</sup>

6/10/15  
 Date

KENT TAYLOR  
 Print Name

SAME KENT TAYLOR  
 Applicant's Signature

6/10/15  
 Date

KENT TAYLOR  
 Print Name

B-F Sullivan  
 Representative's Signature

6-18-2015  
 Date

Brian F. SULLIVAN  
 Print Name

**EXHIBIT**

4

<sup>1</sup> May be signed by the applicant or representative, authorization letter from owner must be attached. If there are multiple owners, a letter authorizing one owner to be the authorized representative for all must be included.

**APPLICATION CONTENTS:**

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

- Zoning Map Amendment – Annexation Application
- Map showing the location and boundaries of the property
- Copy of Approved Resolution annexing property into City limits
- Electronic version of entire application such as .pdf
- Certified adjacent owners list for properties within 150-feet of subject site

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: KENT & Kim Taylor Phone: 406-862-6566  
Mailing Address: 1735 E LAKESHORE DR  
City, State, Zip: Whitefish, MT 59937  
Email: info@hiddencamoose lodge.com

**APPLICANT:**

Name: City of Whitefish Phone: 406-863-2410  
Mailing Address: P.O. Box 158  
City, State, Zip: Whitefish, MT 59937

**C. State the changing conditions that make the proposed amendment necessary:**

*BOUNDARY LINE ADJUSTMENT AT CITY/COUNTY  
BOUNDARY.*

----- For City Staff Use Only -----

**PROPOSED ZONING:**  
CURRENT ZONING DISTRICT: \_\_\_\_\_  
PROPOSED ZONING DISTRICT: \_\_\_\_\_

TR 21-0026800 TR 40-0557400

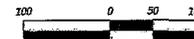
OK KJ MSS 6/17/15

Owners: Kent R. & Kim E. Taylor  
Sandra L. Lindlief  
Date: May 14, 2015  
Job#: 15-004  
For: Kent Taylor

# CERTIFICATE OF SURVEY

## SW 1/4 NE 1/4 AND GOV'T LOT 1 OF SECTION 24, T.31 N., R.22 W., P.M.,M.

### FLATHEAD COUNTY, MONTANA



PURPOSE OF SURVEY: BOUNDARY LINE ADJUSTMENT

DESCRIPTION

1" = 100'

#### TRACT 1 (Includes Parcel A)

This portion of the Southwest one-quarter of the Northeast one-quarter (SW1/4 NE1/4) and Government Lot 1 of Section Twenty-four (24), Township Thirty-one North (T.31 N.), Range Twenty-two West (R.22 W.), Principal Meridian Montana, Flathead County, Montana, more particularly described as follows: Commencing at the North one-quarter corner of said Section Twenty-four (24); thence along the mid-section line of said Section Twenty-four (24) 500'09"23"E 1771.70 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; thence leaving said mid-section line S29° 22' 33"E 389.53 feet; thence S46° 52' 40"E 119.53 feet; thence S54° 19' 25"E 115.90 feet to the Westery right-of-way of Wheeler Lane, a 60' deeded County road; thence along said right-of-way S39° 32' 08"W 102.86 feet; thence continuing along said right-of-way S37° 49' 10"E 289.86 feet; thence continuing along said right-of-way S00° 46' 20"W 31.32 feet to the North right-of-way of Reservoir Road; thence along said right-of-way N89° 16' 26"W 326.29 feet; thence leaving said right-of-way N00° 01' 46"W 307.68 feet; thence N89° 23' 46"W 159.46 feet to the Eastealy right-of-way of North Wisconsin Avenue; thence along said right-of-way N00° 09' 23"W 30.34 feet; thence continuing along said right-of-way N40° 23' 35"W 141.87 feet; thence continuing along said right-of-way to the beginning point of a curve to the left having a radius of 1482.40 from which the radius point bears S66° 58' 36"W, thence left along said curve for an arc length of 215.37 feet; thence continuing along said right-of-way N19° 24' 03"W 85.39 feet; thence continuing along said right-of-way to the beginning point of a curve to the left having a radius of 1502.40 from which the radius point bears S55° 28' 24"W, thence left along said curve for an arc length of 82.04 feet; thence leaving said right-of-way N00° 10' 37"W 36.00 feet; thence N89° 52' 37"E 265.72 feet to the point of beginning and containing 5.283 acres of land more or less. Subject to and together with all easements of record. All as shown herein.

#### TRACT 2

This portion of the Southwest one-quarter of the Northeast one-quarter (SW1/4 NE1/4) of Section Twenty-four (24), Township Thirty-one North (T.31 N.), Range Twenty-two West (R.22 W.), Principal Meridian Montana, Flathead County, Montana, more particularly described as follows: Commencing at the North one-quarter corner of said Section Twenty-four (24); thence along the mid-section line of said Section Twenty-four (24) 500'09"23"E 1771.70 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; thence leaving said mid-section line N89° 52' 37"E 540.23 feet; thence S00° 02' 23"E 766.02 feet to the Westery right-of-way of Wheeler Lane, a 60' deeded County road; thence along said right-of-way S69° 00' 33"W 673.53 feet; thence continuing along said right-of-way S55° 49' 31"E 197.78 feet; thence continuing along said right-of-way S00° 05' 08"E 83.57 feet; thence N07° 31' 45"W 122.82 feet; thence continuing along said right-of-way N87° 30' 44"W for 153.84 feet; thence leaving said right-of-way N54° 19' 25"W 115.90 feet; thence N46° 52' 40"W 119.53 feet; thence N09° 52' 33"W 389.53 feet to said mid-section line; thence along said mid-section line N00° 09' 23"W 457.08 feet to the point of beginning and containing 10.217 acres of land more or less. Subject to and together with all easements of record. All as shown herein.

#### PARCEL A (to be added to Tract 1)

This portion of the Southwest one-quarter of the Northeast one-quarter (SW1/4 NE1/4) of Section Twenty-four (24), Township Thirty-one North (T.31 N.), Range Twenty-two West (R.22 W.), Principal Meridian Montana, Flathead County, Montana, more particularly described as follows: Commencing at the North one-quarter corner of said Section Twenty-four (24); thence along the mid-section line of said Section Twenty-four (24) 500'09"23"E 1771.70 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; thence leaving said mid-section line S29° 22' 33"E 389.53 feet; thence S46° 52' 40"E 119.53 feet; thence S54° 19' 25"E 115.90 feet to the Westery right-of-way of Wheeler Lane, a 60' deeded County road; thence along said right-of-way S39° 32' 08"W 102.86 feet; thence continuing along said right-of-way S37° 49' 10"E 289.86 feet; thence continuing along said right-of-way S00° 46' 20"W 31.32 feet to the North right-of-way of Reservoir Road; thence along said right-of-way N89° 16' 26"W 326.29 feet; thence leaving said right-of-way N00° 01' 46"W 307.68 feet; thence N89° 23' 46"W 159.46 feet to the Eastealy right-of-way of North Wisconsin Avenue; thence along said right-of-way N00° 09' 23"W 30.34 feet; thence leaving said right-of-way and along said mid-section line N 00°09'23"W 483.85 feet to the point of beginning and containing 3.600 acres of land more or less. Subject to and together with all easements of record. All as shown herein.

We, Kent R. Taylor, Kim E. Taylor and Sandra L. Lindlief, the undersigned property owners, hereby certify that the purpose for this division of land is to relocate common boundary lines between adjoining properties and no additional parcels are hereby created; therefore this division of land is exempt from review as a subdivision pursuant to Section 76-3-207 (1)(a), M.C.A.

We further certify that the purpose of this division of land (Tract 2) is to create parcels that has no existing facilities for water supply, wastewater disposal and solid waste disposal, if no new facilities will be constructed on the parcel. Therefore, this division of land is exempt from review by the Montana Department Environmental Quality pursuant to Section 17.36.605 (2)(a), ARM.

We further certify that (Tract 1) are exempted from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605 (2) (c) as a parcel that has facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, if (i) no new facilities will be constructed on the parcel; (ii) the number of developed parcels is not increased; (iii) existing facilities complied with state and local laws and regulations, including permit requirements, that were applicable at the time of installation; and (iv) the local health officer determines that existing facilities are adequate for the existing use. As a condition of the exemption, the local health officer may require evidence that (A) septic tanks have been pumped within the previous three years; and (B) the parcel includes acreage or features sufficient to accommodate a replacement drainfield.

*Kent Taylor*  
Kent R. Taylor

*Kim E. Taylor*  
Kim E. Taylor

*Sandra L. Lindlief*  
Sandra L. Lindlief

COS# 20014

STATE OF MONTANA )  
                                  ) SS  
County of Flathead )  
                                  ) by F & H LAND SURVEYING  
                                  ) Date 6/17/2015 Time 1:25 PM  
                                  ) Debbie Pierson, Flathead County Montana

On this 14th day of June, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Kent R. Taylor and Kim E. Taylor, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

*Craig Wickham*  
Craig Wickham  
Notary Public for the State of Montana  
Residing at Whitefish, Montana  
My Commission expires May 31, 2017



STATE OF MONTANA )  
                                  ) SS  
County of Flathead )

On this 14th day of June, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Sandra L. Lindlief, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

*Craig Wickham*  
Craig Wickham  
Notary Public for the State of Montana  
Residing at Whitefish, Montana  
My Commission expires May 31, 2017



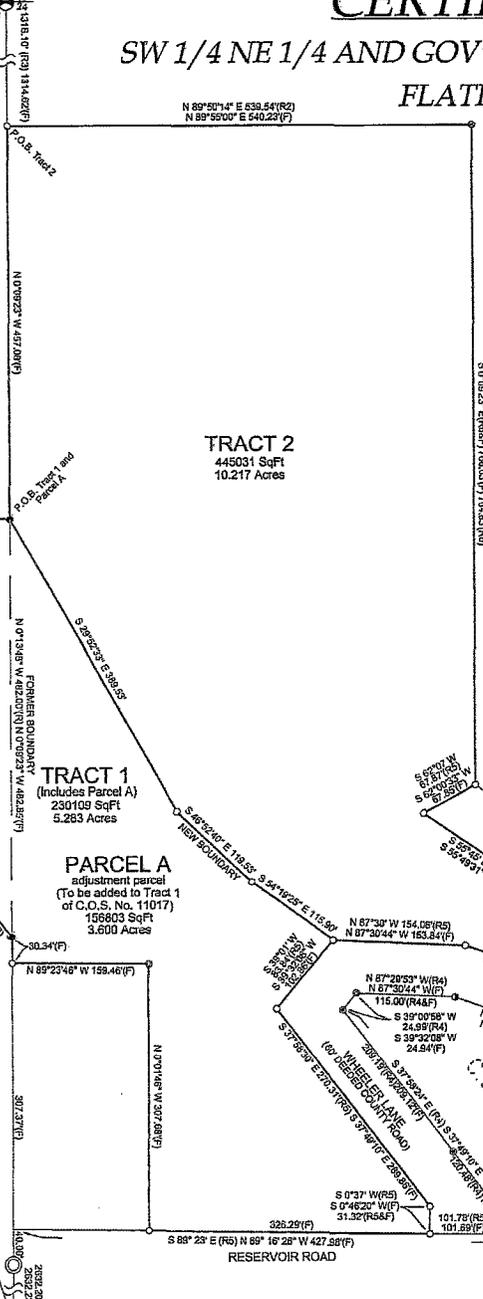
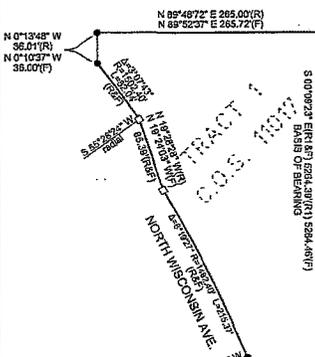
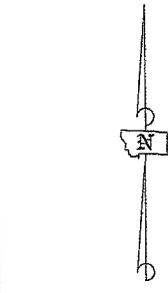
CERTIFICATE OF SURVEYOR  
*Brian F. Sullivan*  
Brian F. Sullivan  
Registration No. 9096LS

APPROVED 6/16 20 15  
*Debbie Pierson*  
Examining Land Surveyor Reg. No. 5428S

STATE OF MONTANA )  
                                  ) SS  
County of Flathead )

Filed on the 17 day of June  
A.D. 20 15  
*Debbie Pierson*  
Debbie Pierson  
Notary Public  
By: *Debbie Pierson*  
Deputy  
201500012052

INSTRUMENT REC. NO.  
SHEET 1 of 1 SHEETS \$34-  
CERTIFICATE OF SURVEY NO. 20014



- LEGEND
- CENTER 1/4 CORNER (NOT FOUND OR SET)
- FOUND 1/4 CORNER AS NOTED
- FOUND 1/2" REBAR W/ PLASTIC CAP MKD "SULLIVAN 9091LS"
- FOUND CONCRETE RIGHT-OF-WAY MONUMENT
- FOUND 5/8" REBAR W/ PLASTIC CAP MKD "FRESHMAN 4735S"
- FOUND 5/8" REBAR W/ PLASTIC CAP MKD "HAYNER 9044S"
- FOUND 5/8" REBAR
- FOUND 5/8" REBAR W/ PLASTIC CAP MKD "SANDS 7975S"
- SET 5/8" X 24" REBAR W/ PLASTIC CAP MKD "SULLIVAN 9093LS"
- R = RECORD PER C.O.S. 11017
- R1 = RECORD PER C.O.S. 3351
- R2 = RECORD PER C.O.S. 10285
- R3 = RECORD PER C.O.S. 2046
- R4 = RECORD PER C.O.S. 3896
- R5 = RECORD PER BOOK 493 PAGE 238
- R6 = RECORD PER C.O.S. 10285

F & H Land Surveying, Inc.  
144 Second Street East  
P.O. Box 114  
Whitefish, Mt. 59937  
406-862-2385

Drawn by CDW 7/2/08 FILED 02/11/15 4:04 PM TTY: CRD/CN/15-004 BLA/BJ

(This page left blank intentionally to separate printed sections)

**ORDINANCE NO. 15-\_\_\_**

**An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 9.99 acres of land located at 325 Monegan Road, Section 5, Township 30 North, Range 21 West, Whitefish, Montana, from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District) and adopting Findings with respect to such rezone.**

WHEREAS, the City of Whitefish initiated a rezone with respect to property located at 325 Monegan Road, and legally described as Tract 2AAB, in Section 5, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana; and

WHEREAS, in response to the City-initiated rezone, the Whitefish Planning & Building staff prepared Staff Report WZC 15-01, dated July 9, 2015, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on July 16, 2015, the Whitefish Planning Board reviewed Staff Report WZC 15-01, received an oral report from Planning staff, invited public comment, and thereafter voted unanimously to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on August 3, 2015, the Whitefish City Council reviewed Staff Report WZC 15-01 and letter of transmittal, received an oral report from Planning staff, and invited public comment; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the proposed rezone; and

WHEREAS, the proposed rezone meets zoning procedure and the criteria and guidelines for the proposed rezone required by MCA §§76-2-303 through 76-2-305, and WCC §11-7-12.

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

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

Section 2: Staff Report WZC 15-01 dated July 9, 2015, together with the July 28, 2015 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property located at 325 Monegan Road, and legally described as Tract 2AAB in Section 5, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana, previously zoned County SAG-10 (Suburban Agriculture) is hereby rezoned to City WA (Agricultural District).

Section 4: The official Zoning Map of the City of Whitefish, Montana, be amended, altered and changed to provide that the rezone and zoning map amendment of the real property identified on the map attached hereto as Exhibit "A", and incorporated herein by reference, shall

be designated City WA (Agricultural District).

Section 5: The Zoning Administrator is instructed to change the City's official Zoning Map to conform to the terms of this Ordinance.

Section 6: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

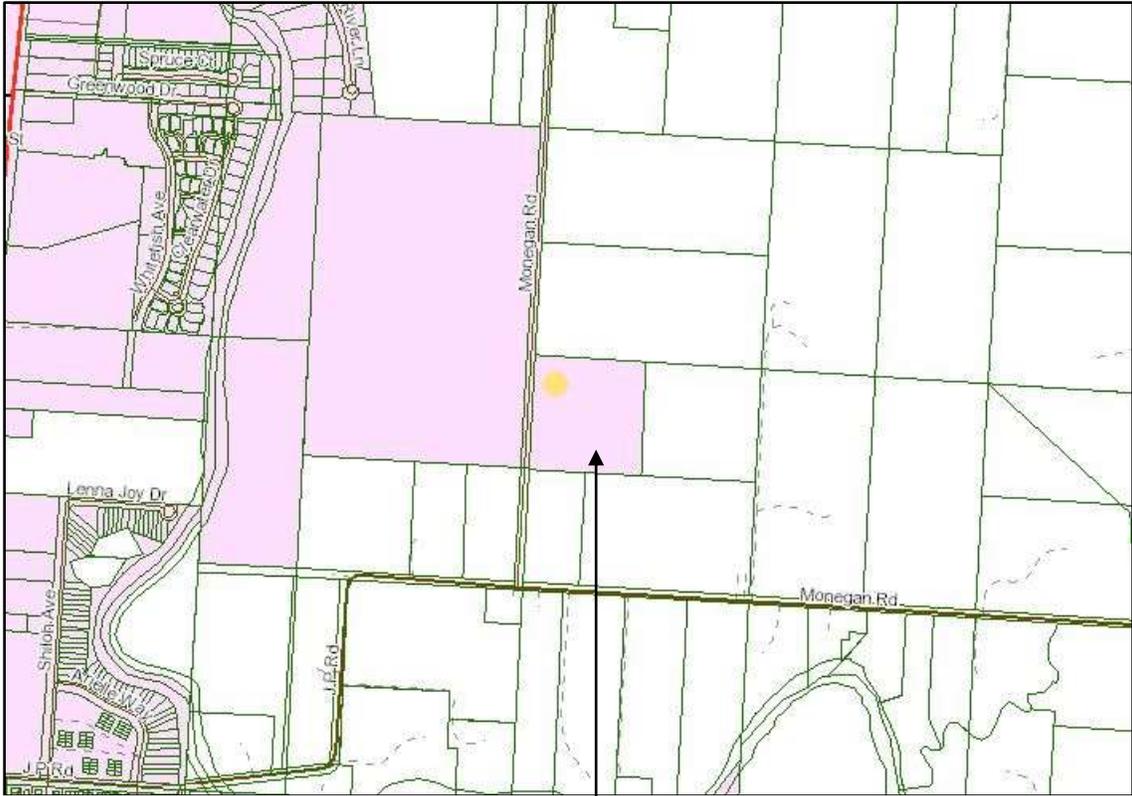
Section 7: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk



325 Monegan Road  
Vlachos Property

**EXHIBIT "A"**

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



July 28, 2015

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

RE: Vlachos/City of Whitefish Zone Change: WZC 15-01

Honorable Mayor and Council:

**Summary of Requested Action:** This is a request by the City of Whitefish on behalf of William & Caroline Vlachos for a rezone of one parcel with the zoning designation of County SAG-10 to City WA (Agricultural District). The property is located at 325 Monegan Road and totals 9.99 acres.

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

**Public Hearing:** No members of the public spoke at the public hearing. The draft minutes from the Planning Board for this item are attached as part of this packet.

**Planning Board Action:** The Whitefish City Planning Board met on July 16, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 5-0 (unanimously, Laidlaw, Picoli were absent) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

This item has been placed on the agenda for your regularly scheduled meeting on August 3, 2015. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in black ink that reads "Wendy Compton-Ring". The signature is written in a cursive, flowing style.

Wendy Compton-Ring, AICP  
Senior Planner

Att: Draft Minutes of 7-16-15 Planning Board Meeting

***Exhibits from 7-16-15 Staff Packet***

1. Staff Report WZC-15-01, 7-9-15
2. Adjacent Landowner Notice, 6-25-15
3. Advisory Agency Notice, 6-25-15

**The following was submitted by the applicant:**

4. Application for Zoning Map Amendment, 6-16-15

**The following was submitted after the Planning Board packets were mailed:**

5. Letter, Russell Rhine, 7-13-15

c: w/att      Necile Lorang, City Clerk

sensitive to the issues, but does not feel this is the right place to address the issues.

Ken S. said he has personally owned and sold several units in Monterra, but has never lived in them. He said what is in front of the Board is within zoning. Rebecca asked if Ken S. felt he should recuse himself from the vote as he potentially financially benefits from it. Richard said recusal on Ken S.'s part would be a personal choice. Rebecca felt he had a conflict of interest, but Ken S. assured the Board he has no financial gain as no longer owns any units in Monterra.

John called for question and there was no objection.

Ken asked for roll call vote on the motion to approve the CUP with staff recommendation.

**VOTE**

The motion passed with John, Ken M., Richard, and Ken S. voting for, and Rebecca voting against. The matter is scheduled to go before the Council on August 3, 2015.

**PUBLIC HEARING 2:  
WHITEFISH LAKE  
INSTITUTE, ON  
BEHALF OF HIGH  
POINT ON 2ND, LLC**

The applicant withdrew this application prior to the meeting.

**PUBLIC HEARING 3:  
CITY OF WHITEFISH  
REZONE REQUEST**

A request by the City of Whitefish to rezone 325 Monegan Road due to annexation into the City from County zoning to WA (Agriculture District). The property can be legally described as Tract 2AAB in S5-T30N-R21W.

**STAFF REPORT  
WZC 15-01  
(Compton-Ring)**

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

Staff recommended adoption of the findings of fact within staff report WZC 15-01 and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS  
OF STAFF**

Richard asked whether all of the setbacks and other requirements meet current standards, or will they be grandfathered? Wendy said if the buildings do not meet the current standards, they would effectively be grandfathered, but any new buildings would have to meet current standards.

Ken S. said the way he sees this, it becomes more restrictive zoning and Wendy agreed.

Rebecca wanted it noted in the records that the applicants

said on the last page of their application that they were requesting annexation as a result of flooding and E. coli in water well. Wendy said she had not heard anything about that other than in the application.

**APPLICANT/AGENCIES** None.

**PUBLIC COMMENT** None.

**BOARD DISCUSSION** None.

**MOTION** John moved and Ken S. seconded to adopt the findings of fact within staff report WZC 15-01.

**VOTE** The motion passed unanimously. The matter is scheduled to go before the Council on August 3, 2015.

**PUBLIC HEARING 4:  
CITY OF WHITEFISH  
REZONE REQUEST** A request by the City of Whitefish to rezone a portion of 1735 E Lakeshore Drive due to annexation into the city from County zoning to WRR-1 (Low Density Resort Residential District). The property can be legally described as Parcel A of COS 20014 in S24-T31N-R22W.

**STAFF REPORT  
WZC 15-02  
(Compton-Ring)** Senior Planner Compton-Ring reviewed her staff report and findings.

Staff recommended adoption of the findings of fact within staff report WZC 15-02 and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS  
OF STAFF** None.

**APPLICANT/AGENCIES** None.

**PUBLIC COMMENT** None.

**BOARD DISCUSSION** None.

**MOTION** John moved and Ken S. seconded to adopt the findings of fact within staff report WZC 15-02.

**VOTE** The motion unanimously. The matter is scheduled to go before the Council on August 3, 2015.

**NEW BUSINESS** None.

**GOOD AND WELFARE** 1. Matters from Board. Ken S. asked who is in charge of appointing Lakeshore Committee Members and Dave advised open positions on the Lakeshore Committee were

**VLACHOS/CITY OF WHITEFISH  
ZONE CHANGE  
STAFF REPORT WZC 15-01  
JULY 9, 2015**

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of William Vlachos to rezone one parcel from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District) at 325 Monegan Road. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **July 16, 2015** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **August 3, 2015** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

**PROJECT SCOPE**

The City is requesting a zone change on one parcel (Tract 2AAB) from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District). The parcel fronts on Monegan Road and is located within the city limits.

The purpose of rezoning the property to a City zone is due to the adoption of Resolution 15-20 which annexed the property into Whitefish City limits on July 6, 2015. As the property is now within the City, the zoning must be changed from a County zoning designation to a City zoning designation.

Purpose of WA: The WA district is intended for areas for silviculture, agricultural functions, outdoor recreation purposes, open spaces or future development, and for detached single-family homes with customary farm and/or accessory buildings situated in a setting conducive to a rural lifestyle.

	<b><u>WA (proposed zoning)</u></b>	<b><u>SAG-10 (existing zoning)</u></b>
Minimum lot area:	15 acres	10 acres
Front yard setback:	50 feet	20 feet
Side yard setback:	20 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	10% maximum	20% maximum

**A. Property Owners:**  
William & Caroline Vlachos  
325 Monegan Road  
Whitefish, MT 59937

**Applicant:**  
City of Whitefish  
PO Box 158  
Whitefish, MT 59937

**B. Location and Size:**

The subject property is on the east side of Monegan Road north of the Monegan Road/JP Road intersection. The property is 9.99 acres in size. The property can be legally described as Tract 2AAB in Section 5, Township 30N, Range 21W, P.M.M., Flathead County, Montana.



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

The property is currently developed with a single-family residence. The Growth Policy identifies the parcel as Rural on the Whitefish City-County Growth Policy Future Land Use Map. The text within the Growth Policy relating to the classifications states this designation is “open lands with decidedly rural character, including farmlands, pasture lands, timber harvesting and management areas, and forest lands generally fall under this designation. Agricultural and timber management are generally allowed, but residential densities are extremely low. This designation includes “important farmlands” as defined by National Resources Conservation Service criteria. Zoning is mainly WA-10 and WA-20.”

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

North:	agriculture	County: SAG-10	Rural
South:	agriculture	County: SAG-10	Rural
East:	agriculture	County: SAG-10	Rural
West	Sewer treatment plant	WA	Public/Semi-Public

**E. Public Notice:**

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on June 25, 2015. Advisory agencies were noticed on June 25, 2015. A notice was published in the Whitefish Pilot on July 1, 2015. As of the writing of this report, no public comments have been received.

**F. Utilities**

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

**REVIEW AND FINDINGS OF FACT:**

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

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



**A. Made in Accordance with a Growth Policy.**

The Growth Policy Future Land Use Map designates the parcel within the Rural designation. The proposed change to WA (Agricultural District) zoning is consistent with the Rural designation.

**Finding 1:** The proposed zone change to WA is in accordance with the Growth Policy because it complies with the Rural land use designation.

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

The property is served by the City of Whitefish Police and Fire Departments. Any future development will meet all City requirements for roadway widths and Fire Department standards.

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

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

Water will be extended to serve the site.

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

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

Water will be extended to the property. The subject property is located adjacent to a City maintained road, which is paved. The school district will not change due to the recent annexation, and the subject property is located near city parks and trails.

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

**E. Reasonable Provision of Adequate Light and Air.**

The proposed zoning designation include setbacks, maximum building height and lot coverage. In addition, all construction will require conformance with the Building Code.

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

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

The property is located in the city limits and is served by Monegan Road which is a City maintained road. The proposed zone change from a County SAG-10 zone to a closely equivalent City WA zone will not have an effect on the motorized and non-motorized transportation systems because the proposed uses in each district are very similar.

**Finding 6:** The proposed zone change will not have an effect on motorized and non-motorized transportation systems because the property is served by an unpaved City maintained road and the proposed uses in each district are very similar.

**G. Promotion of Compatible Urban Growth.**

The subject property is located in an area identified as Rural by the Growth Policy's Future Land Use Map. The Growth Policy designates Rural as including WA-10 and WA-20, but the WA is our closest zoning designation. Since the subject property has been recently annexed into the Whitefish City limits, the property must be rezoned to an equivalent City zone, which is WA. Therefore, the proposed zone change will promote compatible growth for the surrounding area – not necessarily 'Urban' growth because of its rural nature.

**Finding 7:** The proposed zone change will promote compatible growth because the property is served by public services, and is consistent with the adopted Growth Policy.

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

The character of the district is predominately single family and agricultural uses. The lot sizes are comparable, and the proposed zoning will be the most equivalent.

**Finding 8:** The proposed zone change considers the character of the district and its particular suitability for particular uses because it is a predominately single family neighborhood and agricultural uses, the lot sizes are comparable between both zones, and the proposed zoning will be the most equivalent.

**I. Conserving the Value of Buildings.**

The subject property currently has an existing single-family residence. The WA zoning permits single-family. Therefore the value of surrounding buildings will not be negatively impacted by the proposed zone change.

**Finding 9:** The proposed zone change will conserve the value of buildings because the property has an existing single-family residence, and the value of surrounding buildings will be maintained as the WA zoning permits single-famil.

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

As previously stated, the area encompassing the subject property is listed as Rural in the Whitefish Growth Policy. The proposed zoned change to WA would encourage the most appropriate use of land as it would be similar to adjacent properties currently developed as single-family residential.

**Finding 10:** The proposed zone change encourages the most appropriate use of land throughout the jurisdictional area because it will be similar to adjacent properties currently developed as single-family and will comply with the Growth Policy.

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

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

**RECOMMENDATION**

It is recommended that the Whitefish Planning Board adopt staff report WZC 15-01 findings of fact and recommend to the Whitefish City Council the map amendment be **approved**.



## Public Notice of Proposed Land Use Action

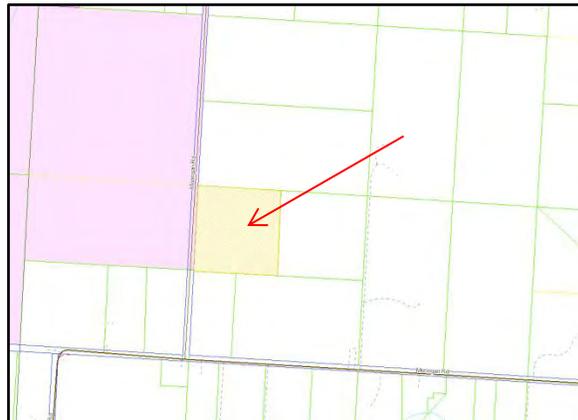
The City of Whitefish would like to inform you that the city of Whitefish is proposing to rezone 325 Monegan Road due to annexation into the city limits from County zoning to WA (Agricultural District). The property is development as a sign family residence and is zoned Flathead County SAG-10. The property is located at 325 Monegan Road and can be legally described as Tract 2AAB in S5-T30N-R21W, Flathead County.

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, July 16, 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, August 3, 2015 at 7:10 p.m., also in the Whitefish City Council Chambers.

Below, see the location of the property. 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](mailto:wcompton-ring@cityofwhitefish.org). Comments received by the close of business on Tuesday, July 7, 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: June 25, 2015  
To: Advisory Agencies & Interested Parties  
From: Whitefish Planning & Building Department

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The regular meeting of the Whitefish Planning Board will be held on Thursday, July 16, 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 1-4 on Monday, August 3, 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 Whitefish Partners 1, llc for a Conditional Use Permit in order to develop Phase II of Monterra and construct 54 units in Phase II and construct 12 units in Phase I. The property is unaddressed and is located at the northeast corner of Highway 40 and River Lakes Parkway and can be legally described as Common Area of Monterra at Whitefish Condominiums in S8 T30N R21W. WCUP 15-10 (Compton-Ring)
2. A request by Whitefish Lake Institute, on behalf of High Point on 2<sup>nd</sup> llc, is proposing to amend the Preliminary Plat/Planned Unit Development approval for High Point on 2<sup>nd</sup> in order to transfer ownership of a 4.04 acre open space to the Whitefish Lake Institute instead of to the City of Whitefish as originally proposed. The open space is located at 100 Wild Rose Lane and is a portion of the area legally described as Tract 1K in S32-T31N-R22W WPP 14-03B/WPUD 14-02B (Compton-Ring)
3. A request by the city of Whitefish to rezone 325 Monegan Road due to annexation into the city from County zoning to WA (Agriculture District). The property can be legally described as Tract 2AAB in S5-T30N-R21W. WZC 15-01 (Compton-Ring)
4. A request by the city of Whitefish to rezone a portion of 1735 E Lakeshore Drive due to annexation into the city from County zoning to WRR-1 (Low Density Resort Residential District). The property can be legally described as Parcel A of COS 20014 in S24-T31N-R22W. WZC 15-02 (Compton-Ring)

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](mailto:dtaylor@cityofwhitefish.org). For questions or further information regarding these proposals, phone 406-863-2410.



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

File #: WZC 15-01  
 Date: \_\_\_\_\_  
 Intake Staff: \_\_\_\_\_  
 Date Complete: \_\_\_\_\_

**ZONING MAP AMENDMENT - ANNEXATION**

**INSTRUCTIONS:**

- Submit the completed application with annexation form and appropriate attachments to the Whitefish City Clerk's Office.
- After annexation, the rezone application will be scheduled at the next available meeting of the City Planning Board, which meets on the third Thursday of each month at 6:00 PM in the City Council Chambers at 402 E 2<sup>nd</sup> 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.

JUN 16 2015

**A. PROJECT INFORMATION:**

Project Address: 325 Monegan Rd  
 Assessor's Tract No.(s) 0724375 Lot No(s) \_\_\_\_\_  
 Block # \_\_\_\_\_ Subdivision Name \_\_\_\_\_  
 Section 05 Township 30W Range 21W

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.

[Signature] \_\_\_\_\_ Date 6/17/15

Owner's Signature<sup>1</sup>  
William Vlachos  
 Print Name

[Signature] \_\_\_\_\_ Date 6/17/15

Applicant's Signature  
William Vlachos  
 Print Name

[Signature] \_\_\_\_\_ Date \_\_\_\_\_

Representative's Signature  
 \_\_\_\_\_  
 Print Name

**EXHIBIT**  
4

<sup>1</sup> May be signed by the applicant or representative, authorization letter from owner must be attached. If there are multiple owners, a letter authorizing one owner to be the authorized representative for all must be included.

**APPLICATION CONTENTS:**

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

- Zoning Map Amendment – Annexation Application
- Map showing the location and boundaries of the property
- Copy of Approved Resolution annexing property into City limits - *pending Council Action*
- Electronic version of entire application such as .pdf
- Certified adjacent owners list for properties within 150-feet of subject site

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: William & Caroline Vlachos Phone: 406-253-3041  
Mailing Address: 325 Morgan Rd  
City, State, Zip: Whitefish MT 59937  
Email: CarolineVlaho@gmail.com

**APPLICANT:**

Name: City of Whitefish Phone: 406-863-2410  
Mailing Address: P.O. Box 158  
City, State, Zip: Whitefish, MT 59937

**C. State the changing conditions that make the proposed amendment necessary:**

*flooding. E.-col: in water well.*

----- For City Staff Use Only -----

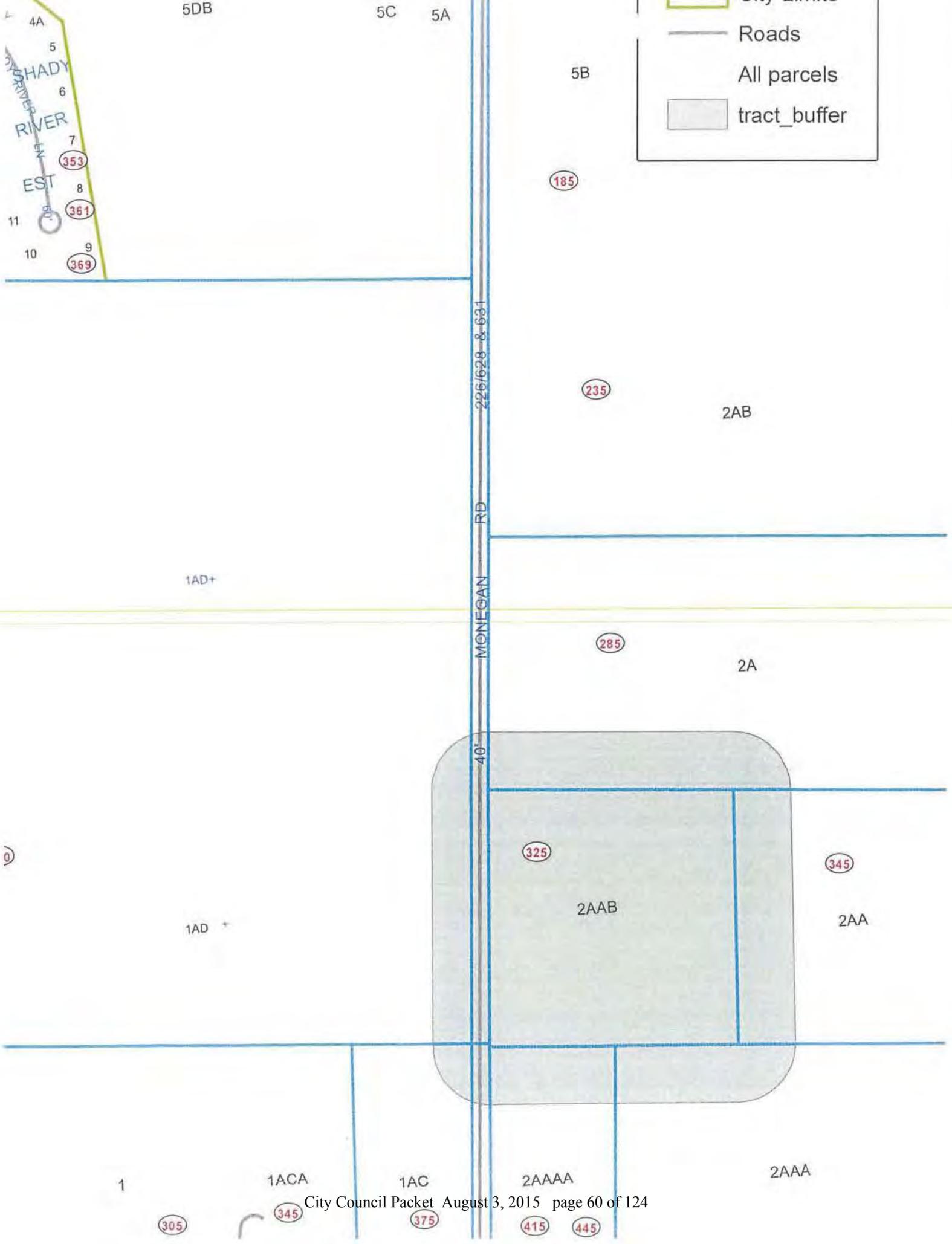
**PROPOSED ZONING:**

CURRENT ZONING DISTRICT: \_\_\_\_\_

PROPOSED ZONING DISTRICT: \_\_\_\_\_



City Limits  
 Roads  
 All parcels  
 tract\_buffer



10 July 2015

Planning & Building Dept

P.O. Box 158

510 Railway Street

Whitefish, MT 59937

Dear Sir:

I do not concur with the proposal to annex property at 325 Monegan Road into the Whitefish city limits.

- we need to retain the agricultural setting of the area.

- there are plenty of building spaces left in the city before the 50% infill criteria is met outlined in current planning documents.

Very Respectfully  
Russell L. Cyrone

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



July 28, 2015

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

RE: Monterra, Phase II; (WCUP 15-10)

Honorable Mayor and Council:

**Summary of Requested Action:** Whitefish Partners 1, llc, is requesting a Conditional Use Permit in order develop Phase II of Monterra with 54 units in four (4) buildings and complete Phase I with 12 units in one (1) building. The project is unaddressed and is bounded by Monterra on the north, Highway 40 on the south, Riverlakes Parkway on the west and Kallner Lane on the east. The property is undeveloped and is zoned WR-2/WPUD (Two-Family Residential District with a Planned Unit Development overlay). The Whitefish Growth Policy designates this property as “Urban”.

**Planning & Building Department Recommendation:** Staff recommended approval of the above referenced conditional use permit with eleven (11) conditions set forth in the attached staff report.

**Public Hearing:** The applicant and his representatives spoke at the public hearing on July 16, 2015 and two neighbors spoke. The draft minutes for this item are attached as part of this packet.

**Planning Board Action:** The Whitefish Planning Board met on July 16, 2015 and considered the request. Following the hearing, the Planning Board recommended approval of the above referenced conditional use permit (4-1, Norton voting in opposition) with eleven (11) conditions as contained in the staff report and adopted the staff report as findings of fact.

**Proposed Motion:**

- I move to approve WCUP 15-10 along with the Findings of Fact in the staff report and the eleven (11) conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on August 3, 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 7-16-15 Planning Board Meeting

***Exhibits from 6-18-15 Staff Packet:***

1. Staff Report – WCUP 15-10, 7-9-15
2. Adjacent Landowner Notice, 6-25-15
3. Advisory Agency Notice, 6-25-15
4. Email, Preston Cannady, 7-4-15
5. Email, Rob Thomas, 7-15-15
6. Letter, James & Jacqueline Mayberry, 7-15-15
7. Letter, Tim Frye, 7-16-15

***The following were submitted by the applicant:***

8. Application for Conditional Use Permit, 6-1-15

c: w/att Necile Lorang, City Clerk

c: w/o att Chuck Stearns, City Manager

**Exhibit A**  
**Monterra, Phase II**  
**WCUP 15-10**  
**Whitefish Planning Board**  
**Recommended Conditions of Approval**  
**July 16, 2015**

1. The project shall be constructed in compliance with the plan submitted on June 1, 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. Obtain an encroachment permit from Flathead County to access Kallner Lane.
  6. Prior to the issuance of a building permit for each building, an all-weather drivable surface shall be installed. (IFC)
  7. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)
  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. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8, WCC)

**WHITEFISH PLANNING BOARD**  
**MINUTES OF MEETING**  
**JULY 16, 2015**  
**DRAFT**

**CALL TO ORDER AND ROLL CALL**

The regular meeting of the Whitefish Planning Board was called to order at 6:00 pm. Board members present were John Ellis, Councilor Richard Hildner, Ken Meckel, Rebecca Norton, and Ken Stein. Jim Laidlaw, Melissa Picoli, and Councilor Frank Sweeney were absent. Planning Director David Taylor and Senior Planner Wendy Compton-Ring represented the Whitefish Planning and Building Department. Planner II Bailey Minnich was absent.

There were approximately ten people in the audience.

**APPROVAL OF MINUTES**

Rebecca moved and John seconded to approve the June 18, 2015 minutes with amendments. Richard and Ken S. abstained from voting as they were not in attendance. The motion passed unanimously with Rebecca, John and Ken M. voting in favor.

**COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA)**

None.

**OLD BUSINESS:**

None.

**PUBLIC HEARING 1: WHITEFISH PARTNERS 1, LLC CONDITIONAL USE PERMIT**

A request by Whitefish Partners 1, LLC for a Conditional Use Permit in order to develop Phase II of Monterra and construct 54 units in Phase II and construct 12 units in Phase I. The property is unaddressed and is located at the northeast corner of Highway 40 and River Lakes Parkway and can be legally described as Common Area of Monterra at Whitefish Condominiums in S8-T30N-R21W.

**STAFF REPORT WCUP 15-10 (Compton-Ring)**

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

Staff recommended adoption of the findings of fact within staff report WCUP 15-10 and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS OF STAFF**

Richard asked if the Montana Department of Transportation is okay with the road access onto Highway 40 and Wendy replied she had sent out an agency referral to MDT and did not hear from them. She also visited with the Public Works Department and said all the work for the neighborhood was done previously. Richard asked if the restriction on overnight rentals is still in place,

and Wendy said yes, as none are allowed in WR-2 zoning. Rebecca asked about water and drainage since there are a lot of lakes and high ground water, and Wendy deferred to the engineer who is present. Rebecca wanted clarification on Finding No. 7 regarding no garage-forward structures as one of the schematic designs looked like the garages were in the front. Wendy said that meant the garages cannot be in front of the main foundation line of the main structure. Rebecca said she relayed to Wendy that some of the people who have already bought into the development are concerned about the tennis court and other issues, and she wondered whether they have a legal right to challenge if the changes devalue their property.

#### **APPLICANT/AGENCIES**

Eric Mulcahy, Sands Surveying, 2 Village Loop, Kalispell, one of the technical representatives, spoke on behalf of the applicant. He also introduced Brett Walcheck, civil engineer with 48 North, and Jeff Swenson, who is part of the development group. He said Wendy did a good job touching on the history and review of this project. He said he worked on this project back in 2004 and it was always the intent that there would be a second phase; that it has just taken a few years for the housing market to rebound. He said there were two CUPs approved in 2007-2008 for this particular parcel. One was a two-unit concept and one was a concept similar to this, with larger 10-unit type buildings. This project has a long history of the planning process, with the economic development site envisioned as light commercial that would generate jobs or an owner being able to get into something with a partner, when put into neighborhood plan. The economic site did not work out and the neighborhood plan was amended to be residential.

John asked how high the tallest structure would be and Mr. Mulcahy replied just under the 35' height limit.

Richard asked whether the CUP is just for Phase II or is completion of Phase I also under consideration and Wendy replied it is for both Phase II and the completion of Phase I.

Jeff Swenson, 6204 Monterra, Unit I, said he has owned three different units in Monterra and works on the sales side as a real estate broker. He has been selling there since 2003. Originally, all of the units in Phase I were sold, but they could not build them fast enough before the housing market changed, and they still had 12 units remaining to be built, which was difficult for the developers. He is on the homeowners' board of directors, which is made up of five individuals, all homeowners

except one developer. It has gone through a lot of different ideas and review. The tennis courts are merely being moved slightly south, not removed. The tennis courts should be built this fall if they are successful in pre-selling. The developers are not planning to build the 12 units on C Pad, it will continue to be used as a greenspace for dog walking, gardens, etc., and some may be for parking, snow storage and/or maintenance. There is also snow storage on the Kauffman property behind the Church. They have worked hard to save the tree buffer around the southern portion along Highway 40. They have sent out a Survey Monkey questionnaire about amenities and want to keep what they have for amenities.

Rebecca asked why they are proposing moving the tennis court and Mr. Swenson said the current location of the tennis court is a better site for the shorter, proposed two-story buildings. Rebecca asked what due diligence was there to inform homeowners and Mr. Swenson replied the HOA Board of Directors talked to attorney Scott Hagel regarding any liability associated with moving the tennis court. He said there will be a key fob system to get into the tennis court, like is used to access the clubhouse. Since they consider this replacing an amenity, rather than taking one away, Mr. Hagel's opinion was that there was no legal ramifications they needed to worry about.

John asked whether the decision to move the tennis court went before the HOA Board and was approved by the HOA Board, and if so, could owners attend? Mr. Swenson said they hold an HOA meeting every year and they are concerned about what the community thinks. They pay roughly \$300 per month for HOA dues. John also asked whether the spot where the current tennis court is located is larger than the proposed new location. After conferring with Mr. Walcheck, Mr. Swenson replied the current tennis court building is 120' and the new one is 180'. John wanted to know whether the lot the current tennis court sits on is larger than the lot proposed for the new tennis court and Mr. Swenson replied yes. Since the road has to be a certain angle and there needs to be a circle for emergency vehicles, moving the tennis court works better in order to keep the whole thing from shifting towards the tree buffer. John asked whether the swimming pool and clubhouse will be smaller or larger than the current clubhouse and pool. Mr. Swenson said there was never a second pool included in the 2004 plans and this is an additional pool and clubhouse, which is smaller than the 6,000 square foot clubhouse they currently have. The Survey Monkey showed the tennis court was not that

important, but it seems to be garnering all the attention, where the questionnaire showed the pool and gym facilities to be more important amenities to those completing it.

Rebecca asked how the HOA noticed the homeowners of this plan, and why they contacted an attorney. She felt it sounded like they were not disclosing everything and wanted to make sure they had no liability. Mr. Swenson answered the development group and HOA are very transparent. He said they hold an annual meeting where all are invited, that they hold quarterly meetings, and that homeowners were notified through their HOA newsletter.

Ken S. asked Wendy who was noticed and Wendy replied adjacent land owners within 150' of the subject parcel.

Brett Walcheck, 48 North Engineering, 151 Business Loop, Suite A, Kalispell, said the groundwater is elevated in that area, as it is in many locations in Whitefish. In relation to the overall PUD, this parcel is the highest area. He said the surface water ponds have been created and are fed by the Whitefish River. The ponds at Monterra were also created, utilizing a well put in the ground. Regarding surface water treatment, there will be a stormwater facility which will go through the Public Works Department for approval before it can be brought online.

**PUBLIC COMMENT**

Chris Hyatt, 611 Somers Avenue, spoke on behalf of the Thompson family who he represents. They like the project and the amenities.

Tim Frye, 6205 Davos Lane, Unit F, in Monterra, an original owner in Phase I, read a letter he wrote with concerns including congestion, narrow roadways, decreased access for emergency services, and removal of the tennis courts with no guarantee that they will be replaced. He said the developers do not have the best track record with owners. He is also concerned about the tree space remaining in order to filter the noise, etc., from Highway 40. By his calculation, the additional units may mean as many as 400 individuals, and their vehicles, added to the density. He at least wants the new amenities built in conjunction with the buildings.

James Mayberry, 6205 Davos Lane, Apt. D, said no one was notified about the tennis court being relocated. At one meeting in November 2014, it was described as a "repair". He said he brought it to the attention of the HOA Board and after researching it, the Board discovered it could not remove an amenity according to their CCRs. Rebecca asked whether he received the HOA newsletter

Mr. Swenson described and he replied no, they had never been informed.

Ken M. asked Mr. Swenson to address the expressed concerns, and Mr. Swenson said they discussed the tennis court repair, as they do every year. The tennis court is resurfaced every year. He said the discussion was tabled because they were proposing putting a building there so did not want to spend the money to resurface the tennis court.

John asked him to clarify the proposed schedule to build the new tennis court and Mr. Swenson said they have to get 12 units pre-sold and would then build the tennis court concurrent with the buildings.

**MOTION / BOARD  
DISCUSSION**

Richard asked Wendy whether the tennis court is a condition of the CUP or a homeowner issue and Wendy replied it is a homeowner issue.

Rebecca asked Wendy when the notices went out to people and Wendy replied they went out on June 25, as stated on Page 4 of the Staff Report.

Rebecca moved and Ken S. seconded to adopt the findings of fact within staff report WCUP 15-10, with the 11 Conditions of Approval.

Rebecca said she feels this is a beautiful part of town, and when she drove through at mid-day, there was not a lot of traffic. She is sensitive to changing or devaluing people's property when they do not see it coming, and she has concerns about the involvement of the owners and neighbors. She made a friendly suggestion the Board delay for a month in order to allow the HOA to do more of an outreach within community, although she understands that could throw off the building schedule. The replacement of the tennis court with a much larger building will affect the view of owners who have already bought into the project. She feels that more outreach and inclusion in the decision-making process is needed.

Richard asked if that was an amendment to Rebecca's motion, as we cannot continue with a motion on the table. Rebecca withdrew her motion, but Ken S. was not in agreement with withdrawing his second, so withdrawal of Rebecca's motion failed.

John said the concerns about the tennis court and clubhouse are concerns where owners might possibly seek legal counsel but they are outside the Board purview. He is

sensitive to the issues, but does not feel this is the right place to address the issues.

Ken S. said he has personally owned and sold several units in Monterra, but has never lived in them. He said what is in front of the Board is within zoning. Rebecca asked if Ken S. felt he should recuse himself from the vote as he potentially financially benefits from it. Richard said recusal on Ken S.'s part would be a personal choice. Rebecca felt he had a conflict of interest, but Ken S. assured the Board he has no financial gain as no longer owns any units in Monterra.

John called for question and there was no objection.

Ken asked for roll call vote on the motion to approve the CUP with staff recommendation.

**VOTE**

The motion passed with John, Ken M., Richard, and Ken S. voting for, and Rebecca voting against. The matter is scheduled to go before the Council on August 3, 2015.

**PUBLIC HEARING 2:  
WHITEFISH LAKE  
INSTITUTE, ON  
BEHALF OF HIGH  
POINT ON 2ND, LLC**

The applicant withdrew this application prior to the meeting.

**PUBLIC HEARING 3:  
CITY OF WHITEFISH  
REZONE REQUEST**

A request by the City of Whitefish to rezone 325 Monegan Road due to annexation into the City from County zoning to WA (Agriculture District). The property can be legally described as Tract 2AAB in S5-T30N-R21W.

**STAFF REPORT  
WZC 15-01  
(Compton-Ring)**

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

Staff recommended adoption of the findings of fact within staff report WZC 15-01 and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS  
OF STAFF**

Richard asked whether all of the setbacks and other requirements meet current standards, or will they be grandfathered? Wendy said if the buildings do not meet the current standards, they would effectively be grandfathered, but any new buildings would have to meet current standards.

Ken S. said the way he sees this, it becomes more restrictive zoning and Wendy agreed.

Rebecca wanted it noted in the records that the applicants

**MONTERRA, PHASE II  
CONDITIONAL USE PERMIT  
WCUP 15-10  
JULY 9, 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, **July 16, 2015**. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, **August 3, 2015**.

**BACKGROUND**

This project is part of the Riverside at Whitefish, an approximately 230 acre development plan that was conceived as a neighborhood plan and an amendment to the Whitefish City County Master Plan in 1993. The project essentially languished for several years and then in 1999 there was an amendment to the plan and subsequent zoning assigned project under a Planned Unit Development (PUD). The PUD designated specific project proposals in Areas 1 through 5 that included the youth complex, assisted living and park area, traditional homesites along the Whitefish River, some “neo-traditional housing” and an economic development area.

Subsequent to the adoption of the original PUD, the project morphed through several PUD amendments. One of the amendments was to Area 4 where a portion of the neo-traditional housing was replaced with multi-family condominiums that became Monterra Phase 1. The Monterra at Whitefish Phase 1 was approved for 160 dwelling units in 16 buildings in April of 2004. There was also a PUD amendment to Area 5 where an economic development site was originally proposed at the southwest corner of the development. This amendment was approved to allow the multi-family condominiums which are being proposed under this Conditional Use Permit as Monterra Phase 2.

Ultimately there were a total of 230 multi-family condominium units approved in Areas 4 and 5 intended for Monterra (phases 1 and 2). Concurrent with that proposal was a proposed amendment to the Riverside at Whitefish PUD for the areas where the condominiums were proposed that would allow an increase in the height limit from 35 feet to approximately 39’6” and 37’9” at the very highest point, which was approved for Phase 1. However, the City Council denied a request to allow weekly and nightly rentals.

**PROJECT SCOPE**

Whitefish Partners 1, llc is requesting a conditional use permit to construct Phase II of Monterra and complete Phase I for a total of 66 new units. This will complete the development of Monterra and a total of 224 units will be constructed – less than the allowed 230 units. Phase II is located to the south of the existing Monterra development and is bounded by Highway 40 on the south, River Lakes Parkway on the west and Kallner Lane on the east. Phase II will consist of 54 units in four (4) buildings and the completion of Phase I will be 12 units in one (1) building. The building in Phase I will be

located where the existing tennis court is located. A placeholder for a future tennis court to be relocated within Phase II is shown on the plan. In addition, a second clubhouse and pool area will be installed within Phase II. Access to Phase II will be within the development and one access onto Kallner Lane will be installed. No new access points will be constructed off River Lakes Parkway. Each unit will have a single car garage with another parking space available in each driveway and 51 additional parking spaces for a total of 2.77 parking spaces per unit.



**A. OWNER/APPLICANT:**  
 Whitefish Partners 1, llc  
 PO Box 9079  
 Missoula, MT 59807

**TECHNICAL PROFESSIONALS:**  
 Eric Mulcahy  
 Sands Surveying, Inc  
 2 Village Loop  
 Kalispell, MT 59901

Brett Walcheck  
 48 North Engineering  
 151 Business Loop, suite A  
 Kalispell, MT 59901

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

The project is unaddressed and is 6.298 acres. It is located at the northeast corner of Highway 40 and River Lakes Parkway and can be legally described as Common Area of Monterra at Whitefish Condominium in S8 T30N R21W.



**C. EXISTING LAND USE:**

The subject property is currently undeveloped.

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

North:	Residential	WR-2/WPUD
West:	Church	WR-2/WPUD
South:	Highway 40	County Zoning (SAG-10)
East:	Residential	County Zoning (SAG-10)

**E. ZONING DISTRICT:**

The property is zoned WR-2/WPUD (Two-Family Residential District with a Planned Unit Development). The purpose of this district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services.



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

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

This area is also subject to the 1999 Riverside Neighborhood Plan. This Plan identified this as an area for high density residential use. Subsequent Council approvals identified a maximum residential unit count of 230 units.

**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 June 25, 2015. A notice was emailed to advisory agencies on June 25, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on July 1, 2015. As of the writing of this report, one email was received with concerns of rapid growth in the community and its effects on the quality of life.

**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 City-County Growth Policy and the Riverside at Whitefish Neighborhood Plan because it is implementing the vision for this portion of the overall Plan.

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

The property is zoned WR-2, Two-Family Residential District with a Planned Unit Development overlay. The purpose of this district is intended for one and two-family residential uses in an urban setting connected to all municipal utilities and services. The purpose of the PUD overlay, approved by the Council in 2003, was to identify the type of residential use and establish a maximum density. No zoning deviations were requested or granted.

**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 6.298 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%. This will be confirmed at the time of building permit.

Access that meets the standards set forth in these regulations, including emergency access: They are proposing three driveways into the development. Two of the driveways will access the project from within Phase I and another driveway will access the project from Kallner Lane. The access meets emergency access standards.



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 or within 200-feet of a water body.

**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 2.33 spaces per unit. The proposed site plan shows adequate parking for the residential uses. Each unit has two spaces and there are an additional 51 overflow parking spaces being constructed throughout the project for a total 2.77 spaces per unit.

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 services are currently available on site.

Water: Water services are currently available on site.

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.

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 an existing access point of River Lakes Parkway and there will be a second access point onto Kallner Lane, a County road. No improvements to the street are being requested. All streets are adequately designed to accommodate the additional traffic.



**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 adjacent streets.

## 6. Neighborhood/Community Impact:

Traffic Generation: Traffic analysis for the entire neighborhood occurred with the neighborhood plan and Planned Unit Development permit requests. The PUDs established the density for this project and the estimated traffic and the roadways were designed to accommodate the traffic.

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:** Conceptual building elevations have been submitted with the Conditional Use Permit application and the applicant has attended a pre-application meeting with the Architectural Review Committee. All 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).

The applicant's architect attended a pre-application meeting with the Architectural Review Committee (ARC) on July 7, 2015. The purpose of the meeting is to get some initial feedback on the project and suggestions as the project moves forward.

*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-2 to mitigate issues of scale. The ARC will look at issues of scale.

Context of Existing Neighborhood: The neighborhood is a planned neighborhood with multifamily units to the north of the proposed project, high density single family to the north of Monterra and decreasing residential density toward the river. Extensive open spaces and parks were designed into the project.

Density: The density of the project comes in at 10.33 dwelling units per acre – well within the acceptable range for the Urban Growth Policy designation and slightly below the Council approved density for the project. 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. The design of this addition will complement the existing Monterra neighborhood.

**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 15-10 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 June 1, 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)

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  - Dust abatement and control of fugitive dust.
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  - Noise abatement.
  - Control of erosion and siltation.
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  - Construction office siting, staging areas for material and vehicles, and employee parking.
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5. Obtain an encroachment permit from Flathead County to access Kallner Lane.
6. Prior to the issuance of a building permit for each building, an all-weather drivable surface shall be installed. (IFC)
7. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. (Engineering Standards, Chapter 7)
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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. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun. (§11-7-8, WCC)



## Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Whitefish Partners 1, LLC is proposing to develop Phase II of Monterra and construct 54 units in Phase II and construct 12 units in Phase I. The entire Monterra project would have 224 units and the Riverside at Whitefish Neighborhood Plan granted a maximum of 230 units. The property is undeveloped and is zoned WR-2/WPUD (Two-Family Residential District with a Planned Unit Development overlay). The property is located at the northeast corner of Highway 40 and River Lakes Parkway and can be legally described as Common Area of Monterra at Whitefish Condominiums.

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, July 16, 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, August 3, 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](mailto:wcompton-ring@cityofwhitefish.org). Comments received by the close of business on Tuesday, July 7, 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.

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



Date: June 25, 2015  
To: Advisory Agencies & Interested Parties  
From: Whitefish Planning & Building Department

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The regular meeting of the Whitefish Planning Board will be held on Thursday, July 16, 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 1-4 on Monday, August 3, 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 Whitefish Partners 1, llc for a Conditional Use Permit in order to develop Phase II of Monterra and construct 54 units in Phase II and construct 12 units in Phase I. The property is unaddressed and is located at the northeast corner of Highway 40 and River Lakes Parkway and can be legally described as Common Area of Monterra at Whitefish Condominiums in S8 T30N R21W. WCUP 15-10 (Compton-Ring)
2. A request by Whitefish Lake Institute, on behalf of High Point on 2<sup>nd</sup> llc, is proposing to amend the Preliminary Plat/Planned Unit Development approval for High Point on 2<sup>nd</sup> in order to transfer ownership of a 4.04 acre open space to the Whitefish Lake Institute instead of to the City of Whitefish as originally proposed. The open space is located at 100 Wild Rose Lane and is a portion of the area legally described as Tract 1K in S32-T31N-R22W WPP 14-03B/WPUD 14-02B (Compton-Ring)
3. A request by the city of Whitefish to rezone 325 Monegan Road due to annexation into the city from County zoning to WA (Agriculture District). The property can be legally described as Tract 2AAB in S5-T30N-R21W. WZC 15-01 (Compton-Ring)
4. A request by the city of Whitefish to rezone a portion of 1735 E Lakeshore Drive due to annexation into the city from County zoning to WRR-1 (Low Density Resort Residential District). The property can be legally described as Parcel A of COS 20014 in S24-T31N-R22W. WZC 15-02 (Compton-Ring)

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](mailto:dtaylor@cityofwhitefish.org). For questions or further information regarding these proposals, phone 406-863-2410.

## Wendy Compton-Ring

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**From:** PRESTON CANNADY <preston\_cannady@msn.com>  
**Sent:** Saturday, July 04, 2015 10:58 AM  
**To:** .  
**Subject:** Monterra Phase I & II

To the Whitefish City Council and whom it may concern,  
I feel the entire Whitefish and Kalispell areas are growing to fast for the betterment of everyone. However I realize growth, **to a certain degree**, is essential for the betterment of every community. My fear is that if the growth we are experiencing in our area is not slowed down everyone including you, will lose the quality of life we have experienced so far. Traffic is definitely a real problem and with more people comes more problems. In other words slow our growth down to a manageable level because all good things can, and will, come to an end.

Sincerely,  
Preston Cannady.... 17 year area resident

## Wendy Compton-Ring

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**From:** Rob Thomas <1robjthomas@gmail.com>  
**Sent:** Wednesday, July 15, 2015 9:43 AM  
**To:** wcompton-ring@cityofwhitefish.org  
**Subject:** Monterra phase 11 concerns

Monterra phase 11

My name is Rob Thomas and I'm a home owner at the Monterra.

I have several concerns regarding the plans for phase 2.

1. They plan to remove an existing amenity, the Tennis Court, to build one of their new condos. This new condo will not look like the rest of the original buildings. It will stand out. They then, will supposedly, build a new tennis court in phase 2. Why not just build the new condo in phase 2 where it will blend in with the rest of the new buildings and leave an already built amenity where it is. If they do get approval to build on phase one, I would like to see the new tennis court built first before they tear down our existing one. A lot of people at the monterra play tennis every day. We pay a lot of HOA fees and I think it would be unfair not to be able to use it.

2. The Clubhouse and Pool. I'm very concerned that if they don't build the second pool and clubhouse before they finish all the proposed units that our current pool will be over capacity. It gets very busy in the summer with lots of kids playing in the pool. Adding all these extra people will have the potential to make it very unsafe with so many swimmers in the pool and around the pool deck.

3. I'm also very concerned about the overall congestion to the monterra the new phase will add. Almost every current parking spot is being used. The new phase seems to have minimal new parking spots. Also, by removing our current tennis court we will be loosing a lot of parking that it currently offers.

Sent from my iPad

Dear City of Whitefish,

We are homeowners at the Monterra in Whitefish.

We understand that the developers would like to proceed with their plans to develop Phase 2 in the Monterra; to this we are not opposed. However, the developers have plans to remove the tennis court, an existing amenity from Phase 1, and replace it with a new building.

Based on this plan some major concerns arise:

Primarily, the removal of the tennis court, in order for another building to be built in its place, was never in the developers' plans nor was there a vote by homeowners to have it removed. Furthermore, it does not seem advantageous to spend thousands of dollars removing the tennis court with the developers' *supposedly* planning to reconstruct it in Phase 2. We would like to see the tennis court left as is or at the very least have the new tennis court built before the removal of the old one, as it is used frequently throughout the day.

This leads to our second issue regarding the tennis court, which is the obstruction of residents' views if another condo should be erected where the existing tennis court is situated. Many homeowners surrounding the tennis court bought their units with the expectation that their appealing views of the tennis court and surrounding area would not change.

Lastly and most importantly, the tennis court hosts a large amount of parking spaces, which are already in short supply in the Monterra. Due to lack of parking, people are already parking on the side of the streets, which would seriously restrict emergency vehicles.

Sincerely,  
James & Jacqueline Mayberry

## RE: Monterra Phase I and Phase II

As an original owner of a Phase I unit in the Monterra, I have some concerns regarding the proposal to move forward with 12 additional units in Phase I and construct 54 units in Phase II.

From the onset of this project, I have noted the safety concern due to the narrow width of the roadways within the complex. These narrow roads in conjunction with short driveways that result in large vehicles encroaching on the roads, makes for a dangerous situation should emergency/fire vehicles need to access the complex. At this busy time of year when nearly all units are occupied, many with multiple vehicles per unit, this access is exacerbated by vehicles parked in the road – even on a temporary basis. With many dead end roads in the complex, again the access to different units is limited should emergency/ fire vehicles have to respond.

The proposal to build 12 additional units in Phase I will now eliminate current parking areas to construct these units. This will result in less space for more vehicles and increase the congestion in these areas. Increased congestion, narrow roadways – decreased access for emergency vehicles.

To build these additional units, the developer is intending to remove an existing amenity – our tennis court, with no guarantee when it will be replaced or if it actually will be replaced. To date the developers don't have the best track record with us owners.

The proposal to move forward with Phase II carries with it the issue of narrow roadways, limited access and congestion with 54 units, proposed pool, tennis court and possible clubhouse – all relevant safety concerns. All roads in the proposed Phase II appear to be on the perimeter of project, thus limiting emergency vehicle access to one side of these multi-unit dwellings.

I am also concerned about the number of units to be built in this limited space, which is currently the only green space separating the Monterra Complex from Hwy 40. From the map of the proposed Phase II it appears construction will take a majority of the trees in this space that currently serves to filter the noise, dirt, dust, and exhaust of vehicles using Hwy 40. As well as the visual pollution of trees

versus no trees, only cars and trucks – in that to accommodate Phase II it appears the intent is to build up to the highway right of way.

This limited space has been proposed to hold 54 units which brings to bear the population density of these additional units. Granted there is no guaranteed formula for determining exactly how many people will be occupying these buildings. A safe guess would be from one to three or four per two bedroom unit. That being said – there are currently eight units advertised in the VRBO (vacation rental by owner) website for the Monterra with a minimum rental of 30 days. Each of those units is said to accommodate an average of six individuals. Thus the potential for these 54 new units could reach as high as 324 additional residents. Thankfully the city denied the developers' initial request to have these new units as nightly and weekly rentals. This still doesn't remove the potential for VRBO monthly rentals. Add in the addition of 12 more units in Phase I, again with the potential of up to six residents – this could add another 72 people for a total of just under 400 new residents with their vehicles. According to the map of Phase II there will only be two new parking areas. The addition of 12 units in Phase I will eliminate two parking areas.

In the name of safety, emergency vehicle access and the preservation of limited green space areas within the Whitefish city limits – I request a reconsideration of the continued use permit (CUP) of Phases I and II in the Monterra complex until these concerns are addressed. I also believe that population density in these Phases is an area that has not been adequately addressed but needs to be with the potential addition of a large number of new residents and their vehicles, even on a temporary basis. With the elimination of an existing amenity and the potential to over tax the existing amenities in the clubhouse, pool and spa areas, I would request that the board require the developers build all new amenities concurrent with the construction of the new units in Phase II.

Thank you for your attention and consideration of these concerns.

Respectfully,

Tim Frye

6205 Davos Lane

## Chuck Stearns

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**From:** Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>  
**Sent:** Tuesday, July 28, 2015 11:01 AM  
**To:** Chuck Stearns  
**Subject:** FW: Letter for the Monterra Expansion

### Public comments on the Monterra project for the Council packet.

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**From:** Parsons, Dan [mailto:Daniel.Parsons@encana.com]  
**Sent:** Tuesday, July 28, 2015 10:17 AM  
**To:** wcompton-ring@cityofwhitefish.org  
**Subject:** Letter for the Monterra Expansion

Good morning,

### Re: Rejection to the Proposed Plan

Monterra phase 11

My name is Dan Parsons and I'm a home owner at the Monterra. This is a letter about the proposed changes at the Monterra.

In the condo regulations - Article XII, #4, h, ii - it actually states that they can't make changes to the Common Elements without 75% approval of owners. So that is a pretty strong argument - since we never got a chance to vote!

We will see overcrowding in the pool and clubhouse areas, moving an amenity that's set in the ground (without owner approval), and without any guarantee it will even be rebuilt.

They plan to remove an existing amenity, the Tennis Court, to build one of their new condos. This new condo will not look like the rest of the original buildings. It will stand out. They then, will supposedly, build a new tennis court in phase 2. Why not just build the new condo in phase 2 where it will blend in with the rest of the new buildings and leave an already built amenity where it is.

If they do get approval to build on phase one, I would like to see the new tennis court built first before they tear down our existing one. A lot of people at the monterra play tennis every day. We pay a lot of HOA fees and I think it would be unfair not to be able to use it.

The Clubhouse and Pool. I'm very concerned that if they don't build the second pool and clubhouse before they finish all the proposed units that our current pool will be over capacity. It gets very busy in the summer with lots of kids playing in the pool. Adding all these extra people will have the potential to make it very unsafe with so many swimmers in the pool and around the pool deck.

I'm also very concerned about the overall congestion to the monterra the new phase will add. Almost every current parking spot is being used. The new phase seems to have minimal new parking spots. Also, by removing our current tennis court we will be losing a lot of parking that it currently offers.

Pls consider this in the City Council's August 3<sup>rd</sup> meeting. With this coming to light about our failure to get a chance to vote on moving the tennis court - I think we've got a good chance to stop the building and do it right!

Regards

**Dan Parsons, P.Eng., PMP**

Manager - Facilities Engineering  
Northern Operating Area - Duvernay and Wheatland

*"Our Journey to Zero. Safety Matters."*

Bow- office 47-144

500 Centre Street SE, Calgary, Alberta, T2G 1A6, PO Box 2850  
p: 403.645.3635 | c: 403.861.9421 | f: 403.766.0353

[dan.parsons@encana.com](mailto:dan.parsons@encana.com)

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<http://www.encana.com>

RE: The Continued Use Permit (CUP) for the Monterra Phase I and II.

I find the public input process with the Planning Board rather discouraging and disturbing when members are voting to approve a project whereby they stand to personally gain financially by this approval.

During the course of the meeting on the CUP for the Monterra Phase I and II project, a member of the Planning Board boasted how he had “owned and sold many a Monterra unit”. If that isn’t a blatant example of conflict of interest – I would like to know what is. Another member of the board even questioned him on that statement and asked if he didn’t feel he should recuse himself from voting on the CUP. He chose not to and went on to vote to approve.

This brings one to question the integrity of a Planning Board member that stands to gain financially through the power of his vote. I understand that these are voluntary positions, but likewise I find this action from a supposedly impartial board in a public forum rather disturbing.

Respectfully,

Tim Frye

6205 Davos Lane

Unit F

Whitefish

## Chuck Stearns

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**From:** Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>  
**Sent:** Wednesday, July 29, 2015 8:21 AM  
**To:** Chuck Stearns  
**Cc:** Necile Lorang  
**Subject:** FW: Monterra - Proposed Phase 1 and Phase 2 Changes - Aug 3rd Meeting  
**Attachments:** Monterra Reg's.pptx

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**From:** Steve and Stacy Wahlberg [mailto:wahlyz@msn.com]  
**Sent:** Tuesday, July 28, 2015 8:44 PM  
**To:** wcompton-ring@cityofwhitefish.org  
**Subject:** Monterra - Proposed Phase 1 and Phase 2 Changes - Aug 3rd Meeting

Greetings Whitefish City Council - through contacts with other Monterra Condominium owners, I was told there will be a discussion at the next Whitefish City Council Meeting (Aug 3, 2015) that relates to the Monterra Phase 1 and Phase 2 development activity being proposed. This email is intended to support that discussion and hopefully be utilized to spur good discussion.

My name is Stephen Wahlberg and I am an owner of a Monterra Condominium.

While I do support growth in the Whitefish Community, I am concerned about growth that has a negative impact on owners and residents. Negative impacts can be in various forms (investment or lifestyle). The following is meant to outline some of my concerns related to the proposed Phase 1 and Phase 2 changes as I understand them.

1) During the last HOA meeting held in June 2015, it was brought to the owners attention that the Developer plans to remove the tennis court and construct a new Condo Building in that location. The HOA Board appears to be allowing this to happen without a vote of the owners. Besides being against my interpretation of the Condo Regulations (see attached - refer to Article Article XII, Para 4.h.ii) this concerns me as the construction proposal appears to be proposed solely to benefit the developer and not the owners. The new building will not match the other buildings in both the exterior design or interior design / layout and block views from the clubhouse. Note - there are 2 other vacant areas left over from Phase 1 where two buildings were not constructed. If a new building must be constructed in the Phase 1 area, it should be located on one of those vacant areas and match the existing design. Lastly, if the proposal by the developer is allowed to remove the tennis court as planned, a new tennis court must be constructed first so the owners are guaranteed that one is constructed and there is no down time related to that amenity which we currently pay dues to use. Note - it appears the proposed new tennis court location is part of Phase 2 and the owners have no guarantee that it will ever be completed. It is very possible, the tennis court could be removed and no Phase 2 activity ever occurs or a new tennis court is ever constructed.

2) Overcrowding is always a concern during the summer months. Any additional buildings constructed will further aggravate this problem. Hence to avoid overcrowding, proper construction sequencing must happen

to ensure the 2nd Clubhouse / Pool infrastructure for Phase 2 is in place prior to Condo's being finished and occupied.

3) During the June 2015 HOA Meeting, it was stated that the Phase 1 and Phase changes proposed to be made at Monterra are being "supposedly" done to provide the Developer with the financial means to repair and correct design and construction deficiencies that are a result of the Phase 1 construction. I am not so sure I agree. While I am interested in getting issues corrected at the Monterra, they need to be done without negatively impacting our investment or lifestyle.

Please feel free to contact me as required for clarifications and questions. Also, if you could reply that you received this email, it would be much appreciated.

Thanks,  
Stephen Wahlberg  
6008 St Moritz, Unit G

## RESTATED AND REFORMED DECLARATION OF CONDOMINIUM

### FOR THE MONTERRA AT WHITEFISH CONDOMINIUM

The Declarant, Whitefish Partners I, LLC, does hereby restate, reform, declare and submit for filing, the following Declaration, under the Unit Ownership Act of the State of Montana, Section 70-23-301, et seq., M.C.A.

#### RECITALS:

WHEREAS, on or about April 7, 2005, the Declarant, Whitefish Partners I, LLC made, declared, submitted, and recorded as Instrument No. 2005097-14570 records of Flathead County, the Declaration of Condominium for the Monterra at Whitefish Condominium pursuant to the Unit Ownership Act of the State of Montana, Section 70-23-301 et. seq. (hereinafter the "Declaration"); and,

WHEREAS, the Declaration has since been amended by and through the recording of eight separate written amendments and four written addenda, and by this Restated and Reformed Declaration incorporates those prior amendments and addenda to the extent they remain applicable; and,

WHEREAS, the Declarant desires to clarify the intent of the Declaration with regard to the development of Phase II of the condominium development as hereinafter defined and reform the Declaration to include certain language inadvertently omitted during the Declarant Control Periods for Phases I and II, as defined and described below; and,

WHEREAS, the Declarant desires to further modify the Phase I Site Plan as defined below to convert certain condominium building pads to general common area and transfer to Phase II the Units previously designated for the building pads; and,

WHEREAS, the Declarant desires to correct certain deficiencies with regard to the recording of the Declaration;

NOW, THEREFORE, the Declarant restates and reforms the Declaration as follows:

**Article XII.**  
*The Association*

1. Form of Association. The Owners of Units shall constitute an owners association to be known as Monterra Homeowners Association. The Association shall be organized as a nonprofit corporation no later than the date the first Unit in the Condominium is conveyed. It will be governed by the Board of five (5) directors, as specified in the Bylaws. The rights and duties of the Board and of the Association shall be governed by the provisions of the Unit Ownership Act, the Declaration and the Bylaws.
2. Bylaws. The Board will adopt Bylaws to supplement the Declaration and to provide for the administration of the Association and the Property and for other purposes consistent with the Unit Ownership Act or the Declaration.
3. Qualification and Transfer. Each Owner of a Unit (including the Declarant) shall be a Member of the Association and shall be entitled to one membership for each Unit owned, which membership shall be considered appurtenant to that Member's Unit. Ownership of a Unit shall be the sole qualification for membership in the Association. A membership shall not be transferred in any way except upon the transfer of title to the Unit and then only to the transferee or title to the Unit; provided, that if Unit has been sold on contract, the contract purchaser shall exercise the rights of the Owner for purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Any attempt to make prohibited transfer shall be void. Any transfer of title to a Unit shall operate automatically to transfer the membership in the Association to the new Owner.
4. Powers of the Association. In addition to those actions authorized elsewhere in the Declaration, the Bylaws, the Unit Ownership Act, and the laws of the State of Montana, the Association shall, by sufficient approval if its Members (as stipulated herein), have the power to:
  - h. Acquire, hold, encumber, convey, and dispose of in the Association's name, right, title, or interest to real or tangible and intangible personal property, and to arrange for and supervise any addition or improvement to the Condominium; provided that:
    - ii. no structural changes shall be made to the Building or Common Elements without the approval of Owners holding at least seventy-five (75%) of the votes in the Association.

**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 \$6,270.00 (See current fee schedule)**

OWNER(S) OF RECORD:

Name: Whitefish Partners 1, LLC

Mailing Address: P.O. Box 9079

City/State/Zip: Missoula, MT 59807 Phone: (406)360-0742 (Pat Corrick)

APPLICANT:

Name: Same

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

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

Name: 48 North, PC Attn: Brett Walcheck

Mailing Address: 151 Business Loop, Ste. A

City/State/Zip: Kalispell, MT 59901 Phone: (406) 756-4848

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street \_\_\_\_\_ Sec. \_\_\_\_\_ Town- \_\_\_\_\_ Range \_\_\_\_\_  
Address: River Lakes Parkway No. 8 ship 30 No. 21

Subdivision

Name: Common Area of Monterra at Whitefish Condominium

Tract \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_  
No(s).\_\_\_\_\_ No(s).\_\_\_\_\_ No.\_\_\_\_\_

DESCRIBE PROPOSED USE: The applicants are requesting a Conditional Use Permit (CUP) to complete the remainder of the Monterra Project. The original Conditional Use Permit for the Monterra Phase I granted approval for 160 units of which 158 were constructed. Phase 1 and 2 was recognized in the Riverside at Whitefish Neighborhood Plan as allowing up to 230 units. The proposed CUP will allow 54 units in Phase II and another 12 units in Phase I for a total of 224 units in Phase I and II. The 12 units in Phase I will replace the existing tennis courts. A second club house and pool area will be constructed in Phase II.

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ZONING DISTRICT: WR-2/PUD

**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 Monterra falls under the Riverside at Whitefish Neighborhood Plan which was adopted as an amendment to the Whitefish Master Plan in 1999. The current Whitefish Growth Policy recognizes the Riverside at Whitefish Neighborhood Plan by reference in Chapter 7, page 139.

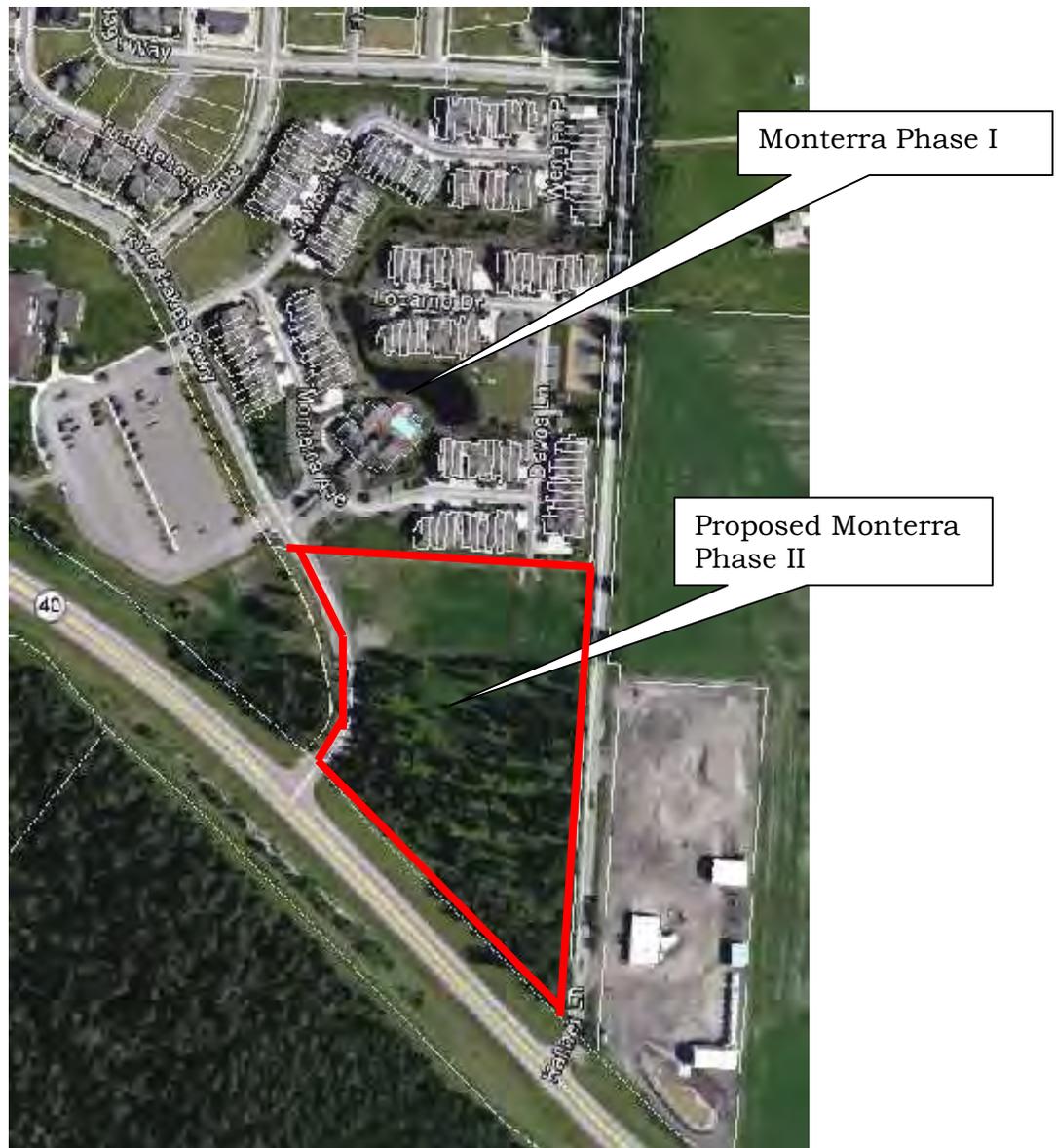
The proposed density in Phase I (14.732 acres), with the twelve additional units added to the existing 158, will create 11.53 units per acre. The Phase II (6.298 acres) density is 8.57 units per acre. The Whitefish Growth Policy maps the Monterra site as Urban Residential and Chapter 3 of the Growth Policy defines "Urban" as "densities generally range from 2 to 12 units per acre." The existing and proposed densities fit within the parameters of the Growth Policy Designation as well as the established zoning.

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

To implement the Neighborhood Plan, land use and density for Monterra Phase I and II was set by Planned Unit Development (PUD) approval within areas 4 and 5 of the Riverside at Whitefish Neighborhood Plan. The PUD and subsequent PUD amendments provide for the Multi-Family Condominium Development with a maximum of 230 units. With the proposed CUP, the total units will number 224 in Monterra Phases I and II. In Phase I of the Monterra, the City Council granted a PUD deviation to the maximum height. The applicants are not proposing to exceed the 35-foot maximum height provisions with the proposed units.

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?

Phase II of the Monterra is located directly south of Phase I with Highway 40 abutting on the south. River Lakes Parkway, a residential collector street provides the main access to the development. River Lakes Parkway connects JP road at the north end and Highway 40 at the south end. As with Phase I, Phase II will also provide a connection to Kallner Lane on the east side of the development. Kallner Lane is not intended for a primary access but it will not be gated and secondary access can be derived from the east. Neighboring uses include the Lutheran Church, a large youth sports complex, and mixed densities of residential use. The property is not located on any sensitive lands that would render the site inappropriate for development.



Source: Google Earth

4. How are the following design issues addressed on the site plan?

a. Parking locations and layout

Each proposed unit has a single car garage with a minimum twenty-foot driveway in front providing two parking spaces per unit. In addition, there are 51 parking spaces provided around the Phase II development for guest and amenity parking. 2.77 parking spaces per new unit.

b. Traffic circulation

The Phase II development will be ringed by a proposed private road system that provides access to each unit as well as the tennis court and the new club house/pool. Phase II connect with Phase I in two locations and as mentioned previously a connection is made to Kallner Lane as a secondary access. The twelve new units in Phase I will access an existing internal private road system.

c. Open space

Based on the Site Plan, there is 6.29 acres in Phase II. Of that acreage, 1.21 acres is devoted to rooftop, and 1.14 is devoted to roads, driveways, and parking areas. This leaves 3.91 acres or 63% devoted to open space and recreation amenities such as the pool and possibly a tennis court.

Land Use	Acreage	%
Building Coverage	<b>1.21 ac</b>	<b>19%</b>
Roads/Driveways/Parking Areas	<b>1.14 ac</b>	<b>18%</b>
Opens Space/Recreation	<b>3.94 ac</b>	<b>63%</b>
Total	<b>6.29 ac</b>	<b>100%</b>

d. Fencing/screening

There is a three rail vinyl fence along the south and east boundaries of Phase II.

e. Landscaping

Landscaping will be planted with the similar high finish found in Phase I. The existing band of evergreen trees along the Highway frontage will be retained as much as possible to provide a visual buffer with Highway 40.



f. Signage

There is existing signage for the Monterra. At present there are no plans to increase this signage. There will ultimately be some internal directional signage for the convenience of residents and guests.

g. Undergrounding of new utilities

All new utilities will be installed underground.

h. Undergrounding of existing utilities

All existing utilities are underground.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?

a. Sewer

The site is served by City sewer service.

b. Water

The site is served by City water service.

c. Stormwater

A conceptual drainage plan is proposed with this application utilizing and open area for stormwater detention. A complete stormwater drainage plan will be submitted to Public Works if the CUP is approved by the City.

d. Fire Protection

Whitefish Fire Department currently serves the property.

e. Police Protection

Whitefish Police Department currently serves the property.

f. Street (public or private)

The primary access is from River Lakes Parkway, a dedicated City Street providing access throughout the Riverside neighborhood. Access to the Monterra is provided by two approaches onto River Lakes Parkway. The main approach is near the existing club house near the south line of Phase I. Phase II will access the internal private road system of Monterra and be a party to the private road maintenance through the Declaration of Unit Ownership membership.

g. Parks (residential only)

Monterra Phase I has a club house with workout facilities, a pool, and a tennis court. According to the Management of the Monterra, the bulk of the recreational use is in the pool area. As a result the applicants are proposing a second club house in Phase II with a second pool. The tennis court does not get near the use the developers anticipated so the Homeowners Association Board of Directors are surveying the current homeowners to gauge their interest to include the amenity in Phase II.

h. Sidewalks

There is great pedestrian access throughout the Riverside development. Within the proposed Phase II development, sidewalks are proposed along the interior of the looped road system as well as pedestrian paths through the open space and water features.



- i. Bike/pedestrian ways – including connectivity to existing and proposed developments

There is a bike/pedestrian path along the east side of River Lakes Parkway.



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 the multi-family condominium development. The subject CUP is the second and final phase of the Monterra development which received PUD approval for 230 units. The Riverside at Whitefish development was designed and constructed with the proposed intensities in mind. The road system functions with the central collector street, River Lakes Parkway providing access to the internal private streets within Monterra.

The north approach to Riverside at Whitefish comes from JP Road which was improved by a Special Improvements District and signalized at the intersection with Highway 93. The southern terminus of River Lakes Parkway is the Highway 40 intersection adjacent to the proposed Phase II. River Lake Parkway also connects with Hospital Way providing controlled access at a second location on Highway 40. There are two connections to Kallner Lane on the east and a third approach to Kallner is proposed with this CUP.

Traffic generation and circulation are well addressed by the interconnectedness of the neighborhood with surround road networks. The proposed development should not negatively impact the road system.

- b. Noise, vibration, dust, glare, heat, smoke, fumes, odors

Monterra Phase II is a residential development and will produce no objectionable byproducts. The proposed use matches the existing use with a slightly lower density.

7. What are the proposed hours of operation?  
Hours are typical of any residential development.

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 units will be similar in bulk to those of the neighboring condominiums in Phase I. Massing will be significantly less than the existing Monterra as the density is 11.53 units per acre in the existing development and will be 8.57 units per acre in Phase II. The proposed building will be slightly lower in height as the applicants are not requesting a deviation to the heights standards found in the Whitefish Zoning Code.

b. Scale

The scale of the proposed structures will be similar to the existing Monterra development. The project is also in scale with the neighboring Church.



c. Context of existing neighborhood

The context of the neighborhood is primarily residential. The neighboring Church fits the residential component of the Monterra. The youth sports complex not only provides an amenity for the Monterra it is a great amenity for the Whitefish community. The MDOT has a shop just to the southeast of the proposed development. These shops have been in existence for many years and are located in the unincorporated County. The proposed use should have minimal impact on the MDOT use but sometimes there can be conflicts and new residents try and shut down the pre-existing use. Sometimes these nuisance complains can be headed off by requiring prospective owners to sign a document acknowledging the pre-existing use and that the neighboring use has a legal right to normal operations, similar to right to farm notices.

d. Density

As described previously, the density in phase II will be approximately three units per acre less than that of the existing Monterra phase. The density

complies with the Riverside at Whitefish Neighborhood Plan, the Whitefish Growth Policy Designation, and the approved PUD's.

e. Community Character

The property is located at the southern end of the City limits and is adjacent to Highway 40. The proposed density should have minimal impacts on the community character particularly since Monterra, Phase I has been in existence for almost ten years.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

## 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.



# MONTERRA MULTI FAMILY: BUILDING 'A' SCHEMATIC ELEVATION

WHITEFISH, MONTANA

SCALE 1/8"=1'-0"  
0' 10' 20'

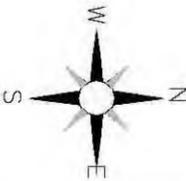
COPYRIGHT © Beeler Guest Owens Architects ALL RIGHTS RESERVED



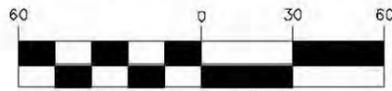
# 14206  
03.10.2015  
FARRAN REALTY

# MONTERRA - PHASE II SCHEMATIC SITE PLAN

LEGAL DESCRIPTION  
E 1/2, SW 1/4, SEC 8, TOWNSHIP 30N, RANGE 21W



GRAPHIC SCALE



( IN FEET )  
1 inch = 60 ft.

**48 NORTH**  
P.C.  
Civil Engineering Services  
15 BUSINESS CENTER LOOP, SUITE A  
KALISPELL, MT 59101 406.751.4848



SEAL

SUBCONSULTANT

**MONTERRA - PHASE II  
SCHEMATIC SITE PLAN  
WHITEFISH MONTANA**

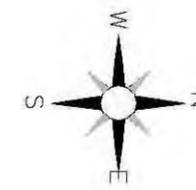
DRAWING SET DATE				
ISSUES/REVISIONS	NO.	DATE	PURPOSE	BY
	1	1/09/2015	ISSUE	
	2	1/25/2015	REVISION	
	3	2/20/2015	REVISION	

PROJECT NUMBER	
SHEET TITLE	
FILE No.	
BOOK	PAGE
DRAWN BY:	

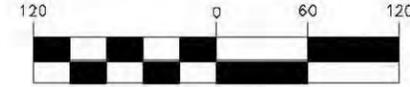
SHEET No. **2** OF 2

# MONTERRA - PHASE I & II SCHEMATIC SITE PLAN

LEGAL DESCRIPTION  
E 1/2, SW 1/4, SEC 8, TOWNSHIP 30N, RANGE 21W



GRAPHIC SCALE



( IN FEET )  
1 inch = 120 ft.

**48 NORTH**  
P.C.  
Civil Engineering Services  
15 BUSINESS CENTER LOOP, SUITE A  
KALISPELL, MT 59801 406.751.4848



SEAL

SUBCONSULTANT

**MONTERRA - PHASE I & II  
SCHEMATIC SITE PLAN  
WHITEFISH, MONTANA**

DRAWING SET DATE			
ISSUES/REVISIONS	NO.	DATE	REVISION
	1	1/09/2015	ISSUE
	2	2/09/2015	REVISION
	3	2/17/2015	REVISION
	4	2/20/2015	REVISION

PROJECT NUMBER	
SHEET TITLE	
FILE No.	
BOOK	PAGE
DRAWN BY:	

SHEET No. **1** OF 2

**PHASE II**

**PHASE I**

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July 28, 2015

Mayor Muhlfeld and City Councilors  
City of Whitefish  
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Approve Engineering Contract Amendment No. 2 for  
Construction Management Services for the Monegan Road Storm Drainage  
Project**

Introduction/History

At the July 20<sup>th</sup> Council meeting the City Council awarded a \$225,398.40 construction contract to Downing Construction for the Monegan Road Storm Drainage Project. The project includes the installation of a 24-inch diameter drain pipe, a pond outlet structure, manholes, and drain pipe outlet.

The design contract with WGM Group for the Monegan Road Storm Drainage Project is for \$53,944.00. This included a preliminary engineering report and final engineering design. Bidding and construction management services were not included in this consultant contract. This memo is to recommend Amendment No. 2 to the consultant contract in the amount of \$25,430 for construction management services.

Current Report

We have attached the proposed contract amendment scope and fee estimate. The scope of services for this contract amendment includes:

- Bidding assistance
- General administrative services – attend construction meetings, review contractor submittals, coordinate communications between City staff and contractors
- Half-time construction inspection for the scheduled period of 45 calendar days
- Preparation of record drawings and close out of the project.

Financial Requirement

The Public Works Department has negotiated these construction management services for a fee not to exceed \$25,430, which would be paid from the Stormwater budget. The total WGM Group consultant contract with this amendment would increase to \$79,374.

The Stormwater Fund has budgeted \$300,000 in FY16 for Monegan Road Storm Drainage Improvements. The total construction cost of \$225,398 plus the construction management fee of \$25,430 equals a total expected project cost in FY16 of \$250,828.

Recommendation

We respectfully recommend the City Council approve Amendment No. 2 to the Monegan Road Storm Drainage Project consultant contract with WGM Group in an amount not to exceed \$25,430.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Karin Hilding', with a stylized flourish at the end.

Karin Hilding, P.E., LEED A.P.  
Interim Public Works Director

July 10, 2015

Karin Hilding  
City of Whitefish  
PO Box 158  
Whitefish, MT 59937

Re: Whitefish 2013 Storm Drainage Improvement Project – Contract Amendment 2  
Monegan Road Phase 1 – Construction Documents, Bidding, and Construction Services

Dear Karin:

Per your request, WGM Group, Inc. has prepared an amendment to our August 7, 2013 contract with the City of Whitefish for the Whitefish 2013 Storm Drainage Improvement Project. This project is being completed with multiple phases of work with a detailed scope of services provided at the time each new phase is started. This amendment is in response to the City's interest in constructing Monegan Road Phase 1 storm drain improvements. This amendment will build off the work completed from amendment 1 (Monegan Road Phase 1 Final Design) and will include contract documents, bidding, and construction services. Tasks are described below.

#### **Task 07: Contract Documents**

This element includes preparing contract documents to be used for bidding.

- Contract Documents – Draft contract documents, including City agreement, invitation to bid, proposal, and special provisions.
- Prepare Bid Manuals – Incorporate technical specifications with contract documents into a bid manual.
- Print Plans/Bid Manuals – Print bid sets of final plans and contract manuals and mail to City for distribution to contractors.

#### **Task 08: Biddings Assistance**

This element includes providing assistance to City personnel from advertisement through award.

- Advertising – Assist the City with advertising for bids, including preparing advertisement text.

- Pre-bid Services – Answer bid questions and prepare addenda as required. Conduct one pre-bid meeting.
- Bid Opening – Assist the City with bid opening, prepare certified bid tabulation, and recommend award to City personnel.

#### **Task 09: Construction Services**

This element includes contract administration, construction observation, and staking services. Construction observation will be jointly performed by WGM Group and the City of Whitefish personnel. WGM will provide on-site observation for various critical project components, including the energy dissipater, pond dewatering, and pond outlet structure and will provide on-site observation of storm drain main installation at various times, to be coordinated with City personnel. Construction observation hours are included in this scope of services.

- Construction Observation – Coordinate construction observation efforts with City personnel to provide an average of half-time construction observation by WGM Group. Construction observation may be full time during critical construction portions. Observation is anticipated for an average of 4 hours per day for 32 construction days (45 calendar days).
- Materials Testing – Construction material testing and frequency will be included in the technical specifications to be provided by the Contractor, through an approved material testing laboratory. Testing results will be required to be provided to WGM Group and the City for review. WGM Group will review the testing reports to verify compliance with the project specifications.
- Construction Staking – Provide construction staking for storm drain main and structures as outlined in the construction contract documents.
- Construction Administration – Attend construction meetings with City and contractor, as necessary. Review contractor submittals and construction schedules, and monitor progress. Review and process contractor pay applications. Conduct final inspection and project closeout.

#### **Schedule**

Contract documents have been completed and the project bids will be opened on July 13, 2015. Construction is anticipated to start in August and be completed by the end of October.

#### **Contract Fee Amendment**

The additional cost to provide these services is \$25,430. The current contract amount of \$53,944 would be revised to \$79,374.

Thank you for the opportunity to provide these services. Please feel free to contact us at 406.728.4611 if you have any questions or need additional information.

Sincerely,  
WGM Group, Inc.

A handwritten signature in black ink, appearing to read "Jonathan L. Gass". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jonathan L. Gass, P.E.  
Principal Engineer

JLG:cmk

Encl.

## Professional Services Estimate

Project Name: **Whitefish 2013  
Storm Drainage**  
 Project #: **130413.2**  
 Client: **City of Whitefish**  
 Date: **June 19, 2015**



DIRECT LABOR	Rate \$/Hr	Phase 07		Phase 08		Phase 09		TOTAL	
		CONTRACT DOCUMENTS	Hours	Total \$	BIDDING ASSISTANCE	Hours	Total \$	CONSTRUCTION SERVICES	Hours
Principal Engineer	\$135	2	\$270	13	\$1,755	8	\$1,080	23	\$ 3,105
Const Project Manager	\$105	13	\$1,365	16	\$1,680	144	\$15,120	173	\$ 18,165
Staff Engineer/EI	\$90								
Land Surveyor	\$105					2	\$210	2	\$ 210
Sr CADD Drafter	\$90	1	\$90					1	\$ 90
2-Person Crew	\$145					10	\$1,450	10	\$ 1,450
Project Assistant	\$80	4	\$320					4	\$ 320
<b>TOTAL LABOR</b>		<b>20</b>	<b>\$ 2,045</b>	<b>29</b>	<b>\$ 3,435</b>	<b>164</b>	<b>\$ 17,860</b>	<b>213</b>	<b>\$ 23,340</b>

DIRECT EXPENSES	Phase 07	Phase 08	Phase 09	TOTAL
Sub-consultants	-	-	-	\$ -
Copies / Prints	250.00	-	-	\$ 250.00
Mileage	-	200.00	1,440.00	\$ 1,640.00
Lodging / Per Diem	-	-	-	\$ -
Fees / Permits	-	-	-	\$ -
Survey Equipment	-	-	200.00	\$ 200.00
Technology Fee	-	-	-	\$ -
Other	-	-	-	\$ -
<b>TOTAL DIRECT EXPENSES</b>	<b>\$ 250.00</b>	<b>\$ 200.00</b>	<b>\$ 1,640.00</b>	<b>\$ 2,090.00</b>

SUMMARY	Phase 07	Phase 08	Phase 09	TOTAL
<b>Hours</b>	20.0	29.0	164.0	213.0
<b>Labor</b>	\$ 2,045.00	\$ 3,435.00	\$ 17,860.00	\$ 23,340.00
<b>Expenses</b>	\$ 250.00	\$ 200.00	\$ 1,640.00	\$ 2,090.00
<b>TOTAL</b>	<b>\$ 2,295.00</b>	<b>\$ 3,635.00</b>	<b>\$ 19,500.00</b>	<b>\$ 25,430.00</b>

## Professional Services Hours

Project Name: **Whitefish 2013 Storm Drainage Improvement**

**Project**

Project #: **130413.2**

Client: **City of Whitefish**

Date: **June 19, 2015**



		PRINCIPAL ENGINEER	CONST PROJ MGR	LAND SURVEYOR	SR CADD DRAFTER	2-PERSON SURVEY CREW	PROJECT ASSISTANT	TOTAL
<b>Phase</b>	<b>07 CONTRACT DOCUMENTS</b>							
	7.01 Draft Contract Documents	2.0	8.0					\$ 1,110.00
	7.02 Prepare Bid Manuals		4.0				2.0	\$ 580.00
	7.03 Print Plans/Contract Manuals		1.0		1.0		2.0	\$ 605.00
	<b>SUBTOTAL</b>	<b>2.0</b>	<b>13.0</b>		<b>1.0</b>		<b>4.0</b>	<b>\$ 2,295.00</b>
<b>Phase</b>	<b>08 BIDDING ASSISTANCE</b>							
	8.01 Advertising		4.0					\$ 420.00
	8.02 Big Questions/Addenda	6.0	4.0					\$ 1,230.00
	8.03 Pre-bid Meeting	6.0						\$ 1,010.00
	8.04 Bid Opening/Recommendation	1.0	8.0					\$ 975.00
	<b>SUBTOTAL</b>	<b>13.0</b>	<b>16.0</b>					<b>\$ 3,635.00</b>
<b>Phase</b>	<b>09 CONSTRUCTION SERVICES</b>							
	9.01 Construction Inspection	4.0	120.0					\$ 14,420.00
	9.02 Materials Testing		4.0					\$ 420.00
	9.03 Construction Staking			2.0		10.0		\$ 2,020.00
	9.04 Construction Administration	4.0	20.0					\$ 2,640.00
	<b>SUBTOTAL</b>	<b>8.0</b>	<b>144.0</b>	<b>2.0</b>		<b>10.0</b>		<b>\$ 19,500.00</b>
<b>PROJECT TOTALS</b>		<b>23.0</b>	<b>173.0</b>	<b>2.0</b>	<b>1.0</b>	<b>10.0</b>	<b>4.0</b>	<b>\$ 25,430.00</b>

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# MANAGER REPORT

July 29, 2015



## RESULTS OF CONSERVATION EFFORTS AT WASTEWATER TREATMENT PLANT

In the past two years, we undertook several energy conservation projects at the Water Treatment Plant including improvements to the HVAC system. Greg Acton, our Utilities Operation Supervisor sent me the following information about the energy savings of those efforts:

*Good news. As part of our rate analysis work I have been looking at our energy consumption at the water booster pumps and plant again (2015 to date) and we are still trending down on both our natural gas and electrical consumption at the water plant. This verifies our predictions of cost savings and payback of the energy conservation improvements to the water plant HVAC equipment. Electrical consumption is down 6% and natural gas consumption is down 12% over the same period in 2014.*

## WISCONSIN AVENUE OVERLAY

The State of Montana is preparing to do an overlay of Wisconsin Avenue from the north end of the viaduct to the turn-off at Big Mountain Road. The overlay is scheduled to begin in early September, after Labor Day. This project is funded from federal funds the City receives which are kept at the State of Montana for several of our state highway roads inside the City, including Wisconsin Avenue. We will have to borrow from future federal funding years to do this project. The State recently opened bids and the results of the bids were as follows:

---

### **CALL NO. 207**

**Project No(s):** STPU 12001(2)

**Project Name(s):** WISCONSIN AVE - WHITEFISH

**Contract No:** 06515

**UPN(s):** 7661000

**District:** Missoula

**Count(ies):** Flathead

BIDDER	VENDOR NAME	AS READ AMOUNT
	Engineers Estimate	\$802,499.90
1	L.H.C., Incorporated	\$654,536.60
2	Knife River Corporation - Missoula	\$679,679.00
3	Schellinger Construction Co., Inc.	\$767,767.00

## **CITY HALL – SCHEDULE FOR ASBESTOS ABATEMENT AND DEMOLITION**

On Monday, July 27<sup>th</sup>, Martel Construction held a pre-bidding conference and walk-through of the City Hall complex buildings for asbestos abatement contractors and demolition contractors. We are planning to bring asbestos abatement and demolition contracts for consideration at the August 17<sup>th</sup> City Council meeting.

Various scheduling dates are shown below:

August 24-28 -	Move City Hall offices to 1005 Baker Avenue (Stampede Square Office Building)
Sept 1-4 -	Surplus property items moved to fire bays; signs and street amenities removed from streets around City Hall
September 5 <sup>th</sup> -	City surplus property auction
September 5-7 -	Items from surplus auction removed from site
September 8 <sup>th</sup> -	City Hall half block is closed and fenced off. Parking lot behind City Hall is closed.
September 8 – 29-	Asbestos abatement of City Hall complex buildings is done
September 30 -	Demolition of City Hall buildings begin
October 28 <sup>th</sup> -	Demolition of City Hall buildings is completed

## **MEETINGS**

City Hall Steering Sub-committee (7/29) - The City Hall Steering Sub-committee is going to meet and discuss interior issues again on Wednesday.

## **UPCOMING SPECIAL EVENTS**

August 2 – Mingle with Mozart in Riverside Park  
August 7-9 – Huckleberry Days in Depot Park

## **REMINDERS**

Monday, August 10<sup>th</sup> at 5:30 p.m. – Next FY16 Budget work session



Respectfully submitted,  
Chuck Stearns, City Manager

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**received**  
7-16-15  
*City Clerk's Office*

Subj: **Print**  
Date: 7/13/2015 11:43:20 A.M. Mountain Daylight Time  
From: [JGordon310@aol.com](mailto:JGordon310@aol.com)  
To: [milesq325@aol.com](mailto:milesq325@aol.com)

7-11-2015

Mayor & City Council  
Whitefish  
Whitefish, MT 59937

To Whom It May Concern:

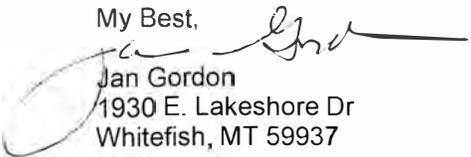
Last week you may be aware there was a power outage that effected a good section of Whitefish including homes on East Lakeshore, Iron Horse and Big Mountain. The problem seemed to be that a branch on the Wisconsin boarder to Lacy Lane, near our home and the Monzingos came down and effective an electrical cable line.

The electric company spent probably 2 hours getting the service up again to everyone and said that the trees on Wisconsin, city property, needed to be cut so this doesn't occur again. Beside the inconvenience you could actually have a fire with the sudden bursts of current.

I was personally told by the electrical department to contact the city Parks and Recreation which I did. They told me it was the responsibility of the electric company not their issue which, of course, didn't seem like anyone was going to look into this.

I am bringing this to your attention as it appears that there is a simple solution to what could be a major problem in the future effecting so many Whitefish residents.

My Best,

  
Jan Gordon  
1930 E. Lakeshore Dr  
Whitefish, MT 59937

(406) 862-3882

The following pages were received after packet  
and distributed to the Mayor and Council at the meeting.

received  
7-29-15  
after packet

RE: The Continued Use Permit (CUP) for the Monterra Phase I and II.

I request the City Council reconsider the CUP for the Monterra Phase I and II based on the impact they will have on traffic congestion, population density and emergency vehicle access to the new phases. The proposed construction of an additional building in Phase I also stands to remove an existing amenity – that has been permanently placed in the ground, and in the process devalue existing units by eliminating current views to construct a new building where a tennis court and mailbox kiosk now sit.

**The aforementioned change to a Common Element of the Monterra is in direct violation of the Condominium bylaws Article XII, #4., Paragraph h., subparagraph ii: “no structural changes shall be made to the Building or Common Elements without the approval of the Owners holding at least seventy-five (75%) of the votes in the Association. At no time have the owners been polled to approve or deny the change to this Common Element.**

I am concerned with the impact these additional 12 units in Phase I and 54 units in Phase II will have on the population density of the Monterra Condo Complex and the existing amenities – creating a potentially unsafe situation with regards to the pool area. The narrowness of the existing roadways within the complex and proposed additions brings up the question of emergency vehicle access and the lack of evaluation by the fire marshal during this busiest time of year. Also the traffic evaluation was done over 12 years ago – prior to the current status of Phase I and the additional houses in the Lakes subdivision.

As stated in my previous concern to the Planning Board – the approval of the CUP for Phase I and II of the Monterra has the potential to add up to 400 additional residents to the complex. This stands to adversely affect the safety, traffic, population density, and visual quality of life at this edge of town.

The addition of the building in Phase I will negatively impact the property value of those units whose view would be blocked. The developer also proposes to remove an existing amenity/common area – the tennis court, and move a mail kiosk with no guarantee if or when the amenity will be replaced. As an original owner, we have been waiting for repairs to sidewalks and driveways that were promised since the first year of completion of Phase I – almost 10 years ago.

I would ask that the City Council stay the approval of the Conditional Use Permit for Phase I and II of the Monterra until the owners are given an opportunity to vote on this change to a Common Element – as specified in the Condominium bylaws that are registered with the state.

Respectfully,

Tim Frye

6205 Davos Lane

Unit F

Whitefish

received  
8-3-15

Dear Whitefish City Council:

We are not opposed to The Monterra 's Development in Phase 2 or Phase 1 on the 2 Vacant Lots. We ARE OPPOSED to the removal of the Tennis Court in Phase 1, that will affect the equity of many Homeowners Condo's . We bought our Condo 2 years ago, which overlooks the Tennis Court believing the Tennis Court would always be a permanent Amenity.

I would ask at this time that the approval to build on the existing Tennis Court in Phase 1 be Postponed until all Homeowners are notified and are given an opportunity to vote on this matter.

Thank You  
Concerned Homeowners At The Monterra

James & Jacqueline Mayberry

**Subject:** FW: Monterra

**From:** "Wendy Compton-Ring" <wcompton-ring@cityofwhitefish.org>

**Date:** 8/3/2015 2:20 PM

**To:** "Necile Lorang" <nlorang@cityofwhitefish.org>, "Chuck Stearns" <cstearns@cityofwhitefish.org>

**From:** Rhonda Kohl [mailto:Rhonda@twre.com]

**Sent:** Monday, August 03, 2015 2:14 PM

**To:** wcompton-ring@cityofwhitefish.org

**Subject:** Monterra

Hi Wendy,

Just wanted to send a quick note to add my name to the approval list of adding on to the Monterra development. I am an owner there.

Let me know if there's anything else you need. I know there's a city council meeting tonight.

Sincerely,

Rhonda

Rhonda Kohl

Trails West Real Estate  
Lodge at Whitefish Lake Office  
1380 Wisconsin Avenue  
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Mobile: 406-250-5849



Sent from my iPhone